

IN THE MATTER

of the Resource Management
Act 1991

AND

IN THE MATTER

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

Minute 1:

Hearing procedures

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1. Hearings Streams with allocated Hearings Panels
2. Summary of Relevant Dates for Submitters

Purpose

1. The purpose of this Minute is to outline the procedures for the hearing of submissions on the PDP that will commence on 21 February 2023.

Introduction

4. On 18 July 2022, Wellington City Council ('the Council') publicly notified the Wellington City Proposed District Plan ('the PDP').
5. 496 submissions were filed in response to the notification of the PDP.
6. A summary of those submissions was publicly notified on 21 November 2022 and 137 further submissions were lodged in response to that notice. References to submissions should be taken to include further submissions in the rest of this Minute unless otherwise stated.
7. The purpose of the District Plan hearings is to receive verbal submissions and supporting evidence in relation to the written submissions, and make recommendations to the Council on the PDP and on the submissions received. As detailed below, a panel of independent hearings commissioners has been engaged by the Council to hear submissions and make these recommendations.
8. This Minute includes information as to how the hearings will be divided by subject matter and specific directions as to when and how evidence and legal submissions will need to be lodged for the early streams of hearing topics. It also seeks to provide guidance on what submitters can expect when they appear at the hearing.
9. The key points of the proposed Hearings Procedures will be summarised in a attached one-page 'Quick Guide to Hearings for Submitters' included with the Notice of Hearing submitters will receive, for ease of reference. A copy will be placed on the hearings website.

Principles of the Hearing Process

10. The Hearings Panel will seek to ensure that, to the greatest extent practicable, the most appropriate, fair, and efficient hearing process is established while complying with the requirements of the Resource Management Act 1991 ('the RMA').
11. To this end, the Hearings Panel will establish and conduct hearing processes that:

- **Are appropriate and fair:** each Hearings Panel will at all times act in a fair and transparent manner;
- **Avoid unnecessary formality:** each Hearings Panel will be inclusive, acknowledge the broad range of interests of submitters, and facilitate a process that provides all parties with the opportunity to be heard, whether they are presenting verbal or written submissions and/or evidence;
- **Are efficient:** each Hearings Panel will conduct an efficient process which minimises time and costs to all parties participating in the hearings. Each Hearings Panel will provide both the Council and all submitters with an adequate opportunity to be heard, while at the same time, avoiding unnecessary repetition and presentation of irrelevant material;
- **Recognise Tikanga Māori:** each Hearings Panel will receive written or spoken evidence in Te Reo, if and when requested to do so by a submitter who has given at least one week's notice to enable an interpreter to be available. Other methods to recognise and provide for Tikanga Māori in the hearing process will be incorporated, as advised by our mana whenua iwi partners.
- **Recognise New Zealand sign language:** each Hearings Panel will receive evidence in sign language, if and when requested to do so by a submitter who has given at least one week's notice to enable an interpreter to be available.

Membership and Role of the Hearings Panel

12. The Council has appointed an eight person Hearings Panel of Commissioners ('the Hearings Panel') under Section 34A(1) of the RMA to hear and make decisions on the submissions lodged in relation to the PDP. The appointed Commissioners are:

- Trevor Robinson (Barrister based in Napier) as Chair;
- Robert Schofield (Planner, based in Wellington) as Deputy Chair;
- Jane Black (Urban Planner, based in Wellington);
- Elizabeth (Liz) Burge (Resource Management Consultant, based in Carterton);

- Lindsay Daysh (Planner, based in Wellington);
 - Rāwiri Faulkner (Resource Management Commissioner, Mana Whenua Partnerships Consultant, based in Wellington).
 - Heike Lutz (Building Conservation Consultant, based in Auckland); and
 - David McMahon (Planner, based in Wellington);
13. Pursuant to pre-existing delegations, the Hearings Panel has the power to make directions on procedural matters relevant to the hearing of submissions and further submissions on the PDP. These hearing procedures are issued by the Hearings Panel pursuant to those delegations. It is likely that a number of procedural minutes will be issued during the course of the hearings process.
 14. Commissioners Schofield and Robinson will chair the Hearings Panels and work jointly with respect to settling procedural matters that arise during the period of the hearings.
 15. It is proposed that all Hearings Commissioners will participate in the hearing of submissions relating to the PDP as a whole, integration between different parts of the PDP and definitions that apply across multiple parts of the PDP.
 16. Four Commissioners will generally sit as separate Hearings Panels for all other hearing topics, with either Commissioner Schofield or Commissioner Robinson as the Chair. The allocation of Commissioners to hearing topics is set out below in the section discussing the division of the PDP into different hearing streams.

Management of Potential Conflicts of Interest

17. A fundamental pre-requisite to a fair and transparent hearing process is the obligation on all Commissioners to bring an independent view and open mind to the role, free of any conflicts of interest that could result in bias and/or predetermination.
18. Conflicts of interest may arise, for example, where a Commissioner:
 - Has previously advocated or given evidence in support of a particular position of relevance to the finalisation of the provisions of the PDP; or
 - Has previously appeared as a witness or an advocate for a party who holds an interest and/or lodged a submission on the PDP;

- Has a private interest, including but not limited to an interest in property, which may result in an actual or perceived conflict of interest and/or bias.
19. As part of the process for appointment as Commissioners on the PDP, the Council required applicants to declare any conflicts of interest. The Council did not identify any declared conflict as precluding appointment of the Hearings Panel members.
 20. Following appointment, the Hearings Panel has collectively agreed to disclose any potential conflicts of interest to the Chairs prior to and (where they become aware of same) during the hearings.
 21. The allocation of Commissioners to different hearing streams has been designed to minimise known conflicts of interest.
 22. The vehicle for recording conflicts of interest is a “*Register of Interests*” which records previous and current involvements and/or interests held by Hearings Panel members. The Register will be updated by the Chairs throughout the hearing process when and if potential conflicts come to light.
 23. The Register of Interests will be maintained for the full term of the hearing process and will be available for public inspection upon request to the Hearings Administrator.
 24. Any party to the hearing process is entitled to raise potential conflicts of interest with the Chairs. Desirably, this should be done before the relevant day’s hearing but, at latest, at the commencement of the relevant day’s hearing.
 25. The Hearings Panel have agreed that the Chair of the particular hearing stream should determine whether a Commissioner should stand aside from any specific hearing sessions (and consequently from the deliberations and decision-making arising from such sessions) by reason of any conflict of interest. If any issue arises in respect of either Chair’s involvement and interests, the remaining Chair will determine the appropriate course of action.

Hearing Schedule

26. The Hearings Panel intends to hold a number of separate hearings, with each hearing stream considering specific hearing topics. The arrangement of topics into different streams, and the allocation of Commissioners to each stream is as shown in the table provided at Attachment 1.

27. Hearing topics have been grouped with the objective of hearing all provisions that must be determined under the Intensification Streamlined Planning Process ('the **ISPP**') first. Where there is a related topic following the Part 1 Schedule 1 process that should logically be heard with the ISPP provisions, this will be held in an early stream while continuing to be subject to the First Schedule provisions that would normally apply. The remainder of the Part 1 Schedule 1 provisions will be heard in later streams.
28. The division between ISPP topics and the balance of PDP topics is important, firstly because, as discussed further below, the hearing procedures for the ISPP are different to the normal First Schedule process followed for the non-ISPP topics, and secondly because the ISPP is on a much tighter timeline, with Council decisions required to be released by 20 November 2023. The division from the two shown in the attached schedule is the Council's view of the matter, as determined at a Council meeting on 31 March 2022. If any submitter wishes to dispute the allocation of topics to the ISPP (or not), as the case may be, they should file a detailed memorandum explaining the basis for their view on or before 30 January 2023. The Hearing Panel will then make further directions for the resolution of any issues raised. At present, the Hearing Panel's intention is to hear arguments on any submitter objections to the classification of issues at the commencement of the Stream 1 hearing (commencing on 21 February 2023).
29. Within each hearing stream, the section 42A reports(s) prepared by Planning Advisors for the Council will identify the author's view as to which matters scheduled for hearing are the subject of the ISPP, and which are not. If submitters seek to challenge that division, this should be signalled (with reasons) in or with their evidence pre-circulated prior to the relevant hearing. The Hearing Panel will hear the parties with an interest in any issues raised in this regard at the commencement of the relevant hearing, and advise its determination before the substantive hearing proceeds.
30. It is acknowledged that dividing the hearing of PDP submissions into topics will mean that some submitters may have to attend and participate in more than one hearing stream – depending on the scope of their submission, perhaps a number of hearings. The Hearings Panel acknowledges that this approach may be disruptive to submitters' other work and family commitments. However, the Panel considers that its approach is the best balance between an efficient and manageable hearing process.
31. The hearing venue will be the Council's satellite office at Level 7, 79 Boulcott Street, Wellington Central. Details for the venue will be provided in the Notice of Hearing that will be issued at least two weeks prior to each hearing.

32. All material related to the hearings will be uploaded to the Council website (accessed via the 'Proposed District Plan' link).

Council Officer Involvement in the Hearings

33. A number of Council staff will be involved in the hearing process. Specifically:
 - (a) Hearings Administrator(s)
 - (b) Planning Advisors, section 42A Report writers, and
 - (c) Where required, Council officers providing expert evidence.

Hearings Administrators

34. The Hearings Administrators are the 'point of contact' for submitters and the public (including the media) regarding the hearings.
35. Outside the hearings proper, all communications with the Hearings Panel from submitters and their representatives, section 42A report writers and expert witnesses must be directed through the Hearings Administrators.
36. The Hearings Administrators will oversee the various administrative tasks needed to ensure an efficient hearing process, including:
 - (a) Issuing schedules and hearing notifications;
 - (b) Making hearing arrangements;
 - (c) Circulating Hearings Panel minutes and other directions;
 - (d) Circulating evidence and reports for each hearing;
 - (e) Handling submitter enquiries;
 - (f) Handling public inquiries to the Hearings Panel; and
 - (g) Generally assisting the Hearings Panel with logistical matters as required.
37. The Hearings Administrators are also responsible for managing the PDP webpage to ensure that all necessary information to support an efficient hearing process is available to all participants.

38. Jaskirat (Jazz) Kaur is the primary Hearings Administrator, but she will be assisted by other Council Officers when required. Contact details for the Hearings Administrator will be available on the Council website before the end of 2022.

Planning Advisors and other Council experts

39. Section 42A of the RMA provides for preparation of reports summarising and evaluating submissions relevant to a hearing topic, and making recommendations on potential amendments to the PDP in response to submissions. Section 42A reports will be prepared either by Council Planning Advisors or external planning consultants, and supported, where appropriate, by expert evidence. Such expert evidence might also be prepared either by Council staff or external consultants.
40. Where a particular hearing involves submissions on multiple PDP chapters, a number of section 42A reports may be prepared and publicly released prior to the relevant hearing. Where there are a number of submissions and/or the topics the subject of a hearing are complex, the section 42A reports are likely to be substantial documents in their own right.
41. The purpose of a section 42A report is to assist both submitters and the relevant Hearings Panel prepare for the hearing to which it relates.
42. Among other things, each section 42A report will contain a schedule of the primary submission points it addresses and the author's recommendation in relation to each submission point, based on their evaluation of submission points. Submitters wishing to check whether their submission points are going to be heard in a particular hearing should check that schedule to confirm the position.
43. It is intended that drafts of the schedules for forthcoming hearings will be made available on the Council's Hearings website to assist submitters with interests in multiple hearing topics to plan their preparation for the hearings. It is important to record that those draft schedules are subject to change.
44. Section 42A reports prepared for each hearing, together with any supporting expert evidence from either internal advisers (Council officers) or external advisers, constitute part of the body of evidence to be considered by the relevant Hearings Panel, alongside the evidence of submitters.
45. Section 42A reports and any supporting expert evidence will be uploaded to the Hearings website a minimum of 20 working days prior to the hearing to which they relate.

46. Once section 42A reports are available online, the Hearings Administrator will email submitters who indicated they wished to be heard on the relevant topic, providing an electronic (PDF) copy of the relevant section 42A report(s). Hard copies of the section 42A reports will also be available from the Hearings Administrator on request.
47. While section 42A reports will evaluate all submissions on the relevant hearing topics and make recommendations to the Hearings Panel considering those topics, those recommendations are not binding on the Hearings Panel and carry no greater weight than any other evidence provided by or on behalf of any submitter.
48. The Hearings Panel has determined that it would be assisted by pre-circulated rebuttal evidence. While principally this will apply to the section 42A report authors or other Council expert witnesses, to give them the ability to respond to expert evidence circulated by submitters (either to explain the reasons why they disagree with that evidence, or confirming their agreement with it, and identifying any consequential changes to their recommendations), submitters who wish to call expert evidence contradicting the evidence of other submitters can also utilise this opportunity. Rebuttal is not, however, an opportunity for submitters to delay their response to the section 42A report and supporting evidence.

Submitter Presentations and Evidence

Verbal submissions to the Hearings Panel

49. All submitters who have given notice of their intention to be heard on a hearing topic are entitled to appear at that hearing. Submitters may appear either in person or through their authorised representative (including but not limited to legal counsel), and a submitter's case may also be assisted by their bringing expert evidence before the relevant Hearings Panel.
50. Verbal presentations may take the form of submissions/representations or lay evidence. The difference between the two is that submissions/representations advocate for a particular outcome. Lay evidence is an objective statement of fact or opinion on matters relevant to the determination of an outcome. A submitter's presentation may combine both elements, but it is important to be aware and be clear of the difference between the two in your own mind.
51. All legal submissions and other written presentations that are longer than three A4 pages in length should be lodged with the Hearings Administrators not less than two working days before the commencement of the relevant hearing, unless otherwise

directed. If legal submissions refer to caselaw, counsel should either insert an electronic link to the cases or provide electronic copies separately. Hard copies of cases will not generally be required unless otherwise advised. If a submitter or their representative makes reference to documents or other sources of information to support their points, they should either have a copy of that document available upon request by the Panel or be able to provide links to it electronically.

52. If a submitter wishes to present their submission using a power-point presentation, they should similarly provide the power-point in an electronic format to the Hearings Administrators at least two working days prior to the commencement of the hearing. This is to ensure compatibility with the electronic system at the hearing venue.
53. Submitters have the option of presenting written representations on the day of the hearing, and read it aloud provided it is not longer than three A4 pages in length. If submitters are going to do this, they need to bring ten copies of any written material to the hearing not sent electronically to the Hearings Administrators prior to the hearing, and supply an electronic copy to the Hearings Administrator within two working days of completing their presentation (if they have not already done so by the time they appear).
54. If a submitter plans to speak verbally to their submission, that is fine, but only if their verbal presentation is less than the equivalent of three A4 pages read aloud (about 10 minutes). Otherwise, there is a risk that the Hearings Panel members will be too busy taking notes to take in what the submitter is saying – which is not helpful either to the Panel or the submitter.
55. Even if your verbal presentation is short, it is usually best to put your thoughts in the form of a written statement, both to help you focus on the key issues, and to help the Hearings Panel who otherwise have to take notes of what you say rather than being able to concentrate on listening to you. If producing a typed version of what you want to say is a problem for you, a readable handwritten statement is fine.
56. Where a number of submitters are presenting a similar position on a particular issue, the Hearings Panel would encourage, at the least, coordination between those submitters. Ideally, submitters will nominate a representative to present representations that are common to the group. We emphasise that the hearing is not a numbers game. The Hearings Panel will be much more interested in the cogency of the reasons for a particular amendment to the PDP provisions than the number of people who appear to make the same point.

57. Information about the scheduling of time for presentations is provided later in these Procedures.

Expert evidence

58. As noted above, submitters are entitled to legal and expert representation.
59. An expert is a person equipped by training and experience to provide expert opinion on issues of relevance to the determination of the final form of the PDP. While most experts will have academic qualifications, that is not a prerequisite. Kaumātua and kuia do not need a university degree to be expert at the cultural values of their iwi or hapū. Likewise, many people have acquired significant expertise 'learning on the job'.
60. The key thing is for an expert witness to demonstrate to the Hearings Panel both that they have the expertise to advance the opinions they provide, and the ability to act independently of the submitter who calls them to give evidence. So-called experts who act as advocates or 'hired guns' are of little or no use to the Hearing Panel. As discussed below, experts are required to confirm they agree to comply with the Environment Court Code of Conduct for Expert Witnesses, which reinforces this point.
61. The extent to which a submitter's case would be assisted by expert evidence will depend on the nature of the relief a submitter seeks. However, submitters should note that if they seek substantive changes to the notified plan provisions, their presentation needs to be accompanied by material which enables the relevant Hearings Panel to undertake an evaluation of their relief under section 32AA of the RMA. If the section 42A report provided by the Council does not support the suggested change (and provide the evaluation that section requires) the submitter will likely need to do so by way of expert evidence on the subject. If you are in any doubt as to what you need to do to satisfy the technical requirements of the RMA you should consult the Friend of the Submitter at email: friendofsubmitters@wcc.govt.nz or phone 027 8030080 (if you do not have your own planning or legal advice already).
62. Any expert evidence a submitter proposes to call must be pre-circulated in accordance with the timetable for the relevant hearing. Generally, the deadline for pre-circulation of submitter expert evidence will be ten (10) working days after circulation of the section 42A report on the relevant topic. The Chair of the relevant stream will advise, via a Minute, if there is any variation to this timeframe.

63. Each expert witness can only present one brief of evidence in each hearing. Where that expert witness is giving evidence for multiple submitters at a hearing, that evidence may be divided into appropriate sections to enable the different submitters' cases to be presented appropriately.

Pre-circulation of expert evidence

64. The Hearings Panel expects that all expert evidence will be in the form of a single compiled and unsecured (searchable) PDF document, with numbered paragraphs, and page numbered for ease of reference. Expert witnesses must confirm their agreement to abide by the Code of Conduct for Expert Witnesses applying in the Environment Court, in the same manner as they would if appearing in the Environment Court.
65. Expert briefs of evidence should contain a brief (three pages or less) executive summary.
66. Expert witness briefs must be in a minimum of 11pt font size and 1.5 spacing.
67. Expert evidence for submitters should be directed at the relevant section 42A report, identifying points of agreement and disagreement with precise cross referencing to the section 42A report, including in the case of planning witnesses, a marked-up version of the Plan provisions showing changes recommended from the section 42A report version. If the expert considers the section 42A report has not addressed a particular point, that should be dealt with separately.

Expert Conferencing

68. The Chair of each hearing may direct that expert conferencing should occur either prior to or during a hearing. The Chair will identify the issues on which conferencing is required and indicate the relevant Hearings Panel's view as to the experts required to attend.
69. The aim of expert conferencing is to identify areas of agreement and disagreement. The Hearings Panel expects that, consistent with the agreement of experts to comply with the Environment Court Code of Conduct, experts will undertake conferencing in the same manner as they would in the Environment Court, including in particular:

- (a) An expert witness has an overriding duty to assist the Hearings Panel impartially on matters within the expert's area of expertise; and

(b) An expert witness is not, and must not behave as, an advocate for the party who engages the witness. Expert witnesses must declare any relationship with the parties calling them or any interest they may have in the outcome of the proceedings.

70. The Hearings Panel's current intention is to only consider the potential for expert conferencing for experts other than planners and, where necessary, to schedule this following receipt of submitters expert evidence and prior to the hearing. There may also be requests to conference during or after the hearing.

71. Notwithstanding this, the parties to the hearings including the Council are encouraged to consult on and conference on any matters at any time without the need for a specific direction from the Chairs where they identify this to be potentially advantageous.

Tabled evidence/representations

72. Where a submitter or their representative is unable to attend the hearing for a particular topic, they may choose to table written material in support of their submission. Such written material must be provided to the Hearings Administrator not later than the last day of the hearing concerned. Submitters should be aware that tabled evidence may be given less weight because the Hearings Panel has been unable to ask questions of the witness/submitter.

Additional Evidence

73. Once a hearing is completed, the Hearings Panel will not accept additional material on the matters the subject of that hearing other than in exceptional circumstances, which will require the approval of the Chair. Parties who seek such approval will need to address potential prejudice to other participants in the hearing process (including Council staff), and any disruption that the receipt of the material they seek to produce may cause to the efficient completion of the hearing process.

Initial Hearing Streams

74. The Hearings Panel intends to fix the timetable for the first three hearing streams only at this point. The Hearings Panel wants to get underway and see how the first three hearings progress and whether tweaks are required to the hearing procedures before making directions for the timetabling of subsequent hearing streams. A draft timeline for subsequent stages will, however, be available on the Council's Hearings website.

Hearing Stream 1

75. Hearing Stream 1, considering Overarching matters, Plan-wide structural issues, Strategic Direction, and Definitions applying across more than one hearing stream, will commence on 21 February 2023, with provision for up to six days of hearing. To facilitate the 21 February start date, the relevant pre-circulation deadlines are:

- (a) Section 42A Report(s) and any supporting expert evidence - 1pm on 24 January latest;
- (b) Submitters' expert evidence, including any challenges to the division of provisions between ISPP and non-ISPP – 1pm on 7 February latest;
- (c) Rebuttal evidence—1pm on 14 February latest;
- (d) Legal submissions and lay presentations/evidence longer than three A4 pages- 1pm on 16 February 2023 latest.

The Council's Reply will be due 16 March 2023.

76. The relevant dates for Streams 2 and 3 are as follows:

Hearing Stream 2

77. This stream covers all residential provisions. The Medium Density Residential Zone (MRZ) and HighDensity Residential Zone (HRZ) provisions, and associated Residential Design Guide, are subject to the ISPP. While the Large Lot Residential Zone (LLRZ) is subject to the Part 1 Schedule 1 process, the Council has determined that it is logical to group all residential provisions together in one stream.

78. The following timeframes apply to this stream:

- (a) Section 42A Report(s) and any supporting expert evidence: 1pm on 28 February latest;
- (b) Submitters' expert evidence, including any challenges to the division of provisions between ISPP and non-ISPP – 1pm on 14 March latest;
- (c) Rebuttal evidence—1pm on 21 March latest;
- (d) Legal submissions and lay presentations/evidence longer than three A4 pages- 1pm on 23 March 2023 latest;
- (e) Hearing – 28-31 March, 4-6 April, 11April;

(f) Council Reply – 28 April.

Hearing Stream 3

79. This stream covers heritage provisions, including the Historic Heritage (HH), Notable Trees (TREE) and Sites and Areas of Significance to Māori (SASM) chapters. Note that the Viewshafts (VIEW) provisions (with the exception of SCHED5 - Viewshafts, which are included under within the Cultural Heritage Values section of the PDP), will be addressed in the Centres Stream (Stream 4). This stream also covers Appendix 1 and SCHEDULES 1-6. The Heritage and Papakāinga Guides are also relevant to this stream. With the exception of the Notable Trees provisions, all of this stream is subject to the ISPP.

The following timeframes apply to this stream:

- (a) Section 42A Report(s) and any supporting expert evidence: 1pm on 6 April latest;
 - (b) Submitters' expert evidence, including any challenges to the division of provisions between ISPP and non-ISPP – 1pm on 24 April latest;
 - (c) Rebuttal evidence—1pm on 3 May latest;
 - (d) Legal submissions and lay presentations/evidence longer than three A4 pages- 1pm on 5 May 2023 latest;
 - (e) Hearing – 9-11, 16-18 and 23-25 May;
 - (f) Council Reply – 9 June.
80. Note that this is not a Notice of Hearing and these dates may potentially change. A formal Notice of Hearing for each hearing stream will follow in due course.

Scheduling and Timing of Appearances

81. The allocation of time for these hearings is necessarily tentative until each submitter wishing to be heard is allocated a hearing slot. The hearings are generally scheduled to run from Tuesday to Thursday. If necessary, additional hearing days will be scheduled on the Fridays and in following weeks.
82. The Hearings Administrator will be touch by email and/or by phone with all submitters who have requested to be heard, seeking confirmation of their hearing time requirements. If submitters have particular preferences to the date and/or time when they are heard, the Hearings Administrator will endeavour to accommodate those

preferences on a 'first come, first served' basis. The Hearings Administrator will compile and upload on the website the Hearings Schedule with indicative times for each party's appearance.

83. To ensure that all submitters have a fair opportunity to be heard, whether the submitter is an individual or an organisation, the default allocation of time will be 15 minutes per submitter. This reflects the fact that the members of the Hearings Panel will have read all submissions beforehand, along with all pre-circulated written material. The purpose of a submitter appearing is, accordingly, to highlight key points the submitter wishes to draw to the Hearings Panel's attention and to provide the Hearings Panel with an opportunity to ask the submitter, their representatives and/or witnesses questions arising from their evidence.
84. Submitters who consider that the default 15-minute period will be insufficient will need to make a request to the Chair of that Hearing, via the Hearings Administrator, for additional time to be allocated, with reasons. Those reasons do not need to be extensive. The Chair of the hearing stream will seek to ensure that all submitters have the time they require (within reason) to adequately present their evidence and submissions, but the hearing time available is not open-ended and the Hearings Panel is seeking to ensure that each hearing proceeds efficiently, and ultimately, that the Hearings Panel is able to deliver its ISPP recommendations in sufficient time to enable the Council to make its decisions within the deadline of 20 November 2023.
85. If the reasons why a submitter seeks more time to be allocated to them than the default of 15 minutes include the fact that the submitter will be calling expert evidence, the number of expert witnesses, their expertise (and desirably names) will need to be advised to the Hearings Administrator. For those submitters seeking extra time on the basis that they will be represented by counsel presenting legal submissions, that too will need to be advised to the Hearings Administrator.
86. To enable preparation of a detailed hearing schedule, submitters wishing to be heard on Hearing Streams 1, 2 and 3 are requested to advise the Hearings Administrator of their desire to participate, and (if applicable) their request for additional time to be allocated to them as follows:
 - (a) Stream 1 Hearing – before 31 January 2023;
 - (b) Stream 2 Hearing– before 7 March 2023;

(c) Stream 3 Hearing– before 17 April 2023.

87. As above, when advising how much hearing time to request, please consider whether you might be able to coordinate with other submitters presenting on similar points - either to present a joint case, or for one submitter to take the lead, and others to present a summarised position, referring back to the 'lead' submitter for the detail.
88. It is understood that emergencies arise, and the Hearings Panel will do its best to accommodate submitters and/or witnesses who are unexpectedly unable to make a scheduled hearing spot. The options available will be enhanced the earlier the Hearings Administrator is advised of a problem in this regard.
89. As above, the timing for the ISPP phase is particularly tight, and there is no room for any slippage. The Hearings Panel is aware that a number of urban councils across New Zealand will be conducting ISPP hearings in parallel. For institutional submitters in particular, unavailability of counsel and/or expert witnesses because they are in another hearing is not an unanticipated emergency for this purpose. Submitters are expected to anticipate timing conflicts of this kind and make alternative arrangements.

Sensitive Information

90. The Hearings Panel has the power to direct that information presented by a party before it is kept confidential in some circumstances (pursuant to section 42 of the RMA). The duration of such orders depend on the reasons for them being made. In cases to commercial sensitivity, confidentiality protections elapse at the conclusion of the hearings. The Hearings Panel has a broader jurisdiction where serious offence to tikanga Māori or the location of wāhi tapu is involved.
91. If a submitter seeks that the Hearings Panel make orders of this kind, they need to advise the Hearings Administrator of that, and the reasons for the orders sought, as promptly as possible.

'Virtual' Participation

92. The Hearings Panel's preference is to hear submitters and their witnesses 'in person'. However, if this is not possible, for whatever reason, the Hearings Administrator should be able to make arrangements for people to be heard virtually, by Microsoft Teams if there is good reason to do so and provided adequate notice is given beforehand - desirably when you advise how much hearing time you require in terms of paragraphs 85 to 86 above, but at latest, 5 working days prior to the relevant hearing commences. Requests to participate virtually should be accompanied by reasons. The Chair of the

hearing stream will determine if the circumstances justify a departure from the norm of in person appearances.

Prior Notice of Cross-Examination

93. One feature of the ISPP that differentiates it from the normal First Schedule hearings process is that there is potential for submitters to ask questions/cross examine the witnesses of other parties (including the Council) at the discretion of the relevant Hearing Panel. Clause 98(4) of the First Schedule requires the Hearing Panel to be satisfied that it is in the interests of justice before it permits cross-examination.
94. If any party wishes to seek leave either to ask questions or to cross examine the witnesses of another party (including the Council as a party in both respects) they must give written notice not less than 3 working days before the hearing commencement of their desire to do so, the subject-matter of the proposed questions/cross-examination, the length of time they think will be required, and the reasons why leave should be granted. A party seeking such leave will be advised whether their request is granted before commencement of the hearing.
95. Parties considering making such a request should factor in that the Hearings Panel intends to thoroughly test the evidence and other representations they hear. Leave to ask questions/ cross examine will only be granted if it appears to the Hearings Panel that the party concerned intends to focus on avenues of inquiry that the Hearings Panel does not itself intend to pursue and/or will be asking questions/cross examining with the benefit of information or perspective that the Hearings Panel will not bring to bear. While parties will not be required to table the questions they propose to ask in advance, requests for leave are expected to be sufficiently particularised to enable the Hearings Panel to determine that there will be a clear benefit from giving leave: that is, that giving leave will provide a material benefit to the Hearings Panel's deliberations. If leave to cross examine is sought, parties will be expected to explain why the interests of justice will be served by such leave being granted.
96. Where a hearing stream combines ISPP topics and non-ISPP topics, application can only be made as above in respect of the ISPP topics.
97. Leave will only be granted at the hearing in exceptional cases because of the potential for lengthy cross examination to disrupt the hearing schedule.

Format of Hearings

98. This section of the procedures sets out what you can expect on the day of the hearing and after the hearing.

On the day

99. The Chair is in charge of the progress of the hearing, making directions as required to ensure the orderly conduct of the hearing.
100. It is envisaged that each hearing will take the following form:
- (a) Hearings will commence (and end) with a karakia. The Chair of the stream will then introduce the Hearings Panel, cover any preliminary issues and invite any party wishing to raise procedural issues to address the Hearings Panel.
 - (b) The section 42A report authors will speak to their reports and rebuttal evidence, followed by any supporting expert witnesses for the Council. As with submitters, section 42A authors and other Council expert witnesses can provide a written summary no longer than three pages (excluding revised plan provisions). The Hearings Panel will ask each section 42A author questions before proceeding to the next;
 - (c) Submitters will then be heard in the order set out in the Hearing Schedule;
 - (d) Formal adjournment of the hearing.
101. Following the adjournment of each hearing, the section 42A report authors will have the opportunity to submit a written Right of Reply. Right(s) of Reply will be required to be filed within ten (10) working days of the adjournment of the hearing unless the Chair of the stream directs otherwise. The Hearings Administrator will upload the Right(s) of Reply to the hearings page on the Council's website but, as above, the Hearings Panel will not receive any further comment from submitters on the matters the subject of the hearing without the Chair's specific approval.
102. Each submitter will be allocated a time to appear in front of the relevant Hearings Panel. It is recommended that you arrive at least 30 minutes before you are due to speak – partly to provide for the possibility that the hearing may be going quicker than scheduled, but also to enable you to observe the hearing process and get comfortable with the way it works in practice.

103. The Chair of the hearing stream will invite you to come forward with your representatives/witnesses to the table set aside for submitters and invite you to present your case.
104. Each Hearings Panel will provide any expert witnesses you have with the opportunity to speak to a written summary of their evidence, covering the main points. As noted, this should not exceed three pages (11pt font with 1.5 spacing). It is not expected that expert witnesses will read the executive summaries in their pre-circulated evidence as the Hearings Panel will already have read it. Expert witnesses must provide ten (10) copies of any written summary at the time they present to a hearing panel if it has not been provided to the Hearing Administrator beforehand.
105. The Hearings Panel may ask questions of you and/or your witnesses either during or after presentation of your case. If you would prefer not to be interrupted, then tell the Chair that before you start.
106. In relation to the hearing of non-ISPP topics, there will be no cross-examination at the hearings. Therefore, you must not interrupt other submitters presenting their cases, or the Council officers presenting on their reports. If you feel that any aspect of a submitter or Council officer presentation requires clarification, you should ask the Chair whether that point might be clarified. Such requests should be made following conclusion of the Hearings Panel's questions of the submitter/Council officer. The Chair will decide whether clarification should be provided, and if so, what process should then be followed.
107. In relation to the hearing of ISPP topics, questions of other parties and/or cross examination will be permitted if leave has been given in accordance with the process set out in paragraphs 92 to 96 above. Where it occurs, such questioning/cross-examination will occur after the Hearings Panel has asked their questions.
108. For topics being heard under the normal First Schedule process, any written statement you prepare explaining your submission to the Hearings Panel cannot go outside the scope of the original submission. In other words, you cannot ask for changes to the PDP that were not sought either generally or specifically in your submission (or are not somewhere between what you sought in your submission, and the PDP as notified). Similarly, if you lodged a further submission, you cannot go outside the scope of the primary submission you supported or opposed (i.e. the relief you seek must be somewhere between the relief sought by the primary submission and the PDP as notified). It is noted that these are legal requirements, confirmed by a number of

Environment Court decisions. You can, however, come up with additional reasons why the relief you support is well founded.

109. The same is not the case for ISPP topics. The Hearing Panel is able to make recommendations that fall outside the scope provided by submissions, provided the point concerned has been raised either by a person at the hearing, or by the Panel itself. The same restrictions do not therefore apply.
110. More generally, your presentation will be more effective if you keep what you say to the Hearings Panel simple and focus on the key points you want to make. Tell the Hearings Panel exactly what changes you want made to the PDP, and why those changes are appropriate.
111. The composition of the Hearings Panel will vary from topic to topic and, therefore, your evidence at a particular hearing must relate solely to the topic being heard at the hearing. It should not address matters to be heard at a later hearing, or repeat submissions made to an earlier hearing (unless the subject matter of the two hearings overlaps).
112. District Plan hearings are public. Hearings will be recorded, and the recordings will be available online for public viewing.
113. A summary of this process is provided in the Quick Guide to Hearings for Submitters that is available on the Council's website and will be circulated with the Notice of Hearing.

Summary of relevant dates for submitters

114. A summary of key dates is provided at Attachment 2.
115. Where the Hearings Panel has directed that a particular step be taken by a specified date that should be read as 1pm on that date (to give the Hearings Administrator time to load the material provided on the Hearings website and send it to the Hearings Panel that day). Do not stress if last minute IT glitches mean that you are a few minutes (less than 30) late. If you are later than that grace period, you will need to explain why you are late and seek the Chairs' waiver of the breach of the Hearing Procedures. Such requests do not need to be made with any great formality, but the key issues the Chairs will consider is the potential prejudice to other parties (including the Council) and disruption to the hearing process caused by any breach of the hearing directions. Put simply, the later you are, the better the explanation is going to need to be.

Site Visits

116. The Hearings Panel intends to undertake site visits in order to better understand the site-specific context of the submissions that have been lodged. While the primary focus of site visits will be on locations where submitters have sought to be heard, site visits may include visits to land the subject of other submissions. In either case, where it is necessary for the Hearings Panel to access private land, a Council officer assisting the Panel (not one of the authors of the section 42A report or a Council witness) will contact the relevant submitter/ landowner to arrange access.
117. If any submitter believes it would assist the Hearings Panel to undertake a site visit of their property, they are invited to contact the Hearings Administrator at latest by the deadline for submitter expert evidence in relation to the relevant hearing. Such requests should be accompanied by advice as to what in particular the submitter wants the Hearings Panel to look at and how it relates to the case the submitter is advancing (if that is not obvious).
118. It is important to appreciate that the purpose of a site visit is not to gather evidence, but rather to enable the Hearings Panel to better understand the evidence they will hear. Accordingly, site visits are not an opportunity for an informal discussion of issues on site. The Hearings Panel will make a decision as to whether a site visit is necessary. When on site, they will not enter into discussions on site about the merits of submissions, but they may ask the submitter/landowner to point out particular features on the site that are the subject of submission.

What Happens After Each Hearing Concludes

119. At the end of the presentations of verbal submissions, the Chair of the hearing stream will adjourn the hearing. The authors of the section 42A report(s) will generally then have 10 working days to prepare a written Reply. This is a formal response to matters raised during the hearing.
120. Following the receipt of the Right(s) of Reply, each Hearings Panel will deliberate in private. The Hearings Panel will formulate its recommendations on the provisions that the hearing relates to, including any amendments it believes to be appropriate in order to respond appropriately to submissions and further submissions. These recommendations will not be released to the public before they are sent to the Council.

121. At the end of the hearings on the provisions following the ISPP (Hearing Streams 1 to 5) a 'wrap-up hearing' will be held to address matters such as PDP integration and any outstanding matters.
122. Following the 'wrap-up hearing', the Hearings Panel will prepare Recommendation Reports for the ISPP matters heard in Hearing Streams 1 to 5. These recommendations will be considered by the Council. If the Council accepts the recommendations of the Hearings Panel, the decisions on Hearing Streams 1 to 5 will be released. If, and to the extent that, the Council does not agree with any recommendation made by the Hearings Panel on ISPP topics, the Minister for the Environment will then make a decision on the unresolved ISPP provisions.
123. It is intended that the Council will release its decisions on the ISPP matters heard in Hearing Streams 1 to 5 by 20 November 2023. Hearings and decisions on later streams will follow, with an additional 'wrap-up hearing' required at the end of the final stream, primarily for Plan integration purposes. Final decisions on the PDP provisions that are not subject to the ISPP will not be issued until after this.
124. The exceptions to this process are the decisions the Council makes on submissions related to designations. As a matter of law, these take the form of recommendations to the relevant requiring authority (who makes the final decision on those submissions).
125. All submitters who indicated that they wished to be heard will be notified of the Hearings Panel decisions (and the decisions of requiring authorities in relation to designations).
126. There are no appeal rights on decisions relating to ISPP provisions. Decisions on Part 1 Schedule 1 provisions will be open to appeal to the Environment Court within 15 working days from the date that the decisions are issued. Where a Decision Report incorporates both ISPP and Part 1 Schedule 1 provisions, matters that can be appealed will be clearly identified. The Council's public notification of the decisions will include details regarding the appeal process.

Pre-Hearing Meeting

127. The Hearing Panel invites submitters to attend an informal pre-hearing meeting at 5pm at the hearing venue (Level 7, 79 Boulcott Street) on Thursday 26 January 2023. While all submitters are welcome, this is principally an opportunity for lay submitters to see the hearing venue and to get a better understanding of the hearing process detailed above before the hearings commence. There will be an opportunity to ask the Hearing

Panel questions about the hearing process. No discussion about the content of the PDP or the issues raised in submissions will be entered into.

Key Contacts

127. As above, the primary point of contact for all matters relating to the hearings is the Hearing Administrator (Jazz Kaur).
128. If any aspect of this Minute is unclear, email Jazz. Her contact details will be on the Hearings Website shortly. If she cannot answer your query, she will pass it on to the Chair to address.
129. All pre-circulated evidence and submissions should be sent in PDF (acrobat) or DOC (word) format to District.Plan@wcc.govt.nz.
130. The key location for up-to-date information on the hearings is the PDP Hearings Page located at:
[Plans, policies and bylaws - Hearings information - Wellington City Council](#)
131. Most importantly, if you are not sure that you have to do and when, email or talk to the Hearings Administrator.



Trevor Robinson
Chair



Robert Schofield
Deputy Chair

For the Wellington City Proposed District Plan Hearings Panel

Dated: 9 December 2022

Attachment 1: Hearings Schedule

The hearing streams and allocation of Commissioners is as shown in the following table:

Hearing Stream Topics		Panel Members
Hearing Stream 1 – Strategic Direction		
ISPP	Overarching issues including caselaw	Robinson (chair)
ISPP	District Plan structure	Black
ISPP	Strategic direction	Burge
ISPP	Cross-Plan definitions	Daysh
		Faulkner
		Lutz
		McMahon
		Schofield
Hearing Stream 2 – Residential		
ISPP	Residential zones - MRZ, HRZ, Character Precincts	Robinson (chair)
Pt 1 Sch 1	Residential zone – LLRZ	Burge
ISPP	Residential Design Guide	Lutz
		McMahon
Hearing Stream 3 – Historic Heritage		
ISPP	Historic Heritage - HH	Robinson (chair)
Pt 1 Sch 1	Notable Trees - TREE	Faulkner
ISPP	Viewshafts - VIEW	Lutz
ISPP	Sites and areas of significance to Māori - SASM	McMahon
ISPP	Heritage Design Guide	
ISPP	Papakāinga Design Guide	
ISPP	Schedules 1 to 7	
Hearing Stream 4 - Centres		
ISPP	City Centre Zone - CCZ	Schofield (chair)
ISPP	Wind - WIND	Burge
ISPP	Waterfront Zone - WFZ	Daysh
ISPP	Centres - NCZ, LCZ, CZ, MCZ	Lutz
Pt 1 Sch 1	Centres - CZ, MUZ, GIZ	
ISPP	Residential Design Guide	
ISPP	Centres and Mixed Use Design Guide	
Hearing Stream 5 – General District Wide Matters		
ISPP	Natural Hazards - NH	Schofield (chair)
ISPP	Earthworks - EW	Black
ISPP	Subdivision - SUB	Daysh
ISPP	Three Waters - THW	Faulkner
ISPP	Subdivision Design Guide	
Wrap-up Hearing – ISPP Provisions		
ISPP	Wrap up and integration hearing – ISPP Provisions	Robinson (chair)
		Burge
		Daysh
		Faulkner
		Lutz
		McMahon
		Schofield

Hearing Stream Topics		Panel Members
Hearing Stream 6 – Special Purpose Zones & Development Areas		
Pt 1 Sch 1	Airport – AIRPZ	Robinson (chair) Burge McMahon Schofield
Pt 1 Sch 1	Corrections - CORZ	
Pt 1 Sch 1	Future Urban - FUZ	
Pt 1 Sch 1	Port - PORTZ	
Pt 1 Sch 1	Quarry - QUARZ	
Pt 1 Sch 1	Stadium - STADZ	
Pt 1 Sch 1	Town Belt - WTBZ	
Pt 1 Sch 1	Development Areas - DEV1, DEV2, DEV3	
Hearing Stream 7 - Rural & Open Space, District Wide Matters		
Pt 1 Sch 1	Rural Zone - GRZ	Schofield (chair) Black Daysh Faulkner
Pt 1 Sch 1	Open Space - OSZ	
Pt 1 Sch 1	Design Guide	
Pt 1 Sch 1	Temporary Activities - TEMP	
Pt 1 Sch 1	Signs - SIGN	
Pt 1 Sch 1	Noise - NOISE	
Pt 1 Sch 1	Light - LIGHT	
Pt 1 Sch 1	Hospital – HOSPI	
Pt 1 Sch 1	Tertiary - TEDZ	
Pt 1 Sch 1	Rural Design Guide	
Pt 1 Sch 1	Signs Design Guide	
Hearing Stream 8 – Natural and Coastal Environment		
Pt 1 Sch 1	Natural Environment - ECO	Robinson (chair) Burge Daysh Lutz
Pt 1 Sch 1	Natural Character - NATC	
Pt 1 Sch 1	Natural Features and Landscapes - NFL	
Pt 1 Sch 1	Public Access - PA	
Pt 1 Sch 1	Coastal Environment - CE	
Pt 1 Sch 1	Schedules 8 -12	
Hearing Stream 9 - Infrastructure		
Pt 1 Sch 1	Infrastructure - INF (all chpts)	Robinson (chair) Black McMahon Faulkner
Pt 1 Sch 1	Transport - TR	
Pt 1 Sch 1	Renewable Energy - REG	
Pt 1 Sch 1	Contaminated Land - CONT	
Pt 1 Sch 1	Hazardous Substances - HAZ	
Hearing Stream 10 - Designations		
Pt 1 Sch 1	All designations - DESI	Robinson (chair) Black Burge Daysh
Wrap-up Hearing – All Provisions		
ISPP Pt 1 Sch 1	Wrap up and plan integration – whole PDP	Robinson (chair) Black Burge Daysh

Hearing Stream Topics		Panel Members
		Faulkner Lutz McMahon Schofield

Attachment 2 – Summary of Key Dates

	Hearing Step	Timing/Deadline
1.	Confirm request to be heard, advise preferred timing and where applicable, ask for more time than default 15 minutes (with reasons)	5 working days after release of section 42A reports – refer to paragraphs 75-80 for details relating to streams 1, 2 and 3.
2.	Expert Evidence	10 working days after release of section 42A reports – exact dates in paragraphs 75-80 above.
3.	Request site visit	Same day as expert evidence, as above
4.	Make application for leave to ask questions of another party, or to cross-examine another party's witnesses (ISPP Matters only)	3 working days before stream hearing commences
5.	Legal Submissions, written representations longer than 3 A4 pages, and power point presentations	2 working days before stream hearing commences
6.	Requests for submitter or specified witnesses to appear virtually (by zoom)	2 working days before stream hearing commences, but earlier if possible
7.	Expert summaries and written representations 3 A4 pages or less	When you appear (but earlier if possible)
8.	Tabled Evidence and Representations	Last day of the relevant stream hearing