



# Hearing Procedures and Directions

Rotorua Lakes Council

Proposed Plan Change 8

Natural Hazards

January 2025

## Rotorua Lakes Council - Proposed Plan Change 8 (Natural Hazards)

# Hearing Procedures and Directions

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# 1. Introduction

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- 1.1 Rotorua Lakes Council (Council) has established an Independent Hearings Panel (Hearing Panel) to hear and make decisions on Plan Change 8.
- 1.2 These Procedures and Directions address the hearing of submissions and further submissions on Plan Change 8. They may be updated as necessary.
- 1.3 The Council has appointed the Hearing Panel, which comprises Independent Hearings Commissioners:
  - (a) David Hill (Chair)
  - (b) Gina Sweetman
  - (c) Rob van Voorthuysen

# 2. Principles of the Hearings

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- 2.1 The Hearing Panel will establish a hearing procedure that:
  - a. is appropriate and fair;
  - b. avoids unnecessary formality; and
  - c. recognises tikanga Māori.
- 2.2 In addition, the Hearing Panel will:
  - a. be inclusive and acknowledge the broad range of interests, capability and capacity represented in submissions;
  - b. where practicable use collaborative and active participation processes to enhance/complement the formal hearings process;
  - c. act in a fair and transparent manner in proceedings;
  - d. conduct an efficient process which minimises the costs and time to all parties involved in the hearing;
  - e. provide submitters with an adequate opportunity to be heard, while, where necessary, limiting the length of oral presentations, avoiding repetition of information, and/or the presentation of irrelevant material;
  - f. give effect to Te Ture mō Te Reo Māori 2016/the Māori Language Act 1987, and receive evidence written or spoken in Māori, and
  - g. recognise New Zealand sign language where appropriate and receive evidence in sign language if required.
- 2.3 Timeframes and deadlines stated in this document are intended to balance competing considerations arising from:
  - a. ensuring that submitters who wish to be heard have a fair hearing; and
  - b. conducting an efficient hearing process.

# 3. Communications from the Hearing Panel

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- 3.1 Communications from the Hearing Panel may include:
  - a **Procedural Minute**;

- a **Direction**;
- an **Advisory notice** – information applying to one or more of the parties;
- a **Notice of pre-hearing meeting**;
- a **Notice of expert conferencing**;
- a **Notice of Mediation** (or other alternative dispute resolution process);
- a **Notice of Hearing** – which sets out the dates, times and places (venue) of the hearing sessions; and/or
- **Interim Guidance**.

3.2 Communications from the Hearing Panel relating to procedural matters generally will be issued by the Hearing Secretary on behalf of the Hearing Panel via the Council's website or, in some circumstances where the matters affect only a limited number of parties, they will be notified by email or post.

## 4. Communications to the Hearing Panel

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4.1 No person should communicate directly with the Hearing Panel or any member of the Panel except during a hearing session.

4.2 All communications (including all general enquiries, procedural requests and documents to be provided) to the Hearing Panel are to be sent to the Hearing Secretary:

Email: [policy.planning@rotorualc.nz](mailto:policy.planning@rotorualc.nz)

Postal Address:

Attn: Hearing Secretary  
Rotorua District Council  
Civic Centre  
1061 Haupapa Street  
Rotorua

Phone: (07) 348-4199

4.3 Every communication to the Hearing Panel must clearly state in its heading or opening paragraph:

- a. the name of the Council or submitter who or on whose behalf the communication is from;
- b. the submission number (if known); and
- c. the relevant Hearing Topic name (if any).

4.4 Any communication or request made to the Hearing Panel, or any document provided to it will, unless good reason for withholding it exists under LGOIMA or s42 of the RMA, be treated as official information which is publicly available. Where appropriate in the opinion of the Hearing Panel, such communications, requests or documents may be posted on the Council's website.

4.5 Any communication that directly affects other parties (including a communication in relation to an issue, plan provision or site in which other submitters are interested) must be provided by the sender of that communication to those other affected parties where those affected parties can be directly identified.

## 5. Expert Witnesses and Expert Conferencing

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- 5.1 Expert witnesses are qualified as such by reference to section 9 of the Environment Court's Practice Note 2023.
- 5.2 The Hearing Panel may, at any time prior to or during the hearings, and with the agreement of the parties on the terms set out below, direct that a conference of experts be held. Expert conferencing will normally only be directed where one or more specific issues which are the subject of expert evidence require separate conferencing.
- 5.3 Participation in expert conferencing (including communication related to any conference) is limited to the relevant experts. Submitters (who are not experts) and lawyers are not entitled to participate in this process. The Hearing Panel will require that the contact details of experts be provided so that its facilitators can make direct contact with experts to organise expert conferencing.
- 5.4 In the event of any doubt, the Hearing Panel will determine whether a person has the appropriate qualifications, independence, expertise or experience to be qualified to attend as an expert at an expert conference.
- 5.5 So that participating experts know in advance the opinions and reasons for those opinions of the other experts, a facilitator appointed by the Hearing Panel may direct the experts to prepare a summary of their expert opinion in advance of the expert conferencing. All such summaries of expert opinion must be prepared in accordance with the Code of Conduct for Expert Witnesses (Section 9) of the Environment Court's Practice Note 2023. All summaries of expert opinion are to be served on the facilitator and participating experts no later than five (5) working days prior to the expert conference.
- 5.6 The Hearing Panel expects expert witnesses to abide by the Environment Court's Practice Note 2023, including in particular:
  - a. an expert witness has an overriding duty to assist the Hearing Panel impartially on matters within the expert's area of expertise;
  - b. 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 proceeding.
- 5.7 An expert conference may be facilitated by a person appointed by the Hearing Panel, or if appropriate, the expert conference may be self-managed. The facilitator or appointed member of the conference must prepare a report on the conference and provide it in writing or electronically to the Hearing Panel and the persons who attended the conference via the Hearing Secretary no more than five (5) working days after the conference.
- 5.8 The report on the expert conference will take the form of a Joint Witness Statement (JWS) signed by each of the participating experts and must include the following:
  - a. the matters and issues that are agreed between the experts (including key facts and assumptions, identification of any methodology or standards used by the experts in arriving at their opinions, and reasons for any differences in methodology and standards (if any));
  - b. the issues upon which the experts cannot agree and the reasons for their disagreement;
  - c. identification of published standards or papers relied upon in coming to their opinions, including identification of all material regarded by the experts as primary data;
  - d. confirmation that in producing the statement the experts have complied with the Code of Conduct for Expert Witnesses.

- 5.9 Expert conferencing will not be open to non-expert observers but may be attended by the section 42A reporting officer, especially if the experts are proposing track changes to the Plan Change 8 provisions. Whether other parties' planners are then able to attend (or be the subject of separate plan conferencing) will be a decision for the Hearing Panel on request.

## 6. Mediation (Clause 8AA - Schedule 1 of the RMA)

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- 6.1 The Hearing Panel may, with the agreement of the parties, refer a matter to mediation or to another alternative dispute resolution process. The parties (including the section 42A officer) will be advised of the scope of a mediation session and of the time, date and venue of the mediation by way of email, or by telephone.
- 6.2 The Hearing Panel will appoint a mediator(s) or a person(s) to facilitate the mediation or other process, and the person who conducts the mediation must report the outcome to the Hearing Panel. However, material will not be included in the report without a participant's consent if the material was communicated or made available by the person on a without-prejudice or confidential basis.
- 6.3 This report will take the form of a joint statement signed by the parties in attendance, where practicable, that will include the following matters:
- the names and contact details of the people who attended;
  - the matters and issues that were agreed among submitters and the resource management reasons supporting that agreement; and
  - any matters or issues that were not agreed and a concise summary of the outstanding issues between the submitters.
- 6.4 Where practicable, parties attending a mediation session must be authorised to be able to agree, or otherwise settle, the matters and issues that are the subject of the mediation. Where such authority is not delegated, that is to be made known to the facilitator at the earliest opportunity.
- 6.5 Mediation will be undertaken in a pro-active way by the appointed mediators. This may involve parties being contacted by mediators prior to scheduled mediation. Mediators may also present questions to participants and/or request that certain matters be addressed prior to mediation.
- 6.6 With the agreement of parties, mediation may focus on a marked-up version of the relevant provisions of Plan Change 8. This may be provided in advance by the Council, but any other party may bring a marked-up version to the mediation.
- 6.7 Mediation is undertaken to arrive at joint statements of proposed changes to the proposed Plan Change 8 wording that address the relevant matters within s32AA RMA. Mediation towards joint statements may not involve all parties being called upon to contribute to mediation.
- 6.8 Mediation can include the use of expert conferences to determine matters of fact or expert opinion. This can occur as a sub-set to the mediation with agreed positions on facts (between expert witnesses) contributing back into ongoing mediation.
- 6.9 Attending the mediation session(s) is not compulsory, but the Hearing Panel encourages parties to attend where the matter relates to issues raised in their submissions.
- 6.10 Mediation will not be open to members of the public or to submitters who are not directly involved in and invited to that mediation, but may be attended by the section 42A officer, especially if the mediation is likely to result in track changes to Plan Change 8.

## 7. Hearing Details, Location and recording of hearing, and hearing using remote access

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- 7.1 The hearing for Plan Change 8 is planned for 4 May 2026 and 5 May 2026 and will be held in Council Chambers. Reserve dates for the hearing are 7 May 2026 and 8 May 2026. Any changes to location or other details will be advised. Proceedings will be digitally recorded.
- 7.2 The Hearing Panel may direct in accordance with section 39AA RMA that a hearing or part of a hearing session be conducted using 1 or more remote access facilities. If a hearing or part of a hearing session is conducted using a remote access facility, the hearing will be live-streamed online to the public and/or the recording of the hearing made publicly available on Council's website after the hearing (subject to any grounds to exclude the public from all or part of the hearing session under LGOIMA (to the extent relevant or applicable) or s42 RMA).
- 7.3 The hearing is open to the media and may be reported in full. The Chairperson has the discretion over media attendance and coverage, to ensure the hearing is fair and to protect the integrity of the process. For further detail refer to the Ministry of Justice media Guide <https://www.justice.govt.nz/assets/Documents/Publications/MOJ0202-Media-Guide-final-web-version.pdf>.

## 8. Hearing sessions

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- 8.1 Submitters who indicated on their submission or further submission that they wish to be heard will be provided information on how to book a preferred time slot to be heard. Those slots will likely relate to sessions (such as morning before tea break or first session after lunch) rather than specific times. If any submitter who stated they wished to be heard fails to appear at the hearing on their scheduled day and time slot and does not reschedule another day and time slot with the Hearing Secretary (subject to availability), the Hearing Panel may nevertheless proceed with the hearing if it considers it fair and reasonable to do so (section 40(3) RMA).
- 8.2 Submitters should therefore be prepared for the fact that the Hearing Panel may make changes to the hearing schedule and to the order of speakers and may request submitters to come at a specific time. In addition, all notices of hearing sessions for each topic, and any updates, will be available on the Council's website. Note this will be updated regularly and submitters should always check for the latest version, or if there are any uncertainties contact the Hearing Secretary.
- 8.3 The Hearing Panel expects every submitter to organise their case to be succinct and focussed on the key issues and the specific changes that are sought to Plan Change 8. Where demand for hearing time exceeds the time available, the Hearing Panel may limit presentations in order to ensure that all submitters who wish to be heard get a reasonable opportunity for that to happen.
- 8.4 If the Hearing Panel considers that there is likely to be excessive repetition by submitters who wish to be heard, the Hearing Panel may limit the circumstances in which parties having the same interest in a matter may speak or call evidence in support (section 40(2) RMA).
- 8.5 Hearing sessions will be open to members of the public to attend as observers unless there are reasons under LGOIMA (to the extent relevant or applicable) or s42 of the RMA (which relates to the protection of sensitive information) for requiring that the whole or part of a hearing session is held with the public excluded or by prohibiting or restricting the publication or communication of any information supplied to or obtained by the Hearing Panel.

- 8.6 No person other than the Chairperson or other member of the Hearing Panel may question any party or witness. Cross-examination is only permitted with the approval of the Hearing Panel (clause 98(4) of Schedule 1 of the RMA).
- 8.7 If requested, Hearings may involve a combination of in-person and virtual hearings, and submitter preferences will be invited and taken into account.

## 9. Format of Evidence

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- 9.1 It is important for submitters to ensure that evidence is succinct and clearly sets out the issues and the changes being sought. Submitters therefore should:
- a. provide an executive summary statement; and
  - b. set out the relief sought in an appendix.
- 9.2 All statements of evidence and legal submissions shall be:
- a. headed clearly with:
    - i) the name of the submitter who or on whose behalf the document is being lodged;
    - ii) the submission number(s);
    - iii) whether it is primary, supplementary or rebuttal evidence;
    - iv) the date;
  - b. sequentially numbered paragraphs with coherently numbered or lettered sub-paragraphs; and
  - c. lodged electronically in either unsecured and searchable pdf or unsecured docx format.
- 9.3 Each submitter who requests a change to Plan Change 8 must present as part of their evidence an appendix which lists the changes they seek to the provisions of Plan Change 8, supported by amended text and/or drawings.
- 9.4 Changes to text shall be shown in marked-up format as underlined additions and struck-through deletions. Changes to text should not be presented using a tracked-change word processing tool because of the problems created by such tools for numbering and formatting. Submitters must identify which submission(s) and submission point they are relying on for scope for those changes.
- 9.5 All expert evidence is to be prepared in accordance with the Code of Conduct for Expert Witnesses as set out in the Environment Court's Practice Note 2023.

## 10. Pre-circulation of evidence and legal submissions

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- 10.1 The following timetable will apply to pre-circulation of evidence and legal submissions for the opening hearing:
- Council's report (prepared in accordance with s42A of the RMA) and associated expert evidence to be available on the Council's website and submitted to the Hearing Secretary by 13 March 2026;
  - Submitter's evidence (both expert and non-expert) to be submitted to the Hearing Secretary by 2 April 2026;

- Any rebuttal evidence to be provided to the Hearing Secretary by 24 April 2026; and
  - Opening legal submissions by all parties to be submitted to the Hearing Secretary by 29 April 2026.
- 10.2 Notice of the availability and a link to the s42A report will be emailed to all submitters by the Hearing Secretary. The report will also be available at Council's offices and libraries.
- 10.3 The purpose of pre-circulation of evidence is to ensure all parties, and the Hearing Panel, understand the issues that are to be presented prior to the hearing session commencing. It will also enable a much more efficient hearings process as evidence is likely to be taken as read without the need for being read aloud at the hearing.
- 10.4 The Hearing Panel issues this as a formal s41B RMA Direction requiring all submitter statements (lay evidence) and expert evidence for any particular hearing session to be provided to the Panel in advance of the hearings in accordance with the directions contained in this section.
- 10.5 All evidence shall be provided to the Hearing Secretary, who will upload it to the Council website within 1 working day after the submission due date. There are no further requirements for service on other submitters.
- 10.6 Rebuttal evidence (refer para 8.4 of the Practice Note) shall only be accepted as evidence before the Hearing Panel if it is strictly in rebuttal to matters already raised in evidence and contains no material relating to new issues not previously raised in evidence. Rebuttal that simply restates primary evidence will not be accepted.
- 10.7 If any evidence is received after the due dates above, this will be loaded onto the Council's website and email notification will be sent to all submitters that the evidence is available. Submitters who have not provided their email address will be phoned or sent a text message to notify them of the availability of the evidence. If they indicate that they want a follow-up letter, it will be mailed by standard post.
- 10.8 The Hearing Panel requires all parties to pre-circulate their opening legal submissions by 29 April 2026. Both the Hearing Panel and submitters will be assisted if the Panel is able to pre-read legal submissions. Counsel can address 'late-breaking events' by way of addendum tabled at the hearing.
- 10.9 In the event that a submitter fails to pre-circulate expert evidence as required by the Hearing Panel's directions, and subsequently seeks to introduce and rely on that evidence prior to or during the hearing, then a decision will be made by the Hearing Panel as to whether that evidence will be accepted.

## 11. Late or supplementary evidence

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- 11.1 Late or supplementary evidence will only be accepted at a hearing session:
- a. where circumstances make it necessary for such evidence to be provided; and
  - b. with the leave of the Hearing Panel.

## 12. Pre-reading of the submissions and the evidence

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- 12.1 The Hearing Panel will pre-read submissions and evidence in advance, provided it is received within the times specified above.
- 12.2 Before or at a hearing session, the Hearing Panel may (under s41C RMA):
- a. direct the order in which submissions and evidence are to be presented;

- b. direct that submissions and evidence be recorded, taken as read, or limited to matters in dispute;
- c. direct a submitter, when presenting a submission or evidence, to present it within a time limit;
- d. request a submitter to provide further information.

## 13. Possible time limits for submitters presenting evidence

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- 13.1 The Hearing Panel has not, at this stage, limited submitter's hearing time but considers that 10 minutes would be an appropriate guideline for most individual submitters. When scheduling the hearings, the Council may contact submitters to discuss how long they think their presentation before the Hearing Panel will take, if they have legal representation and/or any witnesses (including any experts).
- 13.2 The relevant provisions of the RMA govern the proceedings of the Hearing Panel. Particularly relevant to this issue are the following:
- a. the Hearings Panel must hold the hearings in public (unless permitted to do otherwise by s42 RMA or LGOIMA) (to the extent relevant or applicable under s 39(1)), which may be by remote access facilities (i.e. virtually) if necessary (s39AA);
  - b. for that purpose, the Hearing Panel must establish a procedure for hearing sessions that is appropriate and fair in the circumstances and avoids unnecessary formality (s39(1) and (2)).
  - c. the Hearing Panel may direct:
    - i) that submissions and evidence be taken as read or limited to matters in dispute (s41C(1)(b));
    - ii) a submitter, when presenting evidence or a submission, to present it within a time limit (s41C(1)(d));
    - iii) a submitter not to present the whole submission, if all of it is irrelevant or not in dispute, or any part of it that is irrelevant or not in dispute (s41C(6));
    - iv) that a submission or part of a submission be struck out either before, at or after the hearing, for one of the reasons specified in s41D RMA. A person whose submission is struck-out in whole or in part, has a right of objection under section 357 RMA.

## 14. Hearing session presentation

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- 14.1 As submitter evidence is circulated prior to the hearings, hard copies of this evidence need not be provided by the submitter on the day. However, if a summary of the evidence is to be presented, ten (10) copies of the summary should be provided to the Hearing Secretary on arrival at an in-person hearing session or emailed ahead of time to the Secretary for a virtual session.
- 14.2 All expert and non-expert witnesses must attend hearing sessions in person (or by remote access facility if the Chairperson agrees to this and/or paragraph 7.2 applies) and confirm that the statement of the evidence they have produced is true and correct, unless otherwise directed by the Hearing Panel in any particular case.
- 14.3 Witnesses may read their summary statement and/or present a brief summary having reviewed other evidence (this may include a PowerPoint or other forms of visual material where this would better

assist the Hearing Panel). Witnesses shall not read the balance of their statement/evidence unless so directed by the Hearing Panel. If PowerPoint or other forms of visual material are to be used, they are to be provided to the Hearing Secretary at least three (3) working days before the specific hearing session so they can be loaded before the hearing. On request by a submitter or counsel, and with the leave of the Hearing Chairperson, a witness may take the Hearing Panel to any key diagrams, maps or other visual material that would assist the Hearing Panel to understand the evidence.

- 14.4 No person may produce additional evidence that is not in a statement of evidence lodged according to the timetable set by the Hearing Panel other than as specifically allowed by the Hearing Panel.
- 14.5 All submitters or their representatives will need to be prepared to:
- a. explain relevant figures, plans and tables in their evidence; and
  - b. summarise any changes to their evidence for any reasons including as a result of facilitation or conferencing.

## 15. Absence of Independent Commissioners from all or part of a hearing

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- 15.1 The hearings will be attended at all times by the Independent Commissioners appointed by the Council to the Hearing Panel, unless exceptional and unforeseen circumstances arise including (but not limited to) illness, injury or bereavement.
- 15.2 In the event that one Independent Commissioner is unable to attend all or part of a hearing due to exceptional and unforeseen circumstances, the Chairperson shall, in consultation with the Council's Manager of Planning & Development Solutions, determine the extent to which that person is able to participate in decision-making. In making this determination, the Chairperson shall have regard to the extent to which an absent Independent Commissioner is able to be informed of the proceedings (e.g. through being provided with written evidence and submissions, summaries of oral evidence and submissions, recordings etc) and the principles of natural justice.
- 15.3 In the event that more than one Independent Commissioner is unable to attend all or part of a hearing due to exceptional and unforeseen circumstances, the hearing will be adjourned and rescheduled.

## 16. Presenting in Te Reo

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- 16.1 Any party, representative or witness may speak in te reo Māori at a hearing session. The Hearing Secretary must be informed of the intention to use te reo Māori at least 10 working days prior to the hearing session so that an interpreter can be arranged. Any karakia or mihi will not be translated into English unless requested before the hearing.

## 17. Presenting in New Zealand Sign Language

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- 17.1 Any party, representative or witness may present in New Zealand Sign Language. The Hearing Secretary must be informed of the intention to use New Zealand Sign Language at least 10 working days prior to the hearing session so that an interpreter can be arranged.

## 18. Assistance

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- 18.1 Any person seeking assistance in relation to the Hearing Panel's procedures may contact the Hearing Secretary.

## 19. Commissions of Inquiry Act 1908

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- 19.1 In accordance with s41(1) RMA, the following provisions of the Commissions of Inquiry Act 1908 apply to the hearings:
- (a) [section 4](#), which gives powers to maintain order;
  - (b) [section 4B](#), which relates to evidence;
  - (c) [section 4D](#), which gives power to summon witnesses;
  - (d) [section 5](#), which relates to the service of a summons;
  - (e) [section 6](#), which relates to the protection of witnesses;
  - (f) [section 7](#), which relates to allowances for witnesses.
- 19.2 Subsections 41(2) and (3) RMA apply in relation to every summons to a witness to appear at the hearing and allowances for witnesses.
- 19.3 The Hearings Panel may request and receive the information or advice from the persons detailed in subsection 41(4) RMA.

## 20. Glossary

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When used in this Hearing Procedures document, these words are intended to have the following meanings:

- a. **chairperson** means the chairperson of the Hearing Panel;
- b. **expert conferencing** means a process by which expert witnesses 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. Such a conference is a structured discussion between peers within a field of expertise which can narrow points of difference and save hearing time (and costs). All experts have a duty to ensure that any conference is a genuine dialogue between them in a common effort to reach agreement about the relevant facts and issues;
- c. **expert witness** means a person who would be recognised by the Hearing Panel as an expert in his or her field by reason of relevant qualifications and/or experience;
- d. **Hearing** means the overall process undertaken by the Hearing Panel under Part 4 of the RMA;
- e. **hearing session** means a particular session at which submissions are heard by the Hearing Panel as part of the hearing;
- f. **LGOIMA** means the Local Government Official Information and Meetings Act 1987;
- g. **mediation** is a process of assisted negotiations to discuss a dispute and work toward a solution that is acceptable to all parties rather than have the Hearing Panel impose an outcome on the parties;
- h. **member(s) of the public** means any person who is not a submitter, a witness, a representative of the Rotorua Lakes Council, a member of the Hearing Panel or one of the support staff assisting the Hearing Panel;
- i. **non-expert witness** means a witness who is not an expert witness and includes a submitter giving evidence;

- j. **representation** means the case or arguments advanced in support of a submission and may include legal submissions;
- k. **RMA** means the Resource Management Act 1991;
- l. **submission**—
  - a. means a written or an electronic submission received by Rotorua Lakes Council on the proposed plan change; and
  - b. includes a further written or electronic submission on the proposed plan;
- m. **submitter** includes a person representing a submitter or further submitter.



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David Hill  
Hearing Panel Chairperson  
12 January 2026