

BEFORE THE HEARINGS PANEL

IN THE MATTER

of the Resource Management
Act 1991

AND

IN THE MATTER

of Proposed District Plan for
Waimakariri District Council
2023

**MEMORANDUM RESPONDING TO COUNCIL MEMORANDUM REGARDING
MINUTE 5 OF THE HEARINGS PANEL**

ANDREW CARR (SUBMITTER #158)

1 September 2023

1. INTRODUCTION

- 1.1 Minute 5 of the Hearings Panel included a request for further details regarding the Council's approach to submissions seeking more substantive rezonings. For such submission and requested rezoning, the Panel sought clarity on "*timing, information requirements, whether the hearings will be area or PDP / Variation 1 based, or other, along with any other relevant matters the Council considers necessary*" (paragraphs 12 to 14).
- 1.2 Mr Wilson of the Council subsequently issued a memorandum dated 18 August 2023 (**the Council memorandum**), responding to this (and other matters raised in Minute 5). His response regarding hearings for rezoning requests is set out in his paragraphs 14 to 17.
- 1.3 This memorandum responds to Mr Wilson's memorandum, and identifies possible issues of timing that he has not mentioned. A possible way forwards is also set out, to address the issues identified.

2. HEARING PANEL CONCERN: TIMING

- 2.1 Minute 1 of the Hearings Panel identified that technical evidence for rezoning submissions is to be provided "*no later than 60 days in advance*" of the start of the relevant hearing (paragraph 74), and that s 42A reports should be made available "*twenty working days before the relevant Hearing Stream commences, but earlier if possible*" (paragraph 118).
- 2.2 The Council's memorandum proposes that rezoning is addressed in Stream 12 which is due to commence on Wednesday 10 April 2024 (Appendix 1 to the Council's memorandum). The Council also sets out that the s 42A report for all rezoning requests will be provided prior to the start of the hearing (paragraph 16).
- 2.3 Given these dates, the s 42A report will be available on or around 11 March 2024, taking account of statutory holidays at Easter. Submitters' technical evidence would be due on or around 15 January 2024. In practice, due to the likely unavailability of any

technical report authors in the summer period, the effective deadline for technical reports for submissions is before the Christmas break.

- 2.4 The Council's memorandum identifies that there are "around 200" submissions that seek rezoning (paragraph 18). Consequently, the current timings mean that Council officers could have just 40 working days in which to read, review and evaluate the technical reports provided for the approximately 200 sites, and write a considered response via the s 42A report. Even if there is an average of just 3 technical reports per submission (which is likely a conservative figure), it means that officers have to review and respond to 600 technical reports. With only 40 working days available, this equates to assessing 15 reports per day (or reviewing and responding to one report every half an hour).
- 2.5 Many of these reports will be lengthy and necessarily highly technical. Even if spread amongst a team of people, this workload appears neither viable nor practical and will simply overload the Council officers (and their consultants, if appointed). In turn, time pressures will increase the possibility of salient technical details being accidentally overlooked, incorrect or inconsistent recommendations about rezonings being made, and the possibility of deadline extensions being sought.
- 2.6 Bringing forward the dates at which technical information is required to be available greatly assists in addressing this by creating more time for the review process. However if dates for the provision of technical information are arbitrarily brought forward, this necessarily reduces the time available for submitters to commission technical experts to write those reports. Under this scenario, it is entirely plausible that some submitters may not be able to find a technical expert in sufficient time, to the detriment of a successful rezoning outcome.

3. HEARING PANEL CONCERN: INFORMATION REQUIREMENTS

- 3.1 The Panel sought that "*information requirements*" were provided to assist submitters seeking rezonings. However the Council's memorandum sets out that "*to assist submitters ... Council s42A*

officers propose issuing a memo with some considerations” (paragraph 17).

- 3.2 The bullet points that are set out by the Council (paragraph 17) are general sources of information that might or might not be relevant to submitters. They are not indicative of the type of information required or the technical areas that the Council will have regard to when considering the merits of a submission and whether a site is suitable for rezoning.
- 3.3 That said, it is practically impossible for the Council to specify exactly what information should be provided for what site, due to the wide range of submissions in respect of the rezoning sought, and the size and complexity of the sites.
- 3.4 This potentially creates a situation where submitters will provide what they consider to be a comprehensive suite of supporting information, only for the Council to identify that relevant information is omitted. Since any omissions would only be identified once Council officers have started reviewing the technical reports, it simply might not be possible for a submitter to provide the additional information within the timeframe remaining to them.

4. SUGGESTED APPROACH TO MANAGEMENT OF TIMING AND INFORMATION REQUIREMENTS

- 4.1 The Hearings Panel’s aim of providing “*clarity for submitters*” is wholly supported, as it is the Council’s aim of “*natural justice and fairness for all submitters*” (Council memorandum paragraph 8).
- 4.2 The current timeframes in and of themselves do not appear to support these aims, because they lead to a scenario with a high potential for a slew of technical reports to be provided leading to overloading of Council officers, coupled with an expectation by all submitters that their reports will be given due consideration and weight.
- 4.3 While an arbitrary extension of timeframes for Council officers to review the information provided by submitters does not resolve the situation, and would likely disadvantage some submitters as

discussed above, Minute 1 does not prevent submitters from providing technical information sooner than “60 days in advance” of the hearing. At present though, there is simply no reason for submitters to do this, as their information will be evaluated in the same manner and at the same time as information for other sites that is provided 60 days before the hearing.

- 4.4 It is therefore suggested that refining the timings of Minute 1 to strongly encourage (but not arbitrarily require) early submission of technical reports would assist in resolving the issues above.
- 4.5 It is submitted that this could be achieved by the Council undertaking to review any incoming package of technical information, and responding to the submitter within a certain number of working days as to whether the information was deemed to be complete, or if additional information was needed, or if the reports were considered to somehow be incorrect.
- 4.6 For the Council officers, this approach would mean they received technical information over an extended timeframe which in turn will reduce the extent of information received just before the 60-day deadline expires. This then makes it much easier for them to manage workloads in early 2024. However it would not increase their workloads overall, because reviewing information to ensure it is correct and complete is a task that is required regardless. Rather this task would simply be spread over a considerably longer period of time, and is therefore more achievable.
- 4.7 It is stressed that Council officers would not be required to make any substantive recommendations about the merits of the rezoning sooner than presently expected under Minute 1, or inform submitters of the outcomes. Rather, the response would only to confirm that all relevant information had been received, there was no further work needing to be done by the submitter and Council officers were able to make a recommendation.
- 4.8 For submitters who chose to provide the technical information, this approach means that they can have certainty that no further information will be sought at the last moment, or that their submission might be rejected due to the absence of some technical information.

Instead, if information is deemed to be missing or to require revision, they have the opportunity to provide it within an extended timeframe.

4.9 Submitters are able to self-select as to whether they choose to provide the information earlier or not; the decision is not imposed upon them. Accordingly, some submitters may not wish to provide any information until closer to the deadline of 60 days prior to the hearing. That would be their choice, with the consequential risk that their information may not be complete. However this is no different to the current situation.

4.10 In short, the approach set out above:

- a. Manages workloads on Council officers while not increasing the amount of work needed overall, and thereby increases the robustness of their recommendations;
- b. Provides greater certainty to those submitters choosing to submit their technical information early, and increases the ability to provide additional information if needed;
- c. Does not impose any disadvantages (or in fact change the current situation) for submitters choosing to provide their technical information closer to the 60-day deadline.

5. SUMMARY OF OUTCOME SOUGHT

5.1 It is requested that the Hearings Panel directs a refinement to the timeframes in Minute 1, that:

- a. Submitters are strongly encouraged to provide technical information supporting their rezoning submission sooner than later;
- b. Packages of technical information that are provided to the Council on or before Friday 3 November 2023 will be reviewed for completeness and correctness by the Council.
- c. Within 20 working days of receiving the information, the Council will respond to the submitter to advise whether the package is complete and is sufficient for a substantive

recommendation to be made, or whether further information is required (and if so, the nature of that information).

- d. Submitters will then be able to revise their technical information as required, and reissue to the Council in advance of the deadline of 60 days prior to the hearing commencing.

Andy Carr

1 September 2023