

WELLINGTON REGIONAL COUNCIL

PROPOSED CHANGE 1 TO THE WELLINGTON REGIONAL POLICY STATEMENT

FIRST MINUTE AND DIRECTIONS OF HEARINGS PANELS

1. This Minute sets out directions on key procedural matters for the hearing of submissions and further submissions on Proposed Change 1 to the Wellington Regional Policy Statement.
2. The Minute has been issued jointly by the Hearings Panels appointed to hear submissions and make recommendations on Proposed Change 1.
3. Additional Minutes and Directions may be issued before, during and after each Hearing Stream and may be issued jointly or individually by the Panels.

Background

4. Proposed Change 1 was publicly notified on 19 August 2022 by Wellington Regional Council (Greater Wellington). Submissions closed on 14 October 2022 and further submissions closed on 19 December 2022. The Summary of Decisions Requested was notified on 5 December 2022. Omissions and errors in the Summary were notified in three Addendum documents dated 19 December 2022, 18 January 2023 and 1 February 2023

Freshwater planning instrument

5. In light of the decision of the High Court in *Otago Regional Council v Royal Forest & Bird Protection Society of NZ Inc* [2022] NZHC 1777, Greater Wellington identified particular provisions in Proposed Change 1 as either giving effect to the National Policy Statement on Freshwater Management as it relates to freshwater quality or quantity, or otherwise relating directly to matters which impact freshwater quality or quantity. These provisions (the freshwater planning instrument) are identified in Proposed Change 1 with a freshwater symbol: \approx FW and are subject to the freshwater planning process under Section 80A and Part 4 of Schedule 1 of the Resource Management Act (RMA).
6. Other provisions in Proposed Change 1 are not part of a freshwater planning instrument and will proceed through the standard Part 1 Schedule 1 process in the RMA for preparing, changing and reviewing a regional policy statement.
7. On 28 March 2023 the Chief Freshwater Commissioner appointed a Freshwater Hearing Panel to conduct the public hearing of submissions and make recommendations to Greater Wellington on the freshwater planning instrument. The Freshwater panel comprises the following members:

Craig Thompson (Chair)
Gillian Wratt
Glenice Paine
Ina Kumeroa Kara-France.

Other provisions in Proposed Change 1

8. On 30 March 2022 Wellington Regional Council appointed a Hearing Panel (the P1S1 Panel) to conduct the public hearing of submissions and make recommendations to Greater Wellington on those provisions of Proposed Change 1 that have not been notified as a freshwater planning instrument. The P1S1 Panel comprises the following members:

Dhilum Nightingale (Chair)
Glenice Paine
Ina Kumeroa Kara-France.

Notice of hearing

9. The hearings are scheduled to begin on 26 June 2023 at a venue in Wellington to be advised shortly. Hearings will take place across seven Hearing Streams and continue until the end of March 2024.
10. The Hearings Administrator will be in contact with each submitter who has stated they wish to be heard at the hearings to confirm their attendance and discuss any preferences around speaking sequence and time.
11. All information about hearings will be available on the council's hearings page:
<https://www.gw.govt.nz/your-region/plans-policies-and-bylaws/updating-our-regional-policy-statement-and-natural-resources-plan/regional-policy-statement-change-1/>
12. Submitters who wish to be heard are advised to view the information on this webpage.
13. Hearings will take place in person with full provision for on-line access allowing members of the public to view, and submitters to view and participate in, the hearings remotely.

Hearings process

14. The provisions allocated to each Hearing Stream will either be heard only by the Freshwater Hearing Panel, or by both that Panel and the P1S1 Panel sitting together.
15. The Panels will sit together when both freshwater planning instrument provisions and other provisions have been allocated to a particular Hearing Stream as identified in the hearings schedule.
16. The reason for both Panels sitting together and for their overlapping membership is, as explained in the section 32 report, to mitigate the risk of the loss of integration which could occur if provisions which are written to be considered and decided on together, are put through separate planning processes (Appendix E, page 390, section 32 Report).

Key dates for section 42A reports, evidence and presentations at hearings

17. Further to sections 41B and 41C of the RMA (for the P1S1 Hearing Panel) and clause 48 of Schedule 1, Part 4 of the RMA (for the Freshwater Hearing Panel) and in order to ensure an efficient, appropriate and fair hearings process, the Panels make the following directions regarding pre-lodgement of evidence and presentations at hearings:
 - a. At least 10 working days prior to each Hearing Stream commencing, the Panel/s will issue a **hearing schedule** setting out presentation times for submitters. Wherever possible, the schedule will accommodate submitters' preferred presentation times as discussed with the Hearings Advisor.
 - b. The **section 42A report** for each Hearing Stream will be released at least 20 working days prior to hearings for that stream commencing. **Except that, for Hearing Stream 1** the relevant section 42A reports will be released 19 working days prior to the hearing start date.
 - c. **Greater Wellington's evidence and legal submissions** must be lodged at least 12 working days prior to hearings for that Stream commencing.
 - d. All **submitter and further submitter evidence, including expert evidence and any legal submissions**, must be lodged at least 10 working days prior to hearings for that Stream commencing. **Except that, for Hearing Stream 1 submitter evidence, including expert evidence and any legal submissions** will be due 9 working days prior to the hearing start date due to the late release of the section 42A reports for this hearing stream.
 - e. Any **rebuttal evidence** by Council must be lodged at least 5 working days prior to hearings for that Stream commencing.
 - f. Parties may lodge **joint legal submissions** (at least 10 working days prior to hearings for that Stream commencing) **and present jointly** at hearings if they wish.
 - g. Each hearing will commence with an **oral presentation by the section 42A** report writer.
 - h. Each submitter will **present their submission/further submission** within a 10-minute time limit. Any expert witnesses called by the submitter may present for all or part of the 10- minute time limit. Parties may ask the Hearings Advisor for additional time to present. The Hearings Advisor will accommodate these requests where it is possible to do so within the timeframe allocated for each Hearing Stream.
 - i. Submitters may present **in person or on-line**.
 - j. After hearings submissions and/or evidence, **Panel members may ask questions** of the submitters and/or their experts.
 - k. In respect of Freshwater Planning Instrument provisions, **the Freshwater Hearing Panel may permit cross-examination** by any submitter/further submitter in accordance with clause 48 of Schedule 1 RMA, Part 4. Cross-examination can only be undertaken by leave

of the Freshwater Hearing Panel. Applications for leave must be lodged with the Panel through the Hearings Administrator in writing and at least 15 working days prior to the relevant hearing Stream commencing. The application must specify the topic or issue for which leave is sought to cross-examine and the time sought to be allocated for cross-examination.

- l. **Cross-examination is not permitted in respect of non-freshwater provisions.**
- m. Once all submitters have presented, the relevant **section 42A report writer** will be asked to briefly make any **points of clarification** they wish to make in light of hearing submissions and evidence.
- n. If parties wish to present **evidence or submissions in Te Reo Māori**, or if they require **sign language services**, they must advise the Hearing Administrator at least 15 working days prior to the relevant Hearing Stream commencing so that appropriate translation services can be arranged. Notification is not required if Te Reo is solely for the opening or closing of the presentation.
- o. Greater Wellington intends to **livestream** all hearings. This will be confirmed prior to Hearing Stream 1 commencing.
- p. Council staff may arrange **site visits** for the Panel/s if considered necessary by the Panel/s.

Hearing Panels' powers

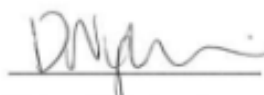
- 18. Both Hearings Panels have a range of powers provided to them under the RMA which they may elect to use to achieve an efficient, appropriate and fair hearing, mindful of their duties under sections 18A and 21 to ensure hearings progress in a reasonable, efficient and timely way.
- 19. The Freshwater Hearing Panel has specific powers in Part 4 of Schedule 1, including in relation to directing a conference of experts (clause 43), referring matters to alternative dispute resolution (clause 44), commissioning reports (clause 45) and appointing a special advisor and a friend of submitter (clause 46). The Panel will issue Minutes advising on any decisions it makes to exercise any of these specific powers.

Service on Council

- 20. Any evidence or information required by this Minute, and any memorandum or application to the Freshwater Hearings Panel and/or P1S1 Panel should be lodged by email to regionalplan@gw.govt.nz.



Craig Thompson
Chair
Freshwater Hearing Panel



Dhillum Nightingale
Chair
Part 1, Schedule 1 Hearing Panel