

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

RESOURCE MANAGEMENT ACT 1991
DIRECTION #5
INDEPENDENT HEARING PANEL

Purpose: The purpose of Direction #5 is to address late submissions, potentially invalid submissions, and submissions potentially out of scope.

1. By Joint Memorandum of Counsel for the Councils, dated 22 December 2022, directions are sought from the Independent Hearing Panel (the Panel) regarding (a) late submissions, (b) potentially invalid submissions and (c) submissions potentially out of scope.
2. Having considered the matters raised, the Panel directs as follows.

Late Submissions

3. Pursuant to s.98(3) of Schedule 1 RMA, the late submissions identified in Appendix 1 of the Joint Memorandum are accepted as they were received before the respective Councils' *Summary of Submissions* were notified.
4. Any submissions received after the date on which the respective *Summary of Submissions* were notified will not be accepted unless a waiver is sought from, and subsequently granted by, the Panel, those dates being:
 - (a) for Hamilton City Council and Waipā District Council, after 28 November 2022; and
 - (b) for Waikato District Council, after 5 December 2022.
5. Any late submission waiver sought under paragraph 4 above must provide full written reasons why the waiver should be granted.

Potentially Invalid Submissions

6. The Joint Memorandum notes that a number of potentially invalid submissions have been identified that raise matters that go beyond the jurisdiction of the Panel.
7. In that regard the Joint Memorandum notes that:
 - (a) the Councils were required to notify an IPI (s.80F of the Act) and do not have power to withdraw the Waikato IPIs (s.80G(1)(c) of the Act);
 - (b) the Panel does not have power to amend the Medium Density Residential Standards in Schedule 3A of the Act, except where a qualifying matter applies to a site (ss.771 and 770 of the Act);
 - (c) the Panel, cannot take into account the effects of the Medium Density Residential Standards in Schedule 3A of the Act in respect of amenity, visual

effects, shading and privacy, except where a qualifying matter applies to a site (the Medium Density Residential Standards are required by s.77G of the Act); and

- (d) the Panel is unable to include rules in the district plans which require on-site car parking, except in limited circumstances such as accessible parking (clause 3.38 of the National Policy Statement for Urban Development 2020).
8. The Panel agrees with the above and will limit any submitter presentations which seek to argue for outcomes not available at law.
9. All submitters should review their relief sought accordingly.

Out of Scope Submissions

10. Appendix 2 of the Joint Memorandum identifies a number of submissions that seek rezonings that are considered to potentially be out of scope.
11. Those identified submitters and/or affected submission points are:

Waipā District Council

- Triple 3 Farm Limited [59.1];
- CKL NZ Limited [65.31];
- Retirement Village Association [73.125];
- Ryman Healthcare Limited [70.125].

Waikato District Council

- Halm Fan Kong [13.1];
- Greig Developments [20];
- Howard Lovell [27.1];
- Horotiu Farms Limited [49.1];
- Kainga Ora [106.15].

Hamilton City Council

- Waikato Racing Club [266.2];
- Station Corner [233.1];
- Pragma (51A Rifle Range Rd) [219.1];
- Aurecon NZ Ltd, Te Awa Lakes Joint Venture, Perry Group and Horotiu Farms Ltd [249.8];
- Metlifecare Ltd [288.8];
- David and Barbara Yzendoorn [347.1];
- Sarah Josephine and Zoe Georgina Yzendoorn [201.7].

12. The Panel therefore needs to determine whether those submissions/submission points should be struck out under s.41 RMA to avoid parties incurring unnecessary costs and prolonging the hearing process.
13. Accordingly, the Panel directs that:
 - (a) submitters identified in Appendix 2 of the Joint Memorandum (and noted above) shall provide to the Hearing Coordinator written submissions in support of their relief being within scope by 17 February 2023; and
 - (b) the Councils shall provide to the Hearing Coordinator written submissions in response by 24 February 2023.

14. Subject to any requirement for a scope hearing, the Panel will then issue a determination on each submission/affected submission point by 3 March 2023.
15. Any queries or correspondence related to this Minute should be sent through to the Hearing Coordinator, Steve Rice at steve@riceres.co.nz .

A handwritten signature in black ink that reads "David Hill". The signature is written in a cursive style with a large, sweeping initial 'D'.

David Hill (Chairperson)
Independent Hearing Panel
23 December 2022