

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of Submissions and Further Submissions
on the Proposed Hutt City District Plan

Minute 2
Proposed District Plan Hearing Procedures

10 March 2026

Contents

Introduction..... 1

Developments post Minute 1 2

Parts of the Plan that are subject of hearings..... 2

Legal advice on scope of submissions and relevant other matters... 3

The Membership and Role of the Hearing Panel 4

Management of any potential conflicts of interest 5

Principles of the Hearing Process..... 6

The Hearings 7

Planning Advisors and Other Council Experts..... 9

Submitter Presentations 10

Evidence 11

Tabled evidence/representations..... 12

Format of Hearings 12

Hearing Venue/ Virtual Presentations 14

Site Visits..... 14

Schedule of Hearings..... 15

What Happens After Each Hearing Concludes 15

Pre-Hearing meeting 16

Friend of Submitters 16

Key Contacts 16

Introduction

1. The purpose of this Minute is to provide an update on the Hutt City Proposed District Plan (PDP) hearings since my Minute 1 dated 5 August 2025. In particular, this minute outlines the following matters:
 - a. The developments that have occurred since Minute 1 was issued.
 - b. The parts of the Plan that will proceed and the parts of the Plan that have been withdrawn.
 - c. That we have requested legal advice on scope of submissions and relevant other matters in light in the delay in the process, the withdrawal of some parts of the notified plan and recent changes to National direction since submissions have been received.
 - d. The Membership and Role of the Hearing Panel and the Management of Potential Conflicts of Interest.
 - e. Principles of the Hearing Process.
 - f. The timetable for the hearings.
 - g. Council Officer Involvement in the Hearings.
 - h. Submitter Presentations and Evidence.
 - i. Format of Hearings.
 - j. Site Visits.
 - k. What Happens After Each Hearing Concludes.
 - l. Pre-Hearing meeting.
 - m. Key Contacts.
2. From time to time, I will issue further minutes aligned with the progression of the hearing process. In the meantime, this minute is pivotal in setting out the terms of reference for those future proceedings and will form the basis of any further directions that are issued by the Panel.

Developments post Minute 1

3. Due to the significant amount of time from the closing date of submissions and the necessity to delay the process, there is now much more clarity about the way to approach the Hutt City Proposed District Plan (PDP) hearings.
4. You will recall my Minute 1, where it was outlined that there would be a delay to the hearing of submissions on the Hutt City Proposed District Plan as a result of the Government direction to Councils to stop further work on plan changes and plan reviews unless a hearing process has commenced.
5. The legislative change to the Resource Management Act 1991 (RMA) enacted provided the ability for Council's to apply for an exemption for some or all of a Council's Plan Change or Plan Review processes to proceed. Hutt City Council considered this matter at its meeting of 29 September 2026 and agreed to apply for an exemption to proceed with most parts of the Plan.
6. A formal application was made to the Minister of Resource Management Reform on 10 October 2025 with the Minister endorsing Councils' exemption request in full on 13 January 2026. This and Hutt City Council's Notice of Withdrawal of parts of the Plan were communicated directly to submitters on 15 January 2026.
7. As the Minister has granted an exemption to allow the majority of Plan provisions and related submissions to proceed, we can now look to scheduling the hearings throughout the rest of 2026. This will commence with an Overview, Process and Strategic Directions hearing on **Wednesday 29 April 2026**.

Parts of the Plan that are subject of hearings

8. Council officers have already communicated the Ministers decision and the Withdrawal Notice of Parts of the Plan with submitters, but it is worthwhile including those matters here for the avoidance of doubt. The exemption allows most of the Proposed District Plan process to continue, including chapters on:
 - Strategic directions;
 - Residential zones and Rural zones (excluding provisions on highly productive land, which have been withdrawn);

- Commercial, mixed use, industrial, open space and recreation zones;
 - Special purpose zones (which would apply to the sites of the city’s hospitals, marae and quarries as well as WelTec and the Seaview Marina);
 - Energy, infrastructure and transport, including designations;
 - Risks from natural hazards, hazardous substances and contaminated land; and
 - A wide range of other district-wide matters, including chapters on subdivision, earthworks, notable trees, signs and temporary activities.
9. However, as outlined the Minister’s decision does not apply to some parts of the Proposed District Plan, which have now been withdrawn. These are:
- Historical and Cultural Values – Historical Heritage and Sites and Areas of Significance to Māori chapters, plus related schedules and overlays;
 - Natural Environment Values – Ecosystems and Indigenous Biodiversity, Natural Character, Natural Features and Landscapes and Public Access chapters, the coastal natural character parts of the Coastal Environment chapter, plus related schedules and overlays; and
 - Highly Productive Land – provisions of the General Rural Zone chapter managing highly productive land.
10. The online version of the PDP (including the map viewer) has been amended to reflect this withdrawal.

Legal advice on scope of submissions and relevant other matters

11. Hutt City Council officers requested legal advice on a range of matters on scope of submissions and relevant other matters in light in the delay in the process, the withdrawal of some parts of the notified plan, how the remaining parts of the Operative District Plan and recent changes to National direction since submissions have been received. This legal advice from Stephen Quinn Barrister, is attached as **Appendix A**.
12. Of direct importance to submitters at this point is clarification of the status of submissions on plan provisions that have now been withdrawn. In this regard the Council asked.

Where a submission is on a provision that has been withdrawn, have their submissions now effectively fallen away, and they can be excluded from the hearing process? Or do they still need to be provided an opportunity to speak at a hearing, and possibly seek alternative relief through the parts of the PDP that have an exemption?

13. Mr Quinn's advice to us is:

Yes, the submissions on withdrawn provisions cannot be progressed. As those provisions no longer exist, there is nothing to be presented through submissions (as the panel has no jurisdiction to grant relief for submissions addressing withdrawn provisions). In order to avoid confusion or disappointment by submitters, some communication to the affected submitters from Council would be good practice. For a submitter who has only submitted on a withdrawn provision, they would not need to be scheduled to be heard.

14. It is on this basis that we can only hear submissions on the parts of the PDP that remain. This is not a negotiable position as it is not within our jurisdiction to consider the withdrawn provisions.

The Membership and Role of the Hearing Panel

15. Six Commissioners have been appointed by Hutt City Council to consider the PDP, the submissions that have been received and to make recommendations to Hutt City Council. All are accredited Hearings Commissioners and hold certification under the MfE/LGNZ Making Good Decisions Programme. The Hearing Panel is:

- **Lindsay Daysh** – Planner based in Wellington, as Chair;
- **David McMahon** – Planner based in Wellington, as Deputy Chair;
- **Elizabeth (Liz) Burge** – Resource Management Consultant, based in Carterton;
- **Juliane Chetham** – Resource Management Consultant, based in Whangārei;
- **Jason Jones** – Planner based in Wellington; and
- **Matthew Muspratt** – Planner based in Kāpiti.

16. Under our delegation from Hutt City Council, the Hearings Panel has the power to make directions on procedural matters relevant to the hearing of submissions and further submissions on the PDP. These hearing procedures are issued by the Hearings Panel under these delegations. It is likely that a number of procedural minutes will be issued during the course of the hearings process.
17. Commissioners Daysh and McMahon will chair the Hearings Panels and will work jointly with respect to settling procedural matters that arise during the period of the hearings.
18. It is proposed that all Hearings Commissioners will participate in the first hearing in respect of scope of submissions, submissions relating to the PDP as a whole, integration between different parts of the PDP and definitions that apply across multiple parts of the PDP. All Hearing Commissioners will also sit on the final or Wrap Up Hearing at the end of the process.
19. Four Commissioners will sit as separate Hearings Panels for all other hearing topics, with Commissioner Daysh the Chair for the majority and Commissioner McMahon Chairing Hearing Stream 6 on Infrastructure. The allocation of Commissioners to hearing topics is set out in the schedule showing the division of the PDP into different hearing streams and the detailed timeframes. This is attached as **Appendix B**.

Management of any potential conflicts of interest

20. As part of the process for appointment as Commissioners on the PDP, the Council required applicants to declare any conflicts of interest. The Council did not identify any declared conflict as precluding appointment of the Hearings Panel members.
21. Following appointment, the Hearings Panel has collectively agreed to disclose any potential conflicts of interest to the Chairs prior to and (where they become aware of same) during the hearings.
22. The record of conflicts of interest is a “Register of Interests” which records previous and current involvements and/or interests held by Hearings Panel members. The Register will be updated by the Chairs throughout the hearing process when and if potential conflicts come to light. The allocation of Commissioners to different hearing streams has been designed to minimise known conflicts of interest.

23. Should any party to the hearing process wish to raise potential conflicts of interest with the Chair this should, desirably, be done before the hearings commence or, at the latest, at the commencement of the Day 1 hearing.

Principles of the Hearing Process.

24. The Hearings Panel will seek to ensure that, to the greatest extent practicable, the most appropriate, fair, and efficient hearing process is established while complying with the requirements of the RMA.

25. In considering the hearing processes it is our intent that these:

- **Are appropriate and fair:** each Hearings Panel will at all times act in a fair and transparent manner;
- **Avoid unnecessary formality:** each Hearings Panel will be inclusive, acknowledge the broad range of interests of submitters, and facilitate a process that provides all parties with the opportunity to be heard, whether they are presenting verbal or written submissions and/or evidence;
- **Are efficient:** each Hearings Panel will conduct an efficient process which minimises time and costs to all parties participating in the hearings. Each Hearings Panel will provide both the Council and all submitters with an adequate opportunity to be heard, while at the same time, avoiding unnecessary repetition and presentation of irrelevant material;
- **Recognise Tikanga Māori:** each Hearings Panel will receive written or spoken evidence in Te Reo, if and when requested to do so by a submitter who has given at least one week's notice to enable an interpreter to be available. Other methods to recognise and provide for Tikanga Māori in the hearing process will be incorporated, as advised by mana whenua iwi partners.
- **Recognise New Zealand sign language:** each Hearings Panel will receive evidence in sign language, if and when requested to do so by a submitter who has given at least one week's notice to enable an interpreter to be available.

The Hearings

26. The Hearings Panel intends to hold a number of separate hearings, with each hearing stream considering specific hearing topics. For Hearings Streams 1 to 5 the schedule, (attached as **Appendix B**), is confirmed with Hearing Streams 6 to 10 being less certain and may be subject to change but only if necessary due to venue unavailability. Submitters will be advised should that be the case. In any event it is our intention to complete the hearings this calendar year.
27. Hearing Stream 1 considers overarching matters, Plan-wide structural issues, Strategic Directions, and Definitions that are relevant for multiple topics and hearing streams ('General Definitions'). This will commence on Wednesday 29 April 2026, with provision for two days of hearing. The first part of the hearing will be an Introduction from officers on the PDP process and an overarching overview of the approach. This includes a further explanation of the legal advice on the partial withdrawal and exemption, including a discussion on consequential amendments to the PDP, and integration of the PDP with the Operative District Plan.
28. We would ask that any legal submissions, on matters within the overarching section 42A or on any matter contained within Mr Quinn's advice are received at least two days prior to the first hearing with an indication whether you wish to formally address these at the hearing.
29. The remaining part of the hearing will be on submissions received on:
 - How the Plan Works;
 - General Definitions;
 - Strategic Directions – Tangata Whenua; and
 - Strategic Directions – Natural Environment.
30. There will also be a general briefing by officers on other Strategic Directions that will be considered in relevant topic related Hearings. The key dates for Hearing Stream 1 are contained within the detailed schedule in Attachment B of this minute.
31. For each of the Hearings there will be a staggered process of submission of the s42A Report, Expert evidence, rebuttal evidence from the section 42A author, lay evidence and legal submissions, and a Council right of reply. This can be shown as follows:

	Hearing Step	Timing/Deadline
1	Section 42A officers Reports	Four weeks (20 working days) prior to hearing.
2	Submitters confirm request to be heard, advise preferred timing and where applicable, ask for more time than the default 15 minutes (with reasons)	5 working days after release of section 42A reports.
3	Expert Evidence	10 working days after release of section 42A reports.
4	Requests for site visits	Same day as expert evidence, as above but earlier if possible.
5	Requests for submitter or specified witnesses to appear virtually (by MS-Teams or Zoom).	Same day as expert evidence, as above but earlier if possible.
6	Rebuttal Evidence/Hearing Statement from officers on any matters of contention with the expert evidence received.	4 working days before stream hearing commences.
6	Legal Submissions, written representations longer than 3 A4 pages, and power point presentations.	2 working days before stream hearing commences.
7	Expert summaries and written representations 3 A4 pages or less.	When you appear (but earlier if possible).
8	Tabled Evidence and Representations	Last day of the relevant stream hearing.
9	Officers Right of Reply	Ten working days after the conclusion of each hearing noting that the timing for this will be confirmed at the conclusion of each hearing.

Planning Advisors and Other Council Experts

32. Section 42A of the RMA provides for preparation of reports summarising and evaluating submissions relevant to a hearing topic, and making recommendations on potential amendments to the PDP in response to submissions. Section 42A reports will be prepared either by Council Planning Advisors or external planning consultants, and supported, where necessary, by expert evidence. Such expert evidence might also be prepared either by Council staff or external consultants.
33. Where a particular hearing involves submissions on multiple PDP chapters, a number of section 42A reports may be prepared and publicly released prior to the relevant hearing. Where there are a number of submissions and/or the topics the subject of a hearing are complex, the section 42A reports are likely to be substantial documents in their own right.
34. The purpose of a section 42A report is to assist both submitters and the relevant Hearings Panel prepare for the hearing to which it relates.
35. Each section 42A report will contain a schedule of the primary submission points it addresses and the author's recommendation in relation to each submission point, based on their evaluation of submission points. Submitters wishing to check whether their submission points are going to be heard in a particular hearing should check that schedule to confirm the position.
36. It is intended that drafts of the schedules for forthcoming hearings will be made available on the Council's Hearings website (hutt.city/dpreview) to assist submitters with interests in multiple hearing topics to plan their preparation for the hearings. It is important to record that those draft schedules may be subject to change.
37. Section 42A reports prepared for each hearing, together with any supporting expert evidence from either internal advisers (Council officers) or external advisers, constitute part of the body of evidence to be considered by the relevant Hearings Panel, alongside the evidence of submitters.
38. Section 42A reports and any supporting expert evidence will be uploaded to the Hearings website a minimum of 20 working days prior to the hearing to which they relate.

39. Once section 42A reports are available online, the Hearings Administrator will email submitters who indicated they wished to be heard on the relevant topic, providing an electronic (PDF) copy of the relevant section 42A report(s).
40. While section 42A reports will evaluate all submissions on the relevant hearing topics and make recommendations to the Hearings Panel considering those topics, those recommendations are not binding on the Hearings Panel and carry no greater weight than any other evidence provided by or on behalf of any submitter.
41. The Hearings Panel has determined that it would be assisted by pre-circulated Rebuttal Evidence/Hearing Statement. This will apply to the section 42A report authors or other Council expert witnesses, to give them the ability to respond to expert evidence circulated by submitters to either explain the reasons why they disagree with that evidence, or confirming their agreement with it. The statement should also identify any consequential changes to their recommendations including revised marked-up version of the Plan provisions where relevant. Submitters who wish to call expert evidence contradicting the evidence of other submitters can also utilise this opportunity. Rebuttal is not, however, an opportunity for submitters to delay their response to the section 42A report and supporting evidence.

Submitter Presentations

42. All submitters who have given notice of their intention to be heard on a hearing topic are entitled to appear at that hearing. Submitters may appear either in person or through their authorised representative (including but not limited to legal counsel), and a submitter's case may also be assisted by their bringing expert evidence before the relevant Hearings Panel.
43. Verbal presentations may take the form of submissions/representations or lay evidence. The difference between the two is that submissions/representations advocate for a particular outcome. Lay evidence is an objective statement of fact or opinion on matters relevant to the determination of an outcome.
44. All legal submissions and other written presentations that are longer than three A4 pages in length should be lodged with the Hearings Administrators not less than two working days before the commencement of the relevant hearing, unless otherwise directed. If

legal submissions refer to caselaw, counsel should either insert an electronic link to the cases or provide electronic copies separately. Hard copies of cases will not generally be required unless otherwise advised. If a submitter or their representative makes reference to documents or other sources of information to support their points, they should either have a copy of that document available upon request by the Panel or be able to provide a link to it electronically.

45. If a submitter wishes to present their submission using a power-point presentation, they should similarly provide the power-point in an electronic format to the Hearings Administrators at least two working days prior to the commencement of the hearing. This is to ensure compatibility with the electronic system at the hearing venue.
46. Submitters have the option of presenting written representations on the day of the hearing, and read it aloud provided it is not longer than three A4 pages in length. If submitters are going to do this, they need to electronically send these to the Hearings Administrators prior to the hearing.

Evidence

47. Submitters are entitled to legal and expert representation. An expert is a person equipped by training and experience to provide expert opinion on issues of relevance to the determination of the final form of the PDP. While most experts will have academic qualifications, that is not a prerequisite. Kaumātua and kuia do not need a university degree to be expert at the cultural values of their iwi or hapū. Likewise, many people have acquired significant expertise 'learning on the job'.
48. The key thing is for an expert witness to demonstrate to the Hearings Panel both that they have the expertise to advance the opinions they provide, and the ability to act independently of the submitter who calls them to give evidence. Experts are required to confirm they agree to comply with the Environment Court Code of Conduct for Expert Witnesses¹.

¹ <https://environmentcourt.govt.nz/assets/Practice-Note-2023-.pdf>

49. Expert evidence for submitters should be directed at the relevant section 42A report, identifying points of agreement and disagreement with precise cross referencing to the section 42A report, including in the case of planning witnesses, a marked-up version of the Plan provisions showing changes recommended from the section 42A report version. If the expert considers the section 42A report has not addressed a particular point, that should be dealt with separately.

Tabled evidence/representations

50. Where a submitter or their representative is unable to attend the hearing for a particular topic, they may choose to table written material (statements) in support of their submission. Such written material must be provided to the Hearings Administrator not later than the last day of the hearing concerned. Submitters should be aware that tabled evidence may be given less weight because the Hearings Panel has been unable to ask questions of the witness/submitter.

Format of Hearings

51. Each hearing will generally proceed in the following order:

- a. Hearings will commence (and end) with a karakia. The Chair of the stream will then introduce the Hearings Panel, cover any preliminary issues and invite any party wishing to raise procedural issues to address the Hearings Panel.
- b. The section 42A report authors will speak to their reports and rebuttal evidence, followed by any supporting expert witnesses for the Council. As with submitters, section 42A authors and other Council expert witnesses can provide a written summary usually no longer than three pages but longer if required when the issues are complex (excluding revised plan provisions). The Hearings Panel will ask each section 42A author questions.
- c. Submitters will then be heard in the order set out in the Hearing Schedule prepared for each hearing;
- d. Formal adjournment of the hearing.

52. Following the adjournment of each hearing, the section 42A report authors will submit a written Right of Reply. Right(s) of Reply will be required to be filed within ten (10) working days of the adjournment of the hearing unless the Chair of the stream directs otherwise. The Hearings Administrator will upload the Right(s) of Reply to the hearings page on the Council's website. The Hearings Panel will not receive any further comment from submitters on the matters the subject of the hearing without the Chair's specific approval.
53. Each submitter will be allocated a time to appear in front of the relevant Hearings Panel. It is recommended that you arrive at least 30 minutes before you are due to speak – partly to provide for the possibility that the hearing may be going quicker than scheduled, but also to enable you to observe the hearing process and get comfortable with the way it works in practice.
54. The Chair of the hearing stream will invite you to come forward with your representatives/witnesses to the table set aside for submitters and invite you to present your case.
55. Any expert witnesses you have with the opportunity to speak to a written summary of their evidence, covering the main points. As noted, this should not exceed three pages (11pt font with 1.5 spacing). It is not expected that expert witnesses will read the executive summaries in their pre-circulated evidence as the Hearings Panel will already have read it.
56. Some further points:
 - Expert witnesses must provide ten (10) copies of any written summary of their written evidence, at the time they present to a hearing panel if it has not been provided to the Hearing Administrator beforehand.
 - The composition of the Hearings Panel will vary from topic to topic and, therefore, your evidence at a particular hearing must relate solely to the topic being heard at the hearing. It should not address matters to be heard at a later hearing, or repeat submissions made to an earlier hearing (unless the subject matter of the two hearings overlaps).

- District Plan hearings are public. Hearings will be recorded, and the recordings will be available online for public viewing.
- All pre-circulated evidence and submissions should be sent in PDF (acrobat) or DOC (word) format to District.Plan@huttcity.govt.nz.

Hearing Venue/ Virtual Presentations

57. At this point in time all hearings are due to be held at the:

Hutt City Council Chambers

2nd Floor, 30 Laings Road,

Lower Hutt.

58. Should the Council Chambers be unavailable, submitters will be informed as soon as any change is required.
59. The Council Chambers has all the necessary audio/visual requirements for the hearing including the ability for submitters or their advisers to participate on line, via MS-Teams or Zoom, if required. In this regard we definitely have a preference for in person appearances should that be practical for participants to do so.
60. However, we recognise that some flexibility is required. An example of this is if there is an expert or adviser from outside of the Wellington Region where their appearance in person is not reasonably or completely necessary. Requests for virtual attendance need to be received 10 working days after the release of section 42A reports.

Site Visits

61. The Hearings Panel intends to undertake site visits in order to better understand the site-specific context of some of the submissions that have been lodged. While the primary focus of site visits will be on locations where submitters have sought to be heard, site visits may include visits to land the subject of other submissions. Where it is necessary for the Hearings Panel to access private land, a Council officer assisting the Panel (not one of the authors of the section 42A report or a Council witness) will contact the relevant submitter/landowner to arrange access.

62. If any submitter believes it would assist the Hearings Panel to undertake a site visit of their property, they are invited to contact the Hearings Administrator at latest by the deadline for submitter expert evidence in relation to the relevant hearing.

Schedule of Hearings

63. The arrangement of topics into different streams, the hearing dates and the allocation of Commissioners to each stream is as below in **Appendix B**. Public Holidays as non-working days have been taken into account.

What Happens After Each Hearing Concludes

64. At the end of the presentations of verbal submissions, the Chair of the hearing stream will adjourn the hearing. The authors of the section 42A report(s) will generally then have 10 working days to prepare a written Reply. This is a formal response to matters raised during the hearing.
65. Following the receipt of the Right(s) of Reply, each Hearings Panel will deliberate in private. The Hearings Panel will formulate its recommendations on the provisions that the hearing relates to, including any amendments it believes to be appropriate in order to respond appropriately to submissions and further submissions. These recommendations will not be released to the public before they are sent to the Council.
66. At the end of the hearings on the provisions a 'wrap-up hearing' will be held to address matters such as PDP integration and any outstanding matters.
67. Following the 'wrap-up hearing', the Hearings Panel will prepare Recommendation Reports. These recommendations will be considered by the Council. If the Council accepts the recommendations of the Hearings Panel, the decisions will be released. If the Council does not agree with any recommendation made by the Hearings Panel they will need to outline the reasons why in their formal decision.
68. Currently it is intended that the Panel will report to council in the second quarter of 2027 with appeal rights to the Environment Court available after that.
69. The exceptions to this process are the 'decisions' the Council makes on submissions related to notices of requirement and designations of Requiring Authorities other than

territorial authorities. Those will take the form of recommendations to the relevant Requiring Authority (who makes the final decision on those submissions). Conversely, when dealing with notices of requirements and designations from Hutt City Council, the Council will make a decision, and that decision will be subject to the normal appeal process.

70. All submitters who indicated that they wished to be heard will be notified of the Hearings Panel recommendations and Council decisions (and the decisions of requiring authorities in relation to designations).

Pre-Hearing meeting

71. The Hearing Panel invites submitters to attend an informal pre-hearing meeting hearing being held at the Lower Hutt Events Centre on Wednesday 1 April 2026 from 6.00pm to 7.00pm. While all submitters are welcome, this is principally an opportunity for lay submitters to get a better understanding of the hearing process detailed above before the hearings commence. There will be an opportunity to ask the Hearing Panel questions about the hearing process. No discussion about the content of the PDP or the issues raised in submissions will be entered into.

Friend of Submitters

72. A 'Friend of Submitters' service is available for people who will be involved in the PDP hearings. The Friend of Submitters is Emily Bayliss.
73. Ms Bayliss is able to provide you with free, impartial advice on the process and procedures for the hearings, what is involved in presenting at a hearing and how to make a good quality presentation. You can contact Ms Bayliss at fos@baylissconsulting.co.nz or **021 0843 5559**.

Key Contacts

74. The primary point of contact for all matters relating to the detailed administration of the hearings is the Hearing Administrator (Saritha Shetty). Saritha.Shetty@huttcity.govt.nz with an office phone number of **04 560 1039**.

75. If any aspect of this Minute is unclear, email or telephone Saritha. If she cannot answer your query, she will pass it on to the Chair to address.



Lindsay Daysh

Independent Commissioner

Chair Hutt City Proposed District Plan

Hearing Panel

10 March 2026

Appendix A

Legal Opinion: Stephen Quinn - Barrister



Nathan Geard
Policy Planning Manager
Hutt City Council
LOWER HUTT
By Email

9 March 2026

Dear Nathan

Proposed district plan advice – post exemption process

1. You have sought advice on various process issues arising from the implementation of the exemption granted to Hutt City Council (**Council**) by the Minister Responsible for RMA Reform under the Resource Management Act 1991 (**RMA**). This advice focuses on your questions relating to the proposed district plan (**PDP**) process, including the integration of the PDP with the existing operative district plan (**ODP**).
2. Your questions and my responses are addressed in the summary section below, followed by clarification of some of the key statutory provisions relied on to reach these conclusions.

Summary

3. You seek my advice on 6 specific questions. I set out each question and my summary response below:
 - a. *Once Council has made its decisions on the PDP and any appeals have been resolved, will the surviving parts of the PDP integrate into the ODP?*

Yes, the ODP and the PDP will integrate once decisions on the PDP are made, and any Environment Court appeals are resolved. That will enable Council to then operate with one integrated ODP, rather than two planning documents.

- b. *Can Council make amendments to the PDP to ensure it remains within the scope of the exemption (even if submissions do not provide this scope)? What are the options for how these amendments are carried out?*

In terms of context to this question, you have advised that Council has withdrawn the chapters, sections, schedules and overlays in the PDP that are not covered by the Minister's exemption. That was a statutory obligation on Council. Despite the withdrawal of those aspects of the PDP, amendments to the surviving PDP provisions will need to be made. There may not be submissions that provide a technical scope for such changes.

For example, to ensure accurate cross referencing (eg. avoiding cross references to withdrawn PDP provisions). Another example is where a provision (including objectives and policies) address rules from a withdrawn part of the PDP. Similarly, if a rule or a matter of discretion was retained without the associated objectives and policies, the rule/matter of discretion may not have the necessary objectives and policy support.

In my view, the role of Council officers is to advise the PDP hearing panel on how to amend the PDP to remain within the scope of the exemption. It is essential for the effective combining of the surviving portions of the PDP and the ODP to make the necessary consequential amendments required to ensure accurate cross referencing, and that the combined plan can operate as a functioning document. This can be covered in the s42A report. If there is no submission on the scope for such amendments (which is to be expected given that submissions were made before the exemption process), the combination of clauses 16(2) and 20A of Schedule 1 of the RMA will enable changes of that nature to be made. On the basis that these are procedural and necessary consequential changes to make the combined plan workable, in my view no legal risk arises.

c. Will the PDP be integrated into the ODP?

The short answer to this question is yes, in accordance with the answer to question a. above. This may require procedural amendments to the ODP as part of this process to ensure cross referencing is achieved for effective integration of the two plans, and amending those parts of the PDP that correspond with the surviving parts of the ODP. As the changes to the ODP surviving provisions are procedural, rather than changes to substantive provisions, this will not require a separate variation or future plan change process. This can be addressed through clause 20A of Schedule 1 of the RMA.

d. Are there any points of difference in how the Strategic Directions chapter of the PDP should be treated for the withdrawal/exemption and ODP integration? Similarly, are there any points of difference for the ODP's Chapter 1: Introduction and scope of the plan (the ODP's closest equivalent to a Strategic Directions chapter)?

You have noted that the Strategic Directions chapter is different from other chapters of the PDP, in that it only includes relatively high-level objectives. These objectives not only inform the other chapters of the PDP, but also guide consideration of private plan change requests. Chapter 1 of the ODP currently performs a similar role (although it includes objectives and policies).

The hearing panel on the PDP should amend the Strategic Directions chapter as appropriate, both in response to submissions and also procedural changes necessary to enable a functioning and workable combined planning document when the PDP and ODP integrate. The PDP and ODP cannot adequately integrate if they have Strategic Direction

chapters that work against each other. It is anticipated that the likely process is that the PDP Strategic Directions chapter should be the primary focus, and those provisions (once confirmed) will then take over the counterpart ODP provisions.

- e. *Given the partial withdrawal and exemption, are there additional limits on Council's ability to give effect to higher order documents as part of the PDP process? For example, the ODP doesn't fully give effect to the NZCPS. Given the partial withdrawal of the PDP and scope of the exemption, the ability of Council to give effect to the NZCPS is significantly constrained?*

Council is constrained by the subject matters in the PDP that are covered by the exemption. This means that this PDP process is ring-fenced by those exemption topics (and subject to the scope of submissions). In practical terms, this will not enable all higher order documents to be given effect to. The PDP should only give effect to higher order documents (and Part 2 requirements) to the extent practicable within the scope of the exemption (and the scope of submissions).

- f. *New national policy statements have been introduced since the PDP was notified. There has also been a change to the Regional Policy Statement for the Wellington Region (although there are appeals on parts of this change). Is Council required to give effect to the new/altered higher order documents as part of this process?*

The answer to this question is similar to the previous topic. Council is required to give effect to the new/altered higher order documents to the extent practicable within the scope provided by the exemption and submissions. There would be a risk preparing and imposing new provisions to give effect to higher order documents when Council has not consulted on and notified those provisions (therefore provided an opportunity for people to submit on them). Any new PDP provisions required to give effect to the new/altered higher order documents should be addressed in a future plan review process, rather than attempting to change the scope of this PDP process.

- g. *Where a submission is on a provision that has been withdrawn, have their submissions now effectively fallen away, and they can be excluded from the hearing process? Or do they still need to be provided an opportunity to speak at a hearing, and possibly seek alternative relief through the parts of the PDP that have an exemption?*

Yes, the submissions on withdrawn provisions cannot be progressed. As those provisions no longer exist, there is nothing to be presented through submissions (as the panel has no jurisdiction to grant relief for submissions addressing withdrawn provisions). In order to avoid confusion or disappointment by submitters, some communication to the affected submitters from Council would be good practice. For a submitter who has only submitted on a withdrawn provision, they would not need to be scheduled to be heard (as the panel would have no jurisdiction to listen to and determine their submission). If any of them want to seek alternative relief within the scope of the exemption approved

PDP provisions, this would need to be filed as a late submission. That would require determination by the panel as to whether to accept such a late submission.

4. I now set out the relevant background and some of the key provisions that guide these conclusions on each question.

Background

5. The Council notified its PDP in February 2025. At the time, the PDP was intended to be a complete replacement of the ODP.
6. The submission and further submission stages for the PDP were completed in July 2025.
7. In August 2025, the RMA was amended to introduce new *plan stop* requirements for proposed plans and proposed plan changes. This included requirements for councils to stop PDP processes where hearings have not commenced *unless an exemption applies*. As the Council's PDP had not yet been scheduled for hearings, it was caught by the plan stop provisions.
8. An exemption from the plan stop process applies where a PDP (or parts of it) meets the specific criteria set in the RMA or where the Minister approves a Council request for an exemption.
9. Council requested an exemption from the Minister to allow the majority of the PDP to continue through the statutory process. That exemption request has been approved by the Minister.
10. Chapters, schedules and overlays that are not covered by the terms of the Minister's exemption have now been withdrawn by way of public notice issued by Council. This includes the non-hazard parts of the Coastal Environment chapter and Highly Productive Land parts of the General Rural Zone chapter.
11. The questions addressed in this advice relate to the process to now hear and determine submissions on the PDP by the hearing panel, and the relationship and integration of that process with the ODP.

Key RMA provisions

12. As noted above, the plan stop and exemption process arose through amendments to the RMA. I do not focus on that statutory process which has already occurred, but instead focus on those RMA provisions that are relevant to the process for the remaining parts of the PDP to be heard and determined, and ultimately integrated with the ODP.
13. The relevant provisions governing the plan stop process are in sections 800 to 80Y of the RMA. The amendments define a proposed planning instrument in section 800. Importantly, the definition confirms that the obligation to stop a current plan review process does not apply if

hearings on the proposed plan had commenced, or were to commence within 5 days of the provisions taking effect. For Council, this did not apply as the PDP hearing process had not commenced when the RMA amendments came into effect. It meant that Council had to stop progressing the PDP further.

14. Section 80Q outlines the obligation for such instruments to be withdrawn. However, the opportunity was available to apply to the Minister for an exemption under section 80V for any matters that were not covered by the automatic exemptions.
15. The terms of the Minister's exemption granted to Council is covered in his letter of 13 January 2026. Following that exemption, the Council withdrew part of the PDP by way of public notice issued on 15 January 2026, in accordance with section 80X(2). At this stage, only the surviving parts of the PDP that are covered by the exemption and have not been withdrawn are to proceed to the next stage of panel hearings.
16. Having proceeded through this process, the balance of the PDP process is largely a conventional RMA process. This includes:
 - a. All of the Schedule 1 provisions that will be familiar to the hearings panel, such as the holding of hearings, decisions on submissions, appeal process to the Environment Court etc.
 - b. The standard RMA provisions are also applicable, including preparation of district plans under section 73 and the legal effect of rules in Part 5 subpart 7.
17. Against this broad background, the questions that you have asked address both the amendments to the PDP to be fit for purpose for the more limited scope covered by the exemption, adapting provisions and cross references to enable the surviving parts of the PDP to work, and integration of the PDP with the ODP. In reaching the conclusions above, I have particularly relied on:
 - a. Section 86B sets out the different timing for when proposed plan rules have legal effect. The latest time that a rule will have legal effect is when the plan becomes operative under clause 20 of Schedule 1;
 - b. Section 86F governs when rules become operative. This is where the resolution of Environment Court appeals affecting any rules is important. A key aspect of this provision is that any existing ODP rule that is being replaced becomes inoperative when the PDP rule becomes operative. In other words, the process established by this provision addresses the PDP takeover of the counterpart ODP rules.
 - c. While section 86F is key to integration of PDP rules taking over the ODP rules, consideration of other provisions of the RMA is also required regarding that process for the balance of the plans. The following sections are relevant:
 - i. Section 73 of the RMA requires that there be one district plan for the district, in accordance with the process in Schedule 1.

- ii. Schedule 1 has a number of relevant provisions to this integration process. While there is a provision addressing the merger of a variation with a plan in clause 16B, there is no equivalent explicit provision for merging a PDP and a ODP. However, clause 17 requires Council approval of the plan once the process is complete, and clause 20 provides when the plan becomes operative. It is this part of the process that effectively integrates the surviving parts of the ODP with the new PDP provisions (once Council decisions are made and any appeals to those provisions are resolved).
- iii. Also relevant to this process are the definitions in section 43AA of the RMA, where the 'district plan' includes all changes to the plan (whether arising from a review or otherwise) and 'operative' means the plan has become operative under clause 20 of Schedule 1 or section 86F. The net outcome of these provisions is that after this integration process there is one integrated plan.
- d. Clause 16(2) of Schedule 1 enables alterations to a proposed plan where the alteration has minor effects or is to correct errors. As this power does not require the normal notification process, the caselaw has reflected that some caution is required as to when this power is to be exercised. It should not be used for substantive changes or when there may be some opposition. However, it is an important provision when considering such matters as updating cross references in the PDP and ensuring that procedural (rather than substantive) changes are required to make the integration of the planning instruments work.
- e. Clause 20A of Schedule 1 is the counterpart provision to address changes to the operative plan to address similar errors. The combination of clauses 16(2) and 20A will enable many of the changes of the nature referenced in your various questions to both the PDP and ODP provisions.

18. Based on this statutory framework, in my view all of the matters covered by your questions can be accommodated. I have accordingly not repeated the answers to the questions in the body of this advice, however I would be happy to expand on any of the answers in the summary above if more detail is required.

Yours sincerely



Stephen Quinn
Barrister

Appendix B

Detailed Hearing Schedule

Programme

Hearing 1 – Opening

- **Hearing Dates – 29 and 30 April 2026.**
- Covers:
 - Introduction to the PDP and hearing process;
 - Presentation on the PDP and its approach;
 - Presentation on partial withdrawal and exemption, including issues on consequential amendments to the PDP and integrating the PDP with the Operative District Plan including legal advice;
 - How the Plan Works;
 - General Definitions;
 - Strategic Directions – Tangata Whenua;
 - Strategic Directions – Natural Environment; and
 - General briefing on other Strategic Directions that will be considered in relevant topic related Hearings.
- Estimated length: 2 days
- Commissioners – All.
- s42A Report – **Friday 27 March 2026.**
- Submitters confirm request to be heard – **Tuesday 7 April 2026.**
- Submitter evidence, requests for site visit, requests for submitter or specified witnesses to appear virtually – **Monday 20 April 2026.**
- Legal Submissions, written representations longer than 3 A4 pages, and power point presentations – **Thursday 23 April 2026.**

Hearing 2 – Business

- **Hearing Dates – 26-28 May 2026 (29 May before 11.30am Reserve).**
- Strategic Direction – Urban Form (Business) and Commercial Zone, Industrial Zone, Hazardous Substances and Contaminated Land chapters.
- Estimated length: 3-4 days.
- Commissioners: Daysh (Chair), Jones, McMahon, Muspratt.
- s42A Report – **Friday 24 April 2026.**
- Submitters confirm request to be heard – **Monday 4 May 2026.**
- Submitter evidence, requests for site visit, requests for submitter or specified witnesses to appear virtually – **Monday 18 May 2026.**
- Legal Submissions, written representations longer than 3 A4 pages, and power point presentations – **Thursday 21 May 2026.**

Hearing 3 – Residential / Rural

- **Hearing Dates – 22-23 and 25-26 June 2026.**
- Strategic Direction – Urban Form (Rural/Residential); and Residential Zone and Rural Zone chapters.
- Estimated length: 4 days.
- Commissioners: Daysh (Chair), Burge, Chetham, McMahan.
- s42A Report – **Friday 22 May 2026.**
- Submitters confirm request to be heard – **Friday 29 May 2026.**
- Submitter evidence, requests for site visit, requests for submitter or specified witnesses to appear virtually – **Monday 15 June 2026.**
- Legal Submissions, written representations longer than 3 A4 pages, and power point presentations – **Thursday 18 June 2026.**

Hearing 4 – Other Zones

- **Hearing Dates – 21 -22 July 2026 (23 July Reserve).**
- Open Space Zones, Tertiary Education Zone, Hospital Zone, Marae Zone and Quarry Zone chapters.
- Estimated length: 2-3 days.
- Commissioners: Daysh (Chair), Burge, Chetham, Muspratt.
- s42A Report – **Monday 22 June 2026.**
- Submitters confirm request to be heard – **Monday 29 June 2026.**
- Submitter evidence, requests for site visit, requests for submitter or specified witnesses to appear virtually – **Monday 13 July 2026.**
- Legal Submissions, written representations longer than 3 A4 pages, and power point presentations – **Thursday 16 July 2026.**

Hearing 5 – Natural Hazards

- **Hearing Dates – 18-21, 26-27 August 2026.**
- Strategic Direction – Climate Change and Natural Hazards and Natural Hazards and Coastal Environment chapters.
- Estimated length: 6 days.
- Commissioners: Daysh (Chair) Burge, Jones, McMahan.
- s42A Report – **Monday 20 July 2026.**
- Submitters confirm request to be heard – **Monday 27 July 2026.**
- Submitter evidence, requests for site visit, requests for submitter or specified witnesses to appear virtually – **Monday 10 August 2026.**

- Legal Submissions, written representations longer than 3 A4 pages, and power point presentations – **Thursday 13 August 2026.**

Hearing 6 – Infrastructure

- **Hearing Dates – 22 -24 September 2026.**
- Strategic Direction – Infrastructure and Infrastructure, Protection of Infrastructure, Renewable Electricity Generation, Three Waters and Transport chapters.
- Estimated length: 3 days.
- Commissioners: McMahon (Chair), Chetham, Jones, Muspratt.
- s42A Report – **Monday 24 August 2026.**
- Submitters confirm request to be heard – **Monday 31 August 2026.**
- Submitter evidence, requests for site visit, requests for submitter or specified witnesses to appear virtually – **Monday 14 September 2026.**
- Legal Submissions, written representations longer than 3 A4 pages, and power point presentations – **Thursday 17 September 2026.**

Hearing 7 – Other Topics

- **Hearing Dates – 14 - 16 and 20 October 2026.**
- Activities on the Surface of Water, Earthworks, Financial Contributions, Light, Noise, Notable Trees, Papakāinga, Signs, Subdivision, Tangata Whenua, Temporary Activities and Wind.
- Estimated length: 4 days.
- Commissioners Daysh (Chair), Burge, Jones, Muspratt.
- s42A Report – **Monday 21 September 2026.**
- Submitters confirm request to be heard – **Monday 28 September 2026.**
- Submitter evidence, requests for site visit, requests for submitter or specified witnesses to appear virtually – **Monday 5 October 2026.**
- Legal Submissions, written representations longer than 3 A4 pages, and power point presentations – **Thursday 8 October 2026.**

Hearing 8 – Benmore Crescent

- **Hearing Dates – 11-13 November 2026 (18 November Reserve).**
- Submissions on the Benmore Crescent development site.
- Estimated length: 4 days
- Commissioners: Daysh (Chair), Burge, Chetham, McMahon.
- s42A Report – **Monday 12 October 2026.**
- Submitters confirm request to be heard – **Monday 19 October 2026.**

- Submitter evidence, requests for site visit, requests for submitter or specified witnesses to appear virtually – **Monday 1 November 2026.**
- Legal Submissions, written representations longer than 3 A4 pages, and power point presentations – **Friday 6 November 2026.**

Hearing 9 – Designations

- **Hearing Dates – 23-24 November 2026.**
- All Designations.
- Estimated length: 2 days.
- Commissioners: Daysh (Chair), Chetham, Jones, Muspratt.
- s42A Report – **Thursday 23 October 2026.**
- Submitters confirm request to be heard – **Friday 30 October 2026.**
- Submitter evidence, requests for site visit, requests for submitter or specified witnesses to appear virtually – **Friday 13 November 2026.**
- Legal Submissions, written representations longer than 3 A4 pages, and power point presentations – **Wednesday 18 November 2026.**

Hearing 10 – Wrap-up

- **Hearing Dates – 8-9 December 2026.**
 - Final reporting from reporting officers to the Panel;
 - Final questions from Panel to reporting officers;
 - Reporting officers coming back with responses to earlier questions;
 - Opportunity to address matters from earlier hearings that needed to be pushed back;
 - Opportunity to revisit topics from earlier in the process, including for integration and Strategic Directions.
- Estimated length: 2 days.
- Commissioners: All.
- Directions on scope, content and any additional representations or evidence will be outlined via a minute closer to the time.