

Proposed Marlborough Environment Plan

Minute of the Hearing Panel

Minute 1

The Council has delegated the authority to hear submissions and further submissions to, and make decisions on, the Proposed Marlborough Environment Plan (MEP) to a Hearing Panel (the Panel). The Panel is chaired by Councillor Trevor Hook and comprises Councillors David Oddie, Laessa Shenfield, Jamie Arbuckle; and the independent commissioners Mrs Shonagh Kenderdine, Mr Ron Crosby and Mr Rawiri Faulkner.

There are over 1300 separate submissions made on the MEP, consisting of over 17,000 separate submission points in support of or in opposition to the notified MEP provisions. This is obviously a large number of submissions to consider when making decisions on the MEP. A significant proportion of submitters also wish to be heard. The challenge is to devise a process which is “appropriate and fair in the circumstances” as required by the Resource Management Act 1991 (RMA).

On the 23 August 2017, the Panel considered the matter of procedure for the hearing of submissions and further submissions on the Proposed Marlborough Environment Plan (MEP).

The Panel is mindful that the MEP is a combined regional policy statement, regional coastal plan, regional plan and district plan. The planning provisions addressing any issue are contained in up to four volumes: Volume 1 (objectives, policies and methods), Volume 2 (rules and definitions), Volume 3 (appendices) and/or Volume 4 (zoning maps and overlays). Taking these circumstances into account, and the challenges posed by the large number of submissions it has to consider, **the Panel has decided to hear submitters and further submitters by topic**. In this way, the Panel will hear the evidence and information for all of the provisions addressing an issue at the same hearing (regardless of the volume within which the provisions reside).

The Panel did take into account that this might require submitters (for the remainder of this Minute the term “submitters” includes further submitters) to appear on multiple occasions (if they submitted on a variety of provisions) and were mindful of the travel and financial implications that hearing by topic might create. However, the Panel is charged with making decisions on an integrated planning document. The Panel members are currently of the opinion that structuring the hearing by topic is the best option in these circumstances. Throughout the hearing process though, the Panel will retain the flexibility to vary the process, but only where it is satisfied the circumstances require some different approach.

The present intent is that topics will be grouped into hearing blocks (a block of time set aside to hear submitters on particular topics). This approach will, in combination with the procedural directions below, assist with the organisation of the hearing and the scheduling of individual submitters in each hearing block. A separate hearing notice will be issued for each hearing block.

An indicative list of topics is attached to this minute. Please note that this is subject to change.

The very large number of submissions and people requesting to be heard mean that a time issue arises as to how the process can be conveniently handled to meet the statutory imperative in Section 21 of the Resource Management Act 1991 (RMA):

Section 21

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.

The Panel’s view is that this is a case where it is necessary to utilise the powers of direction within Sections 41B and 41C of the RMA in order to achieve an efficient, appropriate and fair hearing.

The Panel has decided that all evidence and legal submissions should be pre-circulated prior to the hearing. The evidence, as well as the original submissions and further submissions, will have been read by the Panel in advance of the hearing.

If you are a submitter and you wish to speak only to the matters you have raised in your submission no further documents need to be provided to the Council as the Panel will have pre-read all submissions.

However, you may also wish to give evidence by providing a written statement or discussing additional information, including expert evidence, which was not provided with your original submission, but which is relevant to and supports issues raised in that submission, or call a witness to do this on your behalf. If this is the case, **all written material must be provided to the Council ahead of the hearing** by a date which will be specified in each notice of hearing for a particular block of topics. Such further evidence and legal submissions should, if possible, be provided in electronic form.

To make steady progress through the hearing topics, it is also considered necessary to limit the time provided to each submitter. Time is to be limited for oral presentations to 20 minutes per submitter, including any expert evidence. If submitters do not wish to appear and make an oral presentation in respect of the topic set down for hearing in that hearing block, or do not require the full 20 minutes for that purpose, they are requested to advise that in writing.

The approach outlined above provides submitters the opportunity to emphasise the principal points that they wish to make. The hearing also provides an opportunity for Panel members to ask questions of submitters.

If any submitters wish to be heard in te reo they are requested to advise that in writing two weeks prior to the relevant hearing block commencing.

The Panel recognises that there may be exceptional circumstances that justify some flexibility in terms of the procedural directions outlined above and in more detail below. Having said that, the term "exceptional" is deliberately used. Logical and compelling reasons will be necessary to support any requests for either a reduced number of appearances (i.e., by providing evidence/information on multiple topics on the one occasion) or for further time.

The Panel will provide submitters who wish to be heard the opportunity to have an input into the overall hearing procedure, as set out in this minute. That input must be provided in writing to Pere Hawes, Manager Environmental Policy at the Council by Friday 6 October 2017. The Panel will consider any feedback and then issue a minute to confirm the overall hearing procedure prior to commencing Hearing Block One.

Any other procedural requests as the hearings proceed, which arise from exceptional circumstances at the time, (e.g., illness, weather, unexpected absence from Marlborough), must be made in writing two weeks prior to the commencement of the relevant hearing block of topics. The request should set out the relevant reasons. The Panel will then issue a further minute with decisions on the requests prior to the hearing block commencing.

The Panel intends to commence with two hearing weeks on 20 November 2017 for Hearing Block One.

The present intent is that subsequent topic hearing blocks will re-commence with Hearing Block Two in the week 12 February 2018 and continue to the conclusion thereafter. The hearings are proposed to be held from Monday to Thursday of each hearing week, except on those weeks when other Council meeting requirements require Panel Councillors to be present on a Thursday. Flexibility will be retained by the Panel to have breaks in that sequence as required to meet availability concerns for Panel members or submitters.

The Council staff who will be organising the hearings, and to whom any enquiries as to timing for appearances can be made, are Sue Bulfield-Johnston and Louise Walker. Their contact details are:

	Phone	Email
Sue Bulfield-Johnston	03 520 7400	sbu@marlborough.govt.nz
Louise Walker	03 520 7400	lwa@marlborough.govt.nz

Please note that an audio record of the hearing will be made. This will be available upon request from the Council.

Procedural directions

To summarise, the Panel intends to conduct the hearing on the MEP generally as follows:

1. The Panel will conduct the MEP hearing by topic, with multiple topics to be scheduled in blocks to allow the directions set out below to be most effectively applied;
2. A hearing notice will issue for each hearing block of topics;
3. The submitters are to provide all of their evidence, and/or that of their expert witness, and any legal submissions prior to a date set for each hearing block;
4. Section 42A reports will be pre-circulated at least 10 working days prior to the date that all evidence/legal submissions are to be lodged;
5. Any request to hear evidence/further information out of sequence or any request for additional time at the hearing must be made in writing at least two weeks prior to the commencement of the relevant hearing block;
6. The Panel will issue a minute in respect of any such request(s) prior to the relevant hearing block commencing;
7. If any submitters wish to be heard in te reo they are requested to advise that in writing two weeks prior to the relevant hearing block commencing;
8. Each hearing block will commence with an oral presentation by the relevant Section 42A report writers in respect of that block of topics;
9. Thereafter, each submitter, and/or their expert witness(es), is to present orally within the 20 minute time limit;
10. After hearing submissions and/or evidence, members of the Panel may ask questions of the submitters and/or their expert(s) through the Chair (Please note that the RMA does not allow cross-examination by any submitter);
11. The relevant Section 42A report writers will be asked to briefly make any points of clarification they would like to make in view of hearing the submissions and evidence;
12. Council staff are to provide hearing notices for hearing blocks, dates, times and venues to generally enable processes to be followed;
13. Council staff may also arrange site visits for the Panel if considered necessary by the Panel.

Partly to demonstrate how the procedure is to apply, but primarily to provide submitters early notice in respect of Hearing Block 1 and Hearing Block 2, the Panel has attached directions with respect to the topics covered in each of these blocks. Note that a date by which evidence and any legal submissions are to be lodged with the Council is specified.

For the avoidance of doubt, a separate hearing notice will be sent to all submitters that wish to be heard on the topics within Hearing Block 1 and 2 in due course. This will include instructions on how to lodge evidence and/or legal submissions with the Council.

All information relevant to the hearings will also be made available on the Council's website:

www.marlborough.govt.nz/your-council/resource-management-policy-and-plans/proposed-marlborough-environment-plan

The Panel may issue further minutes, through the Chair, when necessary during the hearing process. These minutes will also be uploaded to the Council's website. Submitters are encouraged to view the Council's website from time to time.

Finally, the MEP will set the strategic direction for the sustainable management of Marlborough's natural and physical resources for the foreseeable future. The Panel understands the serious nature of these proceedings and our decision making role. This has been foremost in our mind when considering and determining a hearing procedure that is fair and appropriate.

Dated 14 September 2017

A handwritten signature in black ink, appearing to read 'T Hook', followed by a period. The signature is written in a cursive, slightly slanted style.

Councillor Trevor Hook

Chair of the MEP Hearing Panel

Hearing Block One

Hearing Block 1 is as follows:

Topic number	Topic name	Provisions covered ¹	Hearing dates ²	Venue
2	Iwi	Volume 1: Chapter 3, Marlborough's Tangata Whenua Iwi Volume 2: Rules for Papakainga and Marae in multiple zones	Monday 20 November 2017 Tuesday 21 November 2017 Wednesday 22 November	To be confirmed
1	General	Volume 1: Chapter 1, Introduction and Chapter 2, Background	Monday 27 November 2017 Tuesday 28 November 2017 Wednesday 29 November 2017	Council Chambers, Marlborough District Council Administration Offices, Seymour Square, Blenheim
3	Natural and Physical Resources	Volume 1: Chapter 4, Use of natural and Physical Resources	Monday 27 November 2017 Tuesday 28 November 2017 Wednesday 29 November 2017	Council Chambers, Marlborough District Council Administration Offices, Seymour Square, Blenheim

Section 42A reports for the above topics will be distributed to submitters that wish to be heard on the above topics no later than Monday 16 October 2017.

All evidence or information further to your submission, and any legal submissions, for the above topics is to be provided to the Council by Monday 6 November 2017.

¹ These provisions are indicative only.

² All hearings are 9am to 4pm.

Hearing Block Two

Hearing Block Two is as follows:

Topic number	Topic name	Provisions covered ³	Hearing dates ⁴	Venue
5	Natural Character and Landscape	Volume 1: Chapters 6, Natural Character and 7, Landscape Volume 2: Rules for landscape and natural character protection in multiple zones Volume 3: Schedules identifying natural character and landscape values Volume 4: Natural character and landscape overlays	To be confirmed, but likely to commence on Monday 12 February 2018.	Council Chambers, Marlborough District Council Administration Offices, Seymour Square, Blenheim
16	Climate Change and Energy	Volume 1: Chapters 18, Energy and 19, Climate Change	To be confirmed, but likely to commence on Monday 12 February 2018.	Council Chambers, Marlborough District Council Administration Offices, Seymour Square, Blenheim
6	Indigenous Biodiversity	Volume 1: Chapter 8, Indigenous Biodiversity Volume 2: Indigenous vegetation clearance rules in multiple zones Volume 3: Ecological significance criteria Volume 4: Threatened environments overlay	To be confirmed, but likely to commence on Monday 12 February 2018.	Council Chambers, Marlborough District Council Administration Offices, Seymour Square, Blenheim

Section 42A reports for the above topics will be distributed to submitters that wish to be heard on the above topics no later than Monday 20 November 2017.

All evidence or information further to your submission, and any legal submissions, for the above topics is to be provided to the Council by Monday 11 December 2017.

CM reference: 17172889

³ These provisions are indicative only.

⁴ All hearings are 9am to 4pm.

Proposed MEP Hearing Topics

V1: Volume 1

V2: Volume 2

V3: Volume 3

V4: Volume 4

Topic	Issue/Provision	Provisions covered
1	General	General submissions (V1) Chapter 1, Introduction (V1) Chapter 2, Background
2	Issues of significance to Marlborough's tangata whenua iwi	(V1) Chapter 3, Marlborough's Tangata Whenua Iwi (V2) Rules and standards for marae and papakainga
3	Use of natural and physical resources	(V1) Chapter 4, Use of Natural and Physical Resources
4	Water Allocation and Use	(V1) Chapter 5, Allocation of Public Resources (excluding Issue 5J) (V2) Rules and standards for water allocation and use (V2) Rules and standards for bore construction and alteration (V3) Appendix 6, Environmental Flows and Levels (V4) Freshwater Management Units 1-5 (V4) Afforestation Flow Sensitive Sites Overlay
5	Natural Character and Landscape	Natural Character: (V1) Chapter 6, Natural Character (V2) Standards for setbacks from Riparian Natural Character Management Areas (V3) Appendix 2, Coastal Natural Character Schedule of Values (V3) Appendix 4, Determining Significant Adverse Effects (V4) Coastal Natural Character Overlays 1-5 (V4) Riparian Natural Character Management Area Landscape: (V1) Chapter 7, Landscape (V2) Landscape rules and standards (V3) Appendix 1, Landscape Schedule of Values (V4) Landscapes 1-11 Overlays

Topic	Issue/Provision	Provisions covered
6	Indigenous Biodiversity	<p>General:</p> <p>(V1) Chapter 8, Indigenous Biodiversity</p> <p>(V3) Appendix 3, Biodiversity Criteria for Significance</p> <hr/> <p>Indigenous vegetation clearance:</p> <p>(V2) Indigenous vegetation clearance rules and standards</p> <p>(V4) Threatened Environments 1-9 Overlays</p> <hr/> <p>Significant wetlands:</p> <p>(V2) Significant Wetland rules and standards</p> <p>(V3) Appendix 25, Pest Plants</p> <p>(V4) Zoning 1-268, but limited to those zoning maps subject to submission</p> <hr/> <p>Marine:</p> <p>(V2) Rules and standards for protection of Ecologically Significant Marine Sites</p> <p>(V4) Ecologically Significant Marine Sites 1-18 Overlays</p>
7	Public Access and Open Space	<p>Public Access:</p> <p>(V1) Chapter 9, Public Access and Open Space, Issue 9A</p> <p>(V2) Subdivision rules for esplanade reserves and esplanade strips</p> <p>(V4) High Priority Water Bodies for Public Access</p> <hr/> <p>Open Space:</p> <p>(V1) Chapter 9, Public Access and Open Space, Issue 9B</p> <p>(V2) Chapter 17, Open Space 1 Zone; Chapter 18, Open Space 2 Zone; Chapter 19, Open Space 3 Zone; (less rules and standards dealt with in other topics)</p> <hr/> <p>Ski fields:</p> <p>(V1) Chapter 9, Public Access and Open Space, Issue 9B</p> <p>(V2) Chapter 20, Open Space 4 Zone (less rules and standards dealt with in other topics)</p>
8	Heritage Resources and Notable Trees	<p>Heritage Resources:</p> <p>(V1) Chapter 10, Heritage Resources, Issue 10A</p> <p>(V2) Rules and standards for heritage resources</p> <p>(V3) Appendix 13, Register of Significant Heritage Resources, Schedules 1 and 2</p> <p>(V4) Zoning 1-268, but limited to those zoning maps subject to submission</p>

Topic	Issue/Provision	Provisions covered
		<p>Notable Trees:</p> <p>(V1) Chapter 10, Heritage Resources, Issue 10B</p> <p>(V2) Rules and standards for notable trees</p> <p>(V3) Appendix 13, Register of Significant Heritage Resources, Schedule 3</p> <p>(V4) Zoning 1-268, but limited to those zoning maps subject to submission</p>
9	Natural Hazards	<p>(V1) Chapter 11, Natural Hazards</p> <p>(V2) Chapter 21, Floodway Zone</p> <p>(V2) Standards that reference Flood Hazard 1-41 Overlays</p> <p>(V2) Rules and standards for activities in, on, over or under the beds of lakes and rivers</p> <p>(V2) Rules and standards for drainage channel network activity</p> <p>(V2) Fire safety setbacks standards</p> <p>(V2) Stop bank setback standards</p> <p>(V4) Zoning Maps, Floodway Zone</p> <p>(V4) Flood Hazard 1-41 Overlays</p>
10	Urban Environments	<p>Residential:</p> <p>(V1) Chapter 12, Urban Environments, Issue 12A</p> <p>(V2) Chapter 5, Urban Residential Zone (less rules and standards dealt with in other topics)</p> <p>(V2) Chapter 6, Urban Residential 3 Zone (less rules and standards dealt with in other topics)</p> <p>(V3) Appendix 16, Specifically Identified Activities/Areas</p> <p>(V3) Appendix 19, Prohibited Area for Habitable Buildings</p> <p>(V3) Appendix 26, Recession Plane and Height Controls</p> <hr/> <p>Business and Industrial:</p> <p>(V1) Chapter 12, Urban Environments, Issue 12B</p> <p>(V2) Chapter 9, Business 1 Zone; Chapter 10, Business 2 Zone; Chapter 11, Business 3 Zone (less rules and standards dealt with in other topics)</p> <p>(V2) Chapter 12, Industrial 1 and 2 Zones (less rules and standards dealt with in other topics)</p> <p>(V3) Appendix 18, Areas in Business 1 Zone Not Required to be Landscaped</p> <p>(V3) Appendix 20, Park Terrace and Boyce Street Industrial Areas</p> <p>(V3) Appendix 26, Recession Plane and Height Controls</p>

Topic	Issue/Provision	Provisions covered
11	Coastal Environments	<p>Coastal Marina Area:</p> <p>(V1) Chapter 13, Use of the Coastal Environment, less Issue 13D</p> <p>(V2) Chapter 16, Coastal Marine Zone</p> <p>(V3) Appendix 12, Determination of Wave Energy</p> <p>(V4) National Transportation Route</p> <hr/> <p>Ports and Marinas:</p> <p>(V1) Chapter 13, Use of the Coastal Environment, Issues 13J and 13K</p> <p>(V2) Chapter 13, Port Zone (less rules and standards dealt with in other topics)</p> <p>(V2) Chapter 14, Port Landing Zone (less rules and standards dealt with in other topics)</p> <p>(V2) Chapter 15, Marina Zone (less rules and standards dealt with in other topics)</p> <p>(V3) Appendix 10, Waikawa Marina Zone</p> <p>(V4) Relevant zoning maps</p> <hr/> <p>Coastal Occupancy Charges:</p> <p>(V1) Chapter 5, Allocation of Public Resources, Issue 5J</p> <hr/> <p>Lake Grassmere:</p> <p>(V1) Use of the Coastal Environment, Issue 13L</p> <p>(V2) Chapter 22, Lake Grassmere Saltworks Zone</p> <p>(V3) Appendix 21, Lake Grassmere Salt Works Intake and Pipeline Extension Corridor</p> <p>(V4) Relevant zoning map</p>
12	Rural Environments	<p>(V1) Chapter 14, Use of Rural Environments</p> <p>(V1) Chapter 13, Use of the Coastal Environment, Issue 13D</p> <p>(V2) Chapter 3, Rural Environment Zone (less rules and standards dealt with in other topics)</p> <p>(V2) Chapter 4, Coastal Environment Zone (less rules and standards dealt with in other topics)</p> <p>(V2) Chapter 7, Coastal Living Zone (less rules and standards dealt with in other topics)</p> <p>(V2) Chapter 8, Rural Living Zone (less rules and standards dealt with in other topics)</p> <p>(V3) Appendix 24, Worker Accommodation Exclusion Area</p> <p>(V4) Wairau Plain/Omaka Valley Overlay</p> <p>(V4) Steep Erosion Prone Land 1-10 Overlays</p>

Topic	Issue/Provision	Provisions covered
13	Resource Quality	<p>Water Quality:</p> <p>(V1) Chapter 15, Resource Quality, Issues 15A, 15B, 15C</p> <p>(V2) Discharge to water rules and standards</p> <p>(V2) Groundwater protection area standards</p> <p>(V2) Water clarity standards</p> <p>(V3) Appendix 5, Water Resource Unit Values and Water Quality Classification Standards</p> <p>(V4) Groundwater Protection Areas 1-8 Overlays</p> <p>(V4) Water Resource Units</p> <hr/> <p>Air Quality:</p> <p>(V1) Chapter 15, Resource Quality, Issue 15D and 15E</p> <p>(V2) Discharge to air rules and standards</p> <p>(V3) Appendix 8, Discharge to Air</p> <p>(V3) Appendix 9, Blenheim Airshed</p>
14	Waste and Discharges to Land	<p>(V1) Chapter 16, Waste</p> <p>(V2) Discharge of contaminants to land rules and standards</p> <p>(V4) Soil Sensitive Areas 1-23 Overlays</p>
15	Transportation and Signage	<p>Land Transport:</p> <p>(V1) Chapter 17, Transportation, Issue 17C, 17D and 17E</p> <p>(V2) Transportation rules and standards</p> <p>(V3) Appendix 17, Roading Hierarchy</p> <hr/> <p>Air Transportation:</p> <p>(V1) Chapter 17, Transportation, Issue 17A and 17B</p> <p>(V2) Chapter 23, Airport Zone (less rules and standards dealt with in other topics)</p> <p>(V3) Appendix 15, Obstacle Limitation Surfaces</p> <hr/> <p>Signage:</p> <p>(V2) Signage rules and standards</p>
16	Energy and Climate Change	<p>Energy:</p> <p>(V1) Chapter 18, Energy</p> <hr/> <p>Climate Change:</p> <p>(V1) Chapter 19, Climate Change</p>

Topic	Issue/Provision	Provisions covered
17	Subdivision	(V1) Chapter 12, Urban Environments, Issue 12C (V2) Chapter 24, Subdivision (V3) Appendix 7, Scheme Plan Requirements (V3) Appendix 23, Springlands deferred Subdivision Area
18	Nuisance effects	Noise: (V2) Noise rules and standards (V4) Noise Control Boundaries 1-5 Overlays
		Odour, lighting, dust (V2) Relevant rules and standards
		Temporary military training: (V2) Rules 2.42.1.1 and 2.42.1.2
19	Soil Quality and Land Disturbance	(V1) Chapter 15, Resource Quality, Issue 15F (V2) Rules for non-indigenous vegetation clearance, cultivation, excavation and filling
20	Utilities and designations	(V2) Utility rules (V3) Appendix 14, Schedule of Designated Land (V4) Zoning 1-268, but limited to those zoning maps subject to submission
21	Zoning	(V4) Zoning 1-268, but limited to those zoning maps subject to submission
22	Forestry	(V2) Rules for commercial and non-permanent sequestration forestry (V3) Appendix 22, Commercial Forestry Harvest Plan (V4) Steep Erosion Prone Land 1-10 Overlays