

IN THE MATTER OF

the Resource Management Act
1991

AND

IN THE MATTER OF

a request by Te Kapiti Trust to
change the Manawatū District Plan
under Clause 21 of Schedule 1 of
the Resource Management Act
1991 (Private Plan Change 1)

MINUTE OF THE HEARING PANEL APPOINTED BY MANAWATŪ DISTRICT COUNCIL

Introduction and Appointment

1. You have received this Minute as you are either the requestor, a submitter or a Council officer involved in Private Plan Change 1.
2. The Manawatū District Council (the Council) has appointed Gina Sweetman (Chair), David McMahon and Alison Short pursuant to section 34A of the Resource Management Act 1991 (RMA), to hear and determine submissions to Private Plan Change 1.
3. Te Kapiti Trust (the requestor) has requested through Private Plan Change 1 to rezone 31.36 hectares of land adjacent to Rongotea Village for the purpose of housing development and to introduce a new chapter titled Rongotea South Development Area into the Manawatū District Plan, including a Structure Plan.
4. Private Plan Change 1 was notified for submissions on 8 December 2022. Submissions closed on 31 January 2023, and further submissions closed on 3 March 2023.
5. The general function of this Minute is to set out some preliminary matters in preparation for the hearing. It covers:
 - (a) The hearing date and venue
 - (b) Pre-provision of evidence
 - (c) Hearing process and presentations
 - (d) Site and locality visit
 - (e) Key issues identified by the Panel to date
 - (f) Communication and questions

6. It is likely that we will issue additional minutes with further requests and instructions, before, during and /or after the hearing.

Hearing date and venue

7. The hearing is scheduled for **Tuesday 30 May 2023** to be held at Manawatū District Council. The hearing will commence at 9am. Formal notice of the hearing, including details of the venue, will be issued by the Council in due course.

Pre-provision of evidence

8. Section 41B of the RMA provides that the Hearings Panel may direct that certain evidence called by the applicant or submitters be provided to the Hearings Panel before the hearing. Section 42A of the RMA provides that the Hearings Panel may require a report on the matters to be considered be provided prior to the hearing.
9. We direct as follows:
 - (a) Pursuant to section 42A RMA, the section 42A report shall be made available on Council's web site by **4pm 24 April 2023**. The report is to be in .pdf and Word document format.
 - (b) Pursuant to section 41B(3) and (4) RMA, all expert evidence¹ to be given at the hearing on behalf of the requestor shall be provided to Council by **4pm 10 May 2023**. The evidence is to be in .pdf and Word document format.
 - (c) Pursuant to section 41B(3) and (4) RMA, all expert evidence to be given at the hearing on behalf of any submitter shall be provided to Council by **4pm 18 May 2023**. The evidence is to be in .pdf and Word document format.
 - (d) Pursuant to section 41B(3) and (4) RMA, the Council may provide a written reply in response to the requestor's and any submitter expert evidence no later than **4pm 24 May 2023**. The reply is to be in .pdf and Word document format.
 - (e) As soon as possible after any evidence received pursuant to the above Directions, the Council shall place the evidence on Council's website.
10. All expert evidence, including the section 42A report must be received within the timeframes set out above. Where a party seeks to deviate from the timeframes above, they are to seek leave from the Panel in advance, setting out the reasons for the request to deviate, how this may impact on hearing timeframes, and setting out any remedies for any impact. Expert evidence that is received outside of the set timeframes may not be accepted by the Panel, unless leave is granted.
11. All expert evidence, including the Council section 42A report, must be prepared in accordance with the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023.

¹ Expert evidence is evidence given by a person with specialist qualifications and / or experience. It includes experts in mātauranga Māori.

12. We request that any:
 - (a) Legal submissions be provided no later than **4pm 26 May 2023**.
 - (b) Procedural issues or matters relating to conflicts of interest be raised, through the Hearing Administrator, no later than **4pm 25 May 2023**.

Hearing process and presentations

13. Appearing at a hearing may be a new experience for some submitters. Those who have not been involved in hearings under the RMA before may wish to look at the following guidance on the Ministry for the Environment website: <https://environment.govt.nz/publications/appearing-at-a-hearing-about-a-proposed-plan-or-resource-consent/>
14. Our preference is that the hearing is relatively formal. However, any hearing has an inherent degree of formality, and we outline how the hearing will be conducted below.
15. The key purpose of the hearing is to allow us to hear from and ask questions of the applicant, submitters and the Council, to help improve our understanding of what the key issues are that we need to consider and resolve.
16. Pursuant to section 41C(1) of the RMA, and in respect of evidence pre-circulated in accordance with these Directions, the hearing will be conducted in the following manner:
 - (a) The proceedings will begin with the applicant and their expert witnesses presenting their case and responding to submitters and the Council's section 42A report.
 - (b) Submitters will then present their case, supported by any expert witnesses they have engaged.
 - (c) The Council, including any expert witnesses, will then address the Hearings Panel, responding to any matters raised by the applicant or submitters.
 - (d) The applicant has a final right of reply, which they may wish to provide verbally at the end of the hearing, or in writing after the hearing has adjourned.
 - (e) Where a party has provided the pre-circulated expert evidence, they are to call the witness in person, unless we provide prior notice to the party that this may not be necessary;
 - (f) The witness should proceed on the basis that pre-circulated evidence has been read in advance, however, may speak to the evidence or a written summary; and
 - (g) We may then question the witness. There is no ability for any other party to question a witness. Only the Hearings Panel can ask questions.

17. The purpose of these Directions is to provide the opportunity for all parties to the hearing to consider any technical evidence in advance of the hearing to assist all parties in understanding that evidence.
18. The Directions do not apply to evidence to be presented by submitters who are “non-experts”, or persons who do not provide expert evidence at these types of proceedings. They will have the opportunity to present written or oral evidence at the hearing in the normal manner. They do not need to pre-circulate their own statements or representations before the hearing commences.
19. Generally, parties should target their presentations to approximately 15 minutes. This is not a set time, and all parties appearing will be given sufficient time to present their case. Parties will be contacted by the Hearing Administrator in advance of the hearing to schedule in when they will be appearing and how much time they need to present.

Site and locality visit

20. We will visit the site and surrounding area on the morning of the hearing. If any party has a desire for us to visit a particular site or locality beyond the subject site, they should advise Steph Skinner (steph.skinner@mdc.govt.nz) no later than **4pm 25 May 2023**.


Key issues identified by the Panel to date

21. The Panel has undertaken an initial review of Private Plan Change 1, submissions received on it and the Council report to accept the request. Having done so, we have identified three matters where we consider further information and / or engagement between parties is required:
 - (a) An assessment of the applicability of the National Policy Statement on Highly Productive Land (NPS-HPL), and in particular Policies 3.5 and 3.6, to the Private Plan Change.
 - (b) The feasibility of the proposed stormwater design and confirming which option is being pursued through the request.
 - (c) The adequacy and comprehensiveness of engagement undertaken with iwi and hapū whose rohe the area is located in.
22. We request the requestor to consider how best to address these three matters having:
 - (a) discussed the above matter with the Council s42A author (Mr Batley); and
 - (b) liaised with the relevant submitters (primarily Horizons Regional Council) in respect to item (b));
23. The Panel request an initial report back on the above, through the Hearings Administrator, of their intent no later than **4pm 25 March 2023**. At that point, and to the degree necessary, the Panel will issue further directions. The Panel signals at this point that it is likely to request that expert conferencing and / or pre-hearing meetings occur in advance of the hearing.

24. To be clear, the key message that the Panel wish to impress on the Requestor is that it is anticipated that their needs to be:
- (a) A clear evidential basis for the Requestor's position in respect is the issue in 21(a) above so as to enable sufficient time for the s42A author to address the NPS-HPL in the s42A report; and
 - (b) That there has been concerted effort to resolve the technical and cultural issues in 21(b) and (c) respectively.
25. The absence of the above may necessitate the Panel commissioning a report(s) under section 41C(4) of the RMA and /or deferring the hearing.

Communication and questions

26. Any enquiries regarding these Directions or related matters should be directed to Steph Skinner (steph.skinner@mdc.govt.nz). No party is to directly contact any member of the Hearings Panel.



Gina Sweetman
Chairperson, on behalf of the Hearings Panel
10 March 2023