

MAY IT PLEASE THE PANEL

Procedural Comments

1. This submission responds to Direction #9 of the Panel. Direction #9 provides that procedural issues concerning scope, including inclusionary zoning and affordable housing, will be addressed at the conclusion of the strategic hearing - that is, on 24 February 2023.
2. Under paragraph 10(b) of Direction #9, paragraphs 3(b)-(d) of direction #8 remain in effect as regards Waipā's Plan Change 26. Parties who wish to argue they are within scope for Waipā must do so by 17 February 2023, with parties who disagree filing submissions by 21 February 2023, and Council providing response submissions by 24 February.
3. Based on paragraph 10 of direction #9, this timetable does not apply in respect of Hamilton City's Plan Change 12 and Waikato District's Variation 3, which are to be addressed at the procedural hearing on 24 February. The joint submitters have submitted on all three IPIs, and may wish to be heard further when timetabling directions are made. Here, the focus is on Waipā's Plan Change 26.
4. As a further procedural matter, the joint submitters seek a right of reply to party and Council responses, due 21 and 24 February. They remain of the view that as at 17 February 2023, when these submissions are due, Council will not have provided formal submissions on scope (only the summary information in the Joint Memorandum of 22 December).
5. The joint submitters believe this right of reply is in the interests of natural justice, and seek directions that they may file submissions in reply no later than 28 February 2023.

Scope, and the Amendment Act

6. Scope has been raised as a potential issue. The Joint Submitters maintain that their submission on inclusionary zoning is within scope.
7. From the outset, while comment has been made that the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act does not contain purpose provisions, the intent of "enabling housing supply" through this Amendment Act is clear.

Policy 1 of NPS-UD

8. Policy 1(a) of the National Policy Statement on Urban Development 2020 says (emphasis added):

Policy 1: *Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:*

- (a) ***have or enable a variety of homes that:***

(i) **meet the needs, in terms of type, price, and location, of different households; and**

9. The reference to enabling housing that meets the needs of different households in terms of price means that affordable housing is considered an important (if not critical) issue under Policy 1 of the NPS-UD.
10. It is acknowledged that the Panel has asked questions about the manner in which section 77G of the RMA (as amended) 'singles out' policies 3 and 5 of the NPS-UD, and comments have been made about 'weight' and 'timing' as regards other policies in the NPS-UD.
11. These questions are presumably raised within the context of any plan change needing to *give effect to* the NPS-UD as a whole.¹ These points may be worthy of further submissions at a later stage. The point for now is that affordable housing is part of the NPS-UD and so properly a consideration within the IPI/ISPP process.
12. It can also be noted that Hamilton City's opening legal submissions refer specifically to "affordable housing" and "affordability".² Clearly affordability issues have some prominence. The supply of affordable housing has an important relationship to the well-functioning urban environments that are described in Policy 1 of the NPS-UD, and which are a common goal of many if not all parties to this process.

Financial Contributions

13. The Joint Submitters seek inclusionary zoning provisions on the basis of Financial Contributions. Waipā's Plan Change 26 provides for financial contributions. While the nature and scope of these financial contributions will no doubt be a matter of further submission and further debate at substantive hearings, it is important to understand that what the Joint Submitters seek is an amendment or refinement of these financial contributions provisions.
14. It is submitted that the issue of the nature and scope of these financial contributions is clearly within scope.
15. The Joint Submitters are aware that some parties consider inclusionary zoning provisions undesirable or unlawful. These points should properly be part of further submissions, as an alternative view is that such provisions are desirable, and lawful, in helping achieve affordable housing, which contributes to a well-functioning urban environment and (at the least) Policy 1 of the NPS-UD. Queenstown Lakes District Council has advanced inclusionary zoning provisions, as discussed in the submission. The

¹ See section 75(3)(a) of the RMA.

² Opening legal submissions of Hamilton City Council, 10 February 2022, paragraphs 14 and 15.

appropriateness of these should be considered further in substantive hearings.

Integrated Affordability

16. One of the Joint Submitters (Waikato Housing Initiative) has made a further submission on the importance of integrated affordability in housing, particularly in respect of prioritisation of infrastructure. This issue can be considered further when timetabling orders are made for Hamilton City's Plan Change 12 following the procedural hearing.

Scope of Panel Decisions

17. As will no doubt be repeated elsewhere, clause 6 of Schedule 1 of the Resource Management Act 1991, which requires a submission to be "on" a plan change, applies to an IPI under clause 95 of Schedule 1. However, in considering scope, special provisions introduced by the Amendment Act need to be taken into account.
18. Clause 99(2) of Schedule 1 of the RMA says that the Panel's recommendations to the Councils must be related to a matter identified by the panel or another person during the submission, but "*are not limited to being within the scope of submissions made on the IPI*" (emphasis added). That is, the Panel can make recommendations that go beyond submissions. This supports the view that it would be untimely to disregard submissions at an early stage. The Panel can go beyond the scope of submissions, and therefore scope should not be treated narrowly.

From Here

19. The Joint Submitters seek the directions outlined above, and seek to have cope confirmed, so that the issues raised in the submission can be considered more substantively in hearings.

Dated 17 February 2023



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For the Joint Submitters