

# Proposed Plan Change 52, 55 and 60

## Hearing Procedure



The following outlines: the duties of the Chairperson; the Hearing Procedure and defines the Parties at the Hearing.

### Duties of the Chairperson

1. Call the Hearing to order;
2. Introduce the members of the Hearings Committee;
3. Outline emergency exits and any house rules being in the Council Chambers.
  - a. In the event of a fire alarm going off proceed to the nearest exit...
4. State the matter to be heard by the Committee;
5. Request Council's Officers to introduce those persons available to answer questions from the Committee or to give evidence;
6. Request submitter or representative to introduce themselves and those person available to answer questions from the Committee or to give evidence;
7. Chairperson to confirm with the Council and the submitter the documents that have been provided to the Committee.
  - a. *If a party to the proceedings does not have a document the Chairperson MAY adjourn the Hearing until such time that the party has had the opportunity to read the document. To be clear, an adjournment should only be reserved for serious matters where an immediately affected party who could reasonably have expected to see the order party has not. An adjournment may be in the order of 10mins to any other specified timeframe acceptable to the Hearings Committee.*
8. Chairperson to inform parties that as a quasi-judicial hearing the rules of natural justice, which provide the right to a fair hearing, will be observed. However, the hearing is not subject to the strict formalities of a full judicial hearing therefore there is no need to stand while presenting submissions.
9. The Chairperson will outline the hearing procedure for all.

### Hearing Procedure

- a. The Chairperson will invite the Submitter or their representative to speak to their submission.
- b. The Chairperson will permit members of the Committee to ask questions of the submitter or their representative.

- c. Cross examination is NOT permitted.
- d. Once the Submitter has presented their submission the Chairperson will invite the Council to introduce their report.
- e. The Chairperson will permit members of the Committee to ask witnesses questions of the Council Officer/s.
- f. The Chairperson may permit the Submitter to ask relevant questions of clarification through the chairperson (i.e. the question must be addressed to the Chairperson and the Chairperson alone will decide whether the question will be permitted and if so the Chairperson will direct the question to the person concerned).
- g. Cross examination is NOT permitted.
- h. The Chairperson will invite the Submitter to address the Committee with a closing submission.
- i. The Chairperson will invite Council's Officer/s to address the Committee with a closing submission.
- j. The Chairperson will close the hearing to allow the Committee to deliberate in private and determine the objection. The Chairperson will advise a timeframe for when a decision will be issued in writing to all parties and remind all parties that the decision of the Committee is final.

## Parties at the Hearing

*Chairperson* – The Chairperson controls the Hearings process from the commencement of the Hearing through to the releasing of the committee's decision. The Chairperson will determine when further information is required by the Committee and from where that information will be obtained.

The Chairperson is the final determiner of all questions, whether from a Committee member or through the Chairperson from one of the parties.

The Chairperson may restate any request put through the Chair to ensure that it is a question and that it is put to the right person.

*Hearings Committee* – The Committee members will listen to all the evidence presented and make an objective decision based on that evidence. Only evidence tabled at the Hearing will be considered by the Committee. The Committee may ask, through the Chairperson, questions of clarification of a witness.

The Committee may provide a written decision following the conclusion of the Hearing. Or the committee may reserve its decision and release a written decision at a later date, determined by the committee.

*Submitter* – The Submitter may represent themselves or be represented by a lawyer, advocate or other person. They may make a written or verbal submission supporting their submission. The Submitter may call witnesses to present evidence in support of their submission. They are not permitted to cross-examine any officer but they are permitted to ask the Chairperson to clarify any relevant matter raised by an officer.

*Council Officer* – The role of the Council Officer is to present the case for the Council. The Council advocate may call upon witnesses to present evidence in support of the Council's case. The Council Advocate is not permitted to cross-examine any submitter by they are permitted to ask the Chairperson to Clarify any relevant matter raised by a submitter.