

BOARD OF INQUIRY

**Waterview Connection
Proposal**

**BOARD OF INQUIRY
WATERVIEW CONNECTION PROPOSAL**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a Board of Inquiry appointed under s149J of the Resource Management Act 1991 to consider applications by New Zealand Transport Authority for resource consents and notices of requirement for the Waterview Connection Proposal.

Board of Inquiry members presiding:

Judge Laurie Newhook

Member Sue Jackson

Member Alan Dormer

MINUTE AND DIRECTIONS OF THE BOARD

MATTERS ARISING FROM PRE-HEARING CONFERENCE

This direction from the Waterview Board of Inquiry follows the pre-hearing conference on 21 December 2010, at 10.00 am.

Members interests

Following disclosure by the Board of members' interests (ie. of the 3 who presided, Judge Newhook, Member Jackson and Member Dormer), it directed parties in attendance who might wish to raise any matters in respect of these, to respond. No party did so, but Mr Allan on behalf of the several clients he was representing, sought leave to respond when he had been able to explain this aspect to them. This leave was granted and extended to the other parties.

Hearing dates, times and location

The Board of Inquiry's hearing of the NZTA Waterview Connection Proposal will commence at 10am on Monday 7 February, 2011 in Courtroom 1 of the Environment Court, Level 2, 41 Federal Street, Auckland. The hearing will follow a format of two weeks on and one week off, meaning hearing weeks are as follows – week of 7 February, 14 February, 28 February, 7 March, 21 March & 28 March 2011.

Pre-hearing Conference

A second pre-hearing conference will be held at 10am on 21 January 2011 in Courtroom 1 of the Environment Court, Level 2, 41 Federal Street, Auckland.

Pre-reading of evidence

The Board confirmed that all evidence will be pre-read by its members, meaning that the prepared statements would not be read out aloud by witnesses in the hearing. However as NZTA's rebuttal evidence is to be provided on 4 February 2011, the Board will commence the hearing on 7 February 2011 to hear NZTA's opening representation and will then retire for 1-2 days to read NZTA's rebuttal evidence, before recommencing the hearing.

Hearing Order

The Board has accepted Ms Janissen's submissions on behalf of the NZTA that the hearing of evidence "by sector" is impractical for the purpose of equitably managing the amount of time experts and submitters must attend the hearing, and the numbers of times they might need to attend. The hearing will therefore proceed on a "topic by topic within each party's case" approach. NZTA will present its case first, and subject to what is recorded in the next paragraph, ought to be followed by the Auckland Council, then other parties.

Timetabling of parties' involvement in hearing

The Board, following careful deliberation, recorded that a precise and accurate timetable for the hearing of parties is not possible. The Board has identified the need for the EPA and parties to be in close contact regarding their appearance day and time as the hearing progresses. Daily updates on progress will also be provided on the website. NZTA's representative and various experts will give evidence in the order with which it appears within their evidence in chief (with one exception being the evidence of Dr. Rod Clough).

The Board has directed the EPA to establish an order of submitters wanting to give representation or evidence at the hearing. The Board has asked parties who are unavailable for periods of time throughout the February/March hearing period to advise the EPA by 1 February 2011.

A list identifying the order in which submitters and submitters' experts are to appear will be distributed to all parties by 7 February 2011.

Cross examination of witnesses

The Board has agreed to allow parties to cross-examine witnesses, but has directed that parties wishing to undertake cross-examination must seek leave to do so. When applying, parties must provide the following –

- a list of witnesses they wish to cross examine,
- general nature of topics wish to cross examine each witness on, and
- length of time they believe they will need for cross examination,

This must be provided to the EPA by the commencement of the hearing on 10am, 7 February 2011.

The Board may, as it sees fit, grant such leave on terms that it will set including as to length of time of questioning, or refuse leave. In certain circumstance the Board may give leave to parties wishing to cross examine witnesses not advised at the commencement of the hearing, and may vary the terms previously set, for good cause.

Timing of transcript production

Hearing transcripts will be provided on a 1-day turnaround during the hearing. Parties are to contact the EPA if they wish to have these provided to them. The usual means of supply will be electronic (email). Special arrangements would be needed for the supply of hard copies. Transcripts will also be available daily on the website.

Caucusing / Facilitation

The Board has directed caucusing of experts to occur in the 2nd half of January and the 1st week of February in relation to the topics below.

Parties are to advise the EPA of which experts (and non experts for the two identified sessions) will be attending which sessions by 13 January 2011. Please provide full contact details for each attendee.

EPA will then contact the parties directly to arrange the caucusing timetable.

Caucusing topics are -

Facilitators available -	Facilitators not yet available -
<ul style="list-style-type: none">• Stormwater, Groundwater & Contamination	<ul style="list-style-type: none">• Open Space & Reserves* (2 sessions)
<ul style="list-style-type: none">• Noise (construction and operational)	<ul style="list-style-type: none">• Ecology – (botanical & zoological)
<ul style="list-style-type: none">• Traffic & Transportation	<ul style="list-style-type: none">• Air quality
<ul style="list-style-type: none">• Landscape & Visual Design	<ul style="list-style-type: none">• Iwi / Cultural
	<ul style="list-style-type: none">• Social Impacts* (2 sessions)

*Note: For Open Spaces and Social Impacts there will be a non-expert session with experts in attendance and participating, to be followed by an expert session.

Following caucusing, the experts must provide a joint signed report that includes –

- areas that have been resolved and how (e.g by agreement about conditions)
- areas that are not resolved, and succinctly why.

All caucusing reports are to be provided to the EPA by 10am 7 February 2011.

Site and locality visits

The Board has agreed that they will undertake site and locality visits within the week of 7 to 11 February and seeks parties' agreement on a tentative schedule.

The Board has appointed the Auckland Council as lead author of the schedule and to prepare a preliminary list of sites and viewpoints for the Board to consider.

Parties are to provide advice on sites for the Board to visit and any supporting information required e.g. access restrictions, to the Auckland Council by 17 January 2011. Contact details are –

Corina Faesenkloet, c/o Simpson Grierson
Email - corina.faesenkloet@simpsongrierson.com
Phone - 09 977 5400

The Auckland Council's preliminary list of sites and viewpoints will be distributed to all parties with email addresses* on 20 January 2011 for further discussion at the pre-hearing conference on 21

January 2011. Note, parties who do not have email addresses will be able to receive a copy at the pre-hearing conference.

* Note: If you are on the list of parties to be served in hard copy but do have an email address suitable for small updates please advise the EPA. This will not affect your receiving information by post but will be used when information is required to be circulated quickly.

Late Evidence

The Board agreed to accept late evidence from Auckland Council, prepared by Ms Tania Richmond (Planning) and Mr Dennis Scott (Landscape) which was distributed by Auckland Council to all parties on Monday 20 December 2010.

The Board agreed to accept late evidence from NZ Forest & Bird prepared by Dr Mark Bellingham which has been provided to the EPA on 19 December 2010.

The Board gave leave to the Auckland Kindergarten Association to provide late expert evidence addressing the landscape effects of the proposal on Waterview Kindergarten prepared by Mr Rob Pryor. Following submissions by Mr Stuart Ryan on behalf of the Kindergarten Association the Board directed that the evidence be distributed to all parties no later than Monday, 10 January 2011.

Additional Section 42A Reports

The Board noted that it had commissioned three additional Section 42A officer reports to aid the Board in its assessment of air quality, noise, and ground settlement effects. A key issues report will be circulated on each by 23 December 2010, followed by a full report shortly after 14 January 2011.

Summary of Key Dates and Deliverables

Responsible	Key Deliverables	Date
Parties	Advise EPA of experts (and non-experts in 2 of the sessions) (and their contact details) attending each caucusing sessions.	13 Jan 11
Parties	Advise Auckland Council of potential sites for the Board site visit, and any supporting information required e.g. access issues.	17 Jan 11
Auckland Council	Circulate tentative Board site visit timetable to parties with email. Hard copies will be available at the pre-hearing conference.	20 Jan 11
All	Pre-hearing conference.	21 Jan 11
Parties	Provide EPA any dates/times of unavailability during the hearing.	1 Feb 11
EPA	List of submitter appearance order provided to parties.	7 Feb 11
Parties	Seek leave for cross examination by providing the EPA with a list of witnesses, general topic areas and time required.	10am 7 Feb 11

Experts	Caucusing Reports to be provided to the EPA.	10am 7 Feb 11
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If you have any questions arising from this Board Direction please do not hesitate to contact the EPA on 0800 H2OVIEW (0800 4268439) or waterview@epa.govt.nz.

For the Board:



Judge L Newhook

Chairman - Waterview Connection Proposal Board of Inquiry

23 December 2010