

**IN THE MATTER**

of the Resource  
Management Act 1991

**AND**

**IN THE MATTER**

of Submissions and Further  
Submissions on the  
Proposed Wellington City  
District Plan

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**Minute 9:**

**Stream 1 Cross Examination**

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## **Introduction**

1. In Minute 1, we noted the potential for the Hearing Panel to give leave to parties to cross examine other witnesses in relation to ISPP matters. We set out the considerations that would guide our decision as to whether we gave leave in a particular situation and fixed a timetable for applications for leave to be made.
2. We have received two applications within the requisite time, one from Counsel for Wellington's Character Charitable Trust (**WCCT**) and one from Mr Taylor, speaking for Johnsonville Community Association (**JCA**).

## **WCCT Application**

3. Counsel for WCCT seeks leave to cross examine one of the Section 42A authors, Mr Wharton in relation to:
  - (a) Objectives of the NPSUD;
  - (b) The relevance of the Regional Land Transport Plan 2021, Regional Public Transport Plan 2021, One Network Framework, and Wellington Regional Growth Framework 2021 to the classification of rapid transit services;
  - (c) Future capacity assessments of the Johnsonville line;
  - (d) Future improvements to the Johnsonville line;
  - (e) Walkable catchments around Box Hill Station.
4. Counsel estimates that some ten minutes would be required.
5. Counsel suggests that the proposed subject matter is crucial to a number of key disputed resource management issues for the PDP, centred on whether the Johnsonville line is a rapid transit service.
6. WCCT has circulated both expert evidence and legal submissions on the matters in respect of which cross examination is sought. The time requested is modest and with one exception, we accept Counsel's reasoning as to why cross examination is appropriate.
7. The exception is point (b) above – the relevance of these documents is a legal issue in respect of which Counsel can (and has) made submissions.
8. We find that the interest of justice justify our giving Counsel leave to cross examine Mr Wharton on points (a) and (c)-(e) inclusive.

## JCA

9. Mr Taylor's note suggests that he/JCA wishes to cross examine Mr Wharton, the Council's technical witness Ms Hammond, and "Greater Wellington Regional Council witness (name to be advised)".
10. The request to cross examine an unnamed witness for the Regional Council can be easily addressed. Cross examination requires a witness. There is no Regional Council witness to cross examine. Accordingly, we decline leave to cross examine a witness for the Regional Council.
11. The request in respect of the Council witnesses is similarly framed, focussing on omissions and clarifications in the evidence. The omissions, in the case of Mr Wharton are said to be material.
12. Mr Taylor's note says similarly that in the case of each witness that it is in the interest of justice that the omissions in the evidence "*are highlighted and made transparent and clear*".
13. JCA has not provided a brief of evidence or submissions/ representations in advance of the hearing. Rather, it has pre-circulated a very large volume of material from various sources, isolated sections of which have been highlighted. It has also circulated a number of videos of walking routes around the Johnsonville Centre. We do not consider that JCA has provided a suitable evidential basis on which to cross examine. In particular, it has not identified the omissions (and in Ms Hammond's case clarifications), that it places reliance on, and would wish to cross examine about.
14. The interests of justice are a two-way street. It is incumbent on a party wishing to cross examine to properly put their own case on the table before the interests of justice favour cross examination.
15. We are concerned in particular that cross examination in these circumstances might involve an attempt to ambush the witness, putting to them propositions that they cannot reasonably have anticipated.
16. Aside from being unfair to the witnesses, the answers given in such circumstances are unlikely to be helpful to the Hearing Panel.
17. We decline to give leave to JCA to cross examine Mr Wharton and Ms Hammond in the circumstances.

## **Procedure**

18. As per Minute 1, our intention is to allow cross examination to proceed after the Hearing Panel have asked their questions of the relevant witness (Mr Wharton).
19. Our plan is to ask questions on the Section 42A Reports, section by section. That means that Counsel for WCCT has the option of cross examining Mr Wharton after we complete our questions on Section 4.4 of the Section 42A Report, or at some convenient time thereafter. We will discuss the exact arrangements with Mr Ballinger at the commencement of the hearing proper.
20. Mr Taylor asked for confirmation of the hearing time available to JCA, noting that he proposed 20 minutes for his own presentation and 20 minutes for questions from the Hearing Panel. JCA is currently scheduled to be heard at 4 o'clock on the 22<sup>nd</sup> of February. If we are running to time, there should be ample time for Mr Taylor to present JCA's case and for the Hearing Panel to ask questions of him. If necessary, the Hearing Panel will sit late to complete JCA's case, but we will not sit beyond 6pm.
21. Lastly, we note that Mr Taylor asked that we undertake a site visit of the Johnsonville area, and walk three routes out of the centre to test the walkability of the various areas around it. We record that this afternoon, we took the Johnsonville line train to Johnsonville, and then walked the first of Mr Taylor's suggested routes to explore the zoned area east of State Highway 1) before returning to the City by the #1 bus. We will return to Johnsonville to walk the other two suggested routes one evening after the hearing.



**Trevor Robinson**  
**Chair**

**For the Wellington City Proposed District Plan Hearings Panel**

Dated: 20 February 2023