

IN THE MATTER OF
AND

the Resource Management Act 1991

IN THE MATTER OF

Waikato IPIs – Hamilton CC PC12,
Waipā DC PC26 and **Waikato DC
Variation 3.**

RESOURCE MANAGEMENT ACT 1991
DIRECTION #10
INDEPENDENT HEARING PANEL

Purpose: The purpose of Direction #10 is to address the procedural matters raised in memoranda filed before and in oral submissions made at the procedural hearing on 24 February 2023.

PROCEDURAL ISSUES AND TIMETABLING

1. The Panel has considered the submissions made at the Procedural Hearing on Friday, 24 February 2023 and makes the following directions.

1. All Waikato IPIs

(a) *Scope inclusionary zoning / affordable housing*

2. The Panel directs the following timetable for the issue of whether inclusionary zoning / affordable housing is within scope:
 - (a) Submissions on behalf of the submitters in support of their relief being within scope to be lodged with the hearing coordinator by 5pm 10 March 2023;
 - (b) Any party who considers that submissions seeking inclusionary zoning are beyond the scope of the Waikato IPIs to lodge written legal submissions with the hearing coordinator by 5pm 17 March 2023;
 - (c) Submissions by the Councils in response to be lodged with the hearing coordinator by 5pm 24 March 2023;
 - (d) Submissions in reply by submitters in (a) above to be lodged with the hearing coordinator by 5pm 31 March 2023; and
 - (e) Subject to the need for a scope hearing, the Panel will aim to issue its determination by 15 April 2023.
3. If the Panel finds that inclusionary zoning/housing affordability falls outside the scope of one or more of the Waikato IPIs, that hearing will proceed without considering those submissions.
4. If the Panel considers inclusionary zoning/housing affordability either is or may be within scope of one or more of the Waikato IPIs, this issue will be heard as a separate topic and may be heard jointly with a timetable to be confirmed by the Panel at a later date.

(b) *Financial Contributions*

5. Submissions on PC26 relating to Financial Contributions (Section 18) will be heard jointly with submissions on PC12 relating to Financial Contributions (Chapter 24) at the end of the HCC PC12 hearing.
6. The Panel directs the same timetable as applies to the HCC PC12 hearing (set out in para [13] below for this issue.

2. Hamilton City Council PC 12

(a) Scope – Rezoning

7. The Panel directs the following timetable for the issue of whether the rezoning submission points made by Waikato Racing Club (266.2), Station Corner (233.1), Pragma (182.1 & 219.1), Te Awa Lakes JV/Horotiu Farms Ltd (249.8), Metlifecare Ltd (288.1, 288.42, & 288.8), D&B Yzendoorn (347.1), and SJ & ZG Yzendoorn (201.7) are within scope:
 - (a) Submissions on behalf of the submitters in support of their relief being within scope to be lodged with the hearing coordinator by 5pm 6 April 2023;
 - (b) Submissions by HCC and any other party in response to be lodged with the hearing coordinator by 5pm 4 May 2023;
 - (c) Submissions in reply by submitters in (a) above to be lodged with the hearing coordinator by 5pm 10 May 2023; and
 - (d) Subject to the need for a scope hearing, the Panel will aim to issue its determination by 9 June 2023.

(b) HCC Conferencing

8. Expert conferencing for HCC topic areas shall be scheduled as follows:
 - (a) technical three water infrastructure matters during the week of 1 May 2023;
 - (b) all other topics will occur during the weeks of 12 and 19 June 2023.
9. Should it be necessary, further directions regarding conferencing will be issued in April 2023.

(c) Substantive hearing

10. Council favours a topic-based hearing approach and provided an indicative list of such at the Procedural hearing as follows:
 - a) Technical three waters network evidence and connections policy:
 - i. Consent limits.
 - ii. Headworks constraints.
 - iii. Network constraints.
 - iv. Capacity.
 - v. Connections policy evaluation and relationship with ODP.
 - b) Application of Te Ture Whaimana as a QM:
 - i. The ‘matter’ relationship between land use and infrastructure.
 - ii. Examination of areas affected by overlay.
 - iii. Nature of constraints to MDRS achieved by overlay.
 - iv. Testing in section 32 terms.

- v. Green policies.
 - c) Application of HHAs as a QM:
 - i. Relationship with PC9.
 - ii. Testing legal effect (section 6) of each HHA.
 - iii. Treatment of special character zones.
 - d) Application of Natural Hazards as a QM:
 - i. Updating ODP mapping with Floodviewer information.
 - ii. Testing extent of QMs against Floodviewer.
 - iii. Discretion under Clause 99, Schedule 1.
 - iv. PC14 relationship.
 - e) Application of all other QMs:
 - i. Reviewing remaining QMs against statutory tests.
 - f) Response to Policy 3 requirements:
 - i. City Centre treatment (Stage 1).
 - ii. Medium and High Density Zone changes.
 - iii. Walkable catchments.
 - iv. Measuring commensurate.
 - g) Financial Contributions:
 - i. Testing purpose, objectives, policies.
 - ii. Methodology for calculating charges.
 - iii. Implementation, collection, enforcement, monitoring.
 - h) Plan Provisions (by Chapter):
 - i. Density, heights.
 - ii. Setbacks, site coverage, permeability, outlook space, landscaping, height to boundary.
 - iii. Assessment criteria.
 - iv. Transport/mobility provisions.
11. The Panel agrees that a topic-based approach is appropriate but with flexibility for submitters to appear and present on all topics at one time to avoid having to return several times.
 12. A final list of hearing topics will be notified to submitter parties mid-year.
 13. Any remaining scope issues not dealt with at earlier hearings – e.g. activity based ones] – will be heard at the substantive hearing.
 14. The Panel directs the following timetable for all HCC PC 12 topics (other than those scope matters the subject of separate timetabling noted at paras [2] and [7] above):
 - (a) An updated Section 42A Report is to be lodged with the hearing coordinator by 5pm 7 July 2023;
 - (b) Evidence on behalf of HCC is to be lodged with the hearing coordinator by 5pm 14 July 2023;
 - (c) Evidence on behalf of submitters is to be lodged with the hearing coordinator by 5pm 28 July 2023;
 - (d) Reply evidence on behalf of HCC and of any submitters in response to other submitters' evidence is to be lodged with the hearing coordinator by 5pm 11 August 2023;

- (e) All legal submissions relating to the substantive hearing are to be lodged with the hearing coordinator by 5pm 31 August 2023.

3. Waipā District Council PC 26

(a) Scope – Rezoning

- 15. Direction #9 confirmed the timetable to apply to the issue of whether the rezoning submission points made by (Triple 3 Farm Limited 59.1; CKL NZ Limited 65.31, Retirement Village Association 73.125 and Ryman Healthcare Limited 70.125) are within scope.
- 16. Submitters requested a right of reply. Waipā DC did not object provided it did not affect the date of the Panel's determination on scope.
- 17. There being no objection the timetable is amended as follows:
 - (a) Submissions on behalf of the submitters in support of their relief being within scope to be lodged with the hearing coordinator by 5pm 17 February 2023;
 - (b) Submissions by Waipā DC to be lodged with the hearing coordinator by 5pm 24 February 2023;
 - (c) Any reply submissions by submitters in (a) above to be lodged with the hearing coordinator by 5pm 6 March 2023; and
 - (d) Subject to the need for a scope hearing, the Panel will aim to issue its determination by 10 March 2023.

(b) Substantive hearing

- 18. Council submitted that a topic-based hearing on submissions was not required.
- 19. The timetable for the substantive hearing was set out in Direction #4.
- 20. No changes were sought to that timetable so it remains in force.

4. Waikato District Council Variation 3

(a) Scope – Rezoning

- 21. The Panel directs the following timetable for the issue of whether the rezoning submissions made by Halm Fan Kong (13), Greig Developments Ltd (20), Howard Lovell (27), Horotiu Farms Ltd (49), and if not withdrawn prior the submission point by Kāinga Ora (106.15), are within scope:
 - (a) Submissions on behalf of the submitters in support of their relief being within scope to be lodged with the hearing coordinator by 5pm 15 March 2023;
 - (b) Submissions by WDC and any other party in response to be lodged with the hearing coordinator by 5pm 24 March 2023;
 - (c) Any reply submissions by submitters in (a) above to be lodged with the hearing coordinator by 5pm 31 March 2023; and
 - (d) Subject to the need for a scope hearing, the Panel will issue its determination by 21 April 2023.

(b) Urban Fringe QM

22. The Panel directs any submitters who support the Urban Fringe QM to advise the Panel whether they wish to pursue the matter and identify the subject matter of evidence to be provided at the substantive hearing by 10 March 2023.
23. If any submitter does wish to pursue this matter then the following timetable will apply:
 - (a) Council is to provide its legal submissions by 14 March 2023;
 - (b) Any submitters in support of the Urban Fringe QM are to provide evidence and legal submissions by 24 March 2023;
 - (c) Any submitters in opposition to the Urban Fringe QM are to provide any evidence and legal submissions (or to advise the Panel they rely on evidence and submissions filed as part of the Joint Hearing or by the Council) by 31 March 2023;
 - (d) If no submissions or evidence are filed in support the Panel will consider the matter on the papers (including those already received);
 - (e) If submissions or evidence are filed in support, the Council is to liaise with the parties and advise the Panel whether the parties agree to the matter being determined on the papers by 5 April 2023;
 - (f) Any such determination by the Panel under paragraphs [d] or [e] may take the form of either interim guidance or a formal recommendation decision.

(c) Conferencing/mediation

24. The following timetable for the circulation of information from Council and conferencing/mediation is directed:
 - (a) For the Havelock Precinct, informal meetings with parties in advance of conferencing to be arranged by the Council on 5 – 6 April 2023;
 - (b) Council to circulate qualifying matters and controls for the Havelock Precinct (excluding infrastructure capacity and stormwater) by 24 April 2023;
 - (c) Council to circulate information on infrastructure capacity and any additional controls to give effect to Te Ture Whaimana by 5 May 2023;
 - (d) Council to circulate any other qualifying matters required as a result of removing the Urban Fringe QM (other than those related to (a) and (b) above) by 19 May 2023;
 - (e) Havelock Precinct – week of 15 May 2023;
 - (f) Infrastructure capacity – week of 22 May 2023;
 - (g) Pookeno stormwater – week of 22 May 2023;
 - (h) Tuurangawaewae Marae and cultural viewshafts to Taupiri Maunga and Hakarimata Ranges – week of 29 May 2023;
 - (i) Conferencing or mediation on any other topic, including Te Ture Whaimana –

week of 29 May.

(d) Substantive hearing

25. The Panel agrees that the Kiwirail and Waka Kotahi scope matters can be dealt with as part of the substantive hearing.
26. The following timetable for the substantive hearing of Variation 3 is directed:
 - (a) Council's section 42A report: 13 June 2023;
 - (b) Council's expert evidence in chief: 20 June 2023;
 - (c) Submitters evidence in chief: 4 July 2023;
 - (d) Any rebuttal evidence (of the Council or submitters): 11 July 2023;
 - (e) Legal submissions: 18 July 2023;
 - (f) Hearing commencing 26 July 2023.

(e) Late submissions

27. Council has received a late submission request from First Gas Limited. That late submission has been referred to the Panel for decision. Council has advised that it does not oppose the acceptance of that late submission.
28. The Panel is satisfied that accepting that submission creates no prejudice to any party given that it will be notified for further submissions. The Panel directs that notification to occur promptly following the issue of these directions.
29. Any queries or correspondence related to this Direction should be sent through to the Hearing Coordinator, Steve Rice at steve@riceres.co.nz .



David Hill (Chairperson)
Independent Hearing Panel

3 March 2023