
DIRECTIONS OF THE COMMISSIONERS
MINUTE 3
Strategic Directions and Definitions Chapters

- [1] Counsel for a number of submitters has lodged a Memorandum¹ requesting that the Selwyn District Plan Review Hearing Panel (DPRHP) follows the approach adopted by the Independent Hearings Panel in relation to the Christchurch District Plan (CHP), which is to release its Strategic Directions decision at least in draft form subject to later amendment if other evidence indicates a change is needed.
- [2] Counsel submitted that the Strategic Directions play a crucial role in setting the tone of and shaping the entire rest of the District Plan and suggested that the relief pursued by submitters on all subsequent chapters or topics would be highly dependent on the DPRHP's recommendations on Strategic Directions. Counsel were concerned that if those recommendations were not made known prior to the hearings for the other Plan chapters or topics, then many submitters might have to present their relief sought in the alternative and that would not be efficient.
- [3] Counsel made the same submissions regarding key Definitions used in the Plan.
- [4] The Hearing Panel acknowledges the issues raised by counsel, however, having carefully considered counsel's request we consider there are a number of disadvantages associated with it:
- the decision-making power or jurisdiction for the CHP under the Christchurch Replacement District Plan Order in Council of 2014² was much broader than the DPRHP's jurisdiction under the RMA;
 - RMA Schedule 1 clause 10 deals with decisions on plan provisions and matters raised in submissions. The body of clause 10 uses the word "decision" which supports an interpretation that a single decision is contemplated. Moreover, in clause 10 there is no support for the issue of interim or draft decisions. Similarly, clause 11 refers to notification of a decision. Again, the choice and use of the word "decision" signals one decision;
 - we understand that natural justice dictates that the release of an interim decision presumes that the core or basis of that decision will not be revisited and revised so that there will not be any changes beyond what is commonly understood as minor refinements. That would unduly fetter the role of the DPRHP over what is likely to be a hearing process spanning 12 months or more;
 - we are concerned that submitters may be confused and think that the released 'interim decision', no matter how well qualified and conditioned, is actually a final decision. Consequently, they may decide not to take part in future hearings on the basis that a decision has already been made. Additionally, an 'interim decision' might cause submitters to lodge appeals or at least seek to do so; and
 - submitters and their advisors do have other options to achieve efficient subsequent presentations. These include paying careful attention to Council officer recommendations as set out in the Section 42A Reports and the DPRHP's response to them by way of questioning at the hearing of the Strategic Directions and Definitions chapters.
- [5] We consider that the disadvantages outlined above outweigh the advantages set out in counsel's 9 July 2021 Memorandum, so we decline counsel's request to release interim or indicative decisions on both the Definitions and Strategic Directions Chapters of the Proposed Plan.



Rob van Voorthuysen
Independent Commissioner – Chair - on behalf of the DPR Hearing Panel members
19 July 2021

¹ Proposed Selwyn District Plan Hearings, Jo Appleyard / Ben Williams, dated 9 July 2021.

² Particularly clause 13 of that Order whereby the CHP was provided the jurisdiction to reconsider any decision it had already made in relation to a proposal to amend the district plan.