



# Hearing Procedures

## for Coastal Resources Limited (CRL) application for marine dumping consent

### Issued by the Decision-making Committee:

Mark Farnsworth (Chairperson)

Basil Morrison

Gillian Wratt

**28 September 2018: Issue 2**

### Purpose of the hearing procedures

The purpose of these hearing procedures is to set the rules and timeframe by which the hearing process will run. The Hearing Procedures have been divided into two sections:

- Section 1 - provides the timelines; and
- Section 2 - sets the principles and rules by which the hearing process will run.

Guidance on how to participate in the hearing can be found at: <https://www.epa.govt.nz/public-consultations/what-to-expect-at-a-hearing/>

The hearing procedures include aspects of the application process in the lead up to the hearing (the pre-hearing stage) where these are relevant to the hearing.

The Decision-making Committee (DMC) has wide powers to ensure that the hearing is appropriate and fair in the circumstances. These powers include giving directions as to evidence and the conduct of the hearing. This must be done in the context of the statutory timeframes set by the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 and the obligation to deal with the application, as promptly as is reasonable in the circumstances. These hearing procedures set out those directions.

The purpose of the hearing is to ensure the DMC has the best available information on which to base its decision. To ensure this can be done in the most appropriate and fair way, the DMC also has powers to consider limiting circumstances for a party to speak or call evidence where there is likely to be excessive repetition. No person may question a party or witness unless the DMC gives permission, and the process for this is set out in these hearing procedures.

## Amendments or Updates to the hearing procedures

Amendments or updates may be made to these procedures throughout the pre-hearing and hearing stages of the process (for example: changes to dates in the Section 1) as directed by the DMC. Parties will be notified of any changes via the Environmental Protection Authority website.

## Requests to deviate from these procedures

Should any party wish to deviate from any requirement identified in these procedures, including timeframes, a written request shall be made to the DMC. Any such request must contain a full explanation of why the deviation is requested.

**Email:** [crl.application@epa.govt.nz](mailto:crl.application@epa.govt.nz) (emails need to be smaller than 10MB)

**Mail:** CRL Marine Dumping Consent Application, Environmental Protection Authority, Private Bag 63002, Wellington 6140, New Zealand

**Phone:** on freephone 0800 080 065

**Delivery in person:** to Environmental Protection Authority, Grant Thornton House, Level 10, 215 Lambton Quay, Wellington, New Zealand.

### Revision Notes

Issue 1: First issue dated 19 September 2018

Issue 2: Second issue dated 28 September 2018

## Section 1

The timetable for CRL application for marine dumping consent has been divided into two parts as follows:

*Basic timetable* – provides only the **essential key dates and times** for submitters who wish to speak at the hearing, but do not wish to actively engage beyond this point e.g. through providing evidence, expert witnesses etc.

*Detailed timetable* – outlines **all the key dates and times** for parties e.g. evidence, additional reports, meetings and conferencing etc.

### Basic timetable

Date	Action	Paragraph
30 July 2018	Public Notification of application	N/A
<b>5pm</b> 10 September 2018	Submissions close	N/A
<del>5 October 2018</del> <u>29 October 2018</u>	Hearing notice issued	33
<del>12pm</del> <del>4 October 2018</del> <u>12pm</u> 30 October 2018	Parties must have <b>confirmed</b> with the EPA:	
	<ul style="list-style-type: none"> <li>If they wish to speak at the hearing and provide the DMC with bullet points of the key areas of their representation they will cover; and</li> </ul>	34 and 57
	<ul style="list-style-type: none"> <li>any witnesses (both expert and non-expert) they wish to appear on their behalf (names and topics)</li> </ul>	34 and 49
	<ul style="list-style-type: none"> <li>If they are unable to appear at the hearing on any date/time</li> </ul>	34 and 57
	<ul style="list-style-type: none"> <li>If they wish to present via video conference i.e. Skype</li> </ul>	73-77
	<ul style="list-style-type: none"> <li>If they need an interpreter (e.g. for Te Reo Māori or sign language)</li> </ul>	34 and 80-84
	<ul style="list-style-type: none"> <li>If they intend to present information using any electronic media</li> </ul>	78-79
<del>6 November 2018</del> <u>28 November 2018</u>	*Hearing begins	33-41
<del>22 January 2019</del> <u>14 February 2019</u>	Latest date for the hearing to close (if maximum 40 working dates for hearing is needed)	N/A
TBC	*DMC Decision to be provided to the EPA (20 working days after the close of the hearing). Decision publicly released as soon as practicable after that.	N/A

\*Under the EEZ Act the EPA has the power to waive compliance with the timeframes above and these dates may change.

## Detailed timetable

Date	Action	Paragraph
30 July 2018	Public Notification of application	N/A
<b>5pm</b> 10 September 2018	Submissions close	N/A
<del>12pm 4 October 2018</del> <u>12pm 25 October 2018</u>	<b>Applicant evidence due with the EPA</b>	12-18
<del>5 October 2018</del> <u>29 October 2018</u>	Hearing notice issued	33
<del>12pm 4 October 2018</del> <u>12pm 30 October 2018</u>	Parties must have <b>confirmed</b> with the EPA:	
	<ul style="list-style-type: none"> <li>If they wish to speak at the hearing and provide the DMC with bullet points of the key areas of their representation they will cover; and</li> </ul>	34 and 57
	<ul style="list-style-type: none"> <li>any witnesses (both expert and non-expert) they wish to appear on their behalf (names and topics)</li> </ul>	34 and 49
	<ul style="list-style-type: none"> <li>If they are unable to appear at the hearing on any date/time</li> </ul>	34 and 57
	<ul style="list-style-type: none"> <li>If they wish to make opening representation and closing representation</li> </ul>	42-48 and 85-87
	<ul style="list-style-type: none"> <li>If they wish to present via video conference i.e. Skype</li> </ul>	73-77
	<ul style="list-style-type: none"> <li>If they need an interpreter (e.g. for Te Reo Māori or sign language)</li> </ul>	34 and 80-84
	<ul style="list-style-type: none"> <li>If they intend to present information using any electronic media</li> </ul>	78-79
<del>12pm 15 October 2018</del> <u>12pm 1 November 2018</u>	<b>Submitter evidence due with the EPA</b>	12-18
<del>19 October 2018</del> <u>7 November 2018</u>	Conferencing and/or Pre-hearing Meeting Timetable issued, if required.	24, 27 and 28
<del>12pm 19 October 2018</del> <u>12pm 7 November 2018</u>	Requests to question any witnesses due with EPA	65-70/2
<del>23 October - 2 November 2018</del> 8-22 November 2018	Expert Conferencing and Pre-hearing Meetings, if required (attendees to be available this week)	21-32

<del>12pm 26 October 2018</del> <u>12pm 14 November 2018</u>	Any revisions to requests to question any witnesses due with EPA (if required)	67
<del>6 November 2018</del> <u>28 November 2018</u>	*Hearing begins	33-41
<del>22 January 2019</del> <u>14 February 2019</u>	Latest date for the hearing to close (if maximum 40 working dates for hearing is needed)	N/A
TBC	* DMC Decision to be provided to the EPA (20 working days after the close of the hearing). Decision publicly released as soon as practicable after that.	N/A

\*Under the EEZ Act the EPA has the power to waive compliance with the timeframes above and these dates may change.

## Section 2

### Introduction

1. The Environmental Protection Authority (“EPA”) has delegated the decision making for the Coastal Resources Limited (CRL) application for marine dumping consent to a Decision-making Committee (“the DMC”). The DMC will manage the hearing process and this document outlines its directions and procedures.
2. The marine dumping consent application, made to the EPA under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (“the EEZ Act”) by CRL, is to annually dump up to 250,000m<sup>3</sup> of dredged material from source sites within Auckland and Waikato, at an existing dump site 25km east of Great Barrier Island. The application and other information can be accessed through the EPA website at: <https://www.epa.govt.nz/public-consultations/>
3. The DMC members are: Mark Farnsworth (Chairperson), Basil Morrison and Gillian Wratt.
4. These hearing procedures set out how the hearing and pre-hearing processes will be run. The DMC may modify these procedures if required by the circumstances, either on its own motion or at the request of any party. All relevant parties will be notified of any change to these hearing procedures via email and through the EPA website.

### Principles/Objectives of the hearing process

5. In determining the approach to the hearing the DMC are guided by the need to:
  - a. run a fair and transparent hearing procedure providing for natural justice;
  - b. avoid unnecessary formality;
  - c. conduct an efficient process which minimises hearing time and costs;
  - d. ensure information is provided to the DMC in a timely manner and to ensure that the DMC has the best available information, avoiding repetition of information and the presentation of material not relevant to determining the application;
  - e. provide the applicant and submitters with an adequate opportunity to be heard, but it may be necessary to limit the length of oral presentations;
  - f. 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
  - g. recognise New Zealand sign language where appropriate, and receive evidence in NZ sign language if required.

### Definitions

6. Terms used in these hearing procedures (and related correspondence) are defined in the EEZ Act or below:

**The applicant** –Coastal Resources Limited (CRL).

**The application** – Coastal Resources Limited (CRL) application for marine dumping consent as lodged with the EPA on 5 June 2018.

**Counsel** – a lawyer who represents one or more of the parties.

**DMC** – The Decision-making Committee appointed by the EPA to make a decision on the CRL application for marine dumping consent.

**DMC Minutes and Directions** – The DMC will issue Minutes (providing information) and Directions (decisions requiring actions) throughout the process to communicate with parties.

**EEZ Act** – The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

**EPA** – the Environmental Protection Authority.

**Evidence** – statements that set out or evaluate facts. Evidence can include photographs and other visual presentations.

**Expert evidence** – Statement of opinion, by a qualified expert about issues within their field of expertise. Expert evidence must comply with the Environment Court Practice Note 2014.

**Non Expert evidence** – Statements of fact which a person having knowledge of those facts can give and who does not meet the criteria for an expert witness.

**Expert Conferencing** – a meeting of experts to narrow differences or clarify issues both prior to and during the hearing. A report/memo (commonly referred to as a Joint Witness Statement) is produced documenting the outcomes.

**Facilitation** – a method of dispute resolution where a neutral facilitator helps the parties involved attempt to resolve issues, identify commonality or identity and refine issues. The facilitator does not impose a decision on the parties.

**Hearing schedule** – a timetable that identifies where a hearing will be held and lists the order of people for that venue and approximate allocated speaking times. Due to the uncertainty of the length of presentations and questioning, specific dates and times cannot be precisely allocated to those appearing at the hearing.

**Party (Parties)** – the applicant and submitters.

**Pre-hearing Meetings** – when parties/witnesses talk together with the aim of identifying differences between them, resolving any differences and/or narrowing or clarifying issues and avoiding repetition in the hearing.

**Representations** – a party’s statement of position made to the DMC at the hearing in relation to their submission. It can state a party’s opinion on the proposal, how it will affect them and may request for a particular decision or outcome. This is not evidence.

**Opening Representation** – An overview of a party’s case usually provided on the first day of the hearing. The opening representation assists the DMC in understanding the content of the party’s case, important issues, the nature of the evidence that is to be called by a party, and any legal issues that may be relevant. Opening representations are only available to those who meet the criteria in paragraphs 43 – 48. Any other submitter wishing to make an opening statement should apply to the DMC as outlined in paragraph 46.

**Closing Representation** – A short and concise summary of the party’s case and, where appropriate, a critique and comment on other parties’ cases, usually, but not always, given by Counsel for the party. Closing representations are only available to those who meet the criteria in paragraphs 43 – 48.

**Submission** – a written or electronic submission relating to the application.

**Submitter** – a person or group of people who make a submission on the application.

**Witness** – a person who provides evidence on behalf of a party.

**Expert witness** – a witness who has the knowledge and/or experience that entitles him or her to be recognised by the DMC as an expert in their particular field. Experts are required to abide by the Environment Court of New Zealand Practice Note 2014:

<https://www.environmentcourt.govt.nz/assets/Documents/Publications/2014-ENVC-practice-notes.pdf>

## Interest Register

7. A Register of DMC members’ relevant interests is maintained on the EPA website (it will be updated as required during the proceedings): <https://www.epa.govt.nz/public-consultations/open-consultations/coastal-resources-limited/decision-makers-and-procedures/>

## Communications by/from/to the DMC

8. The DMC will communicate with the applicant and submitters via:
  - a. notices on the EPA website; and
  - b. email advising of updates to the website, unless the applicant or submitter has advised the EPA that they do not wish to receive electronic communications.

**Note:** hard copy information will only be provided if specifically requested. There may be instances, such as with the schedule of appearances for the hearing, where hard copy



information may be superseded by the time it is received by the requestor. The most up to date information will be available on the EPA website.

9. All communication with the DMC must be made via EPA staff by providing the information in the following ways:

**Email:** [crl.application@epa.govt.nz](mailto:crl.application@epa.govt.nz) (emails need to be smaller than 10MB)

**Mail:** CRL Marine Dumping Consent Application, Environmental Protection Authority, Private Bag 63002, Wellington 6140, New Zealand

**Phone:** on freephone 0800 080 065

**Delivery in person:** to Environmental Protection Authority, Grant Thornton House, Level 10, 215 Lambton Quay, Wellington.

**Note:** Generally all correspondence to the DMC will be made available on the website, unless it is of a purely administrative nature. The EPA will redact certain contact details from the correspondence, in particular a submitter's personal email address and phone number, but will not redact a company's or a parties legal counsels contact details. If a correspondent does not want certain information to be made publicly available (e.g. personal information or information that falls within section 158(1) of the EEZ Act), the correspondent may request the EPA to not disclose such information. The correspondent must clearly identify which information the request applies to, and the reasons why it should not be made available.

## Provision of copies of documents

10. Copies of the application, evidence, submissions and all other information and documents provided by the applicant, the submitters or the EPA will be uploaded to the EPA website:

<https://www.epa.govt.nz/public-consultations/open-consultations/coastal-resources-limited/>

## Pre-hearing procedures

11. The DMC expects the parties, and particularly their representatives, to be proactive in resolving issues and identifying areas of commonality and any areas of difference.

## Evidence requirements

12. The applicant is required to provide its written statements of evidence to the EPA on the date and time specified in the timetable in Section 1 of this document.
13. Submitters are required to provide any written statements of evidence (expert and non-expert evidence) to the EPA on the date and time specified in the timetable in Section 1.
14. 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 (2014). An expert witness has an overriding duty to impartially assist the DMC on matters within the expert's area of expertise.

15. Evidence must meet the documentation requirements detailed in Appendix 1.
16. If evidence needs to be updated after it is lodged (for example as a result of meetings) the witness must provide a tracked change version of the evidence clearly identifying the changes made, with a version number and date.
17. Evidence will be provided to parties 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 CD or in hard copy. The EPA may charge for hard copy material.
18. Hard copies of evidence will be available for viewing at the hearing.

### **Pre-reading of the material**

19. The DMC will pre-read the application, further information, commissioned Technical Reports and advice, submissions, the evidence, and any other material provided in accordance with the timetable provided in Section 1.
20. The hearing will proceed on the basis that all parties have read the material of relevance to them to avoid unnecessary repetition of information during the hearing.

## **Expert Conferencing and Pre-hearing Meetings**

### **Expert Conferencing**

21. The DMC may require expert conferencing to be undertaken, and if so, will determine which expert witnesses should participate.
22. Attendance at expert conferencing will be limited to experts complying with the Environment Court of New Zealand Practice Note 2014 and conferencing will take place in accordance with the Practice Note: <https://www.environmentcourt.govt.nz/assets/Documents/Publications/2014-ENVC-practice-notes.pdf>
23. The DMC expects that expert witnesses will be available, either in person or via teleconference or video conference, to conference with other experts in the same technical field.
24. The DMC will issue a timetable for expert conferencing (if any) in accordance with the date set out in Section 1.
25. Only witnesses who are directed to attend expert conferencing may attend any allocated sessions. Parties are not permitted to attend or observe expert conferencing sessions.

### **Pre-hearing Meetings**

26. The DMC may request the applicant and one or more submitters to meet to discuss any matters in dispute. Parties are also encouraged to hold such meetings amongst themselves.
27. If required, the DMC will issue a timetable for any pre-hearing meetings in accordance with the date set out in Section 1.

## Expert Conferencing and Pre-hearing Meetings

28. The final topics, attendees, dates and times of all Expert Conferencing and/or pre-hearing meetings will be advised as per the timetable provided in Section 1. Attendees will be expected to make themselves available for these dates. Further dates and times may be directed by the DMC or in agreement by the attendees.
29. Should any party seek changes to the scheduled Expert Conferencing or pre-hearing meetings a request should be made to the DMC within two working days of the dates and times being advised. Attendance requirements and/or other changes will be confirmed by the DMC.
30. Expert Conferencing and/or pre-hearing meetings will take place in Auckland, except where the DMC agrees otherwise. Experts may attend in person or by video conference or tele-conference. Experts are expected to participate in a process that will establish common ground in terms of areas of agreement and disagreement.
31. The DMC may appoint a facilitator to organise and conduct Expert Conferencing and/or pre-hearing meetings if required.
32. For all expert conferencing and/or pre-hearing meetings, a Joint Witness Statement (a report/memo) or pre-hearing meeting report is to be provided on the outcome of the meeting, including:
  - a. the matters that were agreed at the meeting; and
  - b. the matters that were not resolved and why.

The report will not include anything communicated or made available during the conferencing or at the meeting on a 'without prejudice' basis.

## Hearing

### Notice of hearing, venue(s) and scheduling

33. The EPA will issue a Hearing Notice confirming hearing dates and locations (e.g. Auckland, Wellington etc.) by the date set out in Section 1.
34. Parties are to confirm with the EPA if they wish to speak at the hearing and provide the DMC with
  - a) bullet points of the key areas of their representation they will cover;
  - b) provide notice of any witnesses (names and topics/areas of expertise) they also wish to appear on their behalf;
  - c) identify any availability issues; and
  - d) make any requests for an interpreter by the date and time set out in Section 1 so the EPA can prepare a hearing schedule.
35. Unless otherwise advised, the hearing will begin each day at **9:30 am**. It will generally finish around **4:30 pm**. There will be breaks at approximately 10:45 am and 3:00 pm for morning tea

and afternoon tea. The lunch break will typically be an hour from 12:30 pm to 1:30 pm. Catering is not provided.

36. A detailed Hearing Schedule will be produced and updated regularly throughout the process. This will be made available on the EPA website and will contain the dates, venues and order of speakers on each day with approximate timings.
37. The Hearing Schedule is subject to change. Parties scheduled to appear may be advised of updates to the Hearing Schedule by email. Where changes occur at short notice the EPA will endeavour to verbally communicate with affected parties.
38. To enable a fair and efficient hearing and to avoid repetition, time allowances for the presentation of representations and evidence are set out in Appendix 2.
39. The order of parties appearing at the hearing will be in general accordance with that set out in Appendix 2.
40. Legal issues may be raised only by counsel, and may be raised with the Chairperson at any time during the hearing.

### **Opening the hearing**

41. The hearing may open with a mihi whakatau.

### **Opening representations**

42. An opening representation is not compulsory.
43. Opening representations will be made after the hearing has been opened and any process, administrative and/or jurisdictional matters have been addressed. A limit may be placed on the time allowed for an opening representation. Any such time limits are set out in Appendix 2.

### ***Opening representations from the applicant***

44. Opening representations by the applicant are expected to summarise the applicant's case and provide an outline of the evidence to be presented.
45. Hard copies of representations and any documents supporting these can be provided at the hearing, but must meet the requirements set out in Appendix 1.

### ***Opening representations from submitters***

46. Any submitter calling three or more expert witnesses, representing a group of parties or representing an organisations' view may make an opening representation, provided that they make a request to do so by the date and time set out in Section 1. The request should provide an estimate of time required.
47. Any other submitter wishing to make an opening statement should apply to the DMC by the date and time set out in Section 1, giving reasons and an estimate of time required.
48. Where such a representation is made it is expected to summarise the party's case and provide an outline of the evidence to be presented.

### **Witnesses appearing at the hearing (providing evidence)**

49. Parties wanting to call witnesses at the hearing must indicate who those witnesses are and the topics they will cover by the date and time specified in Section 1 of these procedures.
50. The evidence of witnesses must meet the requirements set out in Appendix 1.
51. In general, all witnesses must attend the hearing in person (or, by prior agreement of the DMC, through video conferencing). However, the DMC 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 party. In this case, their evidence will be taken as read.
52. Witnesses will **not** be sworn or affirmed, but must ensure that the statement of evidence they have produced is true and correct. Expert witnesses are required to abide by the Environment Court of New Zealand Practice Note 2014.
53. 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 from the hearing.
54. Witnesses will not read their evidence at the Hearing unless requested to do so by the DMC. Witnesses may:
  - a) present a concise summary of their evidence; this summary should cross reference back to the 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.
55. A limit may be placed on the time witnesses have to present their evidence. Any such time limits are set out in Appendix 2.

### **Submitters appearing at the hearing (making their representation)**

56. All submissions will be read and considered by the DMC before the hearing. Submitters do not have to attend the hearing if they do not wish to; their views will be considered by the DMC regardless of their attendance.
57. Submitters wanting to speak to their submission at the hearing must
  - a) reconfirm their wish to do so;
  - b) provide the DMC with bullet points of the key areas of their representation they will cover; and
  - c) identify any availability issues by the date and time specified in Section 1
 so the EPA can prepare a hearing schedule accordingly.

58. Submitters may speak to their submission themselves, or they can choose to be represented by a lawyer, an advocate or other person (e.g. a friend or family member). If not representing themselves the submitter must advise the EPA who will present their submission.
59. A joint representation (where one person makes a representation on behalf of several submitters) is encouraged where the submissions are of a similar nature.
60. If submitters do not identify opportunities for joint representation and/or the DMC considers there is likely to be excessive repetition at the hearing (a number of submitters saying the same thing) the DMC may limit the circumstance in which submitters who have the same interests can speak.
61. When speaking at the hearing, a submitter may only address the matters within the scope of their lodged written submission.
62. A limit may be placed on the time submitters have to make their representation. Any such time limits are set out in Appendix 2.
63. At the hearing, the DMC may direct a person presenting a submission not to present the whole submission, if none of it is relevant or in dispute, or not to present any part of the submission that is not relevant or in dispute.
64. The EEZ Act<sup>1</sup> specifies matters that the DMC must not have regard to when making its decision, including the effects on climate change of discharging greenhouse gases into the air.

## **Questioning of witnesses and parties**

### *Questioning of witnesses*

65. Cross examination will not be permitted by the DMC.
66. Any party who wishes to put questions to a witness at the hearing must make a request to the DMC and send notice to the party identifying those particular witnesses in accordance with the timetable in Section 1. Parties are not required to submit their questions. The request must include:
  - a) the person to be questioned;
  - b) include the specific topics to be covered; and
  - c) an estimate of the time required.
67. If a party no longer needs to question a witness they should inform the EPA by the date and time outlined in Section 1.
68. The EPA will make all requests and decisions of the DMC available on the EPA website.

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<sup>1</sup> Section 59(5) of the EEZ Act states that despite subsection (3), the marine consent authority must not have regard to: (a) trade competition or the effects of trade competition; or (b) the effects on climate change of discharging greenhouse gases into the air; or (c) any effects on a person's existing interest if the person has given written approval to the proposed activity.

69. The DMC encourages parties with similar interests to group together for any questions. The DMC will not allow repetitive or irrelevant questions.
70. At the hearing at the discretion of the DMC, further questioning of a witness, by the party calling the witness may be allowed after questions from other parties have been completed.
71. The DMC may ask any question of the applicant, any submitter, representative, legal counsel, or witness. Questions will generally be after, but may be at any point in the presentation by that person.

### ***Questions for submitters***

72. Any party wanting to question submitters giving a representation must seek permission from the DMC. The DMC may ask any question of any submitter, representative, legal counsel or witness.

### **Speaking via video-conference**

73. Any party may request the DMC to allow their representation or witness's evidence be given via video conference ie Skype.
74. The request must state the name and location of the person/witness and the reason(s) why they cannot attend in person.
75. The date and time by which any request must be made is specified in Section 1 of this document.
76. Each request will be considered on its merits and will be allowed if it is reasonable and practicable. If permission is granted by the DMC, the party will discuss the necessary arrangements with EPA staff.
77. Representations by telephone conference are not permitted.

### **Presentation/electronic media requirements at the hearing**

78. Where any submitter or their representative 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.
79. 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**

80. Any party, 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 so that an interpreter can be arranged.

81. 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 DMC, an English interpretation of the karakia, powhiri or mihi may be provided by the presenter.
82. Any party, representative or witness may provide their written evidence or a representation in Te Reo Māori, in which case an English version is to be provided by them.
83. Any party, 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 so that an interpreter can be arranged.
84. The date and time 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.

### **Closing Representation**

85. Parties who made an opening representation may make a closing representation. This is optional. A request to make a closing representation must be made by the date and time set in Section 1 and provide an estimate of time required. No additional evidence or new information that has not been raised during the hearing can be introduced at this time.
86. A limit may be placed on the time to make a closing representation. Any such time limit is set out in Appendix 2.
87. Following the closing representations, the DMC may adjourn the hearing. The DMC will advise all parties of the next stages and the date the hearing is closed.

### **Written record of proceedings**

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

### **Role of EPA Support Staff**

90. The EPA Hearing Manager will make the arrangements for the hearing on behalf of the DMC and will attend the hearing to assist the DMC with the administration of the hearing.
91. The DMC will also be supported by an EPA Senior Advisor to assist with document management and to manage the hearing schedule. The EPA support staff can be contacted by email on [crl.application@epa.govt.nz](mailto:crl.application@epa.govt.nz) or by Freephone 0800 080 065.



92. All communications to the DMC shall be via the EPA support staff.

## Media requirements

93. 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 public proceedings.
94. Cameras, video-recorders and audio recorders can only be used by media or any other person in the hearing, with prior permission from the DMC. Applications for permission to record can be made to the Chairperson of the DMC in advance by emailing the EPA on [crl.application@epa.govt.nz](mailto:crl.application@epa.govt.nz).
95. Media interviews are not allowed in the hearing room. The DMC are not available for media interviews. The EPA will be available to provide process information to the media. All general media enquiries should be directed to Mark Wardle, Senior Communications Advisor [media@epa.govt.nz](mailto:media@epa.govt.nz) or phone 0272 587 102.
96. The DMC will operate under the Media Guide for reporting the Courts and Tribunals (Edition 3.1) Appendix F - Environment Court in-court media coverage guidelines which can be found on the Ministry of Justice website at: <https://www.justice.govt.nz/about/news-and-media/media-centre/media-information/media-guide/appendices/appendix-f/>

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

### Evidence

1. All witnesses (expert and non expert) must provide 10 hard copies AND an electronic copy of their evidence to the EPA by the dates and times set out in Section 1. 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. **By email** to [crl.application@epa.govt.nz](mailto:crl.application@epa.govt.nz) (if smaller than 10MB); or
  - b. **On a disk or portable storage device** (e.g. USB stick or CD) (if larger than 10MB); or
  - c. **Posted** to Environmental Protection Authority, Private Bag 63002, Wellington 6140, Attention: CRL Marine Dumping Consent Application; or
  - d. **Delivered in person** to Environmental Protection Authority, Level 10, 215 Lambton Quay, Wellington.
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 submission. These reports/submissions 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.
6. If evidence needs to be updated after it is lodged (e.g. as a result of meetings), 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 any parties with approved requests to question the witness, no less than three days before the witness is scheduled to appear. 10 hard copies shall be given to the Hearing Manager on the day the witness appears.

### 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 submitter presentations, may be provided on the day. 10 hard copies and 1 electronic copy 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. The electronic copy can be emailed the day before to [crl.application@epa.govt.nz](mailto:crl.application@epa.govt.nz).
8. For parties 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 party is scheduled to appear, or

given to the Hearings Manager on a disk or portable storage device upon arrival at the hearing venue.

### **Hard copy requirements**

9. All text shall be double-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 party 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 DMC.

### **Electronic copy requirements**

15. If the electronic copy of any document is less than 10MB, it can be emailed to the EPA at [crl.application@epa.govt.nz](mailto:crl.application@epa.govt.nz)
16. If the electronic copy of any document is greater than 10MB, it must be provided to the EPA on a CD, DVD or portable storage device (e.g. USB Stick). Any electronic files over 10MB 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 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 party is providing evidence that include video clips, photographs or images then one copy on a CD, DVD or portable storage device (eg USB Stick) is to be provided both to the EPA and the applicant.
19. Any party unable to create electronic copies of a document must contact the EPA to make other arrangements before the date and time the document is due to be lodged.

## Appendix 2 – Hearing order and time limits for appearances

### Order of Appearances at the Hearing

The hearing will generally be scheduled in the following order:

1. Welcome and introductions
2. Administrative and procedural matters
3. Applicant's case starting with its Opening Representation followed by its witnesses
4. Parties/Witnesses in support (Opening Representations, followed by any witnesses and then Closing Representations)
5. Parties/Witnesses that are neutral (Opening Representations, followed by any witnesses and then Closing Representations)
6. Parties/Witnesses that are in opposition (Opening Representations, followed by any witnesses and then Closing Representations)
7. Any witnesses called by the Decision-Making Committee (DMC)
8. Closing Representation by the Applicant

### Indicative time allowances for presentations

<b>Opening representations</b>	Applicant's opening representation	2 hours
	Any other parties' opening representations who meet the criteria in paragraph 46	30 minutes
<b>Evidence</b>	Witnesses will present a summary and/or any corrections to their evidence	15 minutes
	Questioning of witness	Max 1 hour per party per witness
	Questions of the witness by the DMC	No limit
<b>Representations</b>	Representation from the submitter or representative	10 minutes
	Questions of the submitter by the DMC	No limit
<b>Closing representations</b>	Any other parties' closing representations who meet the criteria in paragraph 46	30 minutes
	Applicant's closing representation	2 hours