

BEFORE THE MANAWATŪ DISTRICT COUNCIL

IN THE MATTER OF

Resource Consent application for a 16 lot fee simple subdivision and land use consent at 443 Makino Road, Feilding.

APPLICANT

Clinton Brown

**6th MINUTE OF HEARINGS PANEL - HEARING PROCEDURES AND
COMMISSIONER DIRECTIONS
DATED 21 APRIL 2020**

**Minute of Hearings Panel #6
Clinton Brown Application
SB9144 and LC9145**

Deferment of Hearing

1. On 20 March 2020, the Panel deferred the hearing to consider and decide the resource consent application set out above.
2. This deferment was to allow all parties to liaise with their experts as to a suitable date for rescheduling the hearing and also allow the Council to investigate suitable hearing arrangements that will ensure the safety and wellbeing of all parties and a fair hearing process. The Panel requested the applicant and Council report back by the 6th April 2020 with a revised timetable. Both parties requested a further fortnight to report back.
3. The Council and applicant reported back to the Panel on 17th April 2020, both supporting a further 6 week deferment of setting a new hearing timetable, while more certainty is obtained about lockdown and the ability to safely hold a hearing in public. A copy of the emails received from the applicant and Council is attached to this minute.
4. One of the biggest concerns expressed by the Council is the ability of submitters to be able to participate in the hearing in and around their speaking time; both in terms of being able to leave their homes or having the ability to engage technically online to observe the hearing.

Response

5. On 20 April 2020, the Government announced that the country would move to Level 3 on 11:59pm on the 27th April 2020, with an anticipated move to Level 2 on the 11th May 2020. The Panel accepts that we remain in a time of uncertainty as to when a “normal” hearing may be held.
6. However, the Panel is also mindful of the duty to avoid undue delay under the RMA, the impact that uncertainty of delays can have on all participants, including the Panel themselves, and that this application was lodged in June 2017.
7. The Panel is aware that other councils are proceeding with hearings for limited notified applications using Zoom or Skype as platforms, where all parties can “dial” in to and participate in the hearing.
8. Rather than speculate as to whether submitters may not be able to engage online, the Council is requested to contact submitters to enquire whether they would be willing to engage in the hearing process using an online platform. Similarly, the Panel requests that the Council and applicant advise of their ability to participate through an online platform.
9. The Panel requests that they be provided a response to this query by the 5th May 2020.

10. By this time, we should also have more certainty about the likely timing of the move to the next Level.
11. The Panel will then consider this information and issue an updated minute with new directions, taking into account the request for a further six weeks from 17th April 2020 to provide an updated timetable for the hearing.

Correspondence

12. Any correspondence with the Hearings Panel should be directed through Allie Dunn, at allie.dunn@mdc.govt.nz.

A handwritten signature in blue ink, appearing to read "Gina Sweetman", is centered on a light pink rectangular background.

Gina Sweetman
Chair of Hearings Panel

Allie Dunn

From: Greg Woollaston <Greg@dewhirstlaw.co.nz>
Sent: Friday, 17 April 2020 1:46 pm
To: Rachelle Johnston; Allie Dunn
Subject: RE: SB9144 C Brown - Hearing timetable

Categories: [SharePoint] This message was saved in 'Democratic Services Triennium 2019-22 > Committees and Working Parties > 1922 01 HC 26 March 2020'

Good afternoon Allie

We have had the benefit of liaison with Rachelle in these respects; the Applicant supports progressing via option one.

Regards

G.J. (Greg) Woollaston
Partner
Dewhirst Law

www.dewhirstlaw.co.nz
Level 1, The S
478 Main Street,
Palmerston North
Phone (06) 777 5620 Fax (06)

From: Rachelle Johnston <Rachelle.Johnston@mdc.govt.nz>
Sent: Friday, 17 April 2020 1:42 PM
To: Allie Dunn <Allie.Dunn@mdc.govt.nz>
Cc: Greg Woollaston <Greg@dewhirstlaw.co.nz>
Subject: SB9144 C Brown - Hearing timetable

Good Afternoon Allie

As per the last minute provided by the Hearings Committee, Manawatu District Council has been able to consider how a hearing might be hosted and held for the resource consent application scheduled to be heard. Could you please pass on this email to the Hearings Chair for consideration.

Manawatu District Council is continuing to operate its Emergency Operation Centre which is has pulled a number of Council staff from their business as usual roles as we assist our community navigate the Covid-19 event. The Government is set to make an announcement on Monday 20th April 2020 as to what, if any, length of time the nation stays in lockdown and move to level 3 response. Having considered the recent information provided by Government around the Level 3 business operation, MDC believe that our operational status will remain at the same level as it currently is with our staff.

We have considered our obligations under the RMA to avoid undue delay in hearing of resource consent applications and the place of consenting in supporting our communities. We have considered two options:

- Postponing a decision on setting a timetable for a hearing to be set for in 6 weeks. We believe that in 6 weeks' time the Council will have finalised and put into place action plans for getting back into BAU operations as well as manning our EOC requirements. Furthermore it is possible that in 6 weeks' time, there will be more certainty as to how successful the lock down has been and a timetable could be set that realistically could be actioned. A hearing potentially could be held in a suitable meeting room with good social distancing and cleaning procedures in place if the environment is right.

We are also mindful that a number of parties other than Council may have health and family limitations to participate in a hearing proceeding, and the lower the level in emergency response, more people will be able to participate in a hearing proceeding similar to our sense of normal.

Alternatively,

- Postpone the setting a timetable for a further 2 weeks, at which time a timetable be set for evidence exchange and for a limited capacity hearing. By limited capacity we believe that a hearing 'could' be undertaken with only the Hearings panel, reporting planner and applicant in one room with good social distancing practices and if necessary PPE, whilst experts and submitters could provide video conferenced participation. Council acknowledges that a number of experts are unable to travel, find accommodation so video conferencing is the only option for the experts involved. Submitters would have to travel from their homes to Council at certain times (staggered arrival and departure) to allow them to speak to their submission, but also to allow for cleaning in between attendances. Whilst we think this is possible – our biggest concern is the extent to which those submitters will have been able to participate in the hearing in and around their speaking time. Some submitters may not want to leave their homes (70+ age or health compromised), and some submitters may not have the ability to engage technically online to observe a hearing, and so be aware of the information been discussed within the hearing.

Option one would be our preferred option. The applicant may also have an opinion on the above, or other suggestions that we are open to considering.

Kind Regards
Rachelle

RACHELLE JOHNSTON | Principal Planner
| Manawatu District Council | Private Bag 10001 | Feilding 4743 |
| P: +64 (6) 3231687 | F: 06 323 0822 | M: +64 (27) 4540002 | www.mdc.govt.nz |

"Our people delivering great service to our community."

This message may contain privileged and confidential information intended only for the use of the addressee(s) named above. If you are not an intended recipient of this message you are hereby notified that any use, dissemination, distribution or reproduction of this message is prohibited.

If you have received this message in error please notify the sender immediately and erase all copies of the message and attachments.

Any views expressed in this message are those of the individual sender and may not necessarily reflect the views of Manawatu District Council.

This email has been scrubbed for your protection by Barracuda Email Filter @ Advantage.