

HUTT CITY COUNCIL
PROPOSED PRIVATE PLAN CHANGE 53:
190, 236 AND 268 STRATTON STREET, NORMANDALE
REZONING TO RURAL RESIDENTIAL ACTIVITY AREA

MINUTE 1 OF INDEPENDENT HEARING PANEL

Introduction

1. This Minute is being sent to you because you are either the Requestor (Applicant), a submitter or a Council reporting officer to the above application.
2. Pursuant to section 34A of the Resource Management Act 1991 (**RMA**) we have been appointed by Hutt City Council (**HCC**) to hear, consider, and recommend a decision on an application by Urban Edge Ltd, on behalf of – Judy and Neville Bannister (**the Applicant**) to change the City of Lower Hutt District Plan (**the District Plan**) to enable further residential development at 190, 236 and 268 Stratton Street, Normandale (**the site**).
3. Proposed Change 53 seeks the following amendments to the District Plan:
 - a. The proposed Plan Change seeks the rezoning of three properties in Normandale from General Rural Activity Areas to Rural Residential Activity Area.
 - b. No new provisions or amendments to existing zone provisions are proposed.
4. The general function of this Minute is to set out some preliminary matters in preparation for the hearing, which is to be held on **10 September 2021**. Please note that all parties have already been formally advised directly by the HCC hearing administrator of the hearing date and venue by letter dated 24 August 2021. The Council s42A writer has also been advised of the date their report is required to be received.
5. In the meantime, our objective at this preliminary stage is to establish some procedures to facilitate a smooth and effective pre-hearing and hearing process for all parties. This requires some actions from all the parties in readiness for the formal proceedings.
6. In this respect, this minute covers the following matters:
 - (a) Covid-19 matters
 - (b) pre-hearing discussions/conferencing;
 - (c) circulation of evidence;
 - (d) hearing process and presentations; and
 - (e) site and locality visits.

7. It is likely that we will issue additional minutes with further requests and instructions, before, during and/or after the hearing.

Covid 19 Matters

8. In the current circumstances, the Panel will proceed with the lead up to this hearing as electronically as possible. Whether the hearing is held traditionally or via a remote platform such as Zoom or Teams will depend on what level of alert the country is in at the time of the hearing. The Council is currently exploring avenues for video-conferencing to allow the hearing to proceed should lockdown requirements still be in force. Further information will be provided by the HCC hearing administrator as it becomes available. Please be assured that whatever forum is used for the hearing it will not be at the expense of giving all parties an appropriate opportunity to fully express their position.
9. In the meantime, this minute sets out directions and guidance for matters regarding the lead up to the hearing and the hearing itself. Where necessary the language chosen is to reflect the current emphasis; that being on an electronic approach.

Pre-hearing discussions & conferencing

10. With most hearings of this nature, all parties (Applicant, Submitters and Council Officers) are encouraged to engage (subject to the relevant lockdown provisos) in constructive discussions where practicable before the hearing commences so as to minimise the range of issues in contention. This may occur through expert pre-hearing meetings, witness conferencing, or other informal exchanges – and all are welcome.
11. Without wanting to prejudge any issues prior to the hearing, it is apparent from our liaison with the Council hearing administrator that there have in fact been ongoing discussions between the Applicant and some submitters. We fully support this and encourage its continuation, where necessary, with all submitters. There has also been some indication from the Administrator that some (if not all) of the concerns and issues raised in submissions might be addressed and resolved in advance of the hearing. Whilst this is pleasing to hear, we can signal that there will still be a need for a hearing in order to allow the Panel to:
 - a. Consider the manner in which various submitter's concerns have been proposed to be resolved and how this translates to any formal changes to the Plan Change provisions (and the s32AA statutory justification for such changes);
 - b. Hear any matters that have not been resolved; and
 - c. Consider all matters relating to its statutory and decision-making functions (particularly under s32 of the Act) so as to be in a position to issue a well-founded recommendation to the Council on whether to adopt or reject the proposed plan change (and if to adopt it whether any modification of the notified provisions are required).
12. On the above basis, and given the limited timing available before the the hearing, we are not formally directing the undertaking of, or participation in, formal pre-hearing meetings, discussions or expert conferencing at this stage. We do, however, encourage pre-hearing liaison and extend that encouragement to any

parties who haven't already been in contact with the Applicant prior to the commencement of the hearing which is approximately only two weeks away.

13. It may be that, where issues remain unresolved, some parties may seek to engage experts where matters relating technical expertise is required (e.g. noise as a reverse sensitivity effect or impacts on traffic safety are concerned). If so, then expert witness conferencing on these matters and the subsequent preparation of joint witness statements confirming the experts' respective areas of agreement and disagreement may prove to be of benefit.
14. In the (probably unlikely) event that discussions and pre-hearing meetings do confirm that expert conferencing would be of benefit, then we will issue specific directions to that effect. To enable us to do this efficiently we request that any submitter wishing to call an expert witness are to advise us, via the Hearing Administrator of such; including the name of the witnesses and their expert discipline by no later than **31 August 2021**.
15. We will remain in contact with the HCC Hearing Administrator to facilitate any pre-hearing processes as required, and will keep all parties informed through additional minutes as necessary.

Circulation of evidence before hearing

16. Pursuant to Sections 41B and 42A of the RMA we direct that evidence be pre-circulated in accordance with the following timeframes as generally set out in the Act (and as previously conveyed to the Council in respect to the s42A report); namely that:
 - (a) the Council's **Section 42A Report** and any expert evidence called by HCC will be made available a minimum of 10 working days prior to the start of the hearing being midday **Thursday 26th August 2021**;
 - (b) the **Applicant's** expert evidence any expert evidence to be called by **submitters** must be made available at least 5 working days before the start of the hearing being midday on **Thursday 2nd September 2021**.
17. To be clear, submitters do not need to pre-circulate any non-expert presentation material they wish to speak to at the hearing. The above circulation requirements only apply to any expert evidence submitters wish to call. For any questions of clarification about professional expertise and the code of conduct for expert witnesses, please contact the HCC Hearing Administrator in the first instance.
18. Any legal submissions by counsel for the parties can be made at the hearing and are not subject to pre-circulation.

Hearing process and presentations

19. We anticipate that a hearing of this nature may be a new experience for some submitters, so we will take a brief moment here to provide some information about the hearing for context.
20. For starters, we encourage all submitters to refer to the useful guides about the designation process and hearings available from the Ministry for the Environment website. The links below, in particular, are a great source of information:

<https://www.mfe.govt.nz/publications/rma/everyday-guide-rma-designation-process>

<https://www.mfe.govt.nz/publications/rma/everyday-guide-rma-appearing-council-resource-consent-hearing>

21. Consistent with the latter guide, our preference is for proceedings to be relatively informal. However, a degree of formality is inherent in hearings of this nature, and We will speak to that at the outset of the hearing when it commences.
22. More substantively, the hearing enables us to hear the issues raised in submissions in greater detail, and to be able to ask questions to improve our understanding of those issues.
23. As a rule of thumb, parties should target presentations of 15-20 minutes or so. This is less a rigid requirement than it is a rough indication, and all parties appearing will be given sufficient time to present their views.
24. Closer to the hearing, the HCC Hearing Administrator will contact all parties to determine whether they still wish to appear at the hearing and if so will request an indication from those parties as to the amount of time they require for their presentation so that the HCC Administrator can make the necessary arrangements.

Site and locality visits

25. We are generally familiar with the site and general locality.
26. We expect that we will need to undertake more detailed site and locality visits before (if possible) and after the hearing. In that respect, if any party has a desire for us to visit particular sites/localities they should advise the HCC hearing administrator by no later than **2 September 2021**.

Next steps

27. As summarised above, we now suggest that the Applicant endeavours to continue to engage with submitters to discuss issues raised in submissions and resolve any issues, where practical. Certainly, the prospect of any submitters fielding expert evidence should be a matter for discussion during this engagement. Notice of any expert witnesses representing submitters is required by **31 August 2021**. We will then issue any directions, as required, relating to expert conferencing.
28. We also request that any party wishing us to visit a particular site or locality advise the HCC hearing administrator by **2 September 2020**.
29. The HCC hearing administrator is Asha Surry and she can be reached at Asha.Surrey@huttcity.govt.nz

DATED this 24th day of August 2021



DJ McMahon
Chair - Independent Hearings Panel

For and on behalf of:
Commissioner EA Burge
Councillor Simon Edwards