

IN THE MATTER OF Resource Management Act 1991

AND

IN THE MATTER OF Proposed Plan Change 14 Housing and
Business Choice pursuant to Part 5, subpart
5A and Part 6 of Schedule 1 of the Resource
Management Act 1991

**MINUTE 3: AMENDMENTS TO INDICATIVE TIMELINE,
AGENDA FOR PRE-HEARING MEETING AND
DRAFT HEARING PROCEDURES**

Background

- [1] This is the third procedural Minute to be issued by the Independent Hearings Panel (IHP) established by the Christchurch City Council (the Council) to conduct the hearing of submissions on proposed Plan Change 14 Housing and Business Choice (PC 14) notified by the Council and to make recommendations to the Council, after the hearing of submissions is concluded, pursuant to Part 5, subpart 5A and Part 6 of Schedule 1, of the Resource Management Act 1991 (RMA).
- [2] The purpose of this Minute is to further respond to the Memorandum of Counsel for the Council dated 12 June 2023 (Council Memorandum) having now considered responses received from several submitters (listed in **Appendix 1**).

Council's request for amendments to timetable

- [3] The Council has sought amendments to the indicative timetable set out in Minute 1. The amendments include the date of the pre-hearing meeting, the date for the filing and service of s42A Reports and Council evidence and consequential changes to the date for filing and service of submitter expert evidence.
- [4] In Minute 2 we confirmed the change to the date for the pre-hearing meeting to 1 August 2023. The pre-hearing meeting notice and agenda is enclosed with this Minute and is now available on the IHP website: chch2023.ihp.govt.nz
- [5] The Council sought an extension to the time for filing and service of s42A Reports and their evidence from 4 August 2023 to 18 August 2023.
- [6] The Council suggested that submitters be given an additional week and file their evidence by 15 September 2023. Submitters have requested that submitters receive equitable treatment if the extension is to be granted.¹
- [7] If the equivalent extension is granted then this would mean submitter evidence was not due until 22 September 2023, which would cut into the time the IHP had allocated for expert conferencing.
- [8] Having considered the request and submitter responses; while the IHP acknowledge the volume of submissions there is also the need for all parties to prepare for the hearing equitably. Therefore, any extension to the Council timetable must be met by the

¹ Submitter 681 and 834

equivalent extension for submitters. To make the most of the opportunity for witness conferencing, the IHP has agreed to an extension of one week for the Council and one week for the submitters.

- [9] Submitters represented by Ms Appleyard² have suggested that we may consider staging the s42A reports and evidence to align with the sequencing of hearing topics. Given the time we have allocated to the hearing, our desire to enable submitters to attend once to present to the IHP (as set out in the draft hearing procedures), the IHP does not favour that option and wishes to receive the Council s42A reports and all evidence up front, and have submitters consider this in preparing for hearings.
- [10] The Council also requested consequential changes to the indicative timeline, including an extension to the date for lodging further submissions and an updated summary of submissions to include the further submissions. We accept those changes.
- [11] As a consequence of the above extensions, we have extended the date for submitting joint expert witness statements from 29 September to 3 October 2023 to allow some time to finalise these after any expert witness conferencing.
- [12] We have also corrected the timeline to exclude a date for filing submitter closing legal submissions, as we do not see these as being required. Submitters will complete their cases at the time they appear before the IHP. Only the Council will have a Right of Reply as the proponent of the plan change.
- [13] We have also included additional hearing time in January and February 2024, and adjusted the timeline to provide for Council Right of Reply on 29 February 2024 and the IHP Recommendation Report is tentatively pushed out to 30 April 2024 (subject to any direction issued by the Minister for the Environment).
- [14] The directions contained in paragraphs 6 to 11 of Minute 1 are amended accordingly and Council s42A Reports and evidence is due by **11 August 2023** and submitter evidence by **15 September 2023**. An updated indicative timeline, incorporating the adjustments discussed above is attached in **Appendix 2**.

² Submitters 852,853,854,814,823,824,825,826 and 874

Scheduling of hearing topics

- [15] The Council has proposed a tentative schedule for hearing topics as set out in paragraphs 17 of the Memorandum of Counsel. Submitters have responded and suggested some changes to the proposals.³
- [16] Having considered the options presented so far, the IHP favours a hearing sequence where topics are grouped according to zone categories, followed by qualifying matters that affect all zones. Each zone hearing would include all relevant objectives, policies, rules (including applicable subdivision standards), zone specific qualifying matters, definitions, and any changes to planning maps and site specific rezonings. The following hearings would then deal with 'city wide' qualifying matters.
- [17] We are of the view that this approach would provide a more logical sequence and be less fragmented. We do not favour splitting the Residential Zone hearing into tranches. Our approach would support submitters attending once to present their evidence and submissions on issues most relevant to them, whilst also providing an opportunity for submitters with broad submissions, or with general overall submissions on the plan change to elect to present their submissions at the commencement of the hearing.
- [18] We agree with Council and submitters that there is a need for a strategic overview when the hearing commences. We see this as an opportunity for the Council to provide a road map for the plan change and highlight the statutory context, including key policies in the National Policy Statement on Urban Development, the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021, key features, and overall rationale for Plan Change 14. It is envisaged this presentation would focus on the mechanics and technical aspects of the plan change, rather than detailed provisions or their merits. Council would then attend each zone hearing, present any brief legal submissions and make its s42A Report writers and expert witnesses available for questions from the Panel. The approach is further outlined in the draft hearing procedures.

Draft hearing schedule

- [19] A more detailed breakdown of each topic in the indicative schedule below (and specific hearing dates) will be completed following further consideration of the Council summary of submissions and likely numbers to be heard in each topic. We have requested the

³ Submitters 749 and 811

Council to propose that detail for the IHP to consider at the pre hearing meeting on 1 August 2023 in paragraph [28] below.

Week	Dates	Tentative hearing topics
1	10, 11, 12 and 13 October 2023	Strategic overview and commence general submissions on whole of plan change
2	18 and 19 October 2023	General submissions on whole of plan change continued
3	24, 25, and 26 October 2023	Central City and Commercial Zones
4	31 October, 1 and 2 November 2023	Central City and Commercial continued and commencement of Residential Zones
5	7, 8 and 9 November 2023	Residential Zones ⁴
6	14, 15 and 16 November 2023	Residential Zones
7	21, 22 and 23 November 2023	Residential Zones and commencement of other Zones
8	28, 28 and 30 November 2023	Other Zones
9	30, 31 January and 1 February 2024	City wide qualifying and other matters
10	13, 14 and 15 February 2024	City wide qualifying and other matters and conclusion of hearings

Draft Hearing Procedures

[20] The IHP has prepared a draft set of hearing procedures set out in **Appendix 3**. The IHP seeks feedback on these from Council and submitters at the prehearing meeting on

⁴ Residential Zone hearings includes Residential Future Urban Zones

1 August 2023. A final set of hearing procedures will be published on the IHP [website](#) following the pre-hearing meeting.

Site Visits 19 and 20 July 2023

[21] The IHP has scheduled 19 and 20 July 2023 to undertake preliminary orientation site visits. This will involve the IHP visiting the central city, and suburban centres to understand their key features, including identified walkable catchments and corresponding residential zones.

[22] We also intend to view examples of features including qualifying matters or areas where they apply, including existing housing intensification developments, residential character areas, Riccarton Bush, and the interface between industrial and residential zones, boundaries of overlays and the Lyttleton Port overlay.

[23] The IHP will conduct further site visits during hearings as they relate to issues raised in submissions.

[24] The IHP will be accompanied by a driver who is not involved in Plan Change 14.

Pre-Hearing Meeting 1 August 2023

Purpose

[25] The purpose of the pre-hearing meeting is procedural only, and the IHP does not wish to hear, and will not consider, the merits or substance of the plan change, those matters will be reserved for the substantive hearing when it commences in October 2023.

[26] The pre-hearing meeting will address the following matters:

- (a) Introduction of the IHP and key Secretariat staff
- (b) Declaration of interests
- (c) Introduction of Council and submitters in attendance
- (d) Receive and hear from Council and submitters any applications for the IHP to consider any preliminary legal issues including any issues regarding the scope of Plan Change 14 and/or submissions. Note: If there are any preliminary legal issues these will be considered and determined at a date to be advised.

- (e) Hear and consider any feedback on the draft hearing schedule
- (f) Hear and consider any feedback on the draft hearing procedures
- (g) An opportunity for submitters to ask any procedural questions or clarify any matter if it is not related to the merits of the plan change.

[27] We encourage Council and submitters file a memorandum (or send an email) outlining matters they wish us to consider related to (d) to (g) in advance of the pre-hearing meeting.

Specific matters the IHP would like the Council to address at the pre-hearing meeting

[28] The IHP would like to receive a memorandum from Council by 12 noon on Friday 28 July 2023⁵ addressing the following:

- (a) How it proposes to present the strategic overview (incorporating an explanation of the mechanics and technical aspects of the plan change) at the commencement of the hearing including who would present this and how long would the Council need
- (b) Identification of any preliminary legal issues as to the scope of the plan change and/or submissions
- (c) Where known, the names of the witness and their role/expertise that the Council intends to call throughout the hearing
- (d) How the Council proposes to separate the roles of s42A reporting functions and witnesses for the Council in support of its submission on PC 14
- (e) A proposed detailed breakdown of subtopics within each zone category in the table set out above, with the number of submitters who have indicated that they wish to be heard that fall into these categories
- (f) Information about the relationship between PC 13 Proposed Heritage Plan Change (PC 13) and PC 14, the identification of any overlap between PC 13 and PC 14 and the Council's suggestions as to how the IHP might address these matters.

⁵ Once received a copy of the Council's memorandum will be placed on the IHP [website](#).

Specific matters the IHP would like submitters to address

[29] It would assist the IHP if submitters, when attending the pre-hearing meeting provide the following information:

- (a) Their submitter number (this can be found in the summary of submissions document)
- (b) Indicate, where known who will represent them at the hearing (lawyer, or individual in person, or expert witness), as this will assist the Panel in directing expert witness conferencing
- (c) Indicate, where known, the number of witnesses they are likely to call, the names of those witnesses and their role/expertise.
- (d) Identification of any preliminary legal issues that they wish the IHP to consider.

Dated 10 July 2023



Cindy Robinson
Chair
for Independent Hearings Panel

Appendix 1

Submitter responses to IHP Minute 1 and Minute 2 and Memorandum of Counsel for Christchurch City Council 12 June 2023

Submitter	Submitter Number	Response
Kāinga Ora – Homes and Communities	834	Memorandum of Counsel
Andrew McCarthy	681	Comment
<ul style="list-style-type: none"> • Ryman • Retirement Villages Association 	749 811	Memorandum of Counsel
Various submitters represented by Chapman Tripp: <ul style="list-style-type: none"> • Christchurch International Airport Limited • Lyttelton Port Company Limited • Orion New Zealand Limited • Carter Group Limited • The Catholic Diocese of Christchurch • Church Property Trustees • Daresbury Limited • Carter Group Limited • LMM Investments 2012 Limited 	852 853 854 814 823 825 874 824 826	Memorandum of Counsel

Appendix 2

Updated indicative timeline.

Dates	Action/Duration
30 June 2023	Council to provide IHP with Plan Change Documentation required by Schedule 1, clause 97 (excluding 97(f), (g) and (h) relating to the further submission process)
19 July and 20 July 2023	IHP preliminary site visits/general location orientation
24 July 2023	Council to provide IHP with further submissions
1 August 2023	Pre-hearing meeting (procedural matters)
4 August 2023	Council to provide IHP with updated summary of submissions document
11 August 2023	Filing and service of s42A reports and Council evidence in chief
15 September 2023	Filing and service of submitter expert evidence in chief
18 September to 29 September 2023	Expert conferencing Specific directions to follow pre-hearing meeting
3 October 2023	Filing of expert joint statements
9 October 2023	Filing and service of brief opening legal submissions by all parties (10 page limit)
10 October –30 November 2023	Independent Hearings Panel Hearings IHP to generally sit Tuesdays, Wednesdays and Thursdays, Mondays and Fridays with prior notice. <i>Note Panel will sit Friday 13 October but not Tuesday 17 October</i> Venue: Crowne Plaza, 764 Colombo Street, Christchurch
30 and 31 January and 1 February 2024 13, 14 and 15 February 2024	Independent Hearings Panel Hearings - continuation and conclusion Venue: to be confirmed
29 February 2023	Filing of Council closing legal submissions, updated agreed provisions and s42A report officer recommendations
16 February – 29 April 2024	IHP deliberations and preparation of IHP Recommendations Report
By 30 April 2024	IHP Recommendations Report delivered to Council in accordance with Schedule 1, clause 99.

Appendix 3

Draft Hearing Procedures

INDEPENDENT HEARINGS PANEL
HOUSING AND BUSINESS CHOICE PLAN CHANGE (PC 14)
DRAFT HEARING PROCEDURES – 10 JULY 2023

- [1] The purpose of this document is to outline the procedures for the hearing of submissions on the Intensification Planning Instrument prepared under Part 5, sub part 5A and Part 6 Schedule 1 of the Resource Management Act 1991 (RMA) known as Proposed Housing and Business Choice Plan Change (PC 14).
- [2] The document covers the following matters:
- Relevant Background
 - Membership and Role of the Hearings Panel
 - Scope of Hearing Panel recommendations
 - Principles of Hearing Process and Hearing Sessions
 - Conflict of Interests
 - Role of Council Staff, Expert Advisors and IHP Secretariat
 - Pre-hearing Meeting
 - Expert Conferencing
 - Hearing Schedule
 - Notice of Hearing and Speaking Timetable
 - Evidence Preparation and Pre-circulation
 - Legal Submissions
 - Protection of sensitive information
 - Hearing Sessions and Protocols
 - Friend of Submitters service

[3] Subject to the RMA the Hearings Panel is responsible for determining its own procedures for the conduct of the hearings of submissions and further submissions throughout the hearing process, and will issue other directions by way of Minute from time to time, both in the lead-up to the hearings, and during the hearings.

Relevant Background

[4] Christchurch City Council (**the Council**) notified PC 14 on 17 March 2023. The submission period closed on 12 May 2023 with a total of 977 being received.

[5] The summary of submissions was notified on 30 June 2023, with [] further submissions received by the close of the further submission period on 17 July 2023.

[6] As required by [clause 97, Schedule 1](#) RMA the Council has is required to provide the following documents to the hearings panel:

- the PC 14 document that was publicly notified
- any variation made to PC 14 under clause 16A
- the specified territorial authority's evaluation reports prepared under section 32
- the submissions on PC 14 received by the closing date for submissions
- the territorial authority's summary documents of the decisions requested by submitters
- further submissions on PC 14 received by the closing date for further submissions
- submissions received after the closing date for submissions or further submissions
- information about when the submissions received after the closing date were received
- the planning documents that are recognised by an iwi authority and lodged with the specified territorial authority
- documentation relevant to any obligations arising under any relevant iwi participation legislation, joint management agreement, or Mana Whakahono ā Rohe
- any other relevant information.

[7] The hearing of submissions (the hearing) is proposed to commence on 10 October 2023 and is programmed to continue until 15 February 2024. The Hearings Panel recommendation report will be delivered to Council by 30 April 2024. Once the recommendation report has been considered and the Council has resolved whether to

adopt the recommendations, the Council will notify all submitters of their decision. Further details on the hearing procedures are provided throughout this document.

Membership and Role of the Hearings Panel

[8] In accordance with RMA Schedule 1 clause 96 the Council, has appointed five independent hearing commissioners to the Independent Hearings Panel as follows:

- Cindy Robinson (Independent Commissioner and Hearings Panel Chairperson)
- David McMahon (Independent Commissioner and Hearings Panel Deputy Chairperson)
- Karen Coutts (Independent Commissioner and Panel Member)
- Ian Munro (Independent Commissioner and Panel Member)
- Alan Matheson (Independent Commissioner and Panel Member)

[9] The Hearings Panel must comprise a quorum of at least three of the appointed independent commissioners. In the absence of conflict of interests or unforeseen circumstances, it is expected that all five independent commissioners will hear and consider submissions.

[10] References to submissions and submitters in this document includes further submissions and further submitters.

[11] The Hearings Panel is required to consider all submissions and hear all submissions, where the submitters seek to be heard and prepare a recommendation report to the Council on the submissions and further submissions.

[12] For the avoidance of doubt, the Hearings Panel will read and consider all submissions, regardless of whether the submitter seeks to be heard by the Hearings Panel.

Scope of Hearing Panel Recommendations

[13] The Hearings Panel recommendations must relate to a matter identified by the Panel or any other person, but are not limited to within the scope of submissions. The Panel's recommendation must also remain within the scope of the notified PC 14, and address the requirements of Part 5 and sub part 5A, and Part 6 of Schedule 1, of the RMA.

[14] The Hearings Panel is not required to provide a recommended decision on individual submissions and will group recommendations in accordance with issues raised by submissions in accordance with clause 100(4) and (5) of Schedule 1 RMA.

Principles of Hearing Process and Hearing Sessions

[15] The objective of the Hearing Panel is to ensure the most appropriate, fair, and efficient hearing process is established.

[16] The Hearings Panel will establish and conduct a hearing process that:

- **Is appropriate and fair.** The Hearings Panel will always act in a fair and transparent manner.
- **Avoids unnecessary formality.** The Hearings Panel will be inclusive and acknowledge the broad range of interests of submitters and facilitate a process that provides all parties the opportunity to be heard, whether presenting oral or written submissions and evidence.
- **Is efficient.** The Hearings Panel will conduct an efficient process which minimises time and costs to all parties participating in the hearings. The Hearing Panel will provide all submitters with an adequate opportunity to be heard, while, at the same time, avoiding unnecessary repetition and presentation of irrelevant material.
- **Take into account Te Tiriti o Waitangi and recognise tikanga Māori where appropriate.** Prior to the commencement of the hearings the Hearings Panel will consult with Te Rūnanga o Ngāi Tahu to ensure an appropriate opportunity and procedure to address the Hearings Panel on matters relevant to Te Tiriti o Waitangi, the Ngāi Tahu Settlement and tikanga as they relate to the rohe of Ngā Papatipu Rūnanga that are relevant to PC 14.
- **Recognise Tikanga Māori.** The Hearings Panel will receive written or spoken evidence in Māori, if requested to do so by a submitter. Where possible it would assist if the Panel was given one weeks' notice to enable an interpreter to be available.
- **Recognise New Zealand sign language.** The Hearings Panel will receive evidence in sign language, if and when requested to do so by a submitter who has given one weeks' notice to enable an interpreter to be available.

Conflict of Interests

- [17] A pre-requisite to a fair and transparent hearing process is an obligation on all Commissioners to bring an independent view and open mind to the role, free of any conflicts of interest that could result in bias and/or predetermination.
- [18] Conflicts of interest may include where a commissioner:
- Has previously advocated a particular position within the scope of matters addressed by PC 14, or
 - Has appeared in the past as an expert witness or advisor to a party who may hold an interest and/or lodged a submission on PC 14, or
 - Has a private interest, including but not limited to an interest in property which may result in an actual or perceived conflict of interest and/or bias.
- [19] As part of the appointment process, the Hearings Panel members were required to declare any conflicts of interest. Following appointment, the Hearings Panel agreed to disclose any potential interests to the Chair prior to, and during, the commencement of the hearings.
- [20] The vehicle for recording the above interests is a “Register of Interests” which records the ongoing involvements and/or interests held by Panel Members. Panel Members will update the register by advising the Secretariat throughout the hearings process where potential conflicts come to light.
- [21] In the event a Commissioner declares an interest; the Chairperson may require a commissioner to stand aside from the relevant hearing session/s and from the deliberations and decision-making arising from the hearing session/s.
- [22] If the Hearings Panel Chairperson declares an interest the Deputy Chairperson may require the Chairperson to stand aside from the relevant hearing session/s and from deliberations and decision making arising from the hearing session/s.
- [23] At the commencement of each hearing day, the Hearing Panel Chairperson will ask Commissioners to declare that no issues of ‘interest’ arise for them in relation to the day’s proceedings. The Chairperson will also make a similar declaration. If there is any declared interest in the upcoming hearing day in relation to any submission to be heard that day, which is unable to be resolved, the Chairperson or Commissioner will excuse

themselves from the hearing for the period of that submission and will not take part in any deliberations or decision making about that submission.

[24] All parties to each day's proceedings will be entitled to bring to the Hearing Chairperson's attention any potential 'interest' situation.

[25] The Register of Interests will be maintained for the full term of the hearings process and will be publicly available on the website: chch2023.ihp.govt.nz.

Role of Council Staff, Expert Advisors and IHP Secretariat

[26] Council staff and expert advisors will be involved in the hearing process. These are:

- (a) Section 42A RMA report writers (made up of Council staff and, in some cases, consultants)
- (b) Where required, expert advisors (made up of Council staff and consultants) and legal counsel
- (c) Council staff who provided advice on and prepared the Council's submission on PC 14
- (d) IHP Secretariat and administration staff

Section 42A Report Writers

[27] Council staff and consultants are involved in the preparation of reports (known as s42A reports). These reports summarise and evaluate the submissions received on each of the hearing topics.

[28] The report writers will attend the hearings and be available to answer any questions from the Hearing Panel and may be cross examined. The s42A report constitutes part of the body of evidence to be considered by the Hearings Panel, alongside the evidence of submitters.

[29] The s42A reports may contain recommendations from Council staff or consultants for the consideration of a Hearing Panel. The recommendations are not binding on a Hearing Panel. Furthermore, the s42A reports carry no greater weight than any other material to be brought forward by, or on behalf of, any submitter.

[30] The s42A report writers must not be the same Council staff and or consultants who have provided advice or will give evidence in relation to the Council submission on PC 14.

Council as a submitter on PC 14

[31] Council staff and or consultants acting for the Council who have been involved in preparing a submission on PC 14 will be afforded the same opportunity as all other submitters to be heard on PC 14 and will be required to comply with the same requirements as all other submitters.

IHP Secretariat

[32] An independent Secretariat has been established to support the Hearings Panel. The Secretariat is the Hearings Panel 'point of contact' for submitters and the public (including the media).

[33] Submitters, their representatives, s42A report writers and/or their experts wishing to bring matters to the attention of the Hearings Panel must direct all queries through the Director: Jo Daly, phone: 03 941 8581, email: info@chch2023.ihp.govt.nz.

[34] Communication to the Secretariat must where relevant clearly state the name of the submitter who, or on behalf of, the communication is from, the submission number and the relevant hearing topic name.

[35] Where any submitter or council officer or advisor wishes to bring preliminary matters to the attention of the Hearings Panel they shall do so in writing by way of a memorandum, or in an email setting out the issues that they wish to raise. Alternatively matters may be raised at the commencement of any session in person or by their representatives. To assist with the smooth running of each hearing session, where practical prior notice of preliminary matters should be given to the Secretariat before the hearing session commences.

[36] The Secretariat will oversee the administrative tasks needed to ensure an efficient hearing process. These tasks include:

- Issuing and publishing schedules and hearing notifications
- Making meeting arrangements
- Making available Hearings Panel minutes and directions
- Publishing evidence and reports received by the Hearings Panel

- Handling submitter enquiries
- Handling public and media enquiries to the Hearings Panel
- Assisting the Hearings Panel and Commissioners as required.

[37] The Secretariat are also responsible for managing the IHP website: chch2023.ihp.govt.nz to ensure that all the necessary information to support an efficient hearings process is available.

[38] The Hearings Panel may engage technical, planning or legal support the preparation of their recommendations report. Such support will be limited to drafting assistance and not the merits of submissions or evidence.

Pre-Hearing Meeting

[39] The Hearings Panel will convene a general procedural pre-hearing meeting to which all submitters and Council staff will be invited to attend (initial pre-hearing) on 1 August 2023. The agenda will be available on the IHP [website](#) by 10 July 2023.

[40] A minute recording the outcomes of the pre-hearing meeting will be available on the IHP [website](#) following the meeting.

[41] A Council representative and/or officers are required by the Hearings Panel to attend the pre-hearing meeting to assist the Panel where necessary.

[42] Submitters and/or their representatives are strongly encouraged to attend the pre-hearing meeting, but attendance is not compulsory.

Expert Conferencing

[43] If any submitter, or the Council are calling expert witnesses¹, then they are required to co-ordinate conferencing of their respective experts on matters relevant to their specific areas of expertise. The aim of such conference is to identify areas of agreement and disagreement on the issues relevant to that hearing topic.

[44] The Hearings Panel will make available a Facilitator to assist with the expert conferencing, if requested by either the Hearing Panel or one or more of the parties.

¹ An expert witness is someone who by virtue of their qualifications and or relevant experience, is able to offer an independent (unbiased) opinion of the outcomes being sought in this Plan Change. Expert witnesses are required to adhere to the Environment Court Code of Conduct for Expert witnesses available [here](#).

[45] During the hearing, the Hearing Panel Chairperson may request a group of two or more expert witnesses to answer questions from a Hearing Panel at the same time (sometimes referred to as “hot tubbing”) at particular a hearing session. This process will enable questioning from a Hearing Panel on their areas of expertise and the factual matters and/or opinions they have expressed in prior written or oral evidence.

[46] A Hearing Panel will have the same expectations of expert witnesses (including in expert conferencing or in a hot tub session during a hearing) as set out in the Environment Court’s Practice Note², including in particular:

- (a) An expert witness has an overriding duty to assist the Hearing 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.

Hearing Schedule

[47] It is the Hearings Panel’s intention to hold the hearing of submissions commencing on 10 October 2023 and continuing until 30 November 2023 with a further two weeks scheduled 30 January to 1 February 2024 and 13 to 15 February 2024. The Hearings Panel will:

- Commence with a Strategic Overview by the Council
- Hear from submitters with general feedback on PC 14.

Then hear submissions on:

- Central City and Commercial Zones
- Residential Zones
- Other Zones (e.g. Education, Cultural, Open Space and Industrial Zones)
- City wide qualifying and other matters (applicable irrespective of zone).

[48] Each hearing topic will include all relevant objectives, policies, rules (including zone specific qualifying matters), definitions and mapping changes associated with the topic.

² [Environment Court Practice Note](#)

- [49] Wherever practical submitters wishing to be heard will appear once to present their submission on all topics. Submitters will be invited to elect to present at the hearing topic most relevant to their submission points.
- [50] Where multiple submitters are intending on addressing the same matter(s) the Hearings Panel encourages them to present jointly or through one selected representative.
- [51] With the exception being where a submitter wishes to call an expert witness and the panel wishes to have that witness present their evidence at the same time as other common expert witness on a particular topic or issue, then a submitter or the Council may need to make that witness available at an additional or separate time to the submitter or Council's substantive presentation.
- [52] The hearings will generally be held up to three days per week (Tuesday to Thursday), although parties will need to be available for further witness conferencing if so directed by the Hearings Panel outside of those hearings' days. The Hearings Panel may need to schedule some hearings to commence on a Monday and/or a Friday in some circumstances with prior notice.
- [53] The schedule for all hearing topics will be available on the IHP [website](#). The schedule is subject to change as the hearings proceed, with appropriate notice.
- [54] The format of the schedule will provide submitters with guidance on when they should attend the hearing to be ready to present during the morning or afternoon session on their nominated hearing day.
- [55] Parties may request leave from the Chair for submitters and/or expert witnesses to attend the hearing to provide submissions and /or evidence via audio visual link. Such requests must be made to the Secretariat at least five working days prior to the date at which the witness or submitter is scheduled to appear along with an outline of the reasons for the request.
- [56] The consideration of, and a decision on, any such a request will be guided by the following principles:
- (a) It is the Hearings Panel's preference to hold hearings "in person" whenever possible.
 - (b) The need to account for the health and wellbeing of participants including any government health requirements.

Notice of Hearing and Speaking Timetable

Notice of Hearing

[57] The Secretariat will formally notify submitters of the commencement of hearings following the pre-hearing meeting scheduled for 1 August 2023.

Speaking timetable

[58] The Council will be provided with an opportunity to open the hearing on 10 and 11 October with a strategic overview of the plan change to assist the Hearings Panel.

[59] S42A Reports will be taken as read. At the commencement of each hearing topic the Council will make available the s42A Report writers and any other expert witness that the s42A Report writer relies on for questions from the Hearings Panel and/or cross examination by parties on the topic.

[60] Submitters will be given a 15 minute speaking time plus 10 minutes per witness. If further time is required, then a submitter must apply to the Chair, via the Secretariat, 15 working days before the commencement of the hearing. Any requests for additional time must include the time required and the reason for the additional time, including the number of witnesses and the nature of their evidence. The Secretariat will let submitters know by email whether their request has been approved within three working days of making the request.

[61] Submitters are strongly encouraged to focus evidence and presentation time on the specific plan provisions that they support or seek change to. The Hearings Panel does not require presentation of material providing background or corporate information about the submitter. If background and or corporate material is considered by the submitter to be relevant to their presentation, then this should be contained in an appendix to their written evidence or submission and need not be read out to the Hearings Panel.

[62] The Hearings Panel will strictly enforce timelines and will restrict undue repetition by submitters and witnesses.

Booking a time to be heard

[63] In the notification email, the Secretariat will advise of the available dates for hearings related to their submission and ask submitters to identify a preferred date and time that they wish to be heard (the schedule will be prepared on a first in first served basis).

[64] The Secretariat will publish an indicative hearing timetable on the IHP [website](#). The Secretariat will advise all confirmed speakers when the timetable is available. The timetable is subject to change and submitters are encouraged to review this daily.

Evidence preparation and pre-circulation

Evidence Format

[65] All written evidence and submissions will be in the form of a compiled single PDF or MS word document, a minimum of 11pt font and 1.5 line spacing, with numbered paragraphs and be page numbered for ease of reference.

[66] Where any evidence proposes changes to Plan Change wording it must be provided in a marked-up version of the plan change clearing showing any suggested wording additions and deletions (along with the rationale for these changes) together with an assessment pursuant to S32AA of the RMA. Both of these documents should be provided as an attachment in MS word documents.

Expert Evidence from Council including s42A Report.

[67] Reporting Officers must deliver their s42A report to the Secretariat by 11 August 2023. The Secretariat will advise all parties (via email) to that hearing when the information is available on the Hearings Panel [website](#).

Submitter Evidence

[68] The IHP understands that many submitters may simply wish to speak to their original submission/further submission at the hearing. However, the Hearings Panel also anticipates that many submitters may wish to have written evidence in support of their submission(s) prepared by suitably qualified expert(s) and potentially have legal submissions presented on their behalf.

[69] Regardless of whether providing expert or lay evidence, submitters must not extend beyond the scope of their original submissions in terms of the alterations to the proposed plan change that they seek in their written, tabled or verbal evidence.

Expert Evidence³ Prepared for Submitters

[70] The Hearings Panel will pre-read all filed evidence in advance of the hearings. To enable the pre-reading to be undertaken in a timely fashion and to allow time for further expert witness conferencing, submitter's written expert evidence is to be provided to the Secretariat by 15 September 2023 (unless altered following the pre-hearing meeting on 1 August 2023, or by further direction of the Chair).

[71] The Secretariat will publish all submitter expert evidence on the IHP [website](#) as soon as practicable following receipt of that evidence.

[72] Where an expert witness is appearing on behalf of several submitters on the same topic then a single brief of evidence should be prepared clearly indicating the submitters for whom they appear and the outcomes that submitter is seeking before offering their opinion.

[73] Where an expert witness is presenting evidence on behalf of one or more submitters on a range of topics, then separate briefs on each hearing topic may be prepared clearly identifying the hearing topic, the submitter or submitters for whom they appear and the outcome the submitter is seeking and must also identify any other brief of evidence that they have filed in relation to PC 14 (this can be added as a schedule or a footnote to the brief).

[74] Expert evidence should include an executive summary of up to three single sided pages. At the hearing experts will not be asked to repeat an executive summary but will be asked if for any reason their opinions have altered before being asked questions by the Hearings Panel and/or subject to cross examination (if any).

Lay Evidence from Submitters

[75] When a submitter speaks to their personal submission or the submission of an organisation that they represent (e.g. a residents' association or community group) from their personal or groups experience or perspective and are not a qualified expert, this is

³ Expert Evidence as identified in the [Environment Court of New Zealand Practice Note 2023](#)

lay evidence. Submitters can present written lay evidence on the day of the hearing and read it aloud. It is not required to be pre-circulated. Submitters need to bring ten (10) copies of any written material to the hearing and supply an electronic copy to the Secretariat within two days of completing their presentation. Submitters must adhere to time limits set out in the hearing schedule so will need to prepare any written statement with that in mind.

[76] Any submitter wishing to use a PowerPoint presentation is required to provide the PowerPoint in an electronic format to the Secretariat at least three clear working days prior to their scheduled hearing time. Where a file is too big to email, submitters should provide the material to the Secretariat via an appropriate file sharing platform on a data stick.

[77] Where any lay submitter wishes to present photographs to support their submission, those photos should be individually numbered and accompanied by a short description, including the date when the photograph was taken if this is known.

Residents Associations and Community Groups

[78] Submitters and/or representatives presenting on behalf of a resident's association or community of interest group (group) must provide a written statement detailing their groups approval or delegation for representation at the hearings, or if the group is unincorporated, a written statement detailing how they sought the views of their members in preparing the group's submission. This should include the total number of members and a map or description of the group's area of interest.

Tabled Evidence (Other than Expert Evidence)

[79] Where a submitter or their representative is unable to attend the hearing for a particular topic, they may choose to provide written evidence to support their submission (tabled evidence). Submitters must provide any tabled evidence to the Secretariat at least five working days prior to the hearing on the topic commencing. Expert evidence is to be provided in accordance with the timetable set out at paragraph [70].

Cross Examination

[80] Pursuant to RMA Schedule 1 [cl 98.\(4\)](#), the Hearings Panel may allow cross examination of expert witnesses. Any party wishing to cross examination a witness must make an application in writing to the Secretariat ten working days ahead of the scheduled

appearance of the witness at the hearing. Applications must identify the parts of a witness's evidence that they wish to cross examine and how cross examination will assist the Hearings Panel. The party wishing to undertake cross examination must serve a copy of the application on the party calling the witness to be cross examined at the same time as the application is lodged with the Secretariat.

[81] For the avoidance of doubt lay witnesses will not be subject to cross examination, however, parties may seek clarification of matters addressed by lay witnesses through the Chair in appropriate circumstances.

Notices and service of documents

[82] All further information relating to hearings, including IHP minutes, directions and notices, and Council and submitter memorandum and evidence lodged with the IHP, will be published on the IHP [website](#).

[83] These hearing procedures, and any amendments made by future Minute or direction issued by the IHP, detail the due dates for the lodging of evidence and pre-circulation.

[84] Pre-circulation of evidence means providing a written or electronic copy of a brief of evidence to:

- The Council and every other submitter who is to be heard at a hearing (at their address for service being an email or postal address) except as allowed by paragraph [86]
- The IHP Secretariat.

[85] Pre-circulation of evidence is the responsibility of the person who calls that evidence.

[86] Where written evidence is lodged with the IHP Secretariat by 3pm on the day that it is due it shall be deemed as pre-circulated by the party who has submitted it when it is published on the IHP [website](#), provided the evidence is supplied in the format required by paragraphs [65] and [66]. This does not shift responsibility for pre-circulation of evidence to the Secretariat. The Secretariat will endeavour to publish submitter evidence as soon as practicable following receipt of that evidence.

[87] If Council or any submitter does not lodge their evidence with the IHP Secretariat by 3pm on the day that it is due then they must ensure that evidence is pre-circulated to the Council and every other submitter to be heard on the hearing topic by alternative means.

Legal Submissions

- [88] Where a submitter has engaged a lawyer (legal counsel), that counsel may present legal submissions at a hearing within the time allocated to the submitter in the schedule. Legal submissions must be provided to the Secretariat five working days prior to the submitter's allocated speaking time.
- [89] Legal submissions are limited to 10 single sided pages, excluding any appendices.
- [90] Legal submissions must provide an electronic link to all case law referred to. Commissioners do not require hard copies of case-law – unless asked for on a case-by-case basis.

Protection of sensitive information

- [91] The Chairperson or Deputy Chairperson may, of their own motion or on application of any party to any hearing make an order that the public are to be excluded and/or that the publication of any information supplied to a Hearing Panel may be prohibited or restricted in accordance with RMA section 42 or the Local Government and Official Meetings Act 1987 (LGOIMA). Such orders may be made where the Chair or Deputy Chair is satisfied that the order is necessary to avoid serious offence to tikanga Māori or to avoid disclose the location of waahi tapu; or to avoid disclosure of a trade secret or unreasonable prejudice to the commercial position of a person who supplied, or is the subject of, the information.

Hearing Sessions and Protocols

- [92] The Hearings Panel's intention is to manage a hearings process that is appropriate, fair, efficient and without unnecessary formality.
- [93] Each hearing topic will consist of:
- (a) Opening karakia
 - (b) Hearing Panel Chairperson's introduction and call for conflicts of interest.
 - (c) Presentation by Council on the hearing topic as follows:
 - Opening submissions by counsel representing the Council

- s42A Report author(s), highlighting any changes to recommendations since filing the Report.
 - Council expert witness evidence.
 - Cross examination and re-examination of experts including s42A writers, (if any)
 - Questions from the Hearing Panel.
- (d) Presentations by individual submitters in order set out in the hearing schedule following the following format:
- Opening legal submissions of submitter or overview by representative.
 - Presentation of (expert and lay) evidence by submitter
 - Cross examination and re-examination of submitter expert witnesses (if any)
 - Questions from the Hearings Panel.
- (e) Closing karakia at the appropriate adjournment of hearing topics
- (f) Council's right of reply. At the conclusion of hearings, the Council, through legal counsel may respond to any changes to Council officer recommendations considering submissions and evidence presented by submitters. The reply is to be in writing and lodged with the Secretariat by 29 February 2024. The Secretariat will publish the written reply on the IHP [website](#).

Health and Safety

- [94] All attendees at hearings must adhere to any health and safety requirements or practices put in place by the Hearings Panel, the hearings venue or by government direction.
- [95] As outlined in paragraph [55] application for attendance by audio visual link will be permitted for reasons of the health and wellbeing of participations or to comply with government health requirements.

Formal Records

- [96] All material including written submissions, evidence, and verbal evidence in response to questions presented to the Commissioners becomes hearing evidence.

[97] A digital recording (video and audio) will be made of each hearing session to assist the Panel with deliberations. The IHP may direct the Secretariat to suspend digital recording for the presentation of sensitive information (under s42 of the Resource Management Act 1991 or LGOIMA).

[98] If practical due to technical and venue constraints, the proceedings will be live streamed via the IHP [website](#). The recording of the hearing session will be available on the IHP [website](#).

Conclusion of the Process

[99] At the conclusion of hearings on all topics, the Hearings Panel will complete a report with recommendations on PC 14 to the Council.

[100] The Hearings Panel will not issue interim or staged decisions.

[101] The Council will consider the recommendations, make final determinations (decisions), and direct the timing for the release of the decisions.

Friend of Submitters service

[102] A Friend of Submitters service is available to assist submitters. To access this independent service submitters and further submitters can contact Jane West, email CHCHPC13-14@jwest.co.nz or call 03 324 3324.

Dated

Cindy Robinson
Chair
for Independent Hearings Panel