

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

**AND**

**IN THE MATTER** of Hearing of Submissions and Further  
Submissions on the Proposed Central Hawke's  
Bay Council District Plan Review

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**Fifth Memorandum and Direction of the Hearings Panel  
FINALISED HEARING PROCEDURES**

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## **Introduction**

1. Central Hawke’s Bay District Council (the Council) publicly notified its Proposed District Plan (PDP) on 28 May 2021. Over 130 submissions were lodged with the Council in response to that notification.
2. A summary of those submissions was publicly notified on 11 October 2021, and 29 further submissions were received (Note: references in this Minute to submissions should be taken to include further submissions unless otherwise stated). The purpose of this Minute is to outline the procedures that will be followed for the hearing of submissions on the PDP that will commence on 14 March 2022.
3. A draft set of procedures was released on 17 December 2021 for feedback from submitters. To facilitate process feedback, a ‘Meet the Panel’ evening was held on Monday 14 February 2022 to provide an informal opportunity for submitters (or their representatives) to meet members of the Hearings Panel, as well as other persons involved in the Hearings process, prior to the commencement of hearings. People could attend the evening either in person (following Councils Public Health requirements) or attend digitally via Zoom. The hearings process was outlined at the meeting, and an opportunity for any questions about procedures was provided. This evening was not an opportunity to discuss submissions or substantive issues regarding the District Plan itself. The presentation on the Hearing Process is available on the Hearings Portal.
4. This memorandum provides the finalised set of Hearing procedures that will guide the Hearing Process over the course of 2022.
5. A “Friend of the Submitter” type of service will be provided by the Council to assist submitters with understanding and working with the hearings process. Further information about the Friend of the Submitter, and how that service is expected to work, is available on the Council Hearings Portal.
6. This Minute includes information as to how the hearings will be divided by subject matter, and provides specific directions as to when and how evidence and legal submissions will need to be lodged for the hearing topics. It also seeks to provide guidance on what submitters can expect when they appear at the hearing.

## **Membership and Role of the Hearings Panel**

7. The Council has appointed a six-person Hearings Panel of Commissioners under Section 34A (1) of the Resource Management Act 1991 (RMA) to hear and make decisions on the submissions lodged in relation to the PDP.
8. The Commissioners appointed are:
  - Robert Schofield (Planning Consultant based in Wellington) as Chair
  - Loretta Lovell (Lawyer based in Wellington)
  - Roger Maaka (Independent Hearing Commissioner)
  - Tim Atkin (Central Hawke’s Bay District Council Elected Member)

- Kate Taylor (Central Hawke’s Bay District Council Elected Member)
  - Pip Burne (Central Hawke’s Bay District Council Elected Member)
9. All Commissioners are accredited under the Ministry for the Environment’s ‘Making Good Decisions’ course. The three Councillors are sitting as independent Commissioners in accordance with their accreditation.
  10. 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 the Hearings Panel will issue a number of further procedural minutes during the course of the hearings process.
  11. It is proposed that the Chair and Commissioner Lovell will sit on all Panels, with other members of the Panel sitting on rotation across hearing topics.
  12. The proposed allocation of Commissioners to hearing topics is set out below in the section discussing the division of the PDP into different hearing streams (note this allocation may be subject to change).

### Principles of Hearing Process

13. One of the functions of the Hearings Panel is to establish the hearing process to be followed, ensuring that the process complies with the requirements of the RMA and, to the greatest extent practicable, be appropriate, fair, and efficient.
14. To this end, the Hearings Panel will establish and conduct hearing processes that:
  - **Are appropriate and fair:** each Hearing Panel will at all times act in a fair and transparent manner.
  - **Avoid unnecessary formality:** each Hearing Panel will be inclusive, acknowledging the broad range of interests of submitters and facilitating a process that provides all parties with the opportunity to be heard, either through oral or written submissions and/or evidence.
  - **Are efficient:** each Hearing Panel will conduct an efficient process which minimises time and costs to all parties participating in the hearings. Council and all submitters will have an opportunity to be heard; however, it is also expected that presentations and evidence will avoid repetition and will be within scope.
  - **Recognise Tikanga Māori:** each Hearing Panel will receive written evidence in Te Reo in accordance with the filing timetable prior to hearing. Should a submitter wish to speak to that submission or present evidence in Te Reo at hearing, they are required to provide the Hearings Administrator with at least one calendar week’s notice before the commencement of the first day of the hearing stream concerned to enable an interpreter to be made available to assist the Hearing Panel. The Tikanga of the Mana Whenua shall be reflected in the hearing process as they deem appropriate.
  - **Recognise New Zealand sign language:** each Hearing Panel will receive evidence in sign language, if and when requested to do so by a submitter who has given at least

one calendar week's notice before the commencement of the first day of the hearing stream concerned to enable an interpreter to be made available to assist the Hearing Panel.

### **Management of Potential Conflicts of Interest**

15. To ensure a fair and transparent hearing process, all Commissioners must bring an independent view and open mind to the role, free of any conflicts of interest that could result in bias and/or predetermination.
16. Conflicts of interest may arise, for example, where a Commissioner:
  - Has previously appeared as a witness or an advocate for a party who holds an interest and/or lodged a submission on the PDP; or
  - Has a private interest, including but not limited to a personal relationship with a submitter or their representative or an interest in property directly affected by a submission.
17. As part of the appointment process, Central Hawke's Bay District Council required applicants for appointment as Commissioners on the PDP to declare any conflicts of interest. There were no declared conflicts that precluded appointment of the Hearings Panel members.
18. A potential conflict of interest can be raised by a Commissioner or by a party to the hearing process.
19. If any Commissioner becomes aware of any potential conflicts of interest prior to or during any hearing, they will immediately disclose this to the Chair prior to and (where they become aware of some) during the hearings.
20. Any party to the hearing process is entitled to raise potential conflicts of interest with the Chair. This should be done as soon as possible (through the Hearings Administrator), with the commencement of the relevant day's hearing being the latest time a conflict can be raised.
21. Where a conflict of interest is raised, the Chair will determine whether the Commissioner should stand aside from any specific hearing sessions (and consequently from the deliberations and decision-making arising from such sessions). If any issue arises in respect of the Chair's involvement and interests, the balance of members of the Hearing Panel concerned will determine the appropriate course of action.
22. A Register of Interests will record previous and current involvements and/or interests held by Commissioners. The Register will be updated by the Chair during the hearing process should a conflict 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.

### **Council Involvement in the Hearings**

24. A number of Council staff and external advisers will be involved in the hearing process, specifically:

- (a) The Hearings Administrator(s)
  - (b) The Section 42A Report authors, and
  - (c) Where required, Council Officers or external technical advisers providing expert evidence.
25. All communications with the Hearing Panel from submitters and their representatives, Section 42A Report writers and expert witnesses must be directed through the Hearings Administrator.
26. The Hearings Administrator and District Plan Team 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 Hearing 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.
27. The District Plan Team 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 in a timely manner.
28. **Jessie Williams** is the District Plan Hearings Administrator, but she will be assisted by other Council Officers when required. Parties may contact the Hearings Administrator at [districtplan@chbdc.govt.nz](mailto:districtplan@chbdc.govt.nz) or phone (06) 857 8060.

### ***Section 42A Reports***

29. 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 qualified planners (Council staff or external consultants) and supported, where appropriate, by expert evidence. Such expert evidence may be prepared by Council staff or external consultants.
30. 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.
31. The purpose of a section 42A report is to assist both submitters and the Hearing Panel prepare for the hearing to which it relates. 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.

32. 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 the Section 42A for that hearing and its schedule to confirm. Any uncertainty can be clarified through the Hearings Administrator (contact details below).
33. The Section 42A Reports that are prepared for each hearing, together with any supporting expert evidence, constitute part of the body of evidence to be considered by the Hearing Panel.
34. All material related to the hearings will be uploaded to the Council's dedicated PDP Hearings website. Details of this will be made available to all submitters well in advance of hearings commencing.
35. Section 42A Reports and any supporting expert evidence will be uploaded to the website not less than 15 working days prior to the hearing to which they relate.
36. Once Section 42A Reports are available online, the Hearings Administrator will contact submitters who indicated they wished to be heard on the relevant topic, and provide them with a link to the relevant Section 42A Report. Hard copies of the Section 42A reports will also be available for submitters to review in the Council's Waipawa Library, *Te Huinga Knowledge and Learning Hub*, Waipukurau, and at reception on the ground floor of the Council Administration Building, Ruataniwha Street, Waipawa. If submitters have difficulty accessing other PDP materials online, they can seek the assistance of library staff, or the reception team at the Council Administration Building.
37. 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.
38. The general approach of the Hearings Panel is that it will not make provision for pre-circulated rebuttal evidence by Section 42A Report authors or other Council expert witnesses. Those hearing topics involving substantial rezoning requests are likely to be an exception to this general policy, in order to assist a more efficient hearing process.

### **Pre-circulation of Submitter Expert Evidence**

39. 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, and a submitter's case may also be assisted by their bringing expert evidence before the relevant Hearing Panel.
40. An expert is a person equipped by training and experience to provide independent 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. For example, Kaumātua do not need a university degree to be an expert on the cultural values of their iwi or hapū.
41. With the exception of cultural experts, expert witnesses are expected to confirm and comply with the expert witness code of conduct established by the Environment Court (discussed further below). In doing so, the expert demonstrates 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.

42. 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 should be accompanied by material which enables the Hearing Panel to undertake an evaluation of the relief sought under section 32AA of the RMA.
43. All expert evidence must be pre-circulated to the District Council 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 particular topic. However, in some cases, evidence may be required to be filed earlier: in those instances, the Hearing Panel will notify submitters of filing dates.
44. The evidence will be uploaded to the Hearings' website upon receipt, and a link will be forwarded to the relevant parties.
45. Each expert witness may only present one brief of evidence per topic at each hearing.

### **Format of Expert Evidence**

46. The Hearings Panel expects that all expert evidence will be in the form of a single compiled and unsecured PDF document, with numbered paragraphs, and page numbered for ease of reference. Expert witnesses should confirm that they have read and agree to abide by the Expert Witness Code of Conduct contained in the Environment Court of New Zealand Practice Note 2014 in the same manner as they would if appearing in the Environment Court. This includes providing evidence within their sphere of expertise and not omitting to consider material facts known to the witness that might alter or detract from the opinions expressed.
47. Expert briefs of evidence should contain a brief (maximum three pages) executive summary.
48. Expert witness briefs must be in a minimum of 11-point font (Arial or similar) and 1.5 spacing, with appropriate paragraph and page numbering.
49. 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 'track changed' version of the Plan provisions showing changes recommended from the Section 42A version. The Hearings Administrator will be able to supply experts with copies of the Plan provisions recommended in the Section 42A report in MS Word format on request. If the expert considers the Section 42A Report has not addressed a particular point, that should be dealt with separately.

### **Expert Conferencing**

50. The Hearings Panel Chair may direct that expert conferencing should occur either prior to or during a hearing. The Chair will identify and minute the matters for which conferencing is required and such conditions (including the experts they propose to attend, reporting and deadlines) as may be required.

51. 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 Practice Note, 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.
52. The Hearings Panel's current intention is to only call for expert conferencing for experts other than planners, where necessary. The Hearing Panel will schedule conferencing following receipt of submitters' expert evidence and prior to the hearing. The Hearing Panel will consider if it would be assisted by planning witnesses conferencing at the conclusion of each Stream Hearing.
53. Notwithstanding the point above, submitters and Council are encouraged to consult on and conference on any matters at any time without waiting for a specific direction where they identify this to be advantageous and efficient. Given this, parties that have assembled their submission need not wait until the relevant Section 42A Report(s) have been released. They can therefore contact the Section 42A author(s) before then through the Hearings Administrator.

### **Submitter Representations and Non-expert Evidence**

54. 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 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.
55. All legal submissions that are longer than three A4 pages in length should be lodged with the Hearings Administrator not less than two working days before the commencement of the first day of the relevant hearing stream. If legal submissions refer to and rely on case law, counsel should either insert an electronic link to the cases or provide electronic copies separately or provide hard copies of cases.
56. Submitters who wish to present a written statement should also lodge the statement with the Hearings Administrator at least two working days before the commencement of the first day of the relevant hearing stream, particularly if it is longer than three A4 pages in length. Shorter statements may be presented on the day, but if so, the submitter must bring ten copies of any written material to the hearing and supply an electronic copy to the Hearings Administrator within two working days after their presentation.
57. While there is no requirement to provide a written statement, submitters are encouraged to do so. Having a written record allows the Hearing Panel members to focus on the presentation rather than taking notes. It also assists with keeping the presentation focussed.

If no written statement is provided, speaking time will be limited to approximately 10 minutes.

58. Where a number of submitters are presenting a similar position on a particular issue, coordination between those submitters is strongly encouraged. Ideally, submitters will nominate a representative to present on behalf of the group. The hearing is not a numbers game - 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.
59. If a submitter wishes to present their submission using a power-point or other audio-visual presentation, they should provide the power-point in an electronic format to the Hearings Administrator at least two working days prior to the commencement of the first day of the relevant hearing stream. This is to ensure compatibility with the electronic system at the hearing venue. The Council's IT security rules preclude documents being supplied on a data stick so if your document is too large to email, you will need to arrange transmission via one of the services enabling documents to be downloaded from a website (e.g. Dropbox).

### **Tabled Evidence/Representations**

60. 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 stream concerned. However, the Hearings Panel expect that tabling material or evidence is the exception, as the Panel will obtain a better understanding about the matters and relief sought by submitters if they are able to ask questions during the Hearing.
61. Once a hearing is completed, unless requested by it, 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 prior 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 receipt of the material they seek to produce may cause to the efficient completion of the hearing process.

### **Hearing Schedule**

62. The Hearings Panel intends to separate its hearings into groups of topics, with each hearing considering a number of specific hearing topics
63. With the exception of Commissioners Schofield and Lovell, who will attend all hearings, the Panels hearing each stream will differ in composition: that is, there will be separate Hearing Panels hearing different groups of topics.
64. Hearing topics have been grouped into streams, with the objective of, as far as possible, hearing closely related matters in the same hearing. While it is hoped that this will reduce the demands on hearing participants, it is acknowledged that this approach will mean that some submitters may have to attend and participate in more than one hearing – 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.

65. Each hearing will generally be held over three contiguous days per week. The hearing venue will be the Council Chamber, 28-32 Ruataniwha Street, Waipawa unless otherwise advised.
66. The hearings will generally be held from 9am to 5pm, although the end may vary according to the daily schedule and progress made in hearing submissions that day.
67. The arrangement of topics into different hearing streams, and the allocation of Commissioners to each hearing is as shown in the following table.
68. At this stage, the Hearings Panel intends to fix the timetable for the first two hearing streams only. The Hearings Panel will monitor progress on the first two hearings and whether changes are required to the hearing procedures before making directions on the timetabling of subsequent hearing streams.
69. **Hearing Stream 1** will address the Natural and Coastal Environment, and is scheduled to begin following the opening Powhiri on 14 March 2022 and conclude on 17 March 2022. The Powhiri is scheduled from 9.00 am to 11.00am on the morning on March 14 and will be open to all parties.
70. It is anticipated that three hearing days will be required for each hearing stream, but, if necessary, additional days can be scheduled. To facilitate that hearing timing, for Hearing 1, the relevant pre-circulation deadlines are:
  - Section 42A Report(s) and any supporting expert evidence: 4pm on 21 February latest
  - Submitters' expert evidence: 4pm on 28 February latest
71. **Hearing Stream 2** will address Urban Environment, Sustainability and General District Wide matters. The timetable will be:
  - Section 42A Report(s) and any supporting expert evidence: 1pm on 2 March latest.
  - Submitters' expert evidence: 1pm on 17 March latest
  - Hearing: 30 March – 1 April
72. Note that this is not a Notice of Hearing: a formal Notice of Hearing will be issued before each hearing.
73. The allocation of time for these hearings is necessarily tentative until each submitter wishing to be heard is allocated a hearing slot. If necessary, additional hearing days will be scheduled.
74. The Hearings Administrator will email all submitters who have requested to be heard, seeking confirmation of their hearing time requests. 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 Hearing Schedule with indicative times for each party's appearance.

**Table 1: INDICATIVE HEARINGS SCHEDULE**

Hearing Stream #	Topic Areas	Sub-Topics	
1	Natural Environment	Ecosystems & Indigenous Biodiversity	
		Natural Features & Landforms / NFL – SCHED6	
		Open Space & Recreation	
		Public Access	
		Activities on the Surface of Water	
	Coastal Environment	Coastal Environment / CE–SCHED7	
		Large Lot Residential Zone	
		2	Urban Environment
			Urban Form & Development
			General Residential Zone
Commercial Zone			
General Industrial Zone			
Settlement Zone			
Subdivision - Urban			
Sustainability Subdivision & Building			
General District-Wide Matters	Light		
	Noise		
	Signs		
	Temporary Activities		
	3	Rural Environment	
Rural Land Resource			
General Rural Zone			
Rural Production Zone			
Rural Lifestyle Zone			
Subdivision - Rural	4	Tangata Whenua	
		Tangata Whenua / Mana Whenua / Ngā Tangata Whenua O Tamatea	
		Sites & Areas of Significance to Māori	
		Papakāinga and Kaumātua Housing, and associated Marae-based Development	
		Historic Heritage	Historic Heritage
Notable Trees			
5	Hazards & Risks		
	Contaminated Land		
	Hazardous Substances		
Natural Hazards			

Hearing Stream #	Topic Areas	Sub-Topics
	<b>Earthworks</b>	Earthworks
		Mining & Quarrying
	<b>Subdivision</b>	General Subdivision
<b>6</b>	<b>Mapping</b>	Rezoning Requests
		ECO-SCHED5 and Mapping of Significant Natural Areas
		General Mapping
	<b>Miscellaneous</b>	Part 1 Introduction and General Provisions
		Miscellaneous / Other Matters
<b>7</b>	<b>Energy, Infrastructure &amp; Transport</b>	Network Utilities
		Noise - Network Utilities
		Signs - Network Utilities
		Renewable Energy
		Transport
	<b>Designations</b>	Designations

75. To ensure that all submitters have a fair opportunity to be heard, however, the default allocation of time will be 15 minutes per submitter. This reflects the fact that the Commissioners 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 Hearing Panel’s attention and to provide the Hearing Panel with an opportunity to ask the submitter, their representatives and/or witnesses questions arising from their evidence.
76. Submitters who consider that the default 15-minute period will be insufficient will need to make a request for additional time to be allocated, with reasons. The Chair will try to ensure that all submitters have the time they need (within reason) to adequately present their evidence and submissions, but the hearing time available is not completely open-ended and the Hearings Panel is seeking to ensure that each hearing proceeds efficiently.
77. If a submitter seeks more time to be allocated to them on the basis that the submitter will be calling expert evidence, then the number of expert witnesses and 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.
78. To enable preparation of a detailed hearing schedule, submitters wishing to be heard on Hearing Streams 1 & 2 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) Hearing Stream 1 – by 4pm 21 February 2022
- (b) Hearing Stream 2 – by 4pm 9 March 2022.
79. 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.
80. 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 will depend on the reasons for them being made. In cases of commercial sensitivity, confidentiality protections lapse at the conclusion of the hearings (at which time release of information is governed by the Local Government (Official Information and Meetings) Act 1987. The Hearings Panel has a broader jurisdiction where serious offence to tikanga Māori or the location of wāhi tapu is involved.
81. If a submitter seeks that the Hearings Panel make orders of this kind, the Hearings Administrator should be advised of the request and the reasons for the orders sought, as promptly as possible.
82. The Hearing 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 a suitable platform if there is good reason to do so and provided adequate notice is given beforehand. Preferably when advising how much hearing time is required in terms of paragraph 83 above, but at the latest, two working days prior to the commencement of the first day of the relevant hearing stream.
83. Requests to participate virtually should be accompanied by reasons. The Chair will determine if the circumstances justify a departure from an in-person appearance. It is anticipated that due to Covid 19 restrictions submitters may need or be required to participate in the Hearings virtually and the Panel will seek to enable and facilitate virtual presentations in those circumstances. The Hearings Administrator will advise submitters prior to each Hearing of Council requirements and obligations in regard to the impact of Covid 19 on submitter presentations.
84. Hearings will be conducted in line with the most current Health Order and Government guidance of the day. Given the recent experience of Covid 19 related lockdowns, it is acknowledged that what would otherwise be the Hearings Panel's preference (to hear people in person) will necessarily have to give way to alternatives if such or similar measures are again put in place to respond to a Covid outbreak.
85. More generally, 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 time. The options available will be enhanced through the earliest possible time the Hearings Administrator is advised of a problem in this regard.

### **Format of Hearings**

86. It is envisaged that each hearing will take the following form:

- (a) As discussed above, a powhiri will be held prior to the first hearing. In some instances, including when Māori submitter evidence or matters of tikanga are to be heard at that hearing or during that hearing day, further powhiri or whakatau may be held. Parties will be advised through the Hearing Notice of the appropriate processes to be followed.
  - (b) The Chair will introduce the Hearing Panel, cover any preliminary issues and invite any party wishing to raise procedural issues to address the Hearing Panel.
  - (c) The Section 42A Report authors will speak to their reports, followed by any supporting expert witnesses. 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). That summary should include any points addressed in the Section 42A Report which the author wishes to amend or supplement in the light of the evidence and other pre-circulated representations from submitters (a tracked changes version of the amended Plan provisions is not part of the three-page limit). Where the Hearing Panel has questions it will ask each Section 42A author in turn.
  - (d) Submitters will then be heard in the order set out in the Hearing Schedule.
  - (e) The s42A report author will have the opportunity to verbally respond to any matters arising.
  - (f) Formal adjournment of the hearing.
87. Following the adjournment of each hearing, the Section 42A Report authors will have the opportunity to submit a written reply so that they may more fully consider and respond to matters raised during the hearing. If they wish to provide a written reply, that reply will be required to be filed within ten (10) working days of the adjournment of the hearing unless the Chair directs otherwise. The Hearings Administrator will load that reply on the hearings' website. As referred to above, unless the Chair approves, no further comment from submitters on the matters the subject of the hearing will be accepted.

## **On the Day**

88. Each submitter will be allocated a time to appear in front of the relevant Hearing Panel. It is recommended that you arrive at least 30 minutes before you are due to speak to provide for the possibility that the hearing may be moving quicker than scheduled and you may therefore be asked to present earlier than your scheduled time. Early attendance will also enable you to observe the hearing process and become comfortable with the hearing process in practice.
89. While we will try to accommodate as many people as we can, please note that, due to capacity limitations together with Covid-19 distancing requirements, there will be limited seating available for submitters within the Council Chamber and the priority will be for submitters who are about to talk to their submission.
90. When it is your turn, the Chair will invite you to come forward with any representatives/ witnesses to the table set aside for submitters and invite you to present your case.
91. Each expert witness will have the opportunity to speak to a written summary of their evidence. That written summary should be no longer than the executive summary of their

pre-circulated evidence. However, 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. As with verbal representations, if experts' written summaries have not been provided electronically in advance of the hearing, 10 hard copies will need to be provided at the hearing.

92. The Hearing Panel may ask questions of you and/or your witnesses either during or after presentation of your case.
93. There is no cross-examination at Council hearings. Only Hearing Panels may ask questions. Therefore, you must not interrupt other submitters presenting their cases, or the Section 42A authors presenting their reports. If you feel that any aspect of a submitter or Section 42A author's presentation requires clarification, you should ask the Chair whether that point might be clarified. Such requests should either be made to the Chair through the Hearings Administrator or directly to the Chair following conclusion of the Hearing Panel's questions of the submitter/ Section 42A author. The Chair will decide whether clarification should be provided, and if so, what process should then be followed.
94. Any written statement you prepare to explain your submission to the Hearing Panel cannot step outside of the scope of your original submission. In other words, you cannot ask for changes to the PDP that were not sought either generally or specifically in your submission. Similarly, if you lodged a further submission, you cannot step outside the scope of the primary submission that 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, propose additional reasons why the relief you seek is appropriate. 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 legal or planning advice.
95. 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, and why those changes are appropriate, or alternatively, why you support what is in the PDP, as notified.
96. Your evidence at a particular hearing must relate solely to the topics 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). Remember the composition of the Hearing Panel may change from stream to stream, and it is important the right Panel hears the right information, as it is that panel that will be making decisions on that stream.
97. A video record will be available on the Hearings Website. The Hearings Panel understands that the video will be via a single camera, so will not show close ups of any submitters.
98. Due to Covid-19, the Hearings will take place in line with the most current Health Order and latest available Government guidance. With probable restrictions on the number of members of the public/supporters of submitters who are able to observe the hearings from the Chambers, it is possible that a livestream of some or all of the hearings will be provided at a venue accessible to members of the public. More information and detail will be posted on the Council's website for the Hearings.

99. If any submitter does not wish to be recorded by video, please advise the Hearings Administrator of that when you confirm intention to be heard and arrange a hearing slot so that she can arrange that, when you appear, only the audio will be recorded and placed on the website. A submitter who has had a confidentiality request accepted (discussed earlier) will not be recorded by video and audio will only be available to the Hearing Panel for decision-making purposes.

### **What Happens After Each Hearing Concludes**

100. Following the receipt of the Section 42A author(s)' written reply, each Hearing Panel will deliberate in private. The Hearing Panel will formulate its recommended decisions on what if any amendments it believes to be appropriate on the Chapters of the PDP the subject of hearing in order to respond appropriately to submissions and further submissions. These recommended decisions will be delivered to the Council for Council to make the final decision. The Council's decisions and the decision reports of the Hearings Panel will be released as a single package at the end of all District Plan hearings.
101. For submissions made on designations, the Hearings Panel will make recommended decisions on Council designations and recommendations to other relevant requiring authorities (who make the final decision on those recommendations).
102. All submitters will be notified of the decisions. Those decisions are open to appeal to the Environment Court. The Council's public notification of the decisions will include details regarding the appeal process.

### **Site Visits**

103. The Hearings Panel intends to undertake some site visits in order to better understand the site-specific context of the submissions that have been lodged. The primary focus of site visits will be on locations to which submitters have made specific references, although other site visits may include the general vicinity of subject matters. In either case, 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.
104. Not every site that is affected by a submission will be the subject of a site visit. 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 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 Hearing Panel to look at.
105. 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 which would be inappropriate in the absence of other parties. 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 submission.

## Summary of Relevant Dates for Submitters

106. It is understood that submitters may find the different requirements applying to their participation confusing. To summarise:

	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)	Hearing Stream 1 – by 4pm 21 February Hearing Stream 2 – by 4pm 8 March Others to be advised
2.	Expert Evidence required to be filed. Other evidence can be filed if desired.	Hearing Stream 1 – by 1pm 28 February Hearing Stream 2 – by 1pm 17 March Others to be advised
3.	Request site visit	Same day as expert evidence, as above
4.	Legal Submissions, written representations longer than three A4 pages, and PowerPoint presentations	Filed at least two working days before the commencement of the first day of the relevant hearing stream
5.	Requests for submitter or specified witnesses to appear virtually (by an appropriate platform)	Filed at least two working days before the commencement of the first day of the relevant hearing stream
6.	Expert summaries and written representations three A4 pages or less	When you appear (but earlier if possible) 10 copies to be provided
7.	Tabled Evidence and Representations	Electronic copy to be sent to the Hearings Administrator by the last day of the relevant hearing stream

107. Dates for filing above should be read as requiring documents or action by 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). If material is filed later than 1.30pm, you will need to explain why you are late and seek the Chair's agreement to accept the material. Such requests do not need to be made with any great formality, but the key issues the Chair will consider are the potential prejudice to other parties (including the Council) and disruption to the hearing process caused by any breach of the hearing directions.

## Key Contacts

108. As above, the primary point of contact for all matters relating to the hearings is Jessie Williams, who can be contacted at [districtplan@chbdc.govt.nz](mailto:districtplan@chbdc.govt.nz) phone (06) 857 8060 (or if Jessie is not able to take your phone call, please use that email address).

109. If any aspect of this Minute is unclear, email Jessie at that address. If she cannot answer your query, she will pass it on to the Chair to address.
110. All pre-circulated evidence and submissions should also be sent in PDF (Acrobat) or DOC (word) format to [districtplan@chbdc.govt.nz](mailto:districtplan@chbdc.govt.nz). Although Jessie will be managing this email address, the other members of the District Plan team will also have access to it, in case Jessie is unavailable for any reason.
111. The key location for up-to-date information on the hearings is the PDP Hearings Page currently located at <https://www.chbdc.govt.nz/services/district-plan/proposed-district-plan/>. As noted above, the Council is in the process of setting up a dedicated web portal for hearing materials. You will be advised the address details as soon as the new portal is up and running.
112. Most importantly, if you are not sure what you have to do and when, email or talk to the Hearings Administrator.

**Dated 3 March 2022**



**Robert Schofield**

Chair of the Central Hawke's Bay District Council District Plan Hearings Panel