

Merle Lavin

Subject: FW: Plan Change C - Jurisdiction issue

From: chris mitchell <chris.mitchell@mitchelllaw.co.nz>

Sent: Wednesday, 10 July 2019 12:26 PM

To: Merle Lavin <merle.lavin@pncc.govt.nz>

Cc: Proffit, Reginald <Reginald.Proffit@wsp.com>; Rachel Bowen <Rachel.Bowen@pncc.govt.nz>; Lorna Johnson <Lorna.Johnson@pncc.govt.nz>; Penny Odell <penny.odell@pncc.govt.nz>

Subject: Re: Plan Change C - Jurisdiction issue

Thanks Merle

On reflection, I don't think that the Panel needs to do anything at this stage. Council is entitled to raise the scope point, and it is good that the relevant submitters have been advised of Council's view. We will need to make our own decision in due course, once we've seen Council's reasons and heard from the submitters.

This email can be copied to David Murphy. Once Council has sent its letters to relevant submitters, it will appropriate for the memorandum, the letters and this email to be publicly available.

Regards

Chris

Chris Mitchell

Mitchell Law

Waikanae

Ph 04 293 3646

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From: Merle Lavin <merle.lavin@pncc.govt.nz>

Date: Tuesday, 9 July 2019 1:01 PM

To: chris mitchell <chris.mitchell@mitchelllaw.co.nz>

Cc: "Proffit, Reginald" <Reginald.Proffit@wsp.com>, Rachel Bowen <Rachel.Bowen@pncc.govt.nz>, Lorna Johnson <Lorna.Johnson@pncc.govt.nz>, Penny Odell <penny.odell@pncc.govt.nz>

Subject: Plan Change C - Jurisdiction issue

Hi Chris,

Please see attached memo from David Murphy, City Planning Manager and Keegan Aplin-Thane, Planner.

MERLE LAVIN | Administration Secretary

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MEMORANDUM

TO Chris Mitchell, Chairperson, Plan Change C Hearing Panel

CC Reginald Proffit, Rachel Bowen, Lorna Johnson

FROM David Murphy, City Planning Manager
Keegan Aplin-Thane, Planner

DATE 9 July 2019

SUBJECT Plan Change C: Jurisdiction Issue

1. The Reporting Officers on proposed Plan Change C: Kakatangiata Stage 1: Kikiwhenua Residential Area wish to give early notice to the Hearing Panel and submitters of an issue as to jurisdiction regarding some of the submissions.
2. Specifically, an opinion has been formed that several submissions and one further submission are not properly regarded as "on" the Plan Change for the purposes of clause 6, Schedule 1 of the Resource Management Act 1991 ("RMA"), to the extent that they seek a decision to rezone land to residential that is outside the scope of the plan change.
3. The submissions in question are Submission #19, #21, #22, #23, and Further Submission #1.
4. The intention is to elaborate on the jurisdiction issue for the Hearing Panel in section 42A Reports, specifically a Legal Report that will be provided at the same time.
5. The Reporting Officers also consider it would be appropriate to alert the individual submitters of the view that has been formed on the jurisdiction issue. A letter has been prepared for that purpose and a copy is attached at Appendix A.



David Murphy
City Planning Manager



Keegan Aplin-Thane
Planner

APPENDIX A: LETTER

[submitters address]

Important Correspondence regarding Your Submission on Proposed Plan Change C: Kikiwhenua Residential Plan Change

Dear Sir/Mdm

The Council's reporting officers on Proposed Plan Change C: Kikiwhenua Residential Plan Change are currently preparing their evidence which will be presented to the Hearing Panel on the plan change.

This letter is to give you advance notice that the reporting officers have reached a view that there are parts of your submission that seek a decision outside the jurisdiction of the Hearing Panel to grant or allow – Specifically, your request for a decision that extends the proposed rezoning over the entire Race Training Zone is considered to be beyond the identified scope of the plan change area (being the Kikiwhenua Residential Area). The position of the reporting officers will be that these parts of your submission are not made on the proposed plan change, as it is described/defined in the plan change documents.

This issue is one of procedural fairness to the public and specifically other potential submitters who are not already involved in the plan change process. The reporting officers are obliged to raise this jurisdictional issue with the Hearing Panel.

Please note that the Hearing Panel will be required to determine whether the submissions are properly regarded as submissions on the plan change. Accordingly, you are certainly encouraged to remain involved in the plan change process and participation in the Hearing of submissions scheduled for 20 and 21 August 2019 where you will be welcomed to express your views to the hearing panel on the jurisdictional issue raised by this letter, and any other matter you wish to speak about in relation to your submission.

The reporting officers expressly acknowledge that your submissions seek an alternative decision from the Hearing Panel that the "*status quo*" of Race Training Zone remain in place. The reporting officers wish to be clear with you that maintaining the status quo of Race Training Zone in respect of the plan change area is certainly a decision that the Hearing Panel is entitled to make.

David Murphy
City Planning Manager

Keegan Aplin-Thane
Planner