

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

**AND**

**IN THE MATTER** of the Proposed District Plan Hearings of the  
Central Hawke's Bay District Council

**BEFORE** A Special Purpose Committee (Hearing Panel of  
Commissioners) appointed by the Central  
Hawke's Bay District Council

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**First Memorandum and Direction of the Hearings Panel**

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**Background**

1. On Thursday 29 July 2021, the Central Hawke's Bay District Council appointed a Special Purpose Committee (Hearing Panel) to hear and make decisions on the review of the District Plan, including submissions and further submissions. The Panel comprises the following persons:
  - Independent Hearings Commissioners:
    - ▶ Robert Schofield (Chair)
    - ▶ Dr Roger Maaka
    - ▶ Loretta Lovell
  - Councillors:
    - ▶ Tim Aitken
    - ▶ Pip Burne
    - ▶ Kate Taylor
2. All members of the Panel are either fully accredited under the Ministry for the Environment's Making Good Decisions programme or will have completed their training shortly.
3. The Proposed District Plan (PDP) for the Council was publicly notified and open for submissions on 28 May 2021 with the closing date for submissions being 6 August 2021. Since the closing date for submissions, the Council has logged the receipt of a number of late submissions.
4. The Panel has the delegated power to consider late submissions in accordance with sections 37 and 37A of the Resource Management Act 1991 (RMA).
5. This Minute addresses submissions that were received by Council after 6 August 2021 and encompasses all submissions that might be received to 5pm on 3 September 2021.

## Procedure for Receipt of Late Submissions

6. In exercising our delegated authority to consider a waiver of time for the lodging of further submissions, the following provisions are relevant.
7. Section 37(1) RMA provides:
  - 37. Power of waiver and extension of time limits-**
  - (1) A consent authority or local authority may, in any particular case, -*
    - (a) extend a time period specified in this Act or in regulations, whether or not the time period has expired; or*
    - (b) waive a failure to comply with a requirement under this Act, regulations, or plan for the time or method of service of documents ...*
8. The Panel may therefore exercise discretion to receive submissions made out of time by waiving, in those cases, the failure to comply with the deadline for the close of submissions in respect of the PDP.
9. The Panel cannot exercise this discretion until it has complied with the provisions of Section 37A of the Resource Management Act 1991 which states that a local authority must not waive compliance with a time limit in accordance with Section 37 unless it has taken into account:
  - (a) The interests of any person who, in its opinion, may be directly affected by the ... waiver; and*
  - (b) The interests of the community in achieving adequate assessment of the effects of the proposal, policy statement, or plan; and*
  - (c) Its duty under Section 21 to avoid unreasonable delay.*
10. Further, under Section 37A (6), a local authority must ensure that every person who, in its opinion, is directly affected by the waiver of compliance with the time limit is notified of the extension.

## Analysis

8. **Interests of any person who may be directly affected by the waiver**

The interests of the persons who have made submissions out of time will be served by the grant of a waiver.

No person is considered to be adversely affected by the grant of a waiver of time. The Council is required to prepare a summary of submissions for public notification and call for further submissions. It is possible to incorporate the late submissions into the summary as is still being produced and is yet to be publicly notified.
9. **The interests of the community in achieving adequate assessment of effects of the proposed district plan**

The submissions raise matters that can be addressed through the hearings process on the PDP. It is in the interest of the community to test the provisions of the PDP and these submissions will assist that process. It is also a matter of natural justice to allow the fullest participation in the development of policy under the RMA.

10. **The Council's duty under Section 21 to avoid unreasonable delay**

The receipt of these late submissions is not anticipated to cause an unreasonable delay in terms of the preparation of the summary of submissions or the processing of the Proposed District Plan generally. There is no risk to the Council's ability to meet its duty to avoid unreasonable delay.

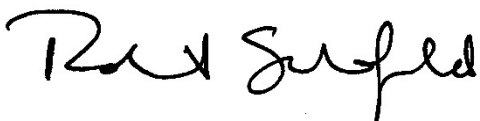
11. **A local authority must ensure that every person who, in its opinion, is directly affected by the waiver of compliance with a time limit is notified of the extension**

The only persons considered to be affected by the waiver at this stage are the persons who made the late submission. These submitters would be notified in writing that a waiver has been granted in respect of their submission.

**RESOLUTION**

Having taken into account the matters set out in Section 37A RMA, and in accordance with the authority delegated to us, we have resolved to accept all late submissions that have been received by Council before 5pm on 3 September 2021.

Special Purpose Committee: Independent Hearing Commissioners Schofield (Chair), Maaka, Lovell and Crs Atkin, Taylor and Burne.

A handwritten signature in black ink, appearing to read 'Robert Schofield', written in a cursive style.

Robert Schofield  
Chair  
13 August 2021

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**Late submissions**

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Submitter No	Submitter Name	Date received
S129	Kāinga Ora	6/08/2021
S127	Livingston Properties Limited	6/08/2021
S134	Ngāti Kere Hapū Authority	6/08/2021
S88	Robert Eagles	8/08/2021
S113	Ben & Libby Tosswill	8/08/2021
S130	Simon Osborne	8/08/2021
S131	NZ Association of Radio Transmitters Inc and Hawke's Bay Amateur Radio Club	9/08/2021
S78	Waka Kotahi NZ Transport Agency	13/08/2021
S18	Elizabeth Pishief	16/08/2021
S36	Karen Middelberg	19/08/2021
S132	Ernslaw One Limited	20/08/2021
S133	David Severinsen	26/08/2021
S70	Peggy Scott	27/08/2021