

CHRISTCHURCH CITY COUNCIL
RMA/2018/2029
PROPOSED SUPERMARKET- 171 MAIN NORTH ROAD, PAPANUI

MINUTE 1 OF COMMISSIONER

Introduction

1. Pursuant to section 34A of the Resource Management Act 1991 (“**RMA**”), I have been appointed by the Christchurch City Council (“**CCC**”) to hear and determine an application for resource consent for a new PAK’nSAVE supermarket with associated self-service petrol station, ancillary offices, emergency coordination facility, car parking, roading realignment, signage, modification an existing network waterway and earthworks in Papanui.
2. The general function of this Minute is to set out some preliminary matters in preparation for the hearing, which has been tentatively set down for **early December 2019**. All parties will be advised of the final hearing dates by the Council once they are confirmed.
3. My objective at this preliminary stage is to establish some processes to facilitate a smooth and effective pre-hearing and hearing process for all parties. This requires some actions from all the parties (applicant, submitters and council officers) in readiness for the formal proceedings.
4. In this respect, this minute covers the following matters:
 - (a) pre-hearing discussions/conferencing;
 - (b) circulation of evidence;
 - (c) hearing process and presentations; and
 - (d) site and locality visits.
5. It is likely that I will issue additional minutes with further requests and instructions, before, during and/or after the hearing.

Pre-hearing discussions & conferencing

6. With most hearings of this nature, I encourage all parties (applicant, submitters and council officers) to engage in constructive discussions where practicable before the hearing commences so as to minimise the range of issues in contention. This may occur through expert witness conferencing, pre-hearing meetings or other informal exchanges – and all are welcome.
7. Without wanting to prejudge any issues prior to the hearing, it is apparent from my preliminary review of submissions that have been lodged that a number of matters

are worthy of discussion between the parties prior to the hearing commencement, namely:

- (a) transportation effects;
 - (b) urban form & design, integrated planning and consistency with strategic planning direction;
 - (c) amenity effects, including from noise and lighting; and
 - (d) earthworks and management of surface water.
8. I have been advised by the Council that expert conferencing has already commenced between transportation advisors for the applicant, CCC, the New Zealand Transport Agency and the Christchurch Transport Operations Centre. I further understand that additional conferencing between these parties is likely, following the results of additional traffic modelling being made available.
9. My preference is for such further conferencing to occur as soon as practicable and a joint witness statement provided which confirms the experts' respective areas of agreement and disagreement. In part, this urgency is due to a likely additional requirement from me for any planners representing the various parties to also conference in order to codify any agreements from the transportation conferencing into agreed planning facts, specific mitigation measures and/or potential conditions of consent. Clearly, such an exercise would be on a "without prejudice" basis to the outcome of the application.
10. Relatedly, if any other submitter intends to call expert transportation and/or planning evidence at the hearing, ideally those experts should also be available to attend the above-mentioned conferencing. I will return to this point shortly.
11. I am also aware that the applicant has met with some submitters to discuss concerns, however, I am not yet aware of the outcome of those talks. To the extent that there may be some unresolved issues remaining, and for parties which may not have had an opportunity yet to meet with the applicant, it would be useful for the parties to meet and hold discussions prior to the commencement of the Hearing. This includes general meetings amongst the parties:
 - (a) to discuss any procedural or substantive matters;
 - (b) for submitters to gain a better understanding of what the proposal entails and what the effects and implications may be; and
 - (c) for the applicant and the Council to better understand what the submitter's concerns are and how they might be accommodated / mitigated where appropriate.
12. The parties are free to initiate the above as they see fit. All I request is that any resolution of issues (involving an RMA solution) or narrowing of any issues in contention are recorded and submitted to the Council Development Support Team (Valeria Ferrari) where possible well in advance of the commencement of the hearing. Some reporting on this matter by the Applicant by the end of October would be welcomed.
13. Direct discussion with and between submitters aside, there may also be merit in any acoustic, civil engineering and planning experts for the applicant, submitters and Council Officers considering the matters raised in submissions as part of any

conferencing that may transpire. If that occurs, I ask that any resulting joint witness statement(s):

- (a) clearly identify any areas of agreement and disagreement; and
- (b) specify any specific mitigation measures and/or conditions that should be adopted, in the event that the application be granted.

14. To assist with enabling an effective exchange between experts, I direct that:

- (a) any submitters intending to call expert witnesses at the hearing are to advise Ms Ferrari by **midday on Monday 7 October 2019**, including the name and area of expertise of each witness they intend to call;
- (b) at the same time such submitters are also to indicate whether they will make their respective expert(s) available for conferencing with other experts, and if not, the reasons why;
- (c) the Council must then advise the applicant of the list of experts to be called by submitters at the hearing by **5pm on Monday 7 October 2019**, and confirm whether those experts are available for conferencing;
- (d) the applicant will then be responsible for coordinating any conferencing between its experts and those for submitters and CCC;
- (e) the transportation and planning conferencing referred to earlier (paras 8 and 9 above) and any primary conferencing on other topics (para 13 above) is to be conducted no later than the last week of October so that the witness statements can feed into the pre-hearing timetable for circulation of evidence.

15. I will be in contact with Ms Ferrari to monitor this pre-hearing process as required, and will keep all parties informed through additional minutes if necessary. Reporting on the outcome of the above conferencing is to be the responsibility of the applicant.

Circulation of evidence before hearing

16. As the application was publicly notified, s103B of the RMA requires that evidence be exchanged before the hearing starts. I do not intend to set out a timetable for reporting and evidence exchange at this early stage given that the hearing date has not been officially confirmed.

17. To provide an indication to all parties of what will be required once the hearing date is set, however, the timetable will follow these date milestones:

- (a) the Section 42A Report and any expert evidence called by CCC will be made available a minimum of 15 working days prior to the start of the hearing;
- (b) the applicant's expert evidence will be made available at least 10 working days before the start of the hearing; and
- (c) any expert evidence called by submitters must be made available at least 5 working days before the start of the hearing.

18. This information will either be emailed to parties or made available on the CCC website. Further detail to this end will be clarified to all parties in due course.

19. To be clear, submitters do not need to pre-circulate any presentation (non-expert witness) 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, see the below in the first instance.
20. Any legal submissions by counsel for the parties can be tabled at the hearing and will not be subject to pre-circulation.

Hearing process and presentations

21. I anticipate that a hearing of this nature will be a new experience for many submitters involved, so I will take a brief moment here to provide some information about the hearing for context.
22. For starters, I encourage all submitters to refer to the useful guides about resource consents and hearings available from the Ministry for the Environment website. The link below, in particular, is a great source of information:

<http://www.mfe.govt.nz/node/16376>
23. Consistent with this guide, my preference is for proceedings to be relatively informal. However, a degree of formality is inherent in hearings of this nature, and I will speak to that at the outset of proceedings.
24. More substantively, the hearing enables me to hear the issues raised in submissions in greater detail, and to be able to ask questions to improve my understanding of those issues.
25. As a rule of thumb, parties should target presentations of 15-30 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.
26. Once a hearing date has been confirmed, I will request an indication from all parties as to the amount of time they require for their presentation so that Ms Ferrari can make the necessary arrangements.

Site and locality visits

27. I am familiar with the site and general locality.
28. I expect that I will need to undertake more detailed site and locality visits both before and after the hearing. In that respect, if any party has a desire for me to visit particular sites/localities they should advise Ms Ferrari as soon as possible.

Next Steps

29. As summarised above I now direct all submitters to advise Ms Ferrari **by midday on Monday 7 October**:

- (a) any expert witnesses they intend to call and the area of expertise of each expert;
- (b) an indication of each witness' availability to conference with other experts no later than the last week of October 2019, and reasons if a witness is not able to do so; and
- (c) any particular sites or localities requested for me to visit.

30. Ms Ferrari can be reached at CCCResourceconsentapplications@ccc.govt.nz.

DATED this 24th day of September 2019



DJ McMahon
Independent RMA Hearings Commissioner