

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

**Procedural Minute No. 9 by Chairperson of
Independent Hearings Panel**

Hearings Procedures Directions

Revised 9 April 2015

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Proposed Auckland Unitary Plan

Hearings Procedures Directions

Procedural Minute No. 9 by Chairperson of Independent Hearings Panel

1. These directions are supplementary to the relevant parts of the Auckland Unitary Plan Hearing Procedures (principally paragraphs 64 – 104 at pages 10 – 14 of version 1.1 dated 28 October 2014).
2. These directions specifically address:
 - a. The format of statements of evidence and legal submissions;
 - b. The timetabling of lodging of evidence and legal submissions; and
 - c. The evidential procedure in relation to statements of evidence and the presentation of evidence at hearings.
3. In the event of any discrepancy between the Hearing Procedures document and these directions, these directions shall prevail subject to any further direction or ruling by the Chairperson of the Hearings Panel.

Format of Statements of Evidence and Legal Submissions

4. It is important for submitters to ensure that evidence is succinct and clearly sets out the issues and the changes being sought. Submitters are requested to:
 - a. Provide an effective summary statement;
 - b. Focus the evidence on matters not agreed;
 - c. Clearly separate the matters agreed from the matters not agreed;
 - d. Set out the relief sought in an appendix.
5. All documents lodged with the Hearings Panel as evidence or legal submissions shall be:
 - a. Headed clearly with:
 - i. the name of the submitter who or on whose behalf the document is being lodged;
 - ii. the submission number;
 - iii. the Hearing Topic name and number;
 - iv. whether they contain primary or rebuttal evidence;
 - v. if containing the evidence or submissions of someone other than the submitter, the name of that witness or counsel; and
 - vi. the date; and
 - b. On white A4 paper in Arial 11 point font with sufficient margins and line-spacing that the content is readily legible;

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- c. In sequentially numbered paragraphs with coherently numbered or lettered sub-paragraphs;
 - d. Lodged electronically in either unsecured and searchable .pdf or unsecured .doc format.
6. The content of all statements of evidence or legal submissions must commence with a summary statement of the content of the document which is no more than 3 pages long.
 7. The content of evidence and legal submissions should include, in appropriate places, cross-references to the submission point numbering as set out in the Council's Summary of Decisions Requested.
 8. Any tables, figures or diagrams in any statement of evidence shall be numbered, titled and cross-referenced to the relevant text of the evidence.
 9. Submitters are requested to list matters of agreement in an appendix so that the body of their evidence is focused on matters which are not agreed.
 10. Each submitter must present as part of their evidence an appendix which lists the changes they seek to the provisions of the Proposed Auckland Unitary Plan, supported by amended text and drawings.
 11. Changes to text should be shown as underlined additions and struck-through deletions. Changes to text should **not** be presented using a tracked-change word-processing tool. Changes to drawings (including maps) should include that relevant Plan drawing (as notified) and the version that the submitter seeks to substitute.
 12. Statements of evidence shall be focussed on the particular provisions of the Proposed Auckland Unitary Plan which are of concern to the submitter and which the submission seeks to change. Incidental or background material or references should be placed in appendices.
 13. Legal submissions shall be focussed on the key objectives of the submitter on whose behalf counsel appears, with succinct reference to the statutory provisions on which the submission relies and any directly relevant case law.

Timetable for Evidence

14. All reports by facilitators of expert conferences (including joint witness statements and any agreed documents or bundles of documents) and all reports by mediators of mediations (including mediation agreements) should, as far as reasonably practicable, all be uploaded to the Panel's website at least 30 working days prior to any hearing to which such reports relate.
15. Submitters and their witnesses and counsel should refer to and adopt (without the need to copy) the content of those documents where appropriate in any statement of evidence or legal submissions.
16. A sequential evidence exchange programme shall be undertaken as follows;

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- a. The Auckland Council shall provide its primary statements of evidence to the Hearings Panel for uploading to the Panel's website at least 25 clear working days prior to the hearing to which such evidence relates;
 - b. All other submitters shall provide their primary statements of evidence (both expert and non-expert) to the Hearings Panel for uploading to the Panel's website at least 15 clear working days prior to the hearing to which such evidence relates; and
 - c. The evidence of other submitters shall address the Council's evidence, including any rebuttal of it, in their primary statements of evidence.
17. Any rebuttal evidence shall be provided to the Hearings Panel for uploading to the Panel's website at least 5 clear working days prior to the hearing to which such evidence relates.
 18. Rebuttal evidence shall only be accepted as evidence before the Hearings Panel if it is strictly in rebuttal to matters already raised in evidence and contains no material relating to new issues not previously raised in evidence. Rebuttal that simply restates primary evidence will not be accepted.
 19. Evidence and other material to be provided to the Hearings Panel must be lodged prior to or on the due date.
 20. Any notice to cross-examine a witness shall be lodged with the Hearings Panel at least 3 clear working days prior to the hearing at which the witness who is sought to be cross-examined will appear.

Presentation of evidence for other hearing topics

21. At a hearing session on a topic, the Hearings Panel will generally allow the presentation of evidence relating to other hearing topics subject to the following requirements and limitations:
 - a. the evidence must be on submission points at the same PAUP level (i.e. the Regional Policy Statement, the Regional Coastal Plan, the Regional Plan, the District Plan within the PAUP);
 - b. the evidence must be presented at the earliest session in the order of hearings on the same PAUP level;
 - c. the evidence exchange dates must be met in relation to the earliest affected topic so that other primary submitters on that topic have notice of it;
 - d. submitters who choose to present evidence on this basis are responsible for attending or not attending the other hearings to which their evidence relates and any consequences for the submitter's case that flow from this choice.
22. Notwithstanding any presentation of evidence on the basis provided for in clause 89, submission points will remain allocated as set out in the SDR and the FSR.
23. The Chairperson directs all parties to address in their primary evidence any relevant evidence of other parties presented at any earlier hearing. Rebuttal evidence for a hearing topic should be confined to addressing material raised

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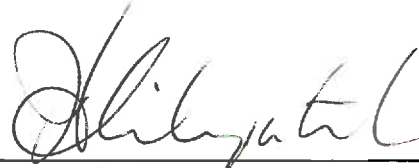
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for the first time in the primary evidence for that topic. The reason for this is to assist the Panel in dealing with large volumes of evidence by ensuring that relevant material is put before the Panel at the earliest opportunity and not left until a few days before the hearing. Parties who do not do this and who delay presenting their response to material presented earlier run the risk that the late material will not be considered by the Panel.

Procedure in Relation to Evidence

24. The Hearings Panel will pre-read statements of evidence that are provided by the due dates.
25. Witnesses may read their summary statement but shall not read the balance of their statement. On request by a submitter or counsel and with the leave of the Hearing Chairperson, a witness may take the Panel to any key diagrams, maps or other visual material that would assist the Panel to understand the evidence.
26. There is no obligation on counsel to put their case to opposing witnesses through cross-examination. That requirement of Section 92 Evidence Act 2006 (also known as the rule in *Browne v Dunn* (1893) 6 R 67) does not apply to the evidential process before the Hearings Panel.
27. No person may produce additional evidence that is not in a statement of evidence lodged according to the timetable set by the Hearings Panel other than as specifically allowed by the Hearings Panel.

Dated at Auckland this 9th day of April 2015.



David Kirkpatrick
Chairperson, Hearings Panel for
proposed Auckland Unitary Plan