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

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Minute 21

Proposed District Plan – Operative District Plan Integration and Revision of Timetable for Hearing Stream 9 (Designations) and Hearing Stream 10 (Wrap up)

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21 October 2026

Introduction.

1. The Hutt City Council (HCC) Proposed District Plan (PDP) Hearings commenced in April with the formal part of seven of the 10 scheduled hearings now being completed. This minute addresses two matters arising from our deliberations on the submissions and evidence to date, as well as amending the scheduled hearing dates for Hearing Stream 9 (Designations) and Hearing Stream 10 being the Wrap up hearing.

Integration with Remaining Parts of the Operative Plan as a Result of Plan Stop.

2. Prior to Hearing Stream 1 we requested legal advice on the implications of the Minister's decision on Councils Plan Stop application. This related to the status of the Operative District Plan provisions of those matters that have been withdrawn and to the relevant submissions made on those matters. This was provided by Mr Quinn where we noted in our Minute 2 regarding hearing procedures, that of direct importance to submitters is clarification of the status of submissions on plan provisions that have now been withdrawn. In this regard the Council asked Mr Quinn.

> *Where a submission is on a provision that has been withdrawn, have their submissions now effectively fallen away, and they can be excluded from the hearing process?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?*

3. Mr Quinn's advice to us was:

> *Yes, the submissions on withdrawn provisions cannot be progressed.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to be presented through submissions (as the penal has no jurisdiction to grant relief for submissions addressing withdrawn provisions).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submitted on a withdrawn provision, they would not need to be scheduled to be heard.

4. On this basis we have taken the approach that we can only hear submissions on the parts of the PDP that remain. Our position was that this is not a negotiable position as it is not within our jurisdiction to consider the withdrawn provisions.

5. At Hearing Stream 6 relating to Infrastructure, that Panel received further submissions from counsel for the Royal Forest and Bird Protection Society (Forest and Bird), that took a contrary view. This memorandum which is attached to this minute concluded[1]:

> *A district plan that does not have any provisions implementing matters of national importance – such as preservation of the natural character of the coastal environment, and protection of ONFLs and areas of significant vegetation and significant habitats of indigenous fauna – is untenable. Similarly, the district plan must give effect to relevant national direction so far as possible within the scope of the plan change and submissions.*
>
> *The plan-stop exemption cannot be used as justification for considering some effects of activities (such as positive effects of INF and REG) but not others (such as adverse effects of INF and REG activities on sensitive receiving environments). This is not possible under the Act.*
>
> *The 'status quo' approach to managing effects on the natural environment under the plan-stop exemption means that wording such as "so far as practicable" must be deleted from the exemption-version PDP, which must retain the ODP's "avoid, remedy or mitigate" approach to managing effects on the natural environment across the district.*
>
> *Activities that were only Permitted outside sensitive area overlays must not become Permitted activities by default within these areas due to the withdrawal of the overlays. Instead, it seems likely that these activities will*

[1] At paragraphs 61 to 66

need to become RDIS across the district, with appropriate matters of discretion, to ensure that effects of activities within these sensitive areas can be appropriately managed.

Objectives and Policies in the INF and REG subchapters will need to include general wording that refers to matters of national importance and national direction, such as the NZCPS and NPSIB, to direct decision-makers to consider these matters and higher order documents when considering resource consent applications. The plan will need to explain that it does not give effect to these higher order documents, and that this would need to be achieved by a further plan review.

To comply with the 'status quo' approach to the plan-stop exemption, the INF and REG subchapters can no longer be treated as 'standalone' chapters. The Introduction to the Infrastructure chapter will need to explain that district-wide Objectives, Policies and Rules, and area-specific Rules that manage effects on the natural environment such as indigenous vegetation clearance rules, will also apply to these activities.

6. The position taken by Forest and Bird has implications for the entire plan not just the Infrastructure provisions. In light of the above can Mr Quinn please provide us with his further view on the legal submissions put forward by Forest and Bird? We will issue a further minute on this matter after we have considered this advice. Other parties will be given the opportunity to consider and comment on the issues raised but this will be confined to matters of principle not the detail of the individual provisions that may apply.

Marked up versions of the PDP with cross referencing to the ODP.

7. Prior to the wrap up hearing the panel is requiring a full cross referenced version of the PDP integrated with the remaining parts of the ODP that are relevant. We realise this will be quite a task but we are also mindful of the need to have a robust and ideally user friendly Plan for the District. Again, once we have received Mr Quinn's further advice we will issue

directions to the Council on what is required accordingly.

Amendments required by National Environmental Standards.

8. Can officers please provide an outline of Council's intended approach to those matters directed to be amended through the recently gazetted such as the NES Telecommunications and NES- Electricity Transmission and any other relevant changes to other national instruments. When will this occur and what happens with submissions to related as-notified PDP provisions?

Amendments to timetabling Hearing Streams 9 and 10.

9. As a result of the above we have decided that it is prudent to delay Hearing Stream 10 which is the wrap up hearing. We have provisionally scheduled for this to occur on Thursday 25 and Friday 26 February 2027. We will advise of detailed timetabling and what matters we consider are appropriate for the wrap up hearing in due course.

10. In respect of Hearing Stream 9 this can therefore be changed from 23/24 November to Tuesday 8 December which was one of the allocated dates for the wrap up hearing. We expect that this will only take one hearing day. Timetabling instructions for HS9 have been amended as follows.

    - **Hearing Date – 8 December 2026.**
    - s42A Report – **Monday 9 November 2026.**
    - Submitters confirm request to be heard – **Tuesday 17 November 2026.**
    - Submitter evidence, requests for site visit, requests for submitter or specified witnesses to appear virtually – **Monday 23 November 2026.**
    - Legal Submissions, written representations longer than 3 A4 pages, and power point presentations – **Thursday 3 December 2026**.

Timing and Queries

11. It would be appreciated if Mr Quinn's advice could be made available to us within two weeks of this minute.

12. If there are any queries in respect of this minute, could they be directed to us through the Hearing Administrator (Saritha Shetty). Saritha.Shetty@huttcity.govt.nz with an office phone number of **04 560 1039**.



Lindsay Daysh

Independent Commissioner

Chair Hutt City Proposed District Plan Hearing Panel

21 October 2026