

**Waipa District Council
Private Plan Change 20**

**Titanium Park Limited and Rukuhia Properties Limited
Airport Northern Precinct Extension**

MINUTE #4 of the Commissioner Panel

Dated 16 February 2023

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- 1) The purpose of this MINUTE is to issue further procedural directions regarding the Hearing.
 - 2) It is prompted by receipt of legal submissions regarding “scope” from counsel for Tabby Tiger Limited (TTL), Hamilton City Council (HCC) and the Applicant. The Morales have chosen not to make submissions on scope.
 - 3) The **Timetable** as issued earlier, is as follows:
 - i. Tuesday 21 February 2023 Section 42A report and Council evidence due
 - ii. Tuesday 28 February 2023 Applicant’s evidence due
 - iii. Tuesday 7 March 2023 Submitter evidence due
 - iv. Friday 10 March 2023 Rebuttal evidence due
 - v. Wednesday 15 March 2023 – Hearing commencement
 - 4) We indicated that we would issue our decisions on “scope” by 17 February 2023.
 - 5) The Panel has considered all the legal submissions regarding “scope”, and consulted with Council’s legal advisor.
 - 6) Our findings are:
 - i. The scale of land that TTL, HCC and the Morales seek to be included in Private Plan Change 20 (PPC20) is such that it substantially exceeds the “extent to which the plan change alters the pre-existing status quo”.
 - ii. We do not accept the argument that what is sought is an “incidental or consequential extension” of the rezoning proposed under PPC20.
 - iii. We are not persuaded that the opportunity for participation for some affected landowners has been adequate.

iv. We find that having considered the *Clearwater* “bipartite” tests and the portions of the *Motor Machinists* judgements referred to us, the submissions fail to meet the first and second limbs of the *Clearwater* test.

v. We find as a matter of fact and degree that the case for considering rezoning the additional land as part of PPC20 has not been adequately made out.

7) **Accordingly we determine** that the portions of the relevant submissions relating to rezoning further land beyond that depicted in the notified version of PPC20 are out of “scope” and are struck out on that basis; they will accordingly not be considered at the upcoming hearing of PPC20. This includes submissions by Hamilton City Council (23.7), Tabby Tiger Limited (15.1) and S & M Morales (24.1) as well as those parts of the following further submissions which support or oppose those submissions: Costenuff Trust (FS1), Grass Ventures Limited (FS3), Hamilton City Council (FS10) and Tabby Tiger Limited (FS12).



For the Panel comprising Antoine Coffin and Alan Withy (chair)