

**IN THE MATTER OF:** the Resource Management Act 1991

**AND IN THE MATTER OF:** Proposed Plan Change 49 -  
Open Spaces (PC49) to the  
Operative Upper Hutt District Plan;  
and Variation 1 to PC49

**MINUTE (1) OF THE HEARING PANEL APPOINTED BY UPPER HUTT CITY COUNCIL**

Introduction

1. You have received this Minute because you have either made a submission, have been involved in the preparation of, or are an expert witness in the matter of Plan Change 49 and Variation 1 to the Operative Upper Hutt District Plan (PC49 and Variation 1).
2. This document is referred to as a Minute. Prior to, after and during the hearing there may be other Minutes which are sent out by the Independent Hearing Panel (Panel) to address particular issues. The general function of this Minute (1) is to set out some preliminary matters in preparation for the hearing of PC49 and Variation 1.
3. It covers:
  - (a) The appointment of the Independent Hearings Panel
  - (b) The purpose of the hearing
  - (c) The hearing date/s and venue
  - (d) Site and locality visit
  - (e) Communication and questions
  - (f) Hearing process and presentations
  - (g) Pre-provision of evidence

Appointment of the Panel

4. The Upper Hutt City Council (the Council) has appointed **Sue Wells** (Chair), **Ina Kara-France** and **Matthew Muspratt** as Independent Commissioners pursuant to section 34A of the Resource Management Act 1991 (RMA) with regard to PC49 and Variation 1. The panel has been delegated the task of hearing evidence and submissions, and then making recommendations to Council.

### Purpose of the Hearing

5. In 2021 the Council carried out a review of the Open Space Chapter of the Operative District Plan (2004). That led to PC49 being publicly notified on 11 August 2021. It received 27 submissions and 49 further submissions. As many of the submissions and further submissions related to an area (the Silverstream Spur) which was out of scope of PC49, Council initiated a Variation (Variation 1) to PC49 to enable consideration of the issues raised and the matter in its entirety. This hearing will be considering both PC49 and Variation 1.

### Hearing date and venue

6. Based on the number of submitters asking to be heard, the hearing has been set down to be heard in the week commencing **Monday 27 November 2023 to Friday 1 December, with the week commencing December 4 2023 also set down if required.**
7. Scheduling for appearances will preferably take place in the first week to be as efficient as possible.
8. The hearing will commence at 9am each day and finish by 5pm.
9. The hearing will take place at the Upper Hutt Civic Centre, 838/842 Fergusson Drive, Upper Hutt Central, which has accessible facilities.

### Site and locality visit

10. The Panel will also undertake a visit of all sites the Panel considers relevant in carrying out its consideration of matters raised by submitters. This will be undertaken on 23 November 2023 with other possible visits scheduled during or after the hearing. Council staff will be liaising with relevant parties prior to the hearing to facilitate site visits. In that respect, if any party has a desire for the Panel to visit particular sites/localities they should advise the hearing administrator.

### Communication and questions

11. Any enquiries regarding this Minute, the hearings process or any related matters must be directed to the council Hearing Manager, Hayley Boyd ([Hayley.boyd@uhcc.govt.nz](mailto:Hayley.boyd@uhcc.govt.nz)).
12. No party is to directly contact any member of the Hearings Panel.
13. This includes during any site visit.

### Hearing process and presentations

14. Appearing at a hearing may be a new experience for some submitters. Those who have not been involved in hearings under the RMA before may wish to look at the following guidance on the Ministry for the Environment website: <https://environment.govt.nz/publications/appearing-at-a-hearing-about-a-proposed-plan-or-resource-consent/>
15. This section outlines the basics of what you can expect and sets out how things run at this type of hearing.

16. Under section 41 of the RMA, the Panel has the ability to set the format and Kaupapa of the hearing, manage its tone, how it runs on the day. Section 42 of the RMA gives the Panel the authority to require experts to provide evidence ahead of time to enable an efficient hearing, and those directions are set out at paragraphs 28-31 of this Minute.
17. As set out in directions later in this Minute, expert evidence (including that of the Council) will have been pre-circulated and the Panel will have read it.
18. The key purpose of the hearing is to allow the Panel to hear from and ask questions of the Council planning officers/expert witnesses, submitters, and any expert witnesses assisting submitters. This helps the Panel understand the key issues so it can make its recommendations back to the elected Council which is the ultimate decision maker.
19. RMA hearings are not a debate or a court proceeding, they are an inquiry. The Panel is the one asking the questions, there is no cross-examination or the like.
20. On the first morning, after the opening Karakia by Council, the Panel will offer some preparatory remarks, and house keeping matters will be covered.
21. Should there be any procedural matters raised the Panel will hear those and provide a response via a Minute which will be published on the PC49 and Variation 1 webpage: [Plan Change 49—Open Spaces UHCC \(upperhuttcity.com\)](http://www.upperhuttcity.com/plan-change-49-open-spaces)
22. As this hearing relates to a Council proposal, Council officers and any experts they have will present first.
23. Submitters are heard next and the Panel will ask any questions it needs to of submitters and any experts assisting submitters. (It is expected that this will take several days as many people have asked to attend the hearing and be heard.
24. The Council Hearings Manager will be working carefully with submitters regarding when speaking times are likely to be and if possible to group submitters together in a way that means people speaking on the same topic can hear each other's presentations and minimise repetition. (As indicated at the start of this minute, the intention is to try to organise the speaking schedule so most, if not all, submitters are heard in the first week.)
25. Generally, parties should target their presentations to approximately 15 minutes, leaving time in there for any questions from the Panel. If there is a reason why more time is needed, that should be discussed in advance with the Council Hearings Manager.
26. The Panel will have read submissions and any pre-circulated evidence and legal submissions in advance of submitter presentations. Therefore, it is expected that submitter presentations will focus on the key matters they wish to focus on rather than read entire submissions, evidence or legal submissions verbatim.
27. After submitters have been heard, the Council has a final right of reply. This may be done verbally at the end of the hearing, or in writing after the hearing has adjourned.

## Pre-provision of evidence

28. This part of the Minute contains the formal Directions of the Panel. The purpose of these Directions is to provide the opportunity for all parties to the hearing to consider any technical evidence in advance of the hearing to assist all parties in understanding that evidence.
29. The Directions do not apply to evidence to be presented by submitters who are “non-experts”, or persons who do not provide expert evidence at these types of proceedings. They will have the opportunity to present written or oral evidence at the hearing in the normal manner. They do not need to pre-circulate their own statements or representations before the hearing commences. If you have any questions about this, please contact the Council Hearings Manager.
30. Section 41B of the RMA provides that the Hearings Panel may direct that certain evidence called by the applicant or submitters be provided to the Hearings Panel before the hearing. Section 42A of the RMA provides that the Hearings Panel may require a report on the matters to be considered be provided prior to the hearing.
31. We direct as follows:
  - (a) Pursuant to section 42A of the RMA, the section 42A report prepared by the Council shall be made available on Council's web site by **4pm Friday 3 November 2023**. The report is to be in .pdf and Word document format.
  - (b) Pursuant to section 41B(3) and (4) of the RMA, all expert evidence to be given at the hearing on behalf of any submitter shall be provided to Council by **4pm 17 November 2023**. The evidence is to be in .pdf and Word document format.
  - (c) As soon as possible after any evidence received pursuant to the above Directions, the Council shall place the evidence on Council’s website.
32. All expert evidence, including the section 42A report must be received within the timeframes set out above. Where a party seeks to deviate from the timeframes above, they are to seek leave from the Panel in advance, setting out the reasons for the request to deviate, how this may impact on hearing timeframes, and setting out any remedies for any impact. Expert evidence that is received outside of the set timeframes may not be accepted by the Panel, unless leave is granted.
33. All expert evidence, including the Council section 42A report, must be prepared in accordance with the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023.

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<sup>1</sup> Expert evidence is evidence given by a person with specialist qualifications and / or experience. It includes experts in Mātauranga Māori.

34. We request that any:

- (d) Legal submissions be provided no later than **4pm 17 November 2023**.
- (e) Procedural issues or matters relating to conflicts of interest be raised, through the Hearing Administrator, no later than **4pm 17 November 2023**.

A handwritten signature in black ink, appearing to read 'Sue Wells', written in a cursive style.

**Sue Wells**  
**Chairperson, on behalf of the Hearings Panel**  
DATE 3 November 2023