

**IN THE MATTER of  
the Resource Management Act 1991**

**AND**

**IN THE MATTER of  
hearing of submissions and further  
submissions on the Proposed  
Waimakariri District Plan**

**AND**

**of hearing of submissions and further  
submissions on Variations 1 and 2 to the  
Proposed Waimakariri District Plan**

**MINUTE 29 – CROSS-EXAMINATION FOR  
HEARING STREAM 12D – VARIATION 1**

## IHP RESPONSE TO REQUEST TO CROSS-EXAMINE EXPERT WITNESSES FOR HEARING STREAM 12S – VARIATION 1

1. The purpose of this Minute is to respond to the Memorandum of Counsel for Rolleston Industrial Developments Limited (RIDL) (RIDL Memo), submitter 60 on Variation 1 to the Proposed Waimakariri District Plan. The RIDL Memo is available on the [Council website](#).
2. Counsel for RIDL seek leave to cross-examine certain witnesses for the Council and the Oxford Ohoka Community Board, the purpose of which is to test and consider in greater detail their positions in respect to RIDL’s rezoning request in the context of Variation 1. One of the areas of cross-examination cited for the three Council witnesses was the work completed for Hearing Stream 12E which is not yet available for this hearing stream. The RIDL legal submissions raise issues of natural justice and fair process that these experts are relying on evidence yet to be made public, including to ourselves.
3. The RIDL Memo also sets out that it is unclear how the IHP was proposing to approach the Variation 1 part of the hearing and any cross-examination.
4. We address these matters in turn.
5. Given the narrow scope of this hearing, limited to the RIDL submissions seeking to rezone land in Ohoka, we had not intended to separate out the hearing of submissions on the PDP and Variation 1, which is why the hearings agenda is set out the way it is. We considered it would have been inefficient to hear evidence from the Council and all submitters on the PDP then move to hear from the same people on Variation 1.
6. We agree that there are issues of natural justice and fair process arising from the Council experts relying on evidence that has yet to be made publicly available. Given this is yet to be made available, we do not consider that it would be helpful for cross-examination to occur on this point, at this time. We grant leave to RIDL to provide evidence and appear at HS12E in respect of any evidence presented by the Council in respect of residential capacity/sufficiency and housing capacity and update that was not made available through Hearing Stream 12D, as it affects the RIDL submission that is the subject of Hearing Stream 12D.
7. Having read Counsel’s legal submissions and their expert planning witnesses’ evidence on the PDP and Variation 1, we are unclear as to whether there remains scope for the Variation 1 submission, and therefore for cross-examination to occur. In particular:
  - a. RIDL no longer are seeking a general residential zone (GRZ) for part of the rezoning site (under the PDP submission) and are instead seeking to replace it with a settlement zone (SETZ). The other residential zone proposed is large lot residential zone (LLRZ)

- b. RIDL are no longer seeking a medium density residential zone (MRZ) under Variation 1 for that part of the site that was sought to be zoned GRZ under the PDP submission
  - c. Under s77G of the RMA, a specified territorial authority may create new residential zones through an Intensification Planning Instrument (this is Variation 1)
  - d. A new residential zone is defined as a “an area proposed to become a relevant residential zone that is not shown in a district plan as a residential zone”
  - e. A relevant residential zone is defined as meaning all residential zones, but does not include a LLRZ or a SETZ, which are the zonings now proposed by RIDL.
8. In summary, because RIDL are no longer seeking MRZ in the Variation 1 submission, we are unclear as to whether what is sought can be defined as a new residential area and therefore be in scope of Variation 1. Therefore, we are unclear as to whether there is scope for cross-examination to occur, in either Hearing Stream. We are also mindful that the witnesses for the Oxford Ohoka Community Board are not appearing in Hearing Stream 12E in respect of their further submission and would need to be made available.
9. Given our uncertainty about the legal status of Variation 1, we hereby request that the Council provides the IHP with legal advice on the matters we have set out above, and that they consider the RIDL legal submissions for Variation 1 in doing so. This is to be provided to us in a timely manner so that we are able to make a determination as to whether we will grant leave to RIDL to cross-examine the three Council witnesses during Hearing Stream 12E, after the further evidence not available in Hearing Stream 12D has been presented.
10. Given the current uncertainty about scope, we do not grant leave for Counsel for RIDL to cross-examine Mr Metherell or Mr Boyes in Hearing Stream 12D. Counsel are requested to put any questions that they have for these two witnesses forward when providing their legal submissions on the PDP / Variation 1, for our consideration.
11. We also signal that we will be directing expert conferencing occurs in respect to residential capacity/sufficiency, housing capacity and uptake, transport and planning (and other matters), after the hearing concludes. The IHP welcomes suggestions for questions to put to these witnesses which may also address those matters that Counsel wishes to cross-examine on.

## CORRESPONDENCE

12. Submitters and other hearing participants must not attempt to correspond with or contact the Hearings Panel members directly. All correspondence relating to the hearing must be addressed to the Hearings Administrator on 0800 965 468 or [Audrey.benbrook@wmk.govt.nz](mailto:Audrey.benbrook@wmk.govt.nz).



Gina Sweetman  
Independent Commissioner – Chair - on behalf of the PDP Hearing and IHP members  
25 June 2024

