

# PROCEDURES/ GUIDE TO THE HEARINGS PROCESS ON THE PROPOSED DISTRICT PLAN

Adopted by Council on 3<sup>rd</sup> February 2011

For reasons of practicality and efficiency the Hearings Panel may at times vary the procedure.

## Preparing for a Hearing

It is a good idea to prepare a written statement to read out at the hearing. Identify key points and back them up with evidence – you may use photographs, drawings or written information.

You may want to practice reading your statement as this will help you feel more comfortable and confident. Think about questions that the hearing panel may ask you, and how you may respond.

### Advocates and Lawyers

If you are part of a group of submitters that made the same points in your submissions, you may wish to choose one person to speak on your behalf as an advocate.

If you feel the issues are complex or require legal interpretation, you may choose to engage a lawyer to present your submission. A lawyer may also be used to present a submission on behalf of a group of people seeking the same or similar outcomes.

### Expert witness

The hearing panel may not be experts in all areas being discussed and are seeking good, solid evidence. The consultants who have assisted in the preparation of the Plan have used experts to address matters such as traffic, noise, landscapes, biodiversity and heritage.

It may make sense, especially if submitting on technical matters to use an expert witness. Again, a group of submitters may choose to use the same expert to present on their behalf.

## On the day

- To ensure the panel understands your submission, keep your evidence simple and make clear points.
- Read your statement clearly and slowly.
- You may be presenting evidence that has already been heard by the Hearings Panel. Don't be offended if you are asked to skip any part of the evidence you are reading.
- Stick to relevant facts, and focus on environmental not emotional issues. You may not introduce any new issues beyond those set out in your submission.
- The hearing panel are decision-makers weighing up both sides of an argument, not politicians. Leave your opinions about any members of the panel at the door and do not use the hearing as a chance to argue.
- Bring at least 6 copies of your statement so that the Hearing Panel can refer to it later.

## The Hearing

### Hearings are open to the public

The Hearings are open to the public and media to observe proceedings. You should be aware that anything you present or say may be recorded and referred to outside the hearing by the public or media.

### Protection of sensitive information

The Hearing Panel may decide or you may request an order that the whole or part of the hearing shall be held with the public excluded or to restrict the disclosure of information outside the hearing where the hearing panel is satisfied that an order is necessary:

- a) to avoid serious offence to tikanga Maori or to avoid the disclosure of the location of waahi tapu or
- b) to avoid the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied the information or is the subject of that information if the importance of avoiding such offence, disclosure or prejudice outweighs the public interest in making that information available

### Avoid unnecessary formality

The least formality necessary for the proper conduct of the hearing will be employed so you and others feel comfortable.

### Use of Maori Language

Any party or witness may elect to speak Maori or to present evidence written in Maori. Notice of your intention to present evidence in Maori is to be given not later than 8 working days prior to the hearing to enable arrangements to be made for the attendance of a certified interpreter.

### The Hearing Panel

The hearing panel will consist of District Councillors with an accredited Chairperson: this means that they have undertaken training and passed examination in chairing committees. Other members of the panel may also be trained in the Ministry for the Environment 'Making Good Decisions' programme but this is not a requirement unless the panel is hearing submissions on a new designation.

At times the Council shall delegate authority to an Independent Hearing Commissioner. This is done to ensure impartiality in decision making and to bring specific skills to Council decision making. The Independent Hearing Commissioner will have the same powers as a Council Hearings Panel (to make recommendations to full Council). This will apply to matters where the Council has an interest as landowner, developer or other financial interest in the matter to be heard.

### Order of events

1. The Chairperson usually welcomes and introduces everyone. At this point, the chairperson will ensure that everyone knows the procedure in the event of an emergency, where the toilets are and what times the hearing will break for morning and afternoon tea, lunch and at the end of the day. Refer to section below on 'Housekeeping'.

2. A consultant, acting on behalf of the Council may present the s42a report, which provides an analysis the submissions received, the issues raised in submissions and recommendations on these submissions. Although this is usually taken as read as it will have been pre-circulated.
3. If relevant, expert witnesses for the Council will present evidence, for example, acoustic or traffic experts, or this may be taken as read, as it will have been pre-circulated.
4. If relevant, the lawyer acting for Council may speak.
5. The panel may ask questions of the consultant, expert witnesses and/or lawyer acting for Council
6. The submitters or experts representing the submitters will then present their submissions and answer questions from the hearing panel.
7. The hearing panel may ask further questions of the consultant planner or experts representing the Council
8. The Chairperson will then adjourn the hearing on the topic if further information or a site visit is required, or close the hearing if all information is to hand
9. A site inspection may be carried out by the Hearings Panel. Arrangements for such an inspection may be discussed before the hearing concludes. It is preferable that the Hearings Panel attends the site without any of the parties present so as to ensure impartiality and ensure that further evidence is not offered outside of the hearing by any of the parties. At times it may be necessary for a land owner to be present to assist with access or site location but it must be made clear to all parties that further evidence will not be allowed in such a situation.
10. The Hearings Panel will then deliberate with the public and all parties excluded to record considerations and form interim decisions

Decisions on hearings will not be made public until all sections of the Plan have been heard.

Council will write to inform you of the decisions it makes on all aspects of the Plan that you submitted on.

If you consider that the Council decision is wrong, you may appeal all or part of a decision to the Environment Court.

## Housekeeping

### Access

Hearings are usually held in the Council Chambers of Ashburton District Council offices, 5 Baring Square West, Ashburton. The Council chambers are on the top floor (3rd floor) of the Council offices. Access is via the main entrance of the Council offices and an elevator is available for public use inside the ground floor foyer.

## **Toilets**

Toilet Facilities, with access for the disabled, are available on the same floor as the Council Chambers, on the right hand side of the corridor if walking away from the Council chamber.

## **Acoustics**

Voice amplifying equipment may be used to assist members of the public to hear all that is said.

## **Administrative assistance**

A record will be kept of evidence presented, questions asked by the Hearings Panel and subsequent deliberations of the Hearing Panel, which will be referred to for decision making.

## **Tea or lunch breaks**

Morning and afternoon tea will be supplied to all persons attending a hearing and at times convenient with the proceedings determined by the Hearings Panel. A lunch break will be scheduled with all parties expected to make their own arrangements for lunch.

During tea breaks and meal times the Hearings Panel members are unable to receive information / evidence or discuss matters subject to a hearing or later decision or enter into conversation regarding the hearing content with any party to the hearing, apart from relevant Council staff. The Council will endeavour to provide facilities for the Hearings Panel members that are separate from the other parties for these occasions.

## **Do's and Don'ts**

### **Can I have support people?**

Yes, but remember that it's the quality of the argument not strength in numbers. You may call others as witnesses and they can speak on your behalf.

### **Can I ask questions?**

You can only ask questions about procedure. In your evidence, you may suggest questions for the panel to ask other parties but it doesn't have to ask them.

There is no cross examination of the hearing panel, submitters, lawyers or experts.

You cannot interrupt someone who is speaking even if you disagree with what they are saying.

You can only address the hearing panel.