

IN THE MATTER OF the Resource Management Act 1991
AND
IN THE MATTER OF Waikato IPis – Hamilton CC PC12,
Waipā DC PC26 and Waikato DC
Variation 3.

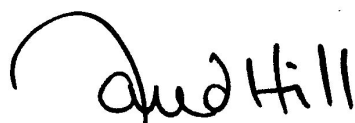
RESOURCE MANAGEMENT ACT 1991
DIRECTION #9
INDEPENDENT HEARING PANEL

Purpose: The purpose of Direction #9 is to address the matters raised in the 1 February 2023 Joint Memorandum of Counsel for the Councils concerning Directions #7 and #8 on scope matters, and in the 1 February 2023 Memorandum of Counsel for Ara Poutama Aotearoa, the Department of Corrections (Ara Poutama).

1. The Joint Memorandum of Counsel for the Councils seeks the following amendments to Directions #7 and #8:
 - (a) *The submission exchange timetable set out in Direction #7 (relating to HCC and WDC) is vacated;*
 - (b) *The submission exchange timetable set out in direction #8 (relating to Waipā DC) is amended to remove the requirement for Waipā DC to file submissions by 10 February 2023;*
 - (c) *All remaining procedural issues concerning scope, including inclusionary zoning, will be addressed at the conclusion of the strategic hearing. Any party seeking to participate in the discussion with the Panel on those topics is required to attend at a time to be confirmed by the hearing administrator*
2. Counsel note the practical difficulties that the proposed timetable creates at a time when they are completing their written opening legal submissions for the strategic hearing, and which are due on 10 February 2023. They also note that there is ample time for determining any scope matters ahead of the substantive hearings set down for Waikato District and Hamilton City in July and September respectively (if indeed that is required). Waipā District is in a slightly different situation with its hearing due in April 2023. However, all councils are content to address the timetable for inclusionary zoning scope issues at the strategic hearing.
3. Furthermore, Counsel note (as recorded in Direction #5) that Appendix 2 of their 22 December 2022 Joint Memorandum provided a summary of the reasons why scope was questionable for those identified submissions.
4. Ms Murdoch, Counsel for Ara Poutama, notes that the s42A report identified its submission as potentially out of scope – not one specifically identified in Appendix 2 of the Joint Memorandum of 22 December 2022. She seeks confirmation that questions of scope for matters other than those referenced in Direction #7 are to be addressed at the relevant substantive hearing and not at the strategic Hearing or through the Direction #7 process. Ara Poutama is invited to participate in the discussion on procedural issues concerning scope at the end of the Strategic Hearing as set out in paragraph 8 below.
5. If the Panel adopts the above proposed amendments then the matter of “other” HCC PC12, WaipāDC PC26, and WaikatoDC Var 3.

potentially out of scope submissions can also be addressed in the way proposed.

6. The Hearing Coordinator has confirmed that, as at today's date, there is sufficient time available toward the end of the scheduled Strategic Hearing for the sort of scope and timetabling discussion proposed.
7. The Panel accepts that imposing the timetable set down in Directions #7 and #8 risks consequences for those respective counsel that were unintended.
8. Furthermore, it accepts that there is sufficient time to resolve all scope matters relating to PC12 and Variation 3 in the period between the close of the Strategic Hearing and the commencement of their respective substantive hearings. As such it agrees that the opportunity to conference with parties on the matter can be left to the end of the Strategic Hearing.
9. The Panel accepts that Waipā District is in a different position because of its April Hearing. We agree that sufficient summary reasons are provided in Appendix 2 of the 22 December 2022 Joint Memorandum such that those submitters are able to respond as required by Direction #8. The paragraph 3(a) requirement for Council to provide further legal submissions is therefore deleted.
10. The Panel directs as follows:
 - (a) The submission exchange timetable set out in Directions #5, #6 and #7 (relating to HCC and WDC) is vacated;
 - (b) The associated submission exchange timetable set out in Direction #8 (relating to Waipā DC) is amended to delete the paragraph 3(a) requirement for Waipā DC to file legal submissions by 10 February 2023. Paragraphs (b) – (d) remain unamended.
 - (c) All *procedural* issues concerning scope for HCC and WDC and all remaining *procedural* issues concerning scope for Waipā DC (i.e., excluding those covered by Direction 10(b)) above), including inclusionary zoning, will be addressed at the conclusion of the Strategic Hearing.
 - (d) Any party seeking to participate in the discussion with the Panel on this matter is required to advise and attend at a time to be confirmed by the Hearing Coordinator.
11. The Panel emphasises that scope itself is not the subject of the above hearing. Decisions on the particular submissions will be determined at the end of the as-yet-to-be-determined timetable. In each instance we anticipate this being well ahead of the scheduled substantive hearing so that parties are aware of the Panel's decisions and can prepare accordingly. At this point we reserve the question as to whether a separate scope hearing will be required.
12. 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

2 February 2023