

PROPOSED KAIPARA DISTRICT PLAN

FIFTH DIRECTION

from the Hearing Panel

Hearing Process

26 February 2026¹

Introduction

1. The purpose of this Direction is to provide further information on the procedures for the hearings that are now underway. This Direction should be read in conjunction with the following Directions:
 - [Third Direction](#) – Hearing Requirements 23 September 2025; and
 - [Fourth Direction](#) – A Guidance for Lay Submitters 28 November 2025.

Where any conflict arises between this Direction and the earlier Directions, this Direction shall prevail.

2. The Hearings Panel will issue other directions from time to time during the course of the hearings where necessary.

Background

3. Kaipara District Council (the Council) notified the Proposed District Plan on 28 April 2025 with submissions closing on 30 June 2025. During the original submission period the Council received 365 submissions. Five submissions were received after 30 June 2025. The Panel Chair, by way of Direction 1², determined that under section 37 of Resource Management Act (RMA) the late submissions³ would be accepted.
4. A summary of submissions was notified on 1 December 2025 and closed on 15 December 2025. A total of 101 further submissions were received.
5. On 24 February 2026 Council notified two additional submissions that were not included in the original summary of submissions, as well as two replacement submission points that contained errors.
6. Four Hearings have now been held:
 - 25 August 2025 where an overview of the plan review process was presented and certain procedural issues were determined; and
 - 17 December 2025 on the topic of 'Light';

¹ Acknowledgement - in December 2023 the Hearing Panel for the Proposed Far North District Plan, (chaired by Robert Scott), circulated Minute 1 in which they outlined the hearing procedure they would be using. We have used and adapted that useful Minute and in doing so we acknowledge the work of Robert.

² Dated 26 August 2025

³ Late submissions of: Catholic Diocese of Auckland; J Wintle; M Calder; D & J Patel and Disable Persons Assembly of New Zealand

- 23 February 2026 on the topics of ‘Introduction’ and ‘Temporary Activities’.
7. The first two hearings were conducted by the Chair sitting alone. Hearings will continue to proceed at regular intervals throughout the 2026 year. A final wrap-up hearing will be held in February 2027. The Hearings Panel recommendation reports are programmed to be delivered to the Council by April 2027 for its resolution to adopt them and to notify all submitters of Council’s decisions on submissions. Further details on the programme are provided throughout this Direction and within any forthcoming directions.

Membership and Role of the Hearings Panel

8. In accordance with s34A(1) of the RMA the Council has appointed a Hearings Panel of Commissioners comprising four independent members and two councillors:
- Mr Mark Farnsworth MNZM (Hearings Panel Chair)
 - Mr Alan Watson (Hearings Panel Deputy Chair).
 - Mr Richard Blakey
 - Ms Juliane Chetham (Commissioner with tikanga Māori expertise)
 - Mr Michael Campbell
 - Deputy Mayor Gordon Lambeth
 - Councillor Craig Jepson
9. The Hearings Panel will consider all submissions and further submissions and prepare recommendation reports to the Council on the submissions and further submissions. To spread the hearing workload a “Hearings Panel” made up of at least two or more Commissioners will be allocated the task of hearing each particular topic. The quorum for each Hearings Panel is two Commissioners. The Chair of each Hearings Panel shall have a casting vote if needed.
10. The “full Hearings Panel” consisting of all six Commissioners will meet in plenary sessions to coordinate final decisions.

Principles of the Hearing Process and Hearing Sessions

11. The objective of the Hearings Panel is to ensure compliance with the requirements of the RMA in particular:
- Section 39(1) by establishing a hearing procedure that is appropriate, fair and efficient;
 - Section 39(2)(a) by conducting the hearing in a manner that avoids unnecessary formality;
 - Section 39(2)(b) recognising tikanga Māori where appropriate and to receive evidence written or spoken in Māori;
 - Section 39(2)(c) not permitting any person other than the Chair or other member of the hearing body to question any party or witness; and
 - Section 39(2)(d) by not permitting cross-examination.

Conflict of Interest

12. A fundamental pre-requisite to a fair and transparent hearing process is an obligation on all Commissioners to bring an independent view and open mind to the role, free of any conflicts of interest that could result in bias and/or predetermination.

13. As part of the appointment process, the Hearings Panel members were required to declare any conflicts of interest. Following appointment, the Hearings Panel agreed to disclose any potential interests to the Council / Chair prior to, and during, the commencement of the hearings. A register of conflicts of interest has been provided on Council's website.

Role of Council Staff and Expert Advisors

14. A number of Council staff including external consultants and expert advisors will be involved in the hearing process. These are:
 - RMA Section 42A report writers (made up of internal staff and, in some cases, consultants);
 - Where required, expert advisors (made up of internal staff and / or consultants);
 - A Hearings Administrator; and
 - Council legal advisors when it is considered appropriate.

Section 42A Report Writers

15. Council staff and consultants and/or expert advisors (where required) will be involved in the preparation of Section 42A reports (s42A reports). These reports summarise, evaluate and make recommendations on the various submissions received on each of the hearing topics. The hearing topics are largely organised around chapters of the Proposed District Plan and rezoning requests.
16. The s42A reports are expected to be concise and to avoid unnecessary repetition or detail.
17. The Hearings Administrator will upload all s42A reports and any other Council evidence to the Council's Proposed District Plan webpage⁴ as soon as practicable after receipt (and at least 25 working days in advance of each hearing topic). Once it is available online, the Hearings Administrator will email submitters who submitted on that topic a link to the relevant s42A report.
18. The s42A report writers will attend the hearings and be available to answer any questions from the Hearings Panel. The s42A reports constitute part of the body of evidence to be considered by the Hearings Panel, alongside the evidence of submitters. It is noted that only the Panel members can ask questions of Council staff and its consultants / advisors at the hearing.
19. The s42A reports will contain recommendations from Council staff, consultants and/or expert advisors for the consideration of the Hearings Panel. The recommendations are intended to provide guidance and are not binding on the Hearing(s) Panel. Furthermore, the s42A reports carry no greater weight than any other material to be brought forward by, or on behalf of, any submitter.
20. After hearing evidence on each topic, the author of the s42A report will have the opportunity to respond to the evidence presented in writing.

⁴ <https://www.kaipara.govt.nz>

Hearings Administration Team

21. The Hearings Administrator is the Council's primary 'point of contact' for submitters, Council officers and the public (including the media).
22. Submitters, s42A report writers and/or their experts wishing to bring matters to the attention of the Commissioners must direct all queries through the Hearings Administrator.
23. A Hearings Administrator will oversee the various administrative tasks needed to ensure an efficient hearing process. These tasks include:
 - Issuing schedules and hearing notifications;
 - Making meeting arrangements;
 - Ensuring the availability of the Hearing Panel's memoranda and directions;
 - Circulating evidence and reports received by each Hearings Panel;
 - Handling submitter enquiries;
 - Handling public enquiries to the Hearings Panel; and
 - Assisting the Hearings Panel and Commissioners as required.
24. The Hearings Administrator is also responsible for managing the Council's Proposed District Plan webpage to ensure that all the necessary information to support an efficient hearings process is available. The website address is <https://www.kaipara.govt.nz/kaipara-district-plan-review>

Experts

25. The Hearings Panel has the expectation that expert witnesses (whether at the hearing or at expert conferencing) will conduct themselves in accordance with the Environment Court's Practice Note (2023) – Code of Conduct for Expert Witnesses.

"An expert witness has an overriding duty to provide impartial, independent, and objective evidence to the court or tribunal, rather than acting as an advocate for the party engaging them. They must comply with professional codes of conduct, which require disclosing conflicts of interest, stating facts/assumptions, providing reasons for opinions, and participating in expert conferences."

26. To re-iterate, an expert witness has an overriding duty to assist the Hearings Panel impartially on matters within the expert's area of expertise. An expert witness is not, and must not behave as, an advocate for the party who engages the witness. Expert witnesses must declare any relationship with the parties calling them or any interest they may have in the outcome of the proceedings.

Pre-Hearing Meetings & Mediation

27. The Hearings Panel considers that pre-hearing meetings can be a useful tool to identify and resolve procedural issues, and to determine whether substantive issues raised in submissions can be addressed through mediation; other alternative dispute resolution processes; expert conferencing; or by way of a hearing session.
28. The Hearings Panel may determine the need for a pre-hearing meeting between Council staff/consultants and submitters in accordance with RMA clause 8AA of Schedule 1. Council staff/consultants will be responsible for organising and scheduling pre-hearing meetings. An independent facilitator may be used. Minutes will be taken at the pre-hearing meeting, and a report will be prepared for the Hearings Panel by the Chair or Facilitator. The report will set out any

understanding, clarification or resolution of a matter or an issue agreed between parties in attendance. All pre-hearing meetings will be conducted in accordance with RMA clause 8AA of Schedule 1.

Expert Conferencing

29. The Chair of the Hearings Panel, on the advice of the Hearings Panel may, at any time prior to a scheduled hearing or during a hearing, request that those parties (the reporting officers and submitters) calling expert witnesses co-ordinate conferencing of their respective experts on matters relevant to their specific areas of expertise. The aim of such conferencing is to identify areas of agreement and disagreement on the issues relevant to that particular hearing topic.
30. The Council will make available a Facilitator to assist with the expert conferencing, if requested by either the Hearings Panel or one or more of the parties. Ideally the optimum time for expert conferencing is in the two- week period following the receipt of submitter evidence (which has followed the previous receipt of the s42A report) and the commencement of a hearing.
31. Each expert conferencing session will produce a Joint Witness Statement signed and agreed by all participating parties setting out: the points of agreement; and the points of disagreement. Reasons should be provided.
32. The need for conferencing will be determined by the Hearings Panel, notwithstanding this, parties are encouraged to consult and conference on any matters at any times without the need for a specific direction from the Panel.

Concurrent Expert Evidence (CEE)

33. During the hearing, the Hearings Panel Chair may request a group (2 or more) expert witnesses (usually within the same discipline) to present their evidence concurrently to allow questioning from the Hearings Panel on their areas of expertise and the factual matters and/or opinions they have expressed in prior written or oral evidence.
34. Each Hearings Panel will have the same expectations of expert witnesses (whether in expert conferencing or in a CCE session during a hearing) as set out in the Environment Court's Practice Note (2023) and noted above. Expert witnesses must declare any relationship with the parties calling them or any interest they may have in the outcome of the proceedings.
35. We note that the s42A report is considered to be expert evidence and is therefore subject to the Environment Court's Practice Note (2023).

Hearing Schedule (Also see [Direction 3](#))

36. The Council has structured the hearings on a 'topic by topic' basis. The Hearings Panel acknowledges that this approach will mean that some submitters may have to attend and participate in more than one hearing. The Hearings Panel also acknowledge that this approach may be disruptive to submitters' other commitments. However, the Hearings Panel consider that the 'topic by topic' approach to be the most appropriate way to achieve an efficient hearing process.
37. An indicative hearing programme has been set and is available on the Council website. The hearings commenced on 25 August 2025 and are currently programmed through to February 2027.

38. The Hearings Panel will not be issuing interim or staged decisions on each topic but may release interim guidance on any particular topic if it has implications for the hearing of other topics.
39. The indicative hearing programme for the first four months of 2026 is available on the Council's website.
40. The programme is subject to change as the hearings proceed, with appropriate notice.
41. Where the separation into topic areas means that a submitter or expert witness may be required to repeat essentially the same lay and/or expert evidence in more than one hearing topic/session, the Hearings Panel is prepared to have this presented at the first relevant hearing, and then have the material tabled at the remaining relevant hearings. The submitter or submitter's representatives and any expert witness(s) will need to attend the subsequent hearings to be available for questions from the Hearings Panel for those later hearings unless excused from attending by the Chair of the relevant Hearings Panel.
42. While it is expected that each submitter will appear in person to deliver their evidence, if only a very limited number of submitters signal their intent to attend, the hearing will be held online using Microsoft TEAMS. A link will be provided to the submitters by the Hearings Administrator.
43. Parties may request leave from the Hearings Panel Chair for submitters and/or expert witnesses to attend the hearing to provide submissions and /or evidence using Microsoft TEAMS. Such requests must be made when providing a response on the hearing timetable to the Hearings Administrator, at least 10 working days prior to the start of a hearing topic along with an outline of the reasons for the request. Exemptions to the 10 working days can be requested due to illness and other unforeseen events.
44. The consideration of, and a decision on, any such a request will be guided by the following principles:
 - The general requirement for all parties to attend in person for substantive submissions.
 - Natural Justice and due process.
 - Approval may be given for Microsoft TEAMS attendance for 'minor submissions' and further submissions in support or opposition.
 - The number of submitters who have signalled their intent to attend a particular hearing. The threshold number of submitters to trigger a Microsoft TEAMS hearing will be determined on case-by-case basis.
 - The hearing venue location and the submitter's distance of travel.

Notice of Hearing and Speaking Timetable (Also see [Direction 3](#))

45. The Hearings Administrator will formally notify submitters for each hearing of the hearing date and evidence pre-circulation dates by email or written notice in accordance with the hearing schedule (six weeks in advance of the scheduled hearing date).
46. In the notification email, the Hearings Administrator will seek confirmation from submitters of the time requested for the verbal presentation of evidence (whether expert or lay) at the hearing.

47. The Hearings Administrator will place an indicative hearing timetable on the [Council's Proposed District Plan webpage](#) prior to each topic hearing. The Hearing Administrator will advise all confirmed speakers when the timetable is available.

Evidence preparation and pre-circulation (Also see [Direction 3](#))

Evidence Format

48. Written evidence will be provided electronically, a single PDF or MS word document, with numbered paragraphs and be page numbered for ease of reference.

Expert Evidence from Council (s42A Report)

49. Council has informed Reporting Officers of the s42A Report requirements. Reporting Officers must deliver their s42A report to the Hearings Administrator in sufficient time for the Administrator to make the Council's s42A reports available on the Council's Proposed District Plan webpage in accordance with the hearing schedule (expected to be five (5) weeks or 25 working days in advance of the scheduled hearing date). The notice of hearing for each topic will nominate the precise date for the receipt of the s42A report. The Hearings Administrator will advise all parties (via email) to that hearing when the information is available. This will ensure that all relevant parties wishing to prepare evidence can do so (having considered the matters addressed in the s42A reports).
50. For rezoning requests, as set out in [Direction 3](#), for the Submitter Evidence is required in advance of the Reporting Officer's s42A report where submitters choose to "opt in" to the alternative process, followed by rebuttal submitter evidence.

Submitter Evidence

51. Submitters can speak to (not read) their original submission/further submission at the hearing. All submissions will be pre-read by the Hearings Panel. The Hearings Panel anticipates submitters may wish to have written evidence in support of their submission(s) prepared by suitably qualified expert(s) and potentially have legal submissions presented on their behalf. Regardless of whether providing expert or lay evidence, submitters must not extend beyond the scope of their original submissions in terms of the alterations to the Proposed District Plan that they seek in their written, tabled or verbal evidence.

Expert Evidence Prepared for Submitters

52. The Chair has the expectation that all Panel members will have pre-read all expert evidence in advance of the hearings. To enable the pre-reading to be undertaken in a timely fashion, submitter's written expert evidence is to be provided to the Hearings Administrator, two weeks (10 working days) following the issuing of the Council's s42A report on a particular hearing topic. The notice of hearing for each topic will nominate the precise date for the receipt of expert evidence.
53. Submitters need to bring ten (10) copies of any written expert evidence to the hearing and supply an electronic copy to the Hearings Administrator within two (2) working days of completing their presentation.
54. Submitters must provide all expert evidence in electronic format in the form prescribed in paragraph 48 above unless they have made an alternative arrangement with the Hearings Administrator.

55. The Hearings Administrator will post all submitter expert evidence on the Council's website as soon as practicable following receipt of that evidence.
56. Each expert witness can only present one brief of evidence per hearing topic. Where that expert witness is appearing in respect of multiple submitters per each hearing stream, that evidence may be subdivided into appropriate sections to enable the submitters' cases to be presented adequately.
57. Submitter's evidence needs to: highlight areas of agreement and disagreement with the s42A report and identify gaps or omissions in the s42A report.
58. The evidence should clearly outline any changes sought (along with the rationale for these changes) together with an assessment pursuant to s32AA of the RMA.

Lay Evidence from Submitters (see [Direction 4](#))

59. In Direction 4 we provided guidance for lay submitters. In summary:
 - A submitter can speak to their submission only.
 - Submitters can present written lay evidence on the day of the hearing and read it aloud. While it is not required to be pre-circulated, the Hearings Panel would prefer lay evidence to be pre-circulated so that the Panel is able to be read it before the hearing.
 - Submitters need to bring ten (10) copies of any written material to the hearing and supply an electronic copy to the Hearings Administrator within two (2) working days of completing their presentation.
 - Any submitter wishing to speak to their submission using a power-point presentation is required to provide the power-point in an electronic format to the Hearings Administrator at least three (3) working days prior to their scheduled hearing time. This is to ensure compatibility with the electronic system at the hearing venue

Tabled Evidence (Other than Expert Evidence)

60. Where a submitter or their representative is unable to attend the hearing for a particular topic, and are not supplying expert evidence, they may choose to table written lay evidence in support of their submission. Submitters must provide any tabled evidence to the Hearings Administrator at least 5 working days prior to the hearing on the topic commencing.

Additional Evidence

61. Once the hearing for a topic is completed, the Hearings Panel will not accept additional material on that topic, other than in exceptional circumstances or where the panel has requested it which will require the approval of the Hearings Panel.
62. The purpose of making evidence available is to enable all parties to be aware of, and understand, the issues to be addressed at the hearing. This will contribute to a more efficient hearings process.

Legal Submissions

63. Where a submitter has engaged legal counsel, legal counsel has the option of presenting legal submissions. A submitter must ensure their legal counsel provides written legal submissions to the Hearings Administrator by 12 noon three (3) working days prior to the submitter's allocated speaking time. In addition, submitters must provide ten copies of all legal submissions on the hearing day. Legal

submissions must provide an electronic link to all case-law referred to. Commissioners do not require hard copies of case-law – unless explicitly asked for on a case-by-case basis.

Hearing Sessions and Protocols

64. As noted above it is the Hearings Panel's intention is to manage the hearings via a process that is appropriate, fair, efficient and without unnecessary formality. To this end, it is envisaged that each hearing will consist of:
- As required an opening karakia;
 - Introduction by the Hearings Panel Chair;
 - A brief overview of the s42A report by report writer dealing with the particular hearing topic and questions of clarification from the Hearings Panel;
 - Presentation of (expert and lay) evidence by submitters;
 - Hearings Panel questions following each submitter's presentation;
 - s42A report writers and expert witnesses called by the Council on substantive matters (i.e. verbal "Right of Reply" and Hearings Panel questions);
 - A closing karakia, as required, at the adjournment of hearing days; and
 - Written Right of Reply by s42A Report writer in relation to any changes to recommendations in light of submissions and evidence presented by submitters. The reply is to be in writing and lodged with the Administrator within ten (10) working days of the adjournment of the hearing. The Hearings Panel Chair may grant an extension to the s42A report writer to allow additional time if required (for example, 15 working days in exceptional circumstances). The Hearings Administrator will load the written reply on the Council's website.

Speaking Time Restrictions / Expectations

65. Each Hearings Panel will take all expert evidence as read. This is due to pre-circulation requirements and an undertaking from Commissioners that they will have read all pre-circulated evidence before each hearing commences.
66. Each Hearings Panel will provide all expert witnesses an opportunity to speak to a written summary of their evidence, covering the main points. Expert witnesses must provide ten (10) copies of any written summary at the time they present to a Hearings Panel.
67. Based on this approach, the Hearings Panel anticipate that the majority of expert witnesses will, as a general rule, speak for no more than 15 minutes. Some submitters may wish to submit supplementary evidence in response to other pre-circulated evidence. Any submitter wishing to do this will need to seek leave from the Chair so that it can be incorporated into the hearing schedule.
68. Notwithstanding the approach outlined above, the Hearings Panel wishes to make it clear it will provide all submitters with the time they require (within reason) to adequately present their evidence and submissions. The main purpose behind pre-circulation of evidence is to minimise the time required for everyone to present at the hearing itself, but, at the same time, to ensure that everyone is able to fully participate in the hearing process. That said, each Hearings Panel will not allow unnecessary repetition.

Health and Safety and Illness Protocols

69. The health, safety and wellbeing of all parties to the proposed Kaipara District Plan hearings is a priority. To this end when people are unwell, use will be made of Microsoft TEAMS to deliver evidence.

Formal Records

70. All material including verbal evidence in response to questions presented to the Hearings Panel becomes hearing evidence.
71. An audio recording will be made of each hearing session. Each Hearings Panel may direct the Hearings Administrator to suspend digital recording for the presentation of sensitive information (under s42 of the RMA).

Conclusion of the Process

72. At the conclusion of all topic hearings, the Hearings Panel will deliberate on all of the evidence presented and make recommendations for all topics. The Council will then consider the recommendations, make a final determination to approve the Proposed District Plan and direct the timing for the release of the decisions.
73. If you have any questions regarding the matters included in this Direction, please contact to Ms Meagan Walters, Hearings Administrator at (Email address) mwalters@kaipara.govt.nz



Mark C Farnsworth MNZM
Panel Chair