

DIRECTIONS OF THE HEARINGS PANEL**DIRECTION 1****Plan Change 1 – Minor Improvements (PC-2024-1)****1 INTRODUCTION**

- [1] Plan Change 1 - Minor Improvements to the Partially Operative Second Generation Dunedin City District Plan 2024 (PC-2024-1) proposes a number of changes to the 2GP to:
- protect 146 more heritage buildings, over 24,000 more hectares of public land with significant biodiversity values, and 12 more significant trees;
 - provide a more enabling rule framework for health activities;
 - make provisions easier to interpret and apply (for example, amending the definition of ground level so it is easier to identify it on sites with historical earthworks);
 - make rules more flexible (for example, rule changes to make it easier to build garages in yards);
 - better manage environmental effects from activities where existing provisions have been assessed as insufficient (for example, increasing the acoustic insulation requirements for new dwellings in the inner city to reduce the risk of complaints about live music noise, extending rules that manage transportation effects from activities that generate a high number of traffic movements, and requiring development to be set back from stormwater open watercourses in more locations); and
 - to correct errors.
- [2] The hearing of submissions and further submissions on PC-2024-1 will be conducted in two stages:
- The first stage will address the proposal to protect 146 more heritage buildings; and
 - The second stage will address the remainder of the matters covered by PC-2024-1.
- [3] The Hearing for the first stage has been scheduled to commence on **Monday 19 May 2025**.
- [4] The timing of the Hearing for the second stage will be confirmed at a later date, but it is likely to be in August 2025.

2 HEARING PANEL

- [5] The Council has appointed a Hearing Panel for PC-2024-1 comprising independent commissioner Rob van Voorthuysen (Chairperson) and councillors Sophie Barker and Jim O'Malley.

3 THIS DIRECTION

- [6] The matters covered in the remainder of this Direction are:
- Hearing format
 - Pre-circulation of material
 - Expert conferencing
 - Out of scope submissions
 - Hearings administrator
 - Site visit
 - Correspondence
 - Service of documents

- Deviation requests
- Procedural queries

[7] Further directions will be issued to address the second stage of hearings.

4 HEARING FORMAT

[8] The May 2025 hearings will all be held in Dunedin at the Dunedin Public Art Gallery and will commence at 9.00am each day and generally conclude at 5.00pm, unless otherwise advised.

[9] The Hearing Administrator will be contacting submitters who wished to be heard in order to develop a schedule of appearances.

[10] At this stage we anticipate each submitter will be allocated:

- **10 minutes of speaking time** unless they intend to present expert evidence and have the expert(s) attend the hearing; or
- **15 minutes of speaking time** if they have been categorised as being ‘out of scope’ and wish to address the hearing Panel on the issue of scope in addition to the content of their submission (see section 7 of this Minute for further details).

[11] Each hearing day will commence with a brief introduction by the Chairperson followed by the hearing of submitters scheduled for each day.

[12] On the first day of each hearing the Council will provide a short opening address to provide context for PC-2024-1. There will be no opening remarks from the Section 42A Report authors as the Panel members will have read and be familiar with both the content of the Plan Changes, the submissions and all pre-circulated material (see below).

[13] If the Hearing Panel has any questions on the Section 42A Reports, it is our intention at this stage that these will be collated and circulated prior to the hearing, alongside the responses from the Section 42A Report authors.

[14] There will be no cross-examination of witnesses by submitters.

[15] Following the conclusion of each hearing stage the Section 42A Report author(s) will provide a written ‘Reply Report’ briefly outlining any amendments to their original recommendations and a response to any questions from the Hearing Panel arising during the course of the hearing.

5 PRE-CIRCULATION OF MATERIAL

[16] The efficient running of the hearing will rely on the timely pre-circulation of submitter evidence and legal submissions (if any). The pre-circulation of material is intended to minimise the time required for everyone to present their case at the hearing itself, but, at the same time, to ensure that everyone is able to fully participate in the hearing process.

Section 42A Reports

[17] Section 42A Reports¹ and associated technical reports and evidence prepared by the Council will be made available to participants no later than fifteen working days prior to the commencement of each hearing stage.

[18] For the May hearing this is **Thursday 24 April 2025** (allowing for ANZAC Day).

[19] The Section 42A Reports will be posted on the Council webpage.

¹ The s42A Report includes a discussion of the submissions and further submissions. It recommends (with reasons) whether any changes should be made to the notified plan provisions in response to the submissions and further submissions. Those recommendations do not bind the Hearing Panel.

<https://www.dunedin.govt.nz/council/district-plan/2nd-generation-district-plan/plan-change-1-minor-improvements-pc-2024-1>

- [20] This will allow submitters to have regard to the contents of the Section 42A Reports when preparing their written evidence or deciding what to present verbally at the hearing. It would be extremely helpful to the Hearing Panel if submitters could indicate in their evidence whether or not they agree or disagree (with reasons) with the Section 42A Report authors' conclusions and recommendations.
- [21] The Section 42A Report authors will attend the hearings and be available to answer any questions from the Hearing Panel. The Section 42A Reports will constitute part of the body of evidence to be considered by the Hearing Panel, alongside the evidence of submitters.
- [22] Pursuant to section 41B(3) of the RMA, submitters who intend to call expert evidence² in support of their submissions are directed to provide written briefs of that evidence to the Hearings Administrator no later than ten working days prior to the commencement of each hearing stage.
- [23] For the May hearing this is **Friday 2 May 2025**.
- [24] Any expert witnesses presenting briefs of evidence are to include a summary statement that is no more than **one A4 page** long at the beginning of their evidence.
- [25] If submitters intend to provide written evidence themselves, or have non-expert people appear on their behalf, then they are **requested and strongly urged** to also provide a written statement of that evidence to the Hearings Administrator no later than ten working days prior to the commencement of each hearing stage .
- [26] For the May hearing this is **Friday 2 May 2025**.
- [27] If any party intends to have legal counsel present legal submissions, they are requested to provide those submissions to the Hearings Administrator no later than three working days prior to the commencement of each hearing stage.
- [28] For the May hearing this is **Tuesday 13 May 2025**.

Presentations

- [29] The Hearing Panel will take all original submissions, further submissions and pre-circulated written evidence and legal submissions as read at the hearing.
- [30] Accordingly, pursuant to section 41C(1)(b) of the RMA, all participants are directed that they and their experts will not be required to read any such material aloud at the hearing. Reading that material aloud at the hearing would be an inefficient use of time as the Hearing Panel members will have already read it.
- [31] However, experts may be asked to read out their summary statements and submitters may be asked to highlight key points of concern for the benefit of the Hearing Panel members who will then ask any questions they may have.
- [32] If non-expert submitters have elected not to pre-circulate written statements, then written 'speaking notes' or statements may be tabled and read out loud at the hearing. Any such written material must be concise and be able to be read out loud within the submitter's allotted **10 minutes** of speaking time. Supporting reports or documents may also be tabled by these submitters, but are not be read out loud at the hearing.

² Expert evidence is that written by qualified planners, engineers or scientists, for example, prepared in accordance with the Environment Court's Practice Note 2014 for expert witnesses.

- [33] Should any submitter wish to speak in Te Reo, utilise Sign Language, or utilise visual aids (PowerPoint, etc) they are requested to liaise directly with the Hearings Administrator, as soon as possible, but no later than **ten working days** prior to the commencement of each hearing stage regarding their needs.

6 EXPERT CONFERENCING / CAUCUSING

- [34] Following the provision of expert evidence, the Hearing Panel may decide that it would be beneficial for expert witnesses to confer and attempt to reach agreement on issues, or at least to clearly identify the issues on which they cannot agree, and the reasons for that disagreement.
- [35] If that is the case the Hearings Administrator will advise which expert witnesses the Hearing Panel requests to conference. If expert conferencing occurs then a Joint Witness Statement (JWS) is to be prepared for each specific area of expertise. The expert witnesses should endeavour to provide the JWS to the Hearing Administrator **prior** to the hearing commencing, but the Hearing Panel appreciates that this may not always be possible. We assume that the JWS will be prepared by the relevant Council expert witness (or Section 42A Report author) unless the experts agree otherwise amongst themselves.
- [36] The Hearing Panel may additionally request further expert conferencing during or after hearing, together with the preparation of additional JWS's.
- [37] All expert witnesses, in both preparing and presenting their evidence as well as when attending expert conferencing, are expected to comply with the Environment Court Practice Note 2023 – Expert Witness Code of Conduct available at the following website:

<https://environmentcourt.govt.nz/assets/Practice-Note-2023-.pdf>

7 OUT OF SCOPE SUBMISSIONS

- [38] It is not unusual for submitters to raise matters in their written submissions that fall outside the scope of a plan change. In this case such 'out of scope' submissions may address parts of the 2GP that are not affected by PC-2024-1, or they may address wider Council operational matters that are not relevant to the contents of the 2GP.
- [39] The Hearing Panel has no jurisdiction to consider 'out of scope' matters.
- [40] For the first stage hearing dealing with heritage listings, the following process will be used to address 'out of scope' submissions:
- The Section 42A Report will tabulate submission points that the authors consider to be 'out of scope';
 - Submitters who requested to be heard but have submission points that are listed as fully or partly 'out of scope' may still attend the hearing, but they must commence their written evidence and/or verbal presentations by addressing whether they accept the assessment that their submission point is fully or partly out of scope, or alternatively outlining why they consider their submission to not be 'out of scope'. We envisage this aspect of their presentation taking no more than **5 minutes** per out of scope submission point;
 - The submitter may then briefly address the matters of concern to them that were outlined in their original written submission, and additional 5 minutes will be allowed for this, while adhering to a **10-minute** time for this aspect of their presentation;
 - The Hearing Panel will thereafter consider and decide whether or not the submission was 'out of scope' and record their decision in their decision report;
 - The merits and request of any 'in scope' submissions will be addressed in the Recommendation Report.

- [41] The process that will be used to address ‘out of scope’ submissions for the second stage of hearings may differ from that outlined above and if that is the case that will be set out in a subsequent Direction.

8 HEARING NOTICE AND APPEARANCE TIMES

- [42] A notice of hearing will be circulated no later than twenty working days prior to each hearing to confirm the hearing locations and key dates for the exchange of evidence.
- [43] The Hearings Administrator will contact submitters who have expressed a wish to be heard to confirm that they still wish to be heard. At that same time submitters will be requested to indicate if they intend to present expert evidence and whether they intend to attend the hearing in person or via zoom.
- [44] Each hearing day will be divided into four sessions (before morning tea, before lunch, before and after afternoon tea) and each submitter wishing to be heard will be assigned to one of those sessions.
- [45] Separate hearing schedules showing which day and which session each submitter is allotted to will be posted on the Council webpage prior to each hearing.
- [46] However, submitters should be aware that hearings often run either late or early and that should be borne in mind when deciding when to arrive at the hearing venue.

9 HEARINGS ADMINISTRATOR

- [47] The Council has appointed a Hearings Administrator who is:

Name: Jenny Lapham

Email: governance.support@dcc.govt.nz

10 SITE VISIT

- [48] The Hearing Panel will undertake site visits prior to each hearing, with the intention being to view relevant sites from public places such as roads. Submitters should note that there is no opportunity for them to engage with Hearing Panel members during the site visit.
- [49] Other site visits may be undertaken during or after the hearings.

11 CORRESPONDENCE

- [50] Submitters and other hearing participants must not attempt to correspond with or contact the Hearing Panel members directly. All correspondence relating to the hearing must be addressed to the Hearings Administrator.

12 SERVICE OF DOCUMENTS

- [51] All written material (Section 42A reports, evidence, legal submissions and JWSs) addressed by this Direction must be lodged with the Hearings Administrator in **Microsoft WORD** format³ by either:
- Preferably email to governance.support.govt.nz or
 - Post addressed to Dunedin City Council, PO Box 5045, Dunedin 9054. Attention: Jenny Lapham
- [52] All written material relevant to the hearings will be posted on the Council webpage:
- <https://www.dunedin.govt.nz/council/district-plan/2nd-generation-district-plan/plan-change-1-minor-improvements-pc-2024-1>

³ If non-expert submitters do not have access to Microsoft WORD, then other written formats, including hand written notes, may be used.

13 DEVIATION REQUESTS

- [53] If any participant wishes to deviate from any timetable or other requirement identified in this Direction a written request to do so (inclusive of reasons) must be addressed to the Chairperson of the Hearing Panel, and be provided to the Hearings Administrator.
- [54] We will consider and determine any such requests.

14 PROCEDURAL QUERIES

- [55] If any submitter wishes to raise a procedural query prior to the hearings commencing, they must set that out in writing addressed to the Chairperson of the Hearing Panel and provide it to the Hearings Administrator at least **fifteen working days** prior to the commencement of each hearing.
- [56] We will consider and respond to the query.



Rob van Voorthuysen

Independent Commissioner – Chair - on behalf of the PC-2025-1 Hearings Panel members

20 February 2025