



[insert application name and EPA reference]

Memorandum

Panel procedures where hearing directed

DATED -

Issued by the panel appointed under the FTAA:

Contents

GENERAL	3
Purpose of the Panel Hearing Procedures	3
Communication to the Panel	3
Communication from the Panel	3
Section 1: Hearing participants, timetable and order of appearance	5
Principles/objectives of the hearing process	5
Evidence filed in advance	5
Pre-reading of the material	6
Notice of hearing, venue(s) and scheduling	6
Conduct of the hearing	6
Media requirements	9
Health and Safety at the Hearing	9
Draft and final Decision	9
Appendix 1 – Requirements for documents (including evidence and representations)	11
Appendix 2 – Hearing order and time limits for appearances	13

GENERAL

Purpose of the Panel Hearing Procedures

The purpose of these panel hearing procedures is to set the process and timeframes for the hearing, where a hearing has been directed by the panel in accordance with ss 57-59. The panel procedures have been divided into 2 sections:

- Section 1 – Hearing timeline
- Section 2 - The principles of, and rules for, any hearing process.

The application and other associated information is available through the EPA website at [insert].

Communication to the Panel

1. All communication to the Panel in relation to the processing of the application must be made via the EPA via the following options:
 - a. **Email:** (emails need to be smaller than 10 MB); or
 - b. **Mail:** Environmental Protection Authority, Private Bag 63002, Wellington 6140; or
 - c. **Delivery in person:** to Stewart Dawson's Corner, Level 1, 366 Lambton Quay, Wellington.
2. Generally, all substantive correspondence from the participants in the hearing to the Panel will be made available on the website, unless otherwise directed by the Panel or if it is of an administrative nature. The EPA will redact certain contact details from the correspondence, in particular an individual's personal email address and phone number but will not redact the contact details of companies or a participant's legal counsel.
3. The EPA will only notify participants of documents being posted on the website where there is a legal requirement to do so, or the Panel directs it to do so. The responsibility is on the participants to check the EPA website for new information.

Communication from the Panel

4. The Panel will communicate with the applicant and participants through the EPA (on the Panel's behalf) by:
 - a. notices on the EPA website; and
 - b. where required, email advising of updates to the website, provided participants who have provided an email address for that purpose (or conventional/physical mail, if a participant has advised that this is their chosen method of communication).
5. The responsibility is on the parties to check the EPA website for new information.

Amendments or Updates to the Hearing Procedures

If any participant wishes to apply for a variation to any of these hearing procedures, a written request must be made to the Panel. The Panel will identify any person to be informed of the request and invite them to make representations before the Panel's decision.

All written requests to vary from the procedures, and the Panel's decisions on those requests, will be available on the EPA website.

Definitions

Unless the context requires a different interpretation, '**participant**' means a person to which s 57 (1)(c) applies and '**commentator**' means a participant who has advised the EPA that they wish to be heard but will not be calling witnesses.

Revision Notes

Issue 1: First issue dated –

Section 1: Hearing participants, timetable and order of appearance

The Panel has directed that a hearing be held on certain issues [ref Minute].

The Panel has directed that it wishes to hear from the participants listed in the Minute. Appendix 2 sets out the anticipated hearing order and timeframes.

The Panel has directed the following timetable apply to this hearing. However, due to the fluid nature of the application process, the timeframes and dates listed may change. Please refer to the application website for the most up-to-date version [insert].

Section 2: Hearing Procedures

Principles/objectives of the hearing process

6. In determining the approach to any hearing, the Panel is guided by the need to:
 - a. recognise and advance the purpose of the FTAA, to facilitate the delivery of infrastructure and development projects with significant regional or national benefits;
 - b. comply with the procedural principles in the FTAA including:
 - i. to take all practicable steps to use timely, efficient, consistent, proportionate and cost-effective processes; and
 - ii. the duty to act promptly in circumstance where no time limit has been set;
 - c. run a fair and transparent hearing procedure providing for the principles of natural justice;
 - d. avoid unnecessary formality;
 - e. ensure information is provided to the Panel in an efficient and timely manner;
 - f. ensure that the Panel has the information it requires to determine the application;
 - g. recognise tikanga Māori where appropriate, and to give effect to the Māori language Act 1987 and receive evidence written or spoken in Te Reo Māori; and
 - h. recognise New Zealand sign language where appropriate, and receive evidence in NZ sign language if required.

Evidence filed in advance

7. The Panel may direct that written statements of evidence be filed in accordance with the timetable in Section 1.
8. If directed, written evidence must meet the documentation requirements detailed in Appendix 1.
9. All witnesses should state if they consider themselves to be an expert witness and provide a statement about their qualifications and area of expertise in their brief of evidence to support this. All expert witnesses must comply with the Expert Witness Code of Conduct - Environment Court Consolidated Practice Note (2023). An

expert witness has an overriding duty to impartially assist the Panel on matters within the expert's area of expertise and not to advocate for a position regardless of who has engaged them.

10. Unless an order has been made prohibiting or restricting the publication or other communication of information supplied in the course of a hearing,¹ evidence will be provided to other participants by being made available on the EPA website. If any party is unable to download copies of the evidence, they can request the EPA to provide the evidence on USB Drive or in hard copy. The EPA may charge for providing material to any party.

Pre-reading of the material

11. The Panel will pre-read the application, the evidence, and any other material provided in accordance with the timetable provided in its directions.
12. The hearing will proceed on the basis that all participants have read the material of relevance to them to avoid unnecessary repetition of information during the hearing.

Notice of hearing, venue(s) and scheduling

13. The EPA will issue the Hearing Notice confirming hearing dates and locations (for in-person hearings) by the date set out in Section 1.
14. Unless otherwise advised, the hearing will begin each day at 9:30 am. It will generally finish around 5:00 pm. There will be 15-minute breaks at approximately 11:00 am and 3:00 pm. The lunch break will typically be from 1:00 pm to 2:00 pm. Catering is not provided.
15. A detailed Hearing Schedule will be produced and updated regularly throughout the process.
16. The order of participants appearing at the hearing will be in general accordance with that set out in Appendix 2.

Conduct of the hearing

17. The hearing may open with a mihi whakatau, and an opening statement from the Chairperson.

Witnesses

18. In general, participants and witnesses will attend a hearing through video conferencing or, by prior agreement of the Panel, in person. However, the Panel may direct that a witness need not appear at the hearing. This may occur where there are no questions for that witness or the witness's evidence is not contested by any other participant. In this case, their evidence will be taken as read.
19. Witnesses will not be sworn or affirmed but must attest by signing and dating the statement that the evidence they have produced is true and correct. Expert witnesses are required to abide by the Environment Court of New Zealand Practice Note 2023.
20. Expert witnesses for a subject area will be heard consecutively where practicable. Expert witnesses for a particular subject area should make every effort to attend the hearing when other experts are giving relevant evidence. Witness attendance will proceed on the basis that the witness has familiarised themselves with other relevant information for the hearing.

¹ Fast Track Approvals Act 2024 s 58(4).

21. Witnesses will not read their statements of evidence at the hearing unless requested to do so by the Panel. Witnesses may:
 - a. present a concise summary of their evidence; this summary should cross reference back to the statement of evidence;
 - b. explain relevant figures, plans and tables;
 - c. outline and highlight any corrections in the evidence; and
 - d. summarise any changes to their evidence as a result of meetings or expert conferencing.
22. A limit may be placed on the time witnesses have to present their evidence. Indicative time limits are set out in Appendix 2.

Commentators

23. At the discretion of the Panel, a person or group that has provided comments under ss 35 or 53 of the Act may be heard ('commentators'). Commentators may speak on the matters directed by the Panel but may not introduce new topics except with leave of the Panel.
24. Listed in Appendix 2 are commentators the Panel has granted leave to appear.
25. Commentators may speak in person, or they can choose to be represented by a lawyer, or other person (eg a friend or family member).
26. The panel encourages Commentators with similar interests to group together and make a joint representation and ask any questions in cross-examination, where leave to cross examine is granted.
27. A limit may be placed on the time persons or groups have to make their representation. Indicative time limits are set out in Appendix 2.
28. All Commentators presenting at an in-person Hearing are required to bring written or hard copies of their representation and provide to the EPA an electronic version of this document prior to presenting. This can be done by bringing a USB Drive or emailing the document to [insert].

Questioning of witnesses and commentators

Panel questioning

29. The Panel, or a special advisor appointed by the Panel and speaking on its behalf, may question witnesses and Commentators. Questions will generally be after but may be at any point in the presentation by that person.
30. If a witness is questioned by the Panel, the participant or commentator calling the witness may be allowed to ask questions in re-examination after the Panel's questions have been completed.

Cross-examination

31. Any participant or commentator seeking leave (permission) to cross-examine a witness must make a request to the Panel and send notice to the participant concerned identifying the particular witnesses in accordance with the timetable in Section 1. The request must include:
 - a. the person to be questioned;
 - b. include the specific topics to be covered with witnesses in questioning; and
 - c. an estimate of the time required.

32. The Panel will not allow repetitive or irrelevant questioning of a witness or Commentator.
33. The EPA will make all requests available on the EPA website.
34. The participant or commentator calling the witness may be allowed to ask questions in re-examination after questions from other participants have been completed.

Attending via video conference

35. Any participant may request the Panel to allow their representation or witness's evidence be given via video conference.
36. The request must state the name and location of the person/witness and the reason(s) why they cannot attend in person.
37. The date by which any request must be made is specified in Section 1 of this document.
38. Each request will be considered on its merits and will be allowed if it is reasonable and practicable. If permission is granted by the Panel, the participant will discuss the necessary arrangements with EPA staff to determine feasibility. If granted the Protocol for remote access will apply.
39. Representations by telephone conference are not permitted.

Presentation/electronic media requirements at the hearing

40. Where any participant intends to use electronic media (eg Power Point) as part of their presentation they must advise the EPA and state what electronic media is required by the date and time specified in Section 1.
41. EPA systems at the hearing will enable the viewing of PDF documents, PowerPoint presentations, picture files and video files (using a standard .mp4 or .wav video format). Intentions to use electronic media should include the type of electronic media to be used, and whether any specific system or software requirements are needed. Electronic media presented at the hearing must meet the electronic copy requirements in Appendix 1.

Presenting in Te Reo / Sign Language

42. Any participant, representative or witness may speak in Te Reo Māori at the hearing. The EPA must be informed of the intention to use Te Reo Māori by the relevant date so that an interpreter can be arranged.
43. Any karakia, powhiri, or mihi will not be translated into English or recorded on the transcript unless this is specifically requested before the hearing. To aid the Panel, an English interpretation of the karakia, powhiri or mihi may be provided by the presenter.
44. Any participant, representative or witness may provide their written evidence or a representation in Te Reo Māori, in which case an English version must also be provided by them.
45. Any participant, representative or witness may present in New Zealand Sign Language at the hearing. The EPA must be informed of the intention to use New Zealand Sign Language by the relevant date so that an interpreter can be arranged.

46. The relevant date by which requests for use of Te Reo Māori and New Zealand Sign Language must be received is specified in Section 1 of this document.

Written record of proceedings

47. The EPA will have the hearing proceedings recorded and transcribed. The transcripts will be made available on the EPA website, usually within two working days of the close of each day's proceedings.
48. The record of the hearing proceedings will also be provided on the EPA website and include:
- a. a summary of proceedings, including a list of the witnesses and commentators who have spoken at the hearing;
 - b. witnesses who have appeared, and a list of all documents submitted at the hearing; and
 - c. a reference set of all documents presented to the hearing.

Role of EPA Support Staff

49. The EPA Hearing Manager will make the arrangements for the hearing on behalf of the Panel and will attend the hearing to assist the Panel with the administration of the hearing. The Panel will also be supported by an EPA Application Lead to assist with document management and to manage the hearing schedule. The EPA Application Lead can be contacted by email on [insert email address] or by Freephone 0800 225 537.

Media requirements

50. The hearing will be open to the public (except to the extent that any protection of sensitive information applies). Representatives of the media are free to attend and report the proceedings.
51. Cameras, video-recorders and audio recorders can only be used by media or any other person in the hearing with prior permission from the Panel or Panel Chairperson. Applications for permission to record can be made to the Panel Chairperson in advance by writing to the EPA.
52. Media interviews are not allowed in the hearing room. Panel members are not available for media interviews. The EPA will be available to provide process information to the media.
53. All media enquiries should be directed to the Senior Communications Advisor [insert] or phone 0800 225 537.
54. The Panel will operate under the Media Guide for reporting the courts and tribunals (Edition 4.1) which can be found on the Ministry of Justice website ([link here](#)).

Health and Safety at the Hearing

55. Participants are responsible for ensuring their own health and safety at the hearing.
56. EPA will ensure, so far as is reasonably practicable and in collaboration with the venue and other relevant parties, that the health and safety of participants attending the hearing is not put at risk. If you have concerns about your safety at the hearing, please raise it with the Hearing Manager.
57. Hazards or potential hazards should be raised with EPA staff as soon as practicable.
58. In the event of an emergency during the hearing, participants are to adopt the emergency procedures specific to the venue and follow the instructions of EPA or venue staff should evacuation be required.

Draft and final Decision

59. The expected date for the release of draft decisions or draft conditions, and the date of the final decision are specified in Section 1.

For the panel

Chairperson

Appendix 1 – Requirements for documents (including evidence and representations)

Evidence

1. If directed, all witnesses (expert and non-expert) must provide hard copies (number to be determined at a later stage) AND an electronic copy of their evidence to the EPA. The hard copy and/or electronic copy must be identical and comply with the hard copy and electronic copy requirements outlined below.
2. Statements of evidence can be sent:
 - a. Email: info@fasttrack.govt.nz (emails need to be smaller than 10MB)
 - b. Mail: Environmental Protection Authority, Private Bag 63002, Wellington 6140, New Zealand
 - c. Delivery in person: to Environmental Protection Authority, Stewart Dawson's Corner, Level 1, 366 Lambton Quay, Wellington, New Zealand.
3. Evidence should be clearly identified as either expert or non-expert evidence on the cover page of the document.
4. The statements of evidence can refer to reports provided as part of the application, any other report published by the EPA on its website or any document provided with comments made on the application. These documents do not need to be supplied again.
5. If evidence is over 15 pages the witness shall provide an executive summary (no more than two pages) at the beginning of their evidence.

Updated evidence

6. If evidence needs to be updated after it is lodged (e.g. as a result of meetings or due to errors), this updated evidence must be tracked to show any changes and include a version number and issue date. Updated evidence should be provided electronically to the EPA and all participants with no less than **three working days** before the witness is scheduled to appear.

Information presented at the hearing

7. A hard copy of any information presented at the hearing in support of representations, including opening and closing representations, and any documents associated with participant presentations, may be provided on the day. Hard copies and electronic copies should be given to the Hearing Manager when you arrive, and these documents must comply with the hard copy and electronic copy requirements outlined below.
8. For participants who have been permitted to present using electronic media, the presentation files should either be emailed to the EPA, at least the day before the participant is scheduled to appear, or given to the Hearings Manager on a USB Drive upon arrival at the hearing venue.

Hard copy requirements

9. All text shall be single-sided A4 with a minimum 11 font size. Line spacing must be a minimum of 13pt or 1.5 lines.
10. Non text exhibits shall be single sided and provided on A3 or A4 paper.
11. All coloured exhibits shall be provided as colour copies of good quality.
12. All evidence, including appendices, must have page numbers, a table of contents and be hole punched for an A4 lever arch folder. If the combined evidence for any participant is more than 100 pages in total, it must also be tabbed and provided to the EPA in lever arch folders.

13. Each statement of evidence shall be signed by the witness who is to give that evidence.
14. Permission to deviate from the hard copy requirements may be sought from the Panel through the EPA.

Electronic copy requirements

15. If the electronic copy of any document is less than 10MB, it can be emailed to the EPA at [insert].
16. If the electronic copy of any document is greater than 15MB, it must be provided to the EPA on a portable storage device (e.g. USB Drive). Any electronic files over 15-25MB in size may be too large to email and so should be split into multiple parts. If splitting electronic files, please make it clear when naming the separate parts of the document the order they should be reassembled in.
17. The electronic documents should, where practicable, be provided as a Microsoft Word document or a searchable PDF. If this is not possible, other arrangements should be made with the EPA before providing the document.
18. If a participant is providing evidence that includes video clips, photographs or images then one copy on a portable storage device (e.g. USB Drive) is to be provided both to the EPA and the applicant.
19. Any participant unable to create electronic copies of a document must contact the EPA to make other arrangements within a reasonable time before the date the document is due to be lodged.

Appendix 2 – Hearing order and time limits for appearances

Order of Appearances at the Hearing

Indicative time allowances for presentations

Presentation	Comment / explanation	Approximate time