

AND

FURTHER DIRECTIONS OF INDEPENDENT HEARING COMMISSIONER

BACKGROUND

1. I have now had the opportunity to review and assess all the information that is relevant to my consideration of Private Plan Change 35 to the Waipā District Plan ("**Plan Change 35**").
2. It is now clear that there is no opposition to the proposal. Furthermore, the only remaining differences between any of the parties are some relatively minor drafting differences between the proponent (638 Limited) and the Waipā District Council ("**the Council**"). I am also advised by the Council, that one of the submitters (Foodstuffs North Island ("**FSNI**") proposes to present brief legal submissions at the hearing. I'm also advised that no other submitter proposes to attend.
3. Notwithstanding, there are several drafting matters that I consider need addressing, and I am raising them now (see below) in the hope that they may be resolved between 638 Ltd and the Council prior to the hearing.
4. I have therefore issued these Further Directions to:
 - a. Ensure that the hearing to be held on 11 August 2026 is run as efficiently as possible; and
 - b. To provide for representatives of the proponent and the Council to engage on drafting matters prior to the hearing.

HOW THE HEARING WILL PROCEED

5. In respect of the hearing, I have no questions to ask of the applicant's technical witnesses (Messrs Bell and Fokianos), nor of the Council's technical advisors (Gray Matters). They are all excused from appearing at the hearing.
6. Given the significant degree of alignment on drafting, the planning evidence of Ms Hui for the proponent and the section 42A report will be taken as read and rather than Ms Morris and Ms Hui presenting their evidence individually, it will be most efficient if they work through Plan Change 35 provision by provision (only addressing any remaining areas of disagreement and further amendments that may have been agreed). I will address any questions I have during that process and invite a discussion between the parties to respond to them – with the objective of agreeing all drafting matters at the hearing.

7. The order of appearances will therefore be as follows:
- a. The proponent will present any legal submissions to the extent they wish to do so;
 - b. Mr Fitzgerald's evidence will be taken as read, but he is welcome to present a succinct summary of the proposal, should he wish to do so, and answer any questions;
 - c. FSNi will present legal submissions;
 - d. Ms Hui and Ms Morris will discuss with me the provisions of Plan Change 35; and
 - e. The proponent will present its right of reply, should the proponent consider that to be necessary.

DRAFTING MATTERS TO BE ADDRESSED BY MS HUI AND MS MORRIS

8. The one substantive drafting matter that I invite Ms Hui and Ms Morris to consider concerns clauses c, d, e, of proposed Rule 6.4.2.22 – this being the rule that sets out the standards that must be satisfied if a proposal is to be assessed as a controlled activity.
9. As drafted, clauses c, d and e require certain information to be provided prior to activities being commenced in Area B. That means that at the time a resource consent application was being lodged, it will not be possible to determine if the standard referred to in those clauses have been satisfied - and hence, if the proposal is a controlled activity or not. Because any standards in Rule 6.4.2.22 must be able to be assessed at the time any particular resource consent application is being made, Ms Hui and Ms Morris are invited to consider how clauses c, d and e should be redrafted to achieve this.
10. Other matters of detail I invite them both to consider are:
- a. Ms Hui's clause f of Rule 6.4.2.22 refers to development not resulting in "material increases" in certain hydrological parameters. It is not clear to me how materiality would be assessed and I invite Ms Hui to either clarify the definition or proposed alternative wording, in order that conformance with the standard can be assessed on its face;
 - b. At various places in the proposed changes to Rule 6.4.2.22, the text specifies various limits on the scale of "activities" in Area B. Consistent with the drafting of the existing Chapter 6 of the Waipā District Plan, it would appear logical for the reference to be to "activities within buildings";
 - c. Rule 6.4.2.22 c i refers very generally to a report provided in support of the plan change. A full reference is needed, in my view;
 - d. I cannot understand what Rule 6.4.2.22 b v is intended to address and, hence consider it would benefit from clarification/redrafting; and
 - e. At several places there is reference to the Large Format Retail "Area", rather than to the "Centre";

- f. Similarly, the references to the Large Format Retail “Concept Plan” should be to the “Centre Plan”;
 - g. There is reference in Rule 21.1.6.1 to the “amenity of the site”. I assume the reference should be to “amenity of “Area B”; and
 - h. A careful proof-read of the plan change provisions would be beneficial.
- 11. It would also be appreciated if Ms Hui and Ms Morris could liaise with a view to providing the assessment required by section 32AA of the Resource Management Act.
 - 12. If possible, it would assist the smooth running of the hearing if the matters raised in paragraphs 8 – 11 above could be addressed, and the information circulated, in advance of the hearing.
 - 13. If any party wishes to raise any issues regarding the above, these must be directed to the Council, in writing, no later than 12 pm on Friday 7 August 2026.

DATED: 5 August 2026



Dr PH Mitchell
Independent Commissioner