

IN THE MATTER OF Resource Management Act 1991

AND

IN THE MATTER OF the hearing of submissions in relation to
the Proposed Timaru District Plan

MINUTE 6

REVISED PRE-HEARING DIRECTIONS OF HEARINGS PANEL

DATED 21 MARCH 2024

1. INTRODUCTION

[1] The Timaru District Council ("the Council") appointed Cindy Robinson (chairperson), Ros Day-Cleavin, Councillor Stacey Scott, Jane Whyte, Megan McKay and Raewyn Solomon ("the Hearings Panel") to hear submissions and further submissions, and evidence to make decisions on the Timaru Proposed District Plan ("the Proposed Plan") pursuant to Section 34A(1) of the Resource Management Act 1991. Our delegation includes all related procedural powers to conduct those hearings.

[2] On 12 October 2023, A.C Hughes – Johnson KC, Ros Day-Cleavin and Councillor Scott issued prehearing directions, ahead of the appointment of the Hearings Panel for the preparations of hearings then scheduled to commence on 30 November 2023 by way of Minute 3. Since the issue of Minute 3, the Council delayed the commencement of the hearings, now set to commence on 8 May 2024.

[3] Since Minute 3, the Council had identified a number of errors in the notified summary of submissions and determined that the summary would be renotified with an additional timeframe for further submissions to be lodged.

[4] The corrected summary of submissions was notified on 4 March 2024, and the period for further submissions closed on 18 March 2024.

[5] This minute revises the initial directions in Minute 3, and updates directions to parties ahead of the commencement of the hearings on 8 May 2024. For the avoidance of doubt the directions included in this Minute replace those set out in the earlier Minute 3.

[6] In order to facilitate the conduct of the hearings, the following directions and requests are addressed below:

- (a) hearing format;
- (b) pre-circulation of material;
- (c) expert conferencing/ caucusing;
- (d) notice of hearing/ appearance times;
- (e) hearings administrator;
- (f) site visit;
- (g) correspondence;
- (h) service of documents;
- (i) requests to depart from procedures;
- (j) procedural queries.

[7] Further minutes will be issued from time to time, either prior to or during the hearings, covering matters which require further direction.

2. HEARING FORMAT

[8] The Hearings Panel will hear and determine submissions over six hearings with the hearing of the first stage (Hearing A) to commence on 8 May 2024 and the following days (as required) in accordance with the schedule attached as **Appendix A**. Three additional tentative hearing dates are set in 2025 for any necessary subsequent variations.

[9] Notices of hearings will be issued for each stage.

[10] Submitters with an interest in multiple stages will be required to attend and participate in several hearings.

[11] The hearing of the first stage (Hearing A), commencing on 8 May 2024, will be held at the Council Chamber at 2 King George Place in Timaru Central. The venue for later hearings will be confirmed at a later date. All hearings will commence at 9am each day and generally conclude at 5pm unless otherwise advised. There will be a one-hour lunch adjournment during each hearing day.

[12] The hearings will generally follow the following format:

- (a) Hearing A will open with a mihi whakatau and for each hearing thereafter, the Hearing will open with a karakia tīmatatanga;
- (b) the chairperson will then give a brief description of the matters which are to be the subject of the hearing;
- (c) any procedural matters which have arisen or are likely to arise during the hearing will be addressed;
- (d) the opening address of the chairperson will be followed by the hearing of submitters scheduled for the day in question.

Whilst there will be some flexibility in scheduling to ensure that submitters are given an opportunity to present their submissions, having regard to their other commitments, we emphasise the importance of attending the hearings at the scheduled time in order to ensure the timely consideration of matters relevant to the hearing.

[13] There will be no cross-examination of witnesses by submitters.

[14] In the case of Hearing A, the Council will have an opportunity to provide an opening statement and call witnesses, as necessary, in order to provide an overview of the proposed District Plan format, issues and any relevant background information relating to the preparation and notification of the Proposed District Plan.

[15] The authors of reports under s42A of the Resource Management Act 1991 ('the Act') will be expected to present a summary of their reports. It is expected that Hearings Panel members will be familiar with the contents of the relevant provisions of the Proposed Plan, the submissions, and all pre-circulated material. The Hearings Panel may collate and circulate any questions relating to the s 42A report, prior to the hearing, with responses from the report author received by a specified date.

[16] The Hearings Panel may also ask questions, seek clarification or request further information from the s42A report authors during the course of the hearing. Where the panel asks questions or requests further information, this will be recorded in a Minute and published on the website.

[17] Where submissions seek a change in zoning or overlay the Hearings Panel expects S42A report authors to contact submitters directly where appropriate to discuss the information or evidence to support their request that will assist the 42A author to provide comprehensive recommendations to the panel in the S42A report.

[18] Following the conclusion of each hearing the authors of the s42A reports are to provide a written report in reply, briefly outlining any amendments to their original recommendations and the response to any questions from the Hearings Panel arising during the course of the hearing.

[19] Each hearing week will close with a karakia mutunga.

3. PRE-CIRCULATION OF MATERIAL

Introduction

[20] The timely pre-circulation of material is intended to minimise the time required for submitters to present their case at the hearing itself, and, at the same time, ensure full participation in the hearing process. The directions for the circulation of material which follow, apply to the hearings for all stages.

Expert and other evidence

[21] A s42A report with associated technical reports and evidence prepared by the Council are to be made available to participants **20 working days** prior to each hearing so that the

reports will be available to submitters when preparing their evidence and submissions. These reports are to be posted on the Council's webpage. Submitters will be expected to indicate in their evidence whether or not they agree or disagree (with reasons) with the conclusions and recommendations of the reports in question.

[22] In relation to Hearing A, it is noted that the s42A Report was filed and served on all submitters on 2 November 2023 in anticipation of hearings starting in November 2023 (Hearing A initial s42A Report). Since that time the Council identified errors in their summary of submissions and the summary was renotified, with a fresh opportunity for further submissions to be made. This has necessitated a revised s42A Report for Hearing A. Accordingly, the author(s) of the revised s42A Report for Hearing A are directed to identify any changes to their initial s42A report recommendations in an appendix to their revised s42A report.

Part of Hearing E relating to rezoning to accommodate growth

[23] Special directions are necessary in relation to that part of Hearing E (relating to rezoning to accommodate growth requests as set out in the attached schedule) ("the growth hearing"). This is in order to ensure that material relevant to this hearing is made available ahead of any hearing to allow more time for assessment and reporting than applies to other hearings. Against this background we direct:

- (a) that a short s42A report (preliminary s42A Report) identifying information that the report author considers is required to enable them to make a full assessment for each request for rezoning. The preliminary s42A report is to be made available to participants in the growth hearing no later than 9 August 2024;
- (b) The Hearings Panel will then review the preliminary s42A Report and may add a request for further clarification or information from the relevant submitters ahead of the hearing.
- (c) that submitters in the growth hearing are to provide the requested information no later than 8 November 2024;
- (d) that all other timetable directions set out in this minute, including the provision of substantive s42A reports and the provision of written briefs of evidence and submissions, are unaffected and will continue to apply to the growth hearing.

Attendance at hearing

[24] The authors of the s42A reports will attend the hearings and be available to answer any questions from the Hearings Panel. The reports will constitute part of the body of evidence to be considered by the Hearings Panel, alongside the material offered by submitters.

Expert and other evidence

[25] Pursuant to s41B (3) of the Act, we direct that submitters who intend to call expert evidence¹ in support of their submissions are to provide written briefs of that evidence to the Council's Hearings Administrator at least **10 working days** prior to the relevant hearing. All expert witnesses presenting briefs of evidence are to include a summary statement of no more than two A4 pages at the beginning of their evidence.

[26] If submitters intend to provide written evidence themselves, or have non-expert persons appearing on their behalf, then they are requested and strongly urged to provide a written statement of that evidence to the Hearings Administrator at least **10 working days** prior to the relevant topic-based hearing. Lay witnesses may provide material on the day of the hearing but pre lodging of written material is desirable.

[27] For the avoidance of doubt any further written material from submitters is limited to the matters raised in their submission or further submission.

[28] If any party intends to have legal counsel present legal submissions, they are directed to provide those submissions to the Hearings Administrator no later than **5 working days** prior to the hearing. Legal counsel are encouraged to prepare a summary of their submissions for presentation at the hearing.

[29] The Hearings Panel will take all submissions, further submissions and pre-circulated written evidence and legal submissions as read at the hearing. Accordingly, pursuant to s41C(l)(b) of the Act, all participants are directed that they and their experts will not be required to read any such material aloud at the hearing. However, experts and legal counsel may be asked to read aloud their summary statements and submitters may be asked to orally highlight

¹ An expert witness is someone who by virtue of their qualifications and or relevant experience, is able to offer an independent (unbiased) opinion of the outcomes being sought in this Plan Change. Expert witnesses are required to adhere to the Environment Court Code of Conduct for Expert witnesses available here: <https://environmentcourt.govt.nz/assets/Practice-Note-2023-.pdf>

key points of concern for the benefit of the Hearings Panel members who will then ask any questions they may have.

[30] Should any submitter wish to speak in Te Reo, utilise sign language or utilise visual aids (PowerPoint etc) they are requested to liaise directly with the Hearings Administrator, as soon as possible, but no later than 10 working days prior to each hearing regarding their needs.

[31] Submitters are encouraged to collaborate to prepare joint presentations where they have issues in common and may aggregate the time allocated, if they do so.

4. EXPERT CONFERENCING/ CAUCUSING

[32] Following the provision of expert evidence, the Hearings Panel may decide that it would be beneficial for expert witnesses providing evidence on a specific topic, to confer and attempt to reach agreement on issues, or at least to clearly identify the issues on which they cannot agree, and the reasons for that disagreement.

[33] If this course is adopted, the Hearings Administrator will advise which expert witnesses the Hearings Panel requests to conference. If expert conferencing occurs then a Joint Witness Statement ("JWS") is to be prepared by the relevant experts for each specific area of expertise. The expert witnesses should endeavour to provide the JWS to the Hearings Administrator prior to the relevant topic-based hearing commencing, but the Hearings Panel appreciates that this may not always be possible.

[34] The Hearings Panel may additionally request further expert conferencing during or after each topic-based hearing, together with the preparation of additional JWS's.

[35] Regardless of whether the Hearings Panel directs expert conferencing, all expert witnesses are expected to identify any areas of agreement and disagreement with corresponding experts for the matters that they are addressing in their evidence and initiate informal conferencing to narrow issues and differences ahead of attending hearings.

[36] All expert witnesses, in both preparing and presenting their evidence as well as when attending expert conferencing, are expected to comply with the Environment Court of New Zealand Practice Note 2023 - Code of Conduct for Expert Witnesses available at the following website: <https://environmentcourt.govt.nz/assets/Practice-Note-2023-.pdf>

5. NOTICE OF HEARING / APPEARANCE TIMES

[37] A notice of hearing will be circulated **20 working days** ahead of each scheduled hearing date to confirm the hearing location and key dates for the exchange of evidence.

[38] Submitters will have the opportunity to be heard either in person or by video link. The Hearings Administrator will contact submitters who have expressed a wish to be heard **15 working days** prior to each hearing to confirm that they still wish to be heard in relation to that topic. At that same time submitters will be requested to indicate whether they intend to attend the hearing in person or via video link, if they will be represented by legal counsel, and how many people will be speaking to the submission.

[39] When requesting speaking times, submitters are reminded that the Hearings Panel will proceed to receive summaries of key points. Panel members will have pre-read all of the pre-circulated material (submissions, further submissions, evidence and legal submissions). Where submitters request additional speaking time, these requests are required to be made to the Hearings Panel.

[40] Submitters will generally be given up to **15 minutes** to speak to their submissions inclusive of any questions from the panel with an additional **10 minutes** per expert witness.

[41] Non expert submitters who have not pre-circulated a written statement will be provided with the same **15 minute** speaking time, and they will be welcome to speak to a summary of their submissions.

[42] Each hearing day will be divided into four sessions (before morning tea, before lunch, before and after afternoon tea) and each submitter wishing to be heard will be assigned to one of those sessions.

[43] Separate hearing schedules showing which day and which session each submitter is allotted to, will be posted on the Council's webpage at least **10 working days** prior to each hearing commencing.

[44] However, submitters should be aware that hearings often run either late or early and that should be borne in mind when deciding when to arrive at the hearing venue.

6. SITE VISITS

[45] The Hearings Panel will conduct a number of site visits prior to and during the course of the hearings. The panel members will be accompanied by an officer of the Council who is not directly involved in the hearings in question, and the Hearings Panel advisor, and no other person.

7. CORRESPONDENCE

[46] Submitters and other hearing participants must not attempt to correspond with or contact the Hearings Panel members directly. All correspondence relating to the hearing must be addressed to the Hearings Administrator.

[47] All written material (evidence, hearing reports, JWSs and legal submissions) addressed by this minute must be lodged with the Hearings Administrator in **Microsoft WORD** format by either:

- (a) preferably email to pdp@timdc.govt.nz; or
- (b) post addressed to PO Box 522, Timaru Attention: Hearing Administrator.

[48] All written material relevant to the hearings will be posted on the Council's webpage at <https://www.timaru.govt.nz/pdp>

8. REQUESTS TO DEPART FROM DIRECTIONS

[49] If any participant wishes to deviate from any timetable or other requirement identified in this minute, a written request to do so (inclusive of reasons) must be addressed to the chair of the Hearings Panel, and be provided to the Hearings Administrator. We will consider and determine any such requests.

9. PROCEDURAL QUERIES

[50] If any submitter who has a procedural query or wishes to raise a procedural matter prior to the hearings commencing they must set that out in writing addressed to the chair of the Hearings Panel and provide it to the Hearings Administrator no less than **15 working days** prior to the hearing. It will then be decided whether or not a hearing is required to consider

any such matters. The chair of the Hearings Panel may issue a procedural decision or minute addressing the matter raised.

Dated this 21st Day of March 2024



C E ROBINSON - CHAIR ON BEHALF OF THE HEARINGS PANEL

APPENDIX A – HEARING SCHEDULE

Hearing	Hearing Topic	Hearing Dates
A	Introduction and General Provisions Including definitions, high level strategic directions	8-9 May 2024
B	B1 Rural Zones and Versatile Soil B2 Urban and Open Space Zones <i>Note: submitters who have submitted on both subtopics will be able to speak in once on both sub topics.</i> <i>Note 2: Excluding rezoning requests for growth.</i>	22-26 July 2024
C	Natural Environment, Hazards and Risks	3-5 September 2024
D	Cultural Values	12-15 November 2024
E	Infrastructure, Subdivision, Growth (Including rezoning requests for growth)	11-14 February 2025
F	Other District-wide Matters and Designations	22-24 April 2025
G	Variation 1 – TBD	8-10 July 2025
H	Variation 2 – TBD	2-4 September 2025
I	Sweep up	21-23 October 2025