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## DIRECTIONS OF THE HEARINGS PANEL

### MINUTE 1

#### 1 INTRODUCTION

- [1] The Selwyn District Council (SDC) has appointed a combined Hearings Panel of six independent commissioners, including two iwi commissioners,<sup>1</sup> and four councillors<sup>2</sup> to hear the submissions and further submissions on the Proposed Selwyn District Plan (PDP).
- [2] The Hearings Panel will hear all the submissions and further submissions and prepare recommendation reports for the SDC's consideration and adoption.
- [3] The following directions and requests relate to the hearings.
- [4] The matters covered are:
  - Hearing format
  - Pre-circulation of material
  - Pre-hearing meetings and expert conferencing
  - Rezoning requests
  - Hearings administrator
  - Site visit
  - Correspondence
  - Service of documents
  - Deviation requests
  - Procedural queries
- [5] Other Minutes may be issued from time to time, either prior to or during the hearings.

#### 2 HEARING FORMAT

- [6] The SDC has decided and the Hearings Panel has agreed to hear submissions using a topic-based approach. Accordingly, up to 30 separate topics have been identified and hearings for each of those topics will occur over the period August 2021 to June 2022. The proposed overall Hearing Schedule listing the topics and the hearing days currently allocated to those topics is attached to this Minute. That Schedule may change as the hearings proceed. Any changes will be posted on the SDC's DPR webpage (see section 10 of this Minute).
- [7] The Hearing Panel understands that this approach will mean that some submitters may have to attend and participate in several hearings. We acknowledge that this approach may be disruptive to submitters' other work and family commitments. However, in seeking to achieve an efficient hearing process overall, we agree that the 'topic by topic' approach is the most appropriate way forward.
- [8] The first three topics are of a strategic nature and will be heard by the full Hearing Panel.
- [9] Thereafter the hearings will proceed by topic and each topic-based hearing will be heard by one of two separate Panels chaired by either independent commissioner van Voorthuysen or Rae. Each separate Panel will also contain one other independent commissioner and/or one iwi commissioner and one councillor commissioner.
- [10] The hearings will all be held at the Selwyn Health Hub on Norman Kirk Drive, Rolleston, which is opposite SDC offices, and will commence at 9.00am each day and generally conclude at 5.00pm, unless otherwise advised.
- [11] There will be no cross-examination of witnesses by other submitters.

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<sup>1</sup> Rob van Voorthuysen, Gary Rae, Lindsay Daysh, Andrew Willis, Yvette Couch-Lewis, Raewyn Solomon

<sup>2</sup> Malcolm Lyall, Nicole Reid, Debra Hasson, Mark Alexander.

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- [12] Each hearing day will commence with an introduction by the Chairperson followed by the hearing of submitters scheduled for each day. There will be no opening address by SDC officers or Section 42A Report authors as the Panel members will have read and be familiar with both the content of the Proposed Plan, the submissions and all pre-circulated material (see below). If the Hearings Panel has any questions on the Section 42A Report, these will be collated and circulated prior to the hearing, alongside the responses from the Section 42A Report author.
- [13] Following the conclusion of each topic-based 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.
- [14] Hearing Panel recommendations on each topic-based matter will not be released sequentially. An overall Recommendation Report will be released following the conclusion of the hearings in mid-2022.

### 3 PRE-CIRCULATION OF MATERIAL

- [15] The efficient running of the hearings 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.
- [16] A topic-based Section 42A Report<sup>3</sup> and associated technical reports and evidence prepared by the SDC will be made available to participants no later than **20 working days prior** to each topic-based hearing. These reports will be posted on the SDC DPR webpage.
- [17] 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 Hearing 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.
- [18] The Section 42A Report authors will attend the hearings and be available to answer any questions from the Hearing Panel. The Section 42A Reports will constitute part of the body of evidence to be considered by the Hearing Panel, alongside the evidence of submitters.
- [19] Pursuant to section 41B(3) of the RMA, submitters who intend to call expert evidence<sup>4</sup> in support of their submissions are directed to provide written briefs of that evidence to the SDC Hearings Administrator no later than **10 working days prior** to the relevant topic-based hearing, except for the Rezoning Requests hearing, which has a different sequence of evidence exchange, as discussed further below. 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.
- [20] 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 **10 working days prior** to the relevant topic-based hearing.
- [21] 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 **5 working days prior** to the relevant topic-based hearing.
- [22] 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 Hearing Panel members will have already read it.

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<sup>3</sup> 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 hearing panel.

<sup>4</sup> 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.

- [23] 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 panel members. The Hearing Panel members will then ask any questions they may have.
- [24] 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.

#### 4 PRE-HEARING MEETINGS AND EXPERT CONFERENCING / CAUCUSING

- [25] The SDC has allowed for pre-hearing meetings for all topic based hearings and the Hearings Administrator will liaise with submitters regarding the need for and timing of those meetings.
- [26] Additionally, following the provision of expert evidence, the Hearing Panel may decide that it would be beneficial for expert witnesses providing evidence relating to 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.
- [27] 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 Hearing Panel appreciates that this may not always be possible. We assume that the JWS will be prepared by the relevant SDC expert witness (or Section 42A report author) unless the experts agree otherwise amongst themselves.
- [28] The Hearing Panel(s) may additionally request further expert conferencing during or after each topic based hearing, together with the preparation of additional JWS's.
- [29] 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>.

#### 5 HEARING NOTICE AND APPEARANCE TIMES

- [30] A notice of hearing will be circulated **25 working days ahead** of each scheduled hearing date to advise of the hearing topic, location of the hearing, key dates for the exchange of evidence and list of submissions to be considered at the hearing. Submitters who have expressed a wish to be heard are requested to advise the Hearings Administrator at least **15 working days prior** to each relevant topic-based hearing if they still wish to be heard in relation to that topic. At that same time submitters are requested to indicate how much speaking time they wish to have.
- [31] When requesting speaking times, submitters are reminded that the Hearing 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 Hearing Panel members will proceed directly to asking questions of counsel (if a submitter is represented by counsel) and each witness who has prepared written evidence.
- [32] 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.
- [33] The Hearings Administrator will liaise with submitters to arrange appearance times for each topic-based hearing. 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.
- [34] Separate topic-based hearing Schedules showing which day and which session each submitter is allotted to will be posted on the SDC webpage at least **10 working days** prior to each topic-based hearing commencing.
- [35] 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 REZONING REQUESTS

- [36] A large number of submissions received on the PDP are requesting the rezoning of particular areas. The hearing for rezoning requests is scheduled to commence in April 2022. Where possible, the intention is that the hearing of the Rezoning Submissions will be organised by geographic area so that submissions on a particular area can be heard consecutively.
- [37] The requests for rezoning were not part of the notified PDP (and are therefore not supported by the SDC's s32 evaluation). The requests are site-specific and therefore require site-specific assessments to be undertaken. The SDC cannot be expected to provide this site specific information as it has not proposed the various rezonings. That is properly the responsibility of the individual submitters seeking the rezoning. For some submitters, we anticipate that the technical information required to support their rezoning proposals will need to be extensive and include expert assessments on a range of matters that could include such things as transport, landscape and urban design, geotechnical stability, natural hazards, soil contamination, provision of three waters infrastructure and strategic growth planning issues, amongst others.
- [38] Considering that only a small number of submissions requesting the rezoning of land are supported by the necessary level of technical information, the Hearings Panel considers that the timetable for the exchange of evidence set out in Section 3.0 above should be amended for the hearing of Rezoning Requests to first require the respective rezoning proponents to provide their evidence (including all supporting technical information and a robust s32AA further evaluation report), and for this to be followed, sequentially, by any evidence in opposition, and then the SDC's Section 42A Report(s). This will enable all information (in support of and in opposition to each rezoning proposal) to be evaluated by the Section 42A Report author when preparing their report and recommendations. It is also envisaged that the SDC will prepare and circulate an overarching Section 42A Report ('Rezoning Framework Report') ahead of submitter evidence being received that addresses common matters to be considered in the assessment of submissions seeking rezoning changes.
- [39] On the basis of the above, the Hearings Panel therefore directs that:
- The SDC is to prepare and release the Rezoning Framework s42A Report by **24 September 2021**;
  - The submitters requesting rezoning are to file their expert evidence for the hearing, including a section 32AA further evaluation report, by **22 October 2021**. 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.;
  - The submitters opposing any rezoning request are to file their evidence for the hearing by **26 November 2021**;
  - The SDC is to prepare and release all individual Section 42A Reports for the hearing no later than **20 working days prior** to the commencement of the hearing;
  - Any rebuttal evidence<sup>5</sup> by the proponents and opponents of the rezoning is to be filed no later than **10 working days prior** to the commencement of the hearing;
  - Any legal submissions are to be filed no later than **5 working days prior** to commencement of the hearing;
  - Unless otherwise amended by paragraphs 39 (a) to (f) above, the directions set out in the remainder of this Minute remain applicable to the hearing for the Rezoning Submissions.

## 7 HEARINGS ADMINISTRATOR

- [40] The SDC has appointed a Hearings Administrator who is:

Name: Tina Van Der Velde

Email: Tina.vandervelde@selwyn.govt.nz

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<sup>5</sup> Rebuttal evidence may relate to (for the rezoning proponents and submitters in opposition) the Section 42A Report. For the rezoning proponents the rebuttal evidence may also relate to the evidence of submitters in opposition.

## 8 SITE VISIT

[41] The Hearing Panel members will undertake site visits during or after the hearing of submissions on each topic, as required.

## 9 CORRESPONDENCE

[42] Submitters and other hearing participants must not attempt to correspond with or contact the Hearing Panel members directly. All correspondence relating to the hearing must be addressed to the Hearings Administrator.

## 10 SERVICE OF DOCUMENTS

[43] 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 Tina Van Der Velde (Tina.vandervelde@selwyn.govt.nz)
- or
- Post addressed to Selwyn District Council, Freepost 104 653, PO Box 90, Rolleston 7643, Attention: District Plan Review Hearings Administrator

[44] All written material relevant to the hearings will be posted on the SDC's DPR webpage at:

**selwyn.govt.nz/dprhearings** (note that this webpage will not be live until 30 June 2021)

## 11 DEVIATION REQUESTS

[45] 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 Hearing Panel, and be provided to the Hearings Administrator. We will consider and determine any such requests.

## 12 PROCEDURAL QUERIES

[46] If any submitter who has a procedural query or wishes to raise a procedural matter prior to the hearings commencing, then they must set that out in writing addressed to the Chair of the Hearing Panel and provide it to the Hearings Administrator prior to **9 July 2021**. It will then be decided whether or not a hearing is required to consider any such matters. Alternatively, the Chair of the Hearing Panel may issue a procedural decision or minute addressing the matter raised.



Rob van Voorthuysen

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

8 June 2021