

**IN THE MATTER of
the Resource Management Act 1991**

AND

**IN THE MATTER of
hearing of submissions and further
submissions on the Proposed
Waimakariri District Plan**

AND

**of hearing of submissions and further
submissions on Variations 1 and 2 to the
Proposed Waimakariri District Plan**

**MINUTE 1 – HEARING PROCEDURES (AS
AT 15 MARCH 2024) VERSION 9**

Table of Contents

| | |
|---|----|
| PURPOSE | 4 |
| INTRODUCTION..... | 4 |
| INTERFACE WITH PRIVATE PLAN CHANGES IN PROCESS..... | 4 |
| OVERVIEW OF THE DIFFERENT PROCESSES FOR HEARING SUBMISSIONS ON THE PDP AND VARIATIONS 1 AND 2 | 5 |
| MEMBERSHIP AND ROLE OF THE HEARINGS PANEL..... | 7 |
| PROPOSED DISTRICT PLAN AND VARIATION 2..... | 7 |
| VARIATION 1 | 7 |
| GENERAL INFORMATION | 7 |
| MANAGEMENT OF POTENTIAL AND ACTUAL CONFLICTS OF INTEREST..... | 9 |
| OVERARCHING HEARING PRINCIPLES..... | 10 |
| COUNCIL INVOLVEMENT IN THE HEARINGS AND TIMEFRAMES | 11 |
| SECTION 42A REPORT AUTHORS AND COUNCIL EXPERTS..... | 11 |
| HEARING ADMINISTRATION | 12 |
| SUBMITTER INVOLVEMENT IN THE HEARINGS AND TIMEFRAMES..... | 13 |
| PREPARING FOR THE HEARING AND TIME ALLOCATION..... | 13 |
| LEGAL SUBMISSIONS..... | 14 |
| SUBMITTER EXPERT EVIDENCE | 14 |
| DIFFERENT TIMEFRAME FOR TECHNICAL EVIDENCE FOR REZONING SUBMISSIONS..... | 15 |
| SENSITIVE INFORMATION | 15 |
| WHEN A SUBMITTER IS UNABLE TO ATTEND | 16 |
| ADDITIONAL EVIDENCE POST HEARING..... | 16 |
| PRE-HEARING MEETINGS AND EXPERT CONFERENCING / CAUCUSING..... | 17 |
| SITE VISITS..... | 18 |
| HEARING LOCATION AND SCHEDULE | 19 |
| HEARING FORMAT | 22 |
| ATTENDING ON THE DAY | 23 |
| SCOPE OF SUBMISSIONS AND EVIDENCE..... | 24 |
| VIRTUAL ATTENDANCE AT THE HEARING | 24 |
| CROSS-EXAMINATION FOR VARIATION 1 | 26 |
| SUMMARY OF RELEVANT TIMEFRAMES..... | 27 |
| WHAT HAPPENS AFTER EACH HEARING CONCLUDES | 29 |
| ADMINISTRATION | 30 |

| | |
|------------------------------|----|
| HEARINGS ADMINISTRATOR | 30 |
| HEARINGS PORTAL..... | 30 |
| CORRESPONDENCE | 30 |
| SERVICE OF DOCUMENTS | 30 |
| DEVIATION REQUESTS..... | 30 |

PURPOSE

1. The purpose of this Minute is to outline the procedures for the hearing of submissions on Proposed Waimakariri District Plan (the PDP) and Variations 1 (Housing Intensification) and 2 (Financial Contributions) to the PDP.
2. If anyone has any questions about this Minute, please contact the Hearings Administrator (see page 29).

INTRODUCTION

3. Waimakariri District Council (the Council) publicly notified its PDP on Saturday, 18 September 2021. Submissions on the Proposed Waimakariri District Plan (the PDP) closed on Friday, 26 November 2021, with 421 submissions received.
4. The Council notified its summary of decisions requested on 5 November 2022 and 136 further submissions were received.
5. In accordance with the requirements of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (RMAEHS), on 13 August 2022 the Council notified Variation 1 (Housing Intensification) and Variation 2 (Financial Contributions) to the PDP. The details of Variations 1 and 2 are available on Council's website at <https://www.waimakariri.govt.nz/planning/district-plan/district-plan-review>.
6. Submissions on Variations 1 and 2 closed on 9 September 2022. There were 81 submissions were received on Variation 1 and 78 on Variation 2. There were 23 further submissions on Variation 1 and five on Variation 2.
7. Due to specific requirements in the Resource Management Act 1991 (RMA), the hearing processes will differ between:
 - submissions on the PDP and Variation 2, where Part 1 of Schedule 1 applies; and
 - submissions on Variation 1, where Part 6 of Schedule 1 applies.

These differences are explained through this Minute.

8. Hearings commence on 15 May 2023.

INTERFACE WITH PRIVATE PLAN CHANGES IN PROCESS

9. The hearings will not include hearing Private Plan Change 31 to the Operative Waimakariri District Plan, which is being heard by a different hearings panel through a separate process. For clarity, the Hearings Panel note that a submission to the PDP has been received seeking a similar outcome to Private Plan Change 31. This submission will be heard as part of the PDP hearings.

OVERVIEW OF THE DIFFERENT PROCESSES FOR HEARING SUBMISSIONS ON THE PDP AND VARIATIONS 1 AND 2

10. It is important that those participating through the hearings process understand the different processes for hearing submissions on the PDP and Variations 1 and 2, as there are differences in both process and appeal rights.
11. The PDP was prepared, notified for submissions and further submissions, and must be heard in accordance with the process set out in Part 1 of Schedule 1 of the RMA.
12. Variation 1 is an Intensification Planning Instrument (IPI) in terms of section 80E of the RMA, as amended by the RMAEHS. It amends primarily those parts of the PDP governing Residential Zones; however, it does also affect parts of the Commercial and Industrial Zones. The extent of amendment to these Zones varies. Variation 1, as an IPI, is subject to the Intensification Streamlined Planning Process (ISPP) provisions which are set out in Part 6 of Schedule 1 of the RMA.
13. Variation 2 is a change to the PDP prepared under Part 1 of Schedule 1, and therefore is not an IPI. The Hearings Panel notes that the Section 32 report that accompanies Variation 2 identifies it as being subject to the ISPP; however, the Council has advised that it was notified as a separate Variation to Variation 1, the IPI, and affects more than “urban areas”, and therefore is not an IPI and not subject to the ISPP. We have accepted this advice from the Council. If anyone disagrees with this position, they may raise this with the Hearings Panel as a procedural query, through the Hearings Administrator.
14. Part 6 of Schedule 1 has procedural provisions that are specific to the ISPP, and which differ from Part 1 of Schedule 1 provisions which will apply to the hearing of submissions on the PDP and Variation 2. This section summarises the key differences for the PDP, Variation 1 and Variation 1 processes. There are further explanations and details provided throughout this minute.
15. The ISPP provisions require under clause 96 of Part 6 of Schedule 1 that the Council must establish an Independent Hearings Panel (IHP) to conduct the hearings on submissions on the IPI and make recommendations to the Council after the hearing of submissions is concluded. The Council must decide whether to accept or reject the recommendations of the IHP and may provide an alternative recommendation for any recommendation that the Council rejects. Where the Council does not accept any part of the IHP’s recommendations, the matter is referred to the Minister for the Environment for final decision. Where the Council accepts some or all of the IHP’s recommendations, then those recommendations are deemed to be approved by the Council and will become operative in accordance with clause 20 of Schedule 1. There are no appeal rights to the Environment Court in respect to the Minister’s or Council’s decision.
16. There are also differences in the conduct of hearings for PDP and IPI matters. Under clause 98 of Part 6, Schedule 1, the IHP may provide for submitters to ask questions or cross-examine another party or witness, including the Council, at its discretion. The

IHP can only permit cross-examination on request, if it is satisfied that it is in the interests of justice. Cross-examination is addressed later in this Minute.

17. The hearings will be conducted in accordance with Part 1 of Schedule 1 of the RMA in respect to submissions on the PDP and Variation 2, and Part 6 of Schedule 1 of the RMA in respect to submissions on Variation 1.
18. The intended outcome is an integrated set of recommendations, which clearly differentiate which recommendations are made under Part 1 and are subject to appeal, and which are made under Part 6 and are not subject to appeal, while limiting where possible the requirement for submitters to present separately to the IHP and Hearings Panel.
19. For ease, the IHP and PDP Hearings Panel are generically referred to as the Hearings Panel through this Minute, except where it is necessary to differentiate between them.

MEMBERSHIP AND ROLE OF THE HEARINGS PANEL

PROPOSED DISTRICT PLAN AND VARIATION 2

20. The Council has appointed a six person Hearings Panel (PDP Hearings Panel) of Commissioners under Section 34A (1) of the RMA to hear and make recommendations on the submissions lodged in relation to the PDP and Variation 2.
21. The Commissioners appointed are:
 - Gina Sweetman, Chair
 - Allan Cubbitt
 - Gary Rae
 - Megen McKay
 - Neville Atkinson
 - Niki Mealings

VARIATION 1

22. The Council has appointed a four person Independent Hearings Panel (IHP) of Commissioners under Section 34A(1) and Clause 96 of Schedule 1 of the RMA to hear and make recommendations on the submissions lodged in relation to Variation 1.
23. The Commissioners appointed are:
 - Gina Sweetman, Chair
 - Allan Cubbitt
 - Gary Rae
 - Megen McKay

GENERAL INFORMATION

24. All of the Hearings Panel members are accredited in accordance with s39A of the RMA. The Chair holds Chairs Endorsement.
25. The PDP Hearings Panel will hear all the submissions and further submissions and prepare recommendation reports for the Council's consideration and adoption in respect to the PDP and Variation 2.
26. The IHP will hear all the submissions and further submissions and prepare recommendation reports for the Council's consideration and adoption in respect to

Variation 1. Given that the IHP are all members of the PDP Hearings Panel, their role, and in particular the Chair, will also be in ensuring that there is an integrated and informed approach to making overall recommendations to the Council for their final decision.

27. Generically, the PDP Hearings Panel and the IPI are referred to as the Hearings Panel where referring to matters relating to the hearing as a whole.
28. The Hearings Panel has the power to make directions on procedural matters relevant to the hearing of submissions and further submissions on the PDP and Variation 2, and Variation 1. The hearing procedures in this Minute, and any future Minutes, are issued by the Hearings Panel, the PDP Hearings Panel or the IHP pursuant to those delegations. If the need arises due to any particular circumstances, the Hearings Panel may amend the hearing procedures and issue an updated Minute 1. The PDP Hearings Panel and the IHP may issue separate Minutes, as necessary.
29. All the Commissioners will participate in the hearing of submissions that relate to the whole PDP. Otherwise, between three and six Commissioners will sit as separate Hearing Panels for all other hearings, with the Chair sitting on each Panel. Only the IHP Commissioners will participate in the hearing of submissions that relate to Variation 1.
30. How the hearings will be structured, and sequenced and which Commissioners have been assigned sit on which hearings is set out in this Minute. The composition of each Hearing Panel may change through the hearings process.

MANAGEMENT OF POTENTIAL AND ACTUAL CONFLICTS OF INTEREST

31. Ensuring a fair and transparent hearing process means that all Commissioners bring an independent and open mind to the role, free of any real, perceived, or potential conflicts of interest that could result in actual or potential conflicts, bias and or predetermination.
32. Conflicts of interest may arise, for example, where a Commissioner:
 - a. Has previously advocated or given evidence in support of a particular position of relevance to the PDP or Variation 1 or 2 provisions; or
 - b. Has previously appeared as a witness or advocate for a party who holds an interest and/or lodged a submission on the PDP or Variation 1 or 2; or
 - c. 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.
33. As part of the appointment process, the Council required potential Commissioners to declare any conflicts of interest. The Council did not identify any declared actual or potential conflicts as precluding the appointment of the Hearings Panel members.
34. The Hearings Panel notes that two of the Commissioners are also elected members of the Council.
35. Following appointment, the Hearings Panel has disclosed any actual, perceived, or potential conflicts of interest and has agreed to disclose any actual, perceived or potential conflicts that may arise as and when they become aware during the course of the hearings. These actual, perceived, or potential conflicts are recorded on the Register of Interests along with the previous and current involvements and interests held by the Commissioners. The Chair will update the Register throughout the hearing process, as and when any conflicts are identified. The Register identifies how any conflicts will be managed.
36. The Register will be available on the PDP Hearings Portal prior to the start of the hearings and will be kept up to date through the hearings.
37. Any party to the hearing process is entitled to raise conflicts of interests with the Chair. This should occur before the hearing commences, through the Hearings Administrator, and at the latest, at the commencement of the hearing.
38. The Chair is responsible for determining whether a Commissioner should stand aside from any specific hearings (and consequently any deliberations and recommendations on those hearings) by reason of any conflict of interest. If any issue arises in respect of the Chair, the balance of the Hearing Panel will determine the appropriate course of action.

OVERARCHING HEARING PRINCIPLES

39. The Hearings Panel seeks to ensure that the most appropriate, fair, and efficient hearing process is followed, while complying with the requirements of the RMA.
40. The Hearings Panel will follow a process that:
 - Is appropriate and fair – each Hearing Panel will at all times act in a fair, impartial and transparent manner and ensure that all parties are treated equally.
 - Avoids unnecessary formality - each Hearing Panel will be inclusive and acknowledge the broad range of interests of submitters. They will facilitate a process that provides all parties with the opportunity to hear others and to be heard, whether they are presenting oral or written submissions and/or evidence.
 - Is efficient – each Hearing Panel will conduct an efficient process which minimises time and costs to all parties participating in the hearings. Each Hearing Panel will provide both the Council and submitters with an adequate opportunity to be heard, while at the same time avoiding unnecessary repetition and the presentation of irrelevant material.
 - Recognises Tikanga Māori and Te Reo – each Hearing Panel will receive written or spoken evidence in Te Reo, if and when requested to do so by a submitter. The Hearings Panel will recognise and provide for Tikanga Māori in other ways, as advised by Te Ngāi Tuahuririri.
 - Recognises New Zealand sign language – each Hearing Panel will receive evidence in sign language, if and when requested to do so by a submitter.

COUNCIL INVOLVEMENT IN THE HEARINGS AND TIMEFRAMES

41. There will be a number of Council staff involved in the hearings process. These will be:
 - a. The Section 42A report authors.
 - b. Council experts.
 - c. The Hearings administrator.

SECTION 42A REPORT AUTHORS AND COUNCIL EXPERTS

42. 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 staff or external consultants and supported, where appropriate, by expert evidence. Such expert evidence might also be prepared either by Council staff or external consultants.
43. 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.
44. The purpose of a Section 42A report is to assist both submitters and the relevant Hearing Panel prepare for the hearing to which it relates.
45. Among other things, each Section 42A report will contain a schedule of the primary submission points it addresses, the author's recommendation in relation to each submission point, and the section of the report where the substance of any submission point that is seeking amendments to the PDP is addressed (where a number of submissions raise a similar point, they will likely be addressed collectively). 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. The Section 42A report will also include a marked-up version of the relevant chapter it relates to, showing the Council officer's recommended amendments in response to submissions, and which submission(s) the amendment relates to.
46. To assist submitters to plan their preparation for the hearings, Council will put an annotated version of the Summary of Submissions with an additional column indicating the Stream Hearing each submission point will be heard in on the Council's dedicated PDP hearings portal. Details of this portal will be made available to all submitters well in advance of hearings commencing. The allocation of submission points is subject to change as the Section 42A authors finalise their respective reports. Submitters should check the final Section 42A report(s) for each stream, once released, to confirm their understanding of what aspects of their submission will be heard.

47. Section 42A Reports prepared for each hearing, together with any supporting expert evidence, constitute part of the body of evidence to be considered by the relevant Hearing Panel, alongside the evidence of submitters. All material related to the hearings will be uploaded to the Council's PDP hearings portal.
48. While Section 42A Reports will evaluate all submissions on the relevant hearing topics and make recommendations to the Hearing Panel considering those topics, those recommendations are not binding on the Hearing Panel and carry no greater weight than any other evidence provided by or on behalf of any submitter.
49. Section 42A Reports and any supporting expert evidence will be uploaded to the website not less than 20 working days prior to the hearing to which they relate.
50. Once Section 42A Reports are available online, the Hearings Administrator will contact submitters who indicated they wished to be heard on the relevant topic, providing a link to the relevant Section 42A Report. Hard copies of the Section 42A reports will also be available for submitters to consult in each Council library and at the Rangiora Service Centre. If submitters are having difficulty accessing other PDP materials online, they can contact the Hearings Administrator for support.

HEARING ADMINISTRATION

51. The Hearings Administrator is the 'point of contact' for submitters and the public regarding the hearings.
52. All communications with the Hearing Panel outside the hearings proper from submitters and their representatives, Section 42A Report writers and expert witnesses must be directed through the Hearings Administrator.
53. The Hearings Administrator will oversee the various administrative tasks needed to ensure an efficient hearing process, including:
 - a. Issuing schedules and hearing notifications.
 - b. Making hearing arrangements, including scheduling submitter hearing times.
 - c. Circulating Hearing Panel Minutes and other directions.
 - d. Circulating evidence and reports for each hearing.
 - e. Handling submitter inquiries.
 - f. Handling public and media inquiries to the Hearings Panel.
 - g. Generally assisting the Hearings Panel with logistical and administrative matters as required.
54. The Hearings Administrator is also responsible for managing the PDP Hearing Portal to ensure that all necessary information to support an efficient hearing process is available to all participants.

SUBMITTER INVOLVEMENT IN THE HEARINGS AND TIMEFRAMES

55. 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. A submitter's case may also be assisted by their bringing expert evidence before the relevant Hearing Panel.
56. Submitters who did not give notice in their submission form that they wished to be heard, but now do so, may seek leave from the Hearings Panel, via the Hearings Administrator, citing the reasons why you now wish to be heard.
57. The Hearings Administrator will be in touch with all submitters, using the method of communication stated on the submission, who have requested to be heard, seeking confirmation of their hearing time requirements (see below for more information about hearing time allocated). If submitters have particular preferences for the day or time they wish to be heard, the Hearings Administrator will endeavour to accommodate those preferences on a first come, first served basis. The Hearings Administrator will compile and upload the Hearings Schedule on the Hearings Portal with indicative times for each party's appearance.

PREPARING FOR THE HEARING AND TIME ALLOCATION

58. Submitters may choose to present their submissions themselves or through their authorised representatives (including but not limited to legal counsel). Such 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.
59. Submitters have the option of presenting written representations on the day of the hearing, and reading it aloud provided (as above) it is not longer than three A4 pages in length. If submitters have not sent any written material to the Hearings Administrator electronically prior to the hearing, they need to bring ten copies of any written material to the hearing and supply an electronic copy to the Hearings Administrator within two working days of completing their presentation.
60. Unless you specifically ask for longer time, you will generally be allocated no more than 15 minutes to speak. This is because the Hearing Panel will already have pre-read your submission, along with all pre-circulated material.
61. If you do want to have longer than 15 minutes, you will need to make a request to the Chair, via the Hearings Administrator, for additional time to be allocated, with reasons. Those reasons do not need to be extensive. The Chair will seek to ensure that all submitters have the time that they require, within reason, to adequately present their evidence and submissions. However, the Chair will also be mindful of the need for each hearing to proceed efficiently and to be able to deliver its recommendations to the Council in a timely manner.

62. If you are seeking extra time to enable you to call expert evidence, then you will need to advise the Hearings Administrator of the number of expert witnesses and their names and expertise. The same applies if you wish to be represented by counsel presenting legal submissions. If you are calling an expert witness(es), then please refer to the section in this Minute on expert conferencing. Please see below if your submission is seeking a substantial rezoning.
63. Even if your verbal presentation is going to be short, it is helpful to prepare a written statement, as it will help you to focus on the key issues and help the Hearing Panel concentrate on listening to you. It does not need to be typed out, as long as its legible.
64. Where a number of submitters are presenting a similar position on a particular issue, the Hearing Panel would encourage at least coordination between those submitters. Ideally submitters will nominate a representative to present representations that are common to the group. The Hearing 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.
65. 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.

LEGAL SUBMISSIONS

66. All legal submissions and any other written presentations that are longer than three A4 pages in length should be provided in electronic form to the Hearings Administrator not less than five working days before the commencement of the relevant hearing.
67. If legal submissions refer to caselaw, counsel should either insert an electronic link to the cases or provide electronic copies separately (in PDF format). Hard copies of cases will not generally be required unless otherwise advised.

SUBMITTER EXPERT EVIDENCE

68. An expert is a person equipped by qualification, training and/or 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. Kaumatua 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'.
69. The key thing is for an expert witness to demonstrate to the Hearing 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.
70. As discussed below, experts are required to confirm they agree to comply with the Environment Court Code, which reinforces this point.

71. 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 PDP, Variation 1 or 2 provisions, their presentation needs to be accompanied by material which enables the Hearing Panel to undertake an evaluation of their relief under section 32AA of the RMA. As a general guide, if the Council's Section 42A report does not support the suggested change following an evaluation the submitter will likely need to do so by way of expert evidence on the subject.
72. Any expert evidence a submitter proposes to call must be pre-circulated in accordance with the timetable for the relevant hearing. This is set out elsewhere in this minute. Expert witnesses should also be prepared to enter into expert conferencing, either on a voluntary basis, or as directed by the Hearings Panel.
73. Where an expert witness is giving evidence for multiple submitters at a hearing, they must ensure that the name of each brief of evidence is clear as to which submitter(s) it relates to.

DIFFERENT TIMEFRAME FOR TECHNICAL EVIDENCE FOR REZONING SUBMISSIONS

74. However, for those submissions that seek substantial rezoning proposals (whether upzoning or downzoning) the Hearings Panel require that these submitters provide any technical evidence that they wish to have considered by Council officers in preparing their Section 42A reports by no later than 60 working days before the rezoning hearings (dates to be advised). Those submitters may wish to provide that evidence in advance of that timeframe. Where technical evidence is provided in advance, this is in addition to presenting submissions and providing legal submissions and expert evidence in advance of the hearing.
75. Where a submitter does provide the Council with technical evidence in advance of the 60 working days, the Council is requested to review that evidence and advise the submitter of the completeness and adequacy of the evidence in a timely manner, so that the submitter has the opportunity to provide any further information necessary. The Council's and submitters' attention is also drawn to that part of this Minute which addresses expert conferencing and the preparation of joint witness statements in advance of the hearing. This could also occur in advance of the release of the relevant s42A reports.

SENSITIVE INFORMATION

76. The Hearings Panel has the power to direct that information presented by a party before it is kept confidential in some circumstances, as per section 42 of the RMA. The duration of such orders depends on the reasons for them being made. In cases of 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.

77. If a submitter seeks that the Hearings Panel makes an order of this kind, they need to advise the Hearings Administrator of that, and the reasons for the orders sought, as promptly as possible.

WHEN A SUBMITTER IS UNABLE TO ATTEND

78. 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 Hearing Panel has been unable to ask questions of the witness/submitter/representative.

ADDITIONAL EVIDENCE POST HEARING

79. Following the completion of a hearing, the Hearing Panel will not accept additional material on the matters that were the subject of the hearing, other than in exceptional circumstances.
80. Any party wishing to provide additional material following the completion of the hearing will require the approval of the Chair. The party must submit a written request to the Chair which addresses the relevance of the additional material, any potential prejudice to other participants in the hearing process, including Section 42A officers and other Council staff, and any disruption that material may cause to the efficient completion of the hearing process.

PRE-HEARING MEETINGS AND EXPERT CONFERENCING / CAUCUSING

81. Either prior to or following the exchange of expert evidence as detailed above, it may be beneficial for expert witnesses providing evidence relating to 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.
82. Submitters are requested to liaise amongst themselves, along with the Hearings Administrator and with the relevant Section 42A report author, in order to facilitate their respective experts conferencing on matters relevant to their specific areas of expertise for each hearing topic.
83. If expert conferencing occurs, then a Joint Witness Statement (JWS) is to be prepared for each specific area of expertise and be provided to the Hearings Administrator no later than five working days prior to the hearing commencing. We assume that the JWS will be prepared by the relevant Council expert witness (or Section 42A report author) unless the experts agree otherwise amongst themselves.
84. The Hearing Panel(s) may request expert conferencing during or after each hearing, together with the preparation of additional JWSs.
85. 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 Consolidated Practice Note 2023–Code of Conduct for expert witnesses available at the following website <https://environmentcourt.govt.nz/about/practice-note/>

SITE VISITS

86. The Hearings Panel may 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 that is the subject of other submissions. Where it is necessary for the Hearing 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.
87. If any submitter believes it would assist the Hearing Panel to undertake a site visit of their property, they are invited to contact the Hearings Administrator at the 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 Panel to view.
88. It is important to appreciate that the purpose of a site visit is not to gather evidence, but rather to enable the Hearing 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 Hearing Panel 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 a submission(s).

HEARING LOCATION AND SCHEDULE

89. The location of the hearings will be confirmed for each Hearing Stream in advance of the hearing commencing. Hearings will commence at 9.00am each day and generally conclude at 5.00pm. The exception is that hearings will conclude at 3.00pm on a Friday, or the last hearing day in a Hearing Stream. Any change in venue will be signalled well in advance of a hearing commencing.
90. The Hearings Panel will hold the hearings based on a series of Hearing Streams.
91. These Hearing Streams have been put together with the objective of, as far as possible, hearing closely related topics and chapters in the same hearing. The intent is that this will reduce the demands on hearing participants, while recognising that some submitters may have to attend and participate in more than one hearing.
92. The Hearings Panel acknowledges that not hearing from submitters one by one on all their submission points may be disruptive to their other work and family commitments. However, the Hearings Panel considers that its approach is the best balance between an efficient and manageable hearing process for all participants.
93. The Hearing Streams, the order that they will be heard, the tentative composition of the Hearing Panel and an indicative date for each stream, are set out in the table below. The final composition will be confirmed prior to each Hearing Stream and made available on the Council’s Hearings Portal.

| Hearing Stream | Abbrevs | Topics and chapters | Indicative Hearing Panel Members | Indicative Hearing Dates ¹ |
|----------------|----------------------|--|--|---------------------------------------|
| Stream 1 | | Part 1, General Matters, Cross Plan Issues, Overarching matters, Plan Introduction | Gina Sweetman (Chair) Allan Cubitt Cr Atkinson Cr Mealings Gary Rae Megen McKay | 15 – 18 May 2023 |
| | DEFINITIONS | Definitions (that relate to multiple chapters) | | |
| | SD | Strategic Directions | | |
| | UFD | Urban Form and Development | | |
| Stream 2 | MW SASM KN | Mana whenua Sites and Areas of Significance to Māori Special Purpose Kainga Nohoanga | Gina Sweetman (Chair) Allan Cubitt Cr Atkinson Cr Mealings Gary Rae Megen McKay | 17 - 18 May 2023 |

¹ Subject to the progression of previous hearings

| | | | | |
|-----------|--|---|---|-------------------------------------|
| Stream 4 | CE | Coastal Environment | Gina Sweetman (Chair) Allan Cubitt Cr Atkinson Cr Mealings Gary Rae Megen McKay | 17 – 20 July 2023 |
| | NATC | Natural Character of Freshwater bodies | | |
| | NFL | Natural Features and Landscapes | | |
| | PA | Public Access | | |
| | ASW | Activities on the Surface of Water | | |
| Stream 3 | HS | Hazardous Substances | Gina Sweetman (Chair) Allan Cubitt Gary Rae Cr Atkinson Cr Mealings | 25 - 27 July 2023 |
| | CL | Contaminated Land | | |
| | NH | Natural Hazards | | |
| Stream 5 | EW | Earthworks | Gina Sweetman (Chair) Allan Cubitt Cr Atkinson Cr Mealings Gary Rae Megen McKay | 21 August – 25 August 2023 |
| | NOISE | Noise | | |
| | SIGN | Signs | | |
| | LIGHT | Light | | |
| | HH | Historic Heritage | | |
| | TREE | Notable Trees | | |
| | EI | Energy and Infrastructure | | |
| | TRAN | Transport | | |
| Stream 6 | RURZ GRUZ RLZ RURZ | Rural (including rezoning where technical evidence is unlikely) | Gina Sweetman (Chair) Allan Cubitt Cr Atkinson Cr Mealings Gary Rae Megen McKay | 9 – 13 October 2023 |
| | OSRZ NOSZ OSZ OSRZ | Open Space Zones | | |
| Stream 9 | CMUZ NCZ LCZ LFRZ MUZ TCZ | Commercial Zones | Gina Sweetman (Chair) Gary Rae Allan Cubitt Cr Atkinson | Commences 29 January 2024 |
| Stream 10 | SPZ- KR | Special Purpose Zones (Kaiapoi Regeneration) | Gina Sweetman (Chair) Allan Cubitt Gary Rae Megen McKay Cr Atkinson | 19 February 2024 |
| | PBKR | Pines Beach and Kairaki Regeneration | | |
| | PR | Pegasus resort | | |
| | MCC | Museum and conference | | |

| | | | | |
|------------|--------------------------|---|--|--------------------|
| | HOS | Hospital | Cr Mealings | |
| Stream 10A | FUDA Airport | Future Development Areas Noise Contour, Bird Strike and Growth policies | Gina Sweetman (Chair) Gary Rae Allan Cubitt Megen McKay | 19 February 2024 |
| Stream 11 | DESIGNATIONS | Designations <ul style="list-style-type: none"> • WDC – Waimakariri District Council | Gina Sweetman (Chair) Allan Cubitt Gary Rae Megen McKay | 15 April 2024 |
| Stream 11A | DESIGNATIONS | Designations <ul style="list-style-type: none"> • KRH – KiwiRail Holdings Ltd • MEDU - Minister of Education • MPNZ - Mainpower New Zealand Ltd • MPOL - Minister of Police / NZ Police • NZTA – Waka Kotahi NZ Transport Agency | Gina Sweetman (Chair) Allan Cubitt Cr Atkinson Cr Mealings Gary Rae Megen McKay | 15 - 17 April 2024 |
| | TEMP | Temporary Activities | | |
| Stream 8 | SUB | Subdivision (Rural and Residential) | | 15 – 17 April 2024 |
| Stream 9A | INZ LIZ GIZ HIZ | Industrial Zones | | |
| Stream 12A | MAPS | Commercial/Ind, Oxford and surrounds, Pegasus Resort | Gina Sweetman (Chair) Megen McKay Cr Atkinson Cr Mealings | 4 – 5 June 2024 |
| Stream 12B | MAPS | Rural Lifestyle Zone | Gina Sweetman (Chair) Gary Rae Allan Cubitt Cr Atkinson | 11 - 12 June 2024 |

| | | | | |
|------------|------|--|---|------------------------------|
| | | | Cr Mealings | |
| Stream 12C | MAPS | Large Lot Residential Zone and Large Lot Residential Overlay | Gina Sweetman (Chair) Gary Rae Allan Cubitt Cr Atkinson | 24 – 27 June 2024 |
| Stream 12D | MAPS | Ohoka - RIDL | Gina Sweetman (Chair) Allan Cubitt Gary Rae | 1 - 4 July 2024 |
| Stream 12E | MAPS | Rangiora, Kaiapoi, Woodend, Var 1 | Gina Sweetman (Chair) Allan Cubitt Gary Rae Megen McKay | 22 – 30 July 2024 |
| Stream 7 | RESZ | Residential (which is not rezoning) | Gina Sweetman (Chair) Allan Cubitt Gary Rae Megen McKay | 19 August – 2 September 2024 |
| | LLRZ | Large Lot Residential (which is not rezoning) | | |
| Stream 7A | | Variation 1 Housing Intensification | | |
| | | Variation 2 Financial Contributions | Gina Sweetman (Chair) | |
| | ECO | Ecosystems and Indigenous Biodiversity | Allan Cubitt Cr Atkinson Cr Mealings Gary Rae Megen McKay | |

HEARING FORMAT

94. The Chair is in charge of the progress of the hearing, making directions as required to ensure the orderly conduct of the hearing.
95. Each Hearing Stream will follow the following format:
 - a. The Hearing Stream will commence and end with a karakia.
 - b. The Chair will introduce the Hearing Panel, cover any preliminary issues, and invite any party wishing to raise procedural issues to do so.
 - c. The Section 42A reporting officers will briefly introduce their topics/chapters, followed by any supporting expert witness. The Section 42A reporting officer(s) may provide a written summary no longer than three pages in length (excluding any revised plan provisions). The Hearings Panel will ask each Section 42A author questions before proceeding to the next.

- d. Submitters will be heard in the order set out in the Hearing Schedule.
- 96. There will be no cross-examination of witnesses by other submitters, except as provided for on submissions on Variation 1, which is addressed later in this minute.
- 97. Following the conclusion of each topic-based hearing the Section 42A Report authors will provide a written Reply Report outlining any amendments to their original recommendations, including reasons why. This must be filed within 10 working days of the adjournment of the hearing unless the Chair directs a different timeframe. The Hearings Administrator will upload the Reply Report to the Hearings Portal. As set out earlier in this minute, the Hearing Panel will not accept any further comment or evidence from submitters on the matters the subject of the hearing without the Chair's specific approval.
- 98. Hearing Panel recommendations on each topic-based matter will not be released sequentially. The Hearings Panel will release their overall Recommendation Report following the conclusion of all of the hearings.

ATTENDING ON THE DAY

- 99. Each submitter will be allocated a time to appear in front of the Hearing 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.
- 100. When it is your turn, the Chair will invite you to come forward with your representatives/witnesses to the table set aside for submitters and invite you to present your case.
- 101. Each Hearing 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 set out earlier, that written summary should be no longer than three A4 pages. It is not expected that expert witnesses will read the executive summaries in their pre-circulated evidence. The Hearing 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.
- 102. Counsel representing submitters are also not expected to read their written submission or representations as the Hearing Panel will already have read it.
- 103. The Hearing Panel may ask questions of you and/or your counsel or 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.
- 104. Except as provided for in the ISPP that applies to Variation 1 which is addressed later in this Minute, there is no cross-examination at Council hearings. Even then, you must not interrupt other submitters presenting their cases, or the Council Officers speaking to 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 Hearing 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.

105. If the IHP has provided leave for cross-examination to occur in respect to the Variation 1 submissions, that will occur after the IHP has asked their questions.
106. More generally, your presentation will be more effective if you keep what you say to the Hearing Panel simple and focus on the key points you want to make. Tell the Hearing Panel exactly what changes you want made to the PDP, Variation 1 or Variation 2, and why those changes are appropriate. If you support aspects of the PDP, Variation 1 or Variation 2, tell the Panel that, and why that is.
107. 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).
108. The hearing is public, and it will be recorded. The recordings will be available online for public viewing.

SCOPE OF SUBMISSIONS AND EVIDENCE

109. For submissions on the PDP and Variation 2, any written statement you prepare explaining your submission to the Hearing 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). You can, however, come up with additional reasons why the relief you support is well founded. It is noted that these are legal requirements, confirmed by a number of Environment Court decisions. It is not a choice the Hearing Panel has made as to how to run the hearing. If submitters are unclear about whether their submission is sufficiently clear to cover their desired outcomes, they should seek independent legal or planning advice.
110. The same is not the case for the ISPP that applies to Variation 1. The IHP is able to make recommendations to the Council that fall outside the scope of what a submitter has raised in submissions, as long as the matter is within the scope of Variation 1 itself. This is provided the point concerned has been raised either by a person at the hearing or by the IHP itself.

VIRTUAL ATTENDANCE AT THE HEARING

111. The Hearings Panel's strong preference is to hear from all hearing participants in person. However, where this is not possible, the participant should liaise with the

Hearings Administrator to ensure that virtual attendance can be organised, via Microsoft Teams. The same requirements for attendance at the hearing apply to virtual attendance; however, at least ten working days' notice is to be provided to the Hearings Administrator to make necessary arrangements. Any request to the Hearings Administrator for virtual attendance is to include the reason that the participant is unable to attend in person.

CROSS-EXAMINATION FOR VARIATION 1

112. One feature of the ISPP that differentiates it from the normal Part 1 of Schedule 1 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 IHP. Clause 98(4) of Part 6 of Schedule 1 requires the Hearing Panel to be satisfied that it is in the interests of justice before it permits cross-examination.
113. 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 three 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.
114. Parties considering making such a request should factor in that the IHP will be thoroughly testing the evidence and other representations they hear. Leave to ask questions / cross examine will only be granted if it appears to the IHP that the party concerned intends to focus on avenues of inquiry that the IHP does not itself intend to pursue and/or will be asking questions/cross examining with the benefit of information or perspective that the IHP will not bring to bear.
115. 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 IHP 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.
116. Where a hearing stream combines ISPP topics and non-ISPP topics, application can only be made as above in respect of the ISPP topics.
117. Leave will only be granted at the hearing in exceptional cases because of the potential for lengthy cross examination to disrupt the hearing schedule. A party seeking such leave will be advised whether their request is granted before commencement of the hearing.
118. There will be no cross-examination for submissions on the PDP or Variation 2.

SUMMARY OF RELEVANT TIMEFRAMES

119. The following table sets out the relevant timeframes which are contained in this Minute:

| | Hearing Step | Timing/Deadline |
|-----|---|--|
| 1. | Expert evidence for any submission seeking a substantial rezoning | <u>Sixty working days</u> before the relevant Hearing Stream commences. |
| 2. | Section 42A report | <u>Twenty working days</u> before the relevant Hearing Stream commences, but earlier if possible. |
| 3. | Confirm request to be heard, advise preferred timing and where applicable, ask for more time than default 15 minutes (with reasons) | The hearing schedule will be confirmed at the time of formal confirmation of the hearing date but no less than <u>10 working days</u> prior to the stream hearing. |
| 4. | Expert Evidence | <u>Ten working days</u> before the relevant Hearing Stream commences. |
| 5. | Request site visit | <u>Ten working days</u> before the relevant Hearing Stream commences |
| 6. | Legal Submissions, written representations longer than 3 A4 pages, and power point presentations | <u>Five working days</u> before the relevant Hearing Stream commences. |
| 7. | Requests to present evidence in Te Reo, Sign Language, or to use audio-visual equipment | <u>Five working days</u> before the relevant Hearing Stream commences, but earlier if possible. |
| 8. | Requests for submitter or specified witnesses to appear virtually (by Teams) | <u>Five working days</u> before the relevant Hearing Stream commences, but earlier if possible. |
| 9. | Expert summaries and written representations 3 A4 pages or less | When you appear (but earlier if possible). |
| 10. | Tabled Evidence and Representations | The last day of the relevant Hearing Stream. |

120. Where the Hearing Panel has directed 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 Hearing Panel that day). The Hearings Administrator will advise of the exact dates in advance of each Hearing Stream.

121. If you are later than the stated timeframe, you will need to explain why you are late and seek the Chair's waiver of the breach of the Hearing, through the Hearings

Administrator. Such requests do not need to be made with any great formality, but the key issues the Chair 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.

WHAT HAPPENS AFTER EACH HEARING CONCLUDES

122. Following the receipt of the Section 42A author(s)' Reply Report, each Hearing Panel will deliberate in private. The Hearing Panel will formulate its recommendations on what if any amendments it believes to be appropriate on the Sections of the PDP and Variations 1 and 2 the subject of hearing in order to respond appropriately to submissions and further submissions.
123. The recommendation reports of the different Hearing Panels will be released together, as a package, with one exception discussed below. That recommendation package will then be provided to the Council, for the Council to make their decision.
124. The exception is the views the relevant Hearing Panel forms 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 will be notified of the Council's decisions (and the decisions of requiring authorities in relation to designations).
126. The decisions on the PDP and Variation 2 are open to appeal to the Environment Court. The Council's public notification of the decisions will include details regarding the appeal process.
127. The decisions on Variation 1 are not open to appeal to the Environment Court.

ADMINISTRATION

HEARINGS ADMINISTRATOR

128. The Council has appointed Audrey Benbrook as Hearings Administrator. Her contact details are:

Phone 0800 965 468

Email audrey.benbrook@wmk.govt.nz

HEARINGS PORTAL

129. All relevant information about the hearing can be found on the Proposed District Plan Hearings [webpage](#).

CORRESPONDENCE

130. 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.

SERVICE OF DOCUMENTS

131. All written material (evidence, hearing reports, JWSs and legal submissions) addressed by this Minute must be lodged with the Hearings Administrator in **Microsoft WORD and PDF** format by the stated deadline: email to

- developmentplanning@wmk.govt.nz

Or

- Post addressed to District Plan Hearings Administrator, Waimakariri District Council, PO Box 1005, Rangiora 7440.

132. All written material relevant to the hearings will be posted in PDF form on the Council's webpage (www.waimakariri.govt.nz)

DEVIATION REQUESTS

133. 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 and be provided to the Hearings Administrator. The Hearings Panel will consider and determine any such requests.



Gina Sweetman

Independent Commissioner – Chair - on behalf of the Hearing Panel members

15 March 2024