

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

A N D

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

PRE-HEARING DIRECTIONS OF HEARING PANEL

DATED 12 OCTOBER 2023

1. **Introduction**

- 1.1 On 2 October 2023 the Timaru District Council ("the Council") appointed A. C. Hughes-Johnson KC (chairperson), R. Day-Cleavin and Councillor Stacey Scott to consider and give directions in relation to procedural matters associated with the forthcoming hearing of submissions and further submissions on the Timaru District Proposed Plan ("the Proposed Plan").
- 1.2 This minute is being issued ahead of the appointment by the Council of a combined hearings panel ("the Hearings Panel") which is expected to hear and consider all submissions and evidence and thereafter make decisions on behalf of the Council.
- 1.3 In order to facilitate the conduct of the hearings, the following directions and requests are addressed hereafter:
 - (i) hearing format;
 - (ii) pre-circulation of material;
 - (iii) expert conferencing / caucusing;
 - (iv) notice of hearing / appearance times;
 - (v) hearings administrator;
 - (vi) site visit;
 - (vii) correspondence;
 - (viii) service of documents;
 - (ix) deviation requests;
 - (x) procedural queries.
- 1.4 Further minutes will be issued from time to time, either prior to or during the hearings, covering matters which require further direction.

2. **Hearing format**

- 2.1 The Hearings Panel will hear and determine submissions in nine stages with the hearing of the first stage (Hearing A) to commence on **Thursday 30 November 2023 afternoon and the following days** (as required) in accordance with the schedule **attached** as Appendix A. We note that the timing of and venue for the hearings for the second (Hearing B) and subsequent hearings have not been finally



confirmed. A further notice will issue when the position is able to be confirmed.

- 2.2 Submitters with an interest in multiple stages will be required to attend and participate in several hearings.
- 2.3 The hearing of the first stage (Hearing A), commencing on Thursday 30 November 2023, will be held at the Council Chamber at 2 King George Place in Timaru Central. The venue for later hearings will be confirmed at a later date. All hearings will commence at 9am each day and generally conclude at 5pm unless otherwise advised. There will be a one-hour lunch adjournment during each hearing day.
- 2.4 The hearings:
 - (i) will commence with a brief description of the matters which are to be the subject of the hearing by the chairperson;
 - (ii) any procedural matters which have arisen or are likely to arise during the hearing will be addressed;
 - (iii) the opening address of the chairperson will be followed by the hearing of submitters scheduled for the day in question.

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

- 2.5 There will be no cross-examination of witnesses by submitters.
- 2.6 The authors of reports under s42A of the Resource Management Act 1991 ('the Act') will be expected to present a summary of their reports. It is expected that Hearings Panel members will be familiar with the contents of the relevant provisions of the Proposed Plan, the submissions, and all pre-circulated material. If the Hearings Panel has any questions relating to the s 42A report, these are expected to be collated and circulated to the report writers prior to the hearing, with responses from the report author received by a specified date,

all of which material will be posted on the website and made available at the hearing.

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

3. ***Pre-circulation of material***

Introduction

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

Section 42A reports

- 3.2 A s42A report with associated technical reports and evidence prepared by the Council are to be made available to participants **20 working days prior to each hearing** so that the reports will be available to submitters when preparing their evidence and submissions. These reports are to be posted on the Council's webpage. Submitters will be expected to indicate in their evidence whether or not they agree or disagree (with reasons) with the conclusions and recommendations of the authors of the reports in question.

Part of Hearing E relating to rezoning to accommodate growth

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

- (i) that a short s42 A report identifying information required to enable the making of a full assessment for each request for rezoning is to be made available to participants in the growth hearing ***no later than 1 March 2024***;
- (ii) that submitters in the growth hearing are to provide the required information ***no later than 1 June 2024***;
- (iii) that all timetable directions set out in this minute, including the provision of s42A reports and the provision of written briefs of evidence and submissions, are unaffected and will continue to apply to the growth hearing.

3.4 We have been advised that there may be a delay in the preparation of a summary of further submissions. This may mean that further submissions are not included in the s42A report scheduled to be issued 20 working days prior to the hearing. To ensure submitters have sufficient opportunity to consider further submissions, we direct that any supplementary s42A report covering further submissions be made available to participants ***at least 15 working days prior to the first hearing.***

Attendance at hearings

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

Expert and other evidence

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

- 3.7 If submitters intend to provide written evidence themselves, or have non-expert persons appearing on their behalf, then they are requested and strongly urged to provide a written statement of that evidence to the Hearings Administrator at least **10 working days prior** to the relevant topic-based hearing.
- 3.8 For the avoidance of doubt any further written material from submitters is limited to the matters raised in their submission or further submission.
- 3.9 If any party intends to have legal counsel present legal submissions, they are directed to provide those submissions to the Hearings Administrator no later than **5 working days prior** to the relevant topic-based hearing. Legal counsel are encouraged to prepare a summary of their submissions for presentation at the hearing.
- 3.10 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 s41C(1)(b) of the Act, all participants are directed that they and their experts will not be required to read any such material aloud at the hearing. However, experts and legal counsel may be asked to read aloud their summary statements and submitters may be asked to orally highlight key points of concern for the benefit of the Hearings Panel members who will then ask any questions they may have. Further, submitters will have an opportunity to read a summary statement should they choose to do so.
- 3.11 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 topic-based hearing** regarding their needs.
- 3.12 Submitters are encouraged to collaborate to prepare joint presentations where they have issues in common and may aggregate the time allocated, if they do so.

4. **Expert conferencing / Caucusing**

- 4.1 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.
- 4.2 If this course is adopted, the Hearings Administrator will advise which expert witnesses the Hearings Panel requests to conference. If expert conferencing occurs then a Joint Witness Statement ("JWS") is to be prepared by the relevant experts for each specific area of expertise. The expert witnesses should endeavour to provide the JWS to the Hearings Administrator **prior** to the relevant topic-based hearing commencing, but the Hearings Panel appreciates that this may not always be possible.
- 4.3 The Hearings Panel may additionally request further expert conferencing during or after each topic-based hearing, together with the preparation of additional JWS's.
- 4.4 All expert witnesses, in both preparing and presenting their evidence as well as when attending expert conferencing, are expected to comply with the *Environment Court of New Zealand Practice Note 2023 – Code of Conduct for Expert Witnesses* available at the following website.

Practice-Note-2023-pdf
(*environmentcourt.govt.nz*)

5. **Notice of hearing / appearance times**

- 5.1 A notice of hearing will be circulated **20 working days ahead of each scheduled hearing date** to confirm the hearing location and key dates for the exchange of evidence.
- 5.2 Submitters will have the opportunity to be heard either in person or by video link. The Hearings Administrator will contact submitters who have expressed a wish to be heard **15 working days prior** to each hearing to confirm that they still wish to be heard in relation to that topic. At that same time submitters will be requested to indicate how



much speaking time they wish to have, and whether they intend to attend the hearing in person or via zoom and if they will be represented by legal counsel.

- 5.3 When requesting speaking times, submitters are reminded that the Hearings Panel will proceed to receive summaries of key points. Panel members will have pre-read all of the pre-circulated material (submissions, further submissions, evidence and legal submissions).
- 5.4 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 but the time made available will depend upon the scale and complexity of the issues in question and they will be welcome to speak to a summary of their submissions.
- 5.5 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.
- 5.6 Separate hearing schedules showing which day and which session each submitter is allotted to will be posted on the Council's webpage at least **10 working days prior** to each hearing commencing.
- 5.7 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**

- 6.1 The Council has appointed a Hearings Administrator who is:

Name: Hannah Price
Email: pdp@timdc.govt.nz

7. **Site visits**

- 7.1 It is proposed that the Hearings Panel will conduct a number of site visits prior to and during the course of the hearings. It is likely that panel members will be accompanied by an officer of the Council who is not directly involved in the hearings in question and no other person.

8. **Correspondence**

- 8.1 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**

- 9.1 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:

- (i) preferably email to hannahp@timdc.govt.nz
or
- (ii) post addressed to PO Box 522, Timaru
Attention: Hannah Price

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

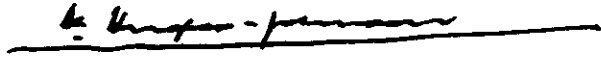
10. **Deviation requests**

- 10.1 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***

11.1 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 1 November 2023. It will then be decided whether or not a hearing is required to consider any such matters. The chair of the Hearings Panel may issue a procedural decision or minute addressing the matter raised.

DATED this 12th day of October 2023



**A C HUGHES-JOHNSON KC (AS CHAIR ON
BEHALF OF THE COMMISSIONERS
APPOINTED TO CONSIDER PROCEDURAL
REQUIREMENTS)**

Appendix A - Draft Hearing Schedule

Hearing Stream	Hearing List Topic	Hearing Date
A	Part 1 - Introduction and General Provisions General definitions High level Strategic Directions	30 November afternoon, 1 December 2023
B	B1 Rural Zones and Versatile Soil B2 Urban and Open Space Zones <i>Note: submitters who has submitted on both sub topics will be allowed to speak in once of this hearings on both subtopics.</i> <i>Note 2: excluding rezone request for growth</i>	28 – 29 February 2024 (to confirm)
C	Natural Environment and Hazards and Risk	8 – 9 May 2024 (to confirm)
D	Cultural Values	2 – 4 July 2024 (to confirm)
E	Infrastructure, Subdivision, Growth <i>Including Rezone (for growth)</i>	4 – 6 September 2024 (to confirm)
F	Other District-wide Matters and Designation	11 – 12 Nov 2024 (to confirm)
G	Variation 1 – TBD	10 – 11 February 2025 (to confirm)
H	Variation 2 - TBD	22 - 23 April 2025 (to confirm)
I	Sweep Up	7 – 8 July 2025 (to confirm)