
DIRECTIONS OF THE HEARINGS PANEL

MINUTE 1

Plan Changes 21 and 22

1 INTRODUCTION

- [1] The hearing for Plan Changes 21 and 22 is now scheduled for the week of **Monday 20 to Friday 24 March 2023**.
- [2] The following directions and requests relate to that hearing.
- [3] The matters covered are:
- Hearing format
 - Pre-circulation of material
 - Pre-hearing meetings and expert conferencing
 - Hearings administrator
 - Site visit
 - Correspondence
 - Service of documents
 - Deviation requests
 - Procedural queries
- [4] Other Minutes may be issued from time to time, either prior to or during the hearings.

2 HEARING FORMAT

- [5] The hearings will all be held in Fairlie and Twizel and will commence at 9.00am each day and generally conclude at 5.00pm, unless otherwise advised.
- [6] There will be no cross-examination of witnesses by other submitters.
- [7] Each hearing day will commence with an introduction by the Chairperson followed by the hearing of submitters scheduled for each day. On the first day of the hearing MDC intend to provide a short opening address to provide context for Plan Changes 21 and 22. There will be no opening remarks from the Section 42A Report authors as the Panel members will have read and be familiar with both the content of the Plan Changes, the submissions and all pre-circulated material (see below). If the Hearings Panel has any questions on the Section 42A Report, it is our intention that these will be collated and circulated prior to the hearing, alongside the responses from the Section 42A Report author.
- [8] Following the conclusion of the hearing the Section 42A Report authors will provide a written 'Reply Report' briefly outlining any amendments to their original recommendations and a response to any questions from the Hearings Panel arising during the course of the hearing.

3 PRE-CIRCULATION OF MATERIAL

- [9] The efficient running of the hearing will rely on the timely pre-circulation of submitter evidence and legal submissions (if any). The pre-circulation of material is intended to minimise the time required for everyone to present their case at the hearing itself, but, at the same time, to ensure that everyone is able to fully participate in the hearing process.
- [10] Section 42A Reports¹ and associated technical reports and evidence prepared by the MDC will be made available to participants no later than **Friday 17 February 2023**. The reports will be posted on the MDPR webpage.

¹ The s42A Report includes a discussion of the submissions and further submissions. It recommends (with reasons) whether any changes should be made to the notified plan provisions in response to the submissions and further submissions. Those recommendations do not bind the Hearings Panel.

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- [11] This will allow submitters to have regard to the contents of the Section 42A Reports when preparing their written evidence or deciding what to present verbally at the hearing. It would be extremely helpful to the Hearings Panel if submitters could indicate in their evidence whether or not they agree or disagree (with reasons) with the Section 42A Report authors' conclusions and recommendations.
- [12] The Section 42A Report authors will attend the hearings and be available to answer any questions from the Hearings Panel. The Section 42A Reports will constitute part of the body of evidence to be considered by the Hearings Panel, alongside the evidence of submitters.
- [13] Pursuant to section 41B(3) of the RMA, submitters who intend to call expert evidence² in support of their submissions are directed to provide written briefs of that evidence to the MDC Hearings Administrator no later than **Friday 3 March 2023**. All expert witnesses presenting briefs of evidence are to include a summary statement that is no more than **two A4 pages** long at the beginning of their evidence.
- [14] If submitters intend to provide written evidence themselves, or have non-expert people appear on their behalf, then they are requested and strongly urged to also provide a written statement of that evidence to the Hearings Administrator no later than **Friday 3 March 2023**.
- [15] If any party intends to have legal counsel present legal submissions, they are requested to provide those submissions to the Hearings Administrator no later than **Friday 10 March 2023**.
- [16] The Hearings Panel will take all original submissions, further submissions and pre-circulated written evidence and legal submissions as read at the hearing. Accordingly, pursuant to section 41C(1)(b) of the RMA, all participants are directed that they and their experts will not be required to read any such material aloud at the hearing. Reading that material aloud at the hearing would be an inefficient use of time as the Hearings Panel members will have already read it.
- [17] However, experts may be asked to read out their summary statements and submitters may be asked to highlight key points of concern for the benefit of the Hearings Panel members who will then ask any questions they may have.
- [18] 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 **Friday 3 March 2023** regarding their needs.

4 EXPERT CONFERENCING / CAUCUSING

- [19] Following the provision of expert evidence, the Hearings Panel may decide that it would be beneficial for expert witnesses providing evidence on a specific topic to confer and attempt to reach agreement on issues, or at least to clearly identify the issues on which they cannot agree, and the reasons for that disagreement.
- [20] If that is the case the Hearings Administrator will advise which expert witnesses the Hearings Panel requests to conference. If expert conferencing occurs then a Joint Witness Statement (JWS) is to be prepared for each specific area of expertise. The expert witnesses should endeavour to provide the JWS to the Hearing Administrator **prior** to the relevant topic-based hearing commencing, but the Hearings Panel appreciates that this may not always be possible. We assume that the JWS will be prepared by the relevant MDC expert witness (or Section 42A report author) unless the experts agree otherwise amongst themselves.
- [21] The Hearings Panel may additionally request further expert conferencing during or after each topic based hearing, together with the preparation of additional JWS's.
- [22] 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 2014 – Expert Witness Code of Conduct available at the following website

<http://www.justice.govt.nz/courts/environment-court/legislation-and-resources/practice-notes/expert-witness.html>

² Expert evidence is that written by qualified planners, engineers or scientists, for example, prepared in accordance with the Environment Court's Practice Note 2014 for expert witnesses.

5 HEARING NOTICE AND APPEARANCE TIMES

- [23] A notice of hearing will be circulated on or before **Friday 3 March 2023** to advise of the hearing location and key dates for the exchange of evidence.
- [24] The Hearings Administrator will contact submitters who have expressed a wish to be heard on or before **Friday 24 February 2023** to confirm that they still wish to be heard in relation to that topic. At that same time submitters will be requested to indicate how much speaking time they wish to have, and whether they intend to attend the hearing in person or via teams.
- [25] When requesting speaking times, submitters are reminded that the Hearings Panel members will have pre-read all of the pre-circulated material (submissions, further submissions, evidence and legal submissions) and the general expectation is that the Hearings Panel members will proceed directly to asking questions of counsel (if a submitter is represented by counsel) and each witness.
- [26] The exception to this will be for non-expert submitters who have **not** pre-circulated a written statement of evidence. In that case submitters will generally be given up to **15 minutes** to speak to their submissions.
- [27] Each hearing day will be divided into four sessions (before morning tea, before lunch, before and after afternoon tea) and each submitter wishing to be heard will be assigned to one of those sessions.
- [28] Separate hearing schedules showing which day and which session each submitter is allotted to will be posted on the MDPR webpage on or before **Friday 3 March 2023**.
- [29] However, submitters should be aware that hearings often run either late or early and that should be borne in mind when deciding when to arrive at the hearing venue.

6 HEARINGS ADMINISTRATOR

- [30] The MDC has appointed a Hearings Administrator who is:

Name: Charmaine Duffell
Email: districtplan@mackenzie.govt.nz

7 SITE VISIT

- [31] The Hearings Panel members undertook district wide site visit in late 2022. Other site visits may be undertaken during or after the hearing.

8 CORRESPONDENCE

- [32] 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.

9 SERVICE OF DOCUMENTS

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

- Preferably email to districtplan@mackenzie.govt.nz
or
- Post addressed to Mackenzie District Council, PO Box 52, Main Street, FAIRLIE 7949
Attention: Mackenzie District Plan Review Hearings Administrator

- [34] All written material relevant to the hearings will be posted on the MDPR webpage at:

<https://www.mackenzie.govt.nz/council/strategies-plans-and-reports/district-plan-changes-and-consultation>

10 DEVIATION REQUESTS

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

11 PROCEDURAL QUERIES

- [36] If any submitter who has a procedural query or wishes to raise a procedural matter prior to the hearings commencing, they must set that out in writing addressed to the Chair of the Hearings Panel and provide it to the Hearings Administrator prior to **10 February 2023**. It will then be decided whether or not a hearing is required to consider any such matters. Alternatively, the Chair of the Hearings Panel may issue a procedural decision or minute addressing the matter raised.



Rob van Voorthuysen

Independent Commissioner – Chair - on behalf of the DPR Hearings Panel members

23 January 2023