

## INTRODUCTION

Yesterday we received on a verbal objection made by counsel for the Proponent as to the admissibility of new evidence on day 4 of the hearing. That related to planning evidence by a witness for Central Otago District Council as submitter to PC13, in particular evidence on the Cromwell Masterplan Spatial Framework (Spatial Plan).

Counsel for CODC sought leave verbally to introduce the document and evidence on the document.

We feel we have given the parties an opportunity to comment on this, after going into recess on two occasions yesterday coming back to the parties for comments, and having considered it further overnight. So we don't wish to engage in any further discussion on this, and are now able to deliver our finding on this orally.

## FINDING ON PROCEDURAL ISSUE

The well-established process for RMA hearings is for evidence be pre-circulated. This is for reasons of promoting efficiency, and to avoid surprises.

We note that the Master Planning process has been referred to extensively in submissions and evidence throughout this hearing process. The Commissioners, and the parties were aware that there would be an update about the status of the Master Plan process (signalled through the evidence of a planning witness which had been pre-circulated (Ms Brown)).

It transpired that the Spatial Plan was adopted by Council last Friday.

Yesterday a planning witness for one of the submitters (HMSP and Central Speedway) was about to give evidence on the contents of the Spatial Plan before it had been produced at the hearing. Leave had not been sought to do that, which would have been the normal protocol. Counsel for Central ODC, as submitter, had also not given any indication prior to that point that leave would be sought to table the document, and to address it in evidence at our reconvened hearing. When all of this transpired Mr Goldsmith had essentially closed his case, without having addressed the Spatial Plan.

But we do note also that one of his own witnesses had earlier presented some of the data from the Spatial Plan when presenting a Table on residential capacity.

So, overall, this has not been handled the correct way. It has resulted in delays to the flow of the hearing. Some witnesses have essentially had to turn around and fly home without presenting. As Commissioners we would have liked to have been able to address some of Mr Goldsmith's witnesses on the Spatial Plan if we had known this was going to be discussed by other witnesses. So overall it has been disappointing.

Having said that we are also conscious of the points made by counsel for the submitters. They urged us to consider that the Spatial Plan, while extremely recent, should be viewed as another step in the Cromwell Master Planning process, and they stressed that

the master planning process has in itself been referred to extensively throughout this hearing process.

Yesterday I outlined our main concern was with the procedure, and how any decision to accept the Spatial Plan into the process, at this late point, might prejudice the Proponent. I feel we were justified in expressing that concern.

I also said that, ideally, we would have liked to have seen the document, in the interests of having everything in front of us to help us make the best possible decision with respect to PC13.

We are conscious that there is very high public interest in the Master Planning process. We now know the Spatial Plan is now public and available.

**So, after having now carefully considered all these matters our finding is that it should be part of this hearing process.**

I acknowledge that this has been difficult for us, but that is our decision.

As to whether we ultimately decide the document is relevant to our decision making, or what weight we might assign to it, is still very much a live matter. That will be subject to legal submissions, and evidence, in the reconvened hearing. I must stress we have not seen the document yet and so cannot comment further on it.

We are also conscious of Mr Goldsmith's assurance that he will abide by our decision on this - and we expect the hearing will now be able to proceed in an efficient manner without further unnecessary delay.

As pointed out by counsel for submitters we do need to reconvene the hearing anyway as we have not been able to hear from everyone this week, and the updates to the rules framework and the revised section 32 evaluation need to also be considered.

We are expecting that the Spatial Plan will also be able to be addressed at the reconvened hearing.

For anyone who is interested Mr Goldsmith has tabled a summary describing the updates changes that are being made to the rules, and these are now available for anyone that would like to see them.

## **PROCESS FROM HERE**

Now that we have decided to admit the Spatial Framework into the hearing we need to be guided by the parties as to how to manage the process from here.

As I have said, we would like to consider it at the reconvened hearing. We think this can be a 'ring fenced' issue - for both legal submissions and evidence.

We will leave it to the parties to come to an agreement on the following matters:

- How the CODC, who sought leave to introduce the document, will go about that and what evidence they will introduce;
- How the Proponent would like to introduce evidence to take account of it; and
- How any other relevant witnesses will address it.

We will expect full co-operation from the parties to make arrangements to accommodate this at the reconvened hearing.

We ask the parties to confirm those arrangements to us in a single Joint Memorandum by no later than 21 June 2019 (next Friday).

Upon receipt of that we will issue directions in the form of a Minute to confirm the process for when we reconvene. That Minute will also confirm our findings on this Procedural issue.

In the meantime, we can proceed with the hearing today.