

Before

The Canterbury Regional
Council

In the Matter
Of:

Proposed Variation 6 to
Chapter 4 of the Canterbury
Natural Resources Regional
Plan

Dated 5 March, 2010

First Minute of Hearing Panel of Commissioners

1. The Panel has considered the issue of how to most expeditiously conduct the hearing of submissions and further submissions on proposed Variation 6 given the large number of submissions and further submissions, most of which address a range of points. A time issue arises as to how the process can be conveniently handled to meet the statutory imperative in s.21 of the Resource Management Act, 1991:

"21. Avoiding unreasonable delay

Every person who exercises or carries out functions, powers, or duties, or is required to do anything, under this Act for which no time limits are prescribed shall do so as promptly as is reasonable in the circumstances."

2. In considering how best to achieve that goal, we have considered the provisions of ss. 41B & 41C of the Resource Management Act which enable directions to be given either before or during the hearing to enable pre-reading of evidence, or that evidence and submissions may be taken as read. Those provisions, when coupled also with the s.21 imperative are designed to ensure an expeditious hearing can occur, where the potential "*scale and significance*" of the hearing makes the exercise of the ss. 41B & 41C provisions appropriate. Our view is that the scale and significance of this case is one where those factors are present and that it is necessary to utilise those provisions in part, as well as to adopt other appropriate means of facilitating the process.
3. We are also mindful of the general direction in s. 39 (1) that we are required to adopt a hearing process which is "*appropriate and fair in the circumstances*" and which avoids "*unnecessary formality*".
4. It is our view that, because of the many submissions, there are time issues raised and we wish to run an efficient process that enables some level of certainty for submitters, further submitters and ourselves as the Hearing Panel as to the timing and completion of hearings.
5. We are of the view that a procedure akin to that utilised in the ECan PC 1 hearing process last year is probably the most practical manner of addressing the task, involving as it did the prior reading of materials in advance by the Hearing Panel, so that the focus at the hearing is on the submitters and further submitters emphasising the principal points they wish to make. In most cases, that was achieved by parties using either bullet-pointed summaries, or PowerPoint summaries of their evidence to emphasise the principal points.
6. We have also taken into account that submitters have been doubtless preparing for a considerable time now knowing this hearing process is looming.

Procedural Directions and Requests

7. We therefore intend to conduct the hearings process generally as follows, bearing in mind that some of these requirements are powers of direction and some are requests to ensure an appropriate procedure:
 - (a) The s.42A report (which we anticipate may include a number of reporters from disciplines addressing different areas (including any legal input)) is to be pre-circulated by no later than **8 March, 2010**.
 - (b) The submitters and further submitters are to present all their evidence and legal submissions to ECan by **26 March, 2010**, preferably if at all possible in digital form to assist with circulation and posting of that evidence on the ECan website.
 - (c) ECan is to provide all the evidence and legal submissions to the Commissioners as soon as collated after receipt, and to enable access to all submitters and further submitters to that material by posting it on its website.
 - (d) ECan is to liaise with the parties wishing to appear as to the timetable for hearings and to notify those wishing to be heard of the date for their presentation well in advance of the actual date of hearing proposed. That hearing timetable shall be updated and posted on ECan's website to remain current as the hearings progress.

8. At the hearing (by which time the Commissioners will have pre-read the materials):
 - (a) The morning of the opening day of 12 April, 2010 is to be allotted first to hear any procedural or housekeeping issues raised by any party, immediately followed by oral presentations by the s.42A report writers.
 - (b) ECan staff are to notify hearing dates, times and venues to generally enable that process to be followed.

9. Finally, we again emphasise that the s.39 statutory direction is that, throughout the hearing process, we are to adopt a procedure that is 'appropriate and fair' in the circumstances. At the commencement of the hearing, we have enabled opportunity for any party to address any further procedural/housekeeping issues, before the substantive hearing commences with the presentation of the s42A reports. Throughout the hearings that discretion to review hearing processes remains open.

10. We should also record that, because of some limitations as to non-availability of Hearing Panel members at various times, the hearings are anticipated at this stage to occupy the following dates:

12 & 13 April - 9am to 5pm and 14 April - 9am to 12.30 pm
27 & 29 April - 9am to 5pm
3 & 4 May - 9am to 5pm (reserve days)

Unless other arrangements are made, it will be intended that the hearings will last from 9 am to 5 pm on days the Panel sits.

If further hearing time seems necessary after the liaison of ECan staff with parties appearing, then notification of any further dates will be given at that stage.



R.D.Crosby
Chairman Hearing Panel of Commissioners