

IN THE MATTER OF the Resource Management Act 1991 (the
RMA)

AND

IN THE MATTER OF The Proposed Waitomo District Plan

DIRECTION 3 FROM THE HEARING PANEL

HEARING DATES, EVIDENCE EXCHANGE FOR THE SECOND TRANCHE OF HEARINGS,

AND

EXPERT CONFERENCING.

1. Pursuant to sections 34 and 34A of the RMA, Waitomo District Council (the Council) has appointed a four person Hearing Panel consisting of three independent hearing commissioners – Greg Hill (Chair), Phil Brodie and Wikitōria Tāne; and Councillor Allan Goddard. The Council’s delegation to the Hearing Panel includes:

Council delegates to the Hearings Panel all powers, duties and functions under the Resource Management Act 1991 (Clauses 8AA to, and including, Clause 10 of the First Schedule of the Resource Management Act 1991) to case manage, consider, hear, deliberate and decide on all submissions and further submissions received on, and provisions of, the Proposed Waitomo District Plan.¹

2. This Direction addresses the second tranche of hearings², as well as expert conferencing. The hearing topics for this tranche are attached in Appendix 1.
3. The hearing of submissions to this tranche of hearing topics is scheduled to commence on **Wednesday 27 November 2024** starting at **9.00am**, at the **Council Chambers, 15 Queen Street, Te Kuiti**. A hearing schedule will be developed closer to this time once the Council knows who is appearing and how much time each submitter may need to present their submission(s). This will determine how many hearing days will be required, but it is unlikely to extend beyond Friday 29 November 2024.

¹ Direction 1 recorded that the Hearing Panel had been delegated recommendatory power only; this was incorrect.

² The first tranche was heard on the 16 and 17 July 2024.

4. The Council's Hearing Administrator, Kayla Hemara will, closer to the hearing commencement date, make contact with submitters who indicated in their submission that they wished to be heard, and ask:
 - Do you still wish to be heard;
 - How much time you request to present your submission or evidence;
 - If you are a lay submitter, whether you require the assistance of a "friend of submitters" to help navigate the procedural process;
 - Will you present in-person (preferred) or virtually (by remote facilities); and
 - If you intend to be represented by legal counsel and/or calling expert witnesses (e.g. transport, landscape, planning experts)³.
5. The opportunity for remote appearance (via AVL) for submitters/witnesses will be made available subject to prior arrangement with the Council. Details of this will be communicated closer to the commencement of the hearing.

Section 42A reports and Evidence Exchange

6. In terms of procedural matters, Section 42A of the RMA provides that the Council may prepare a report on the matters to be considered and be provided prior to the hearing. Also, section 41B of the RMA provides that the Hearing Panel may direct evidence from any expert to be provided before the hearing.
7. Accordingly, the Hearing Panel directs as follows:
 - (a) Pursuant to section 42A of the RMA, the section 42A hearing report on **Ecosystems and Indigenous Biodiversity** is to be made available to parties on-line no later than Friday **4 October 2024**⁴;
 - (b) Submitters' expert evidence (evidence given by a professional with specialist qualifications and experience) on the topic of **Ecosystems and Indigenous Biodiversity** is to be emailed to the Council (at the email address below), no later than **midday, Monday 21 October 2024**. It will then be made available to parties on-line no later than **5.00 pm, Monday 21 October 2024**.

³ Submitters are not required to have legal counsel or expert witness, and can speak to your submission at the hearing if you have indicated an intention to appear at the hearing.

⁴ This is to allow time for expert conferencing – see paragraphs 11 – 18.

- (c) Pursuant to section 42A of the RMA, all other section 42A hearing reports are to be made available to parties on-line no later than **Monday 21 October 2024;**
 - (d) Submitters' expert evidence (evidence given by a professional with specialist qualifications and experience) on all other topics other than Ecosystems and Indigenous Biodiversity is to be emailed to the Council (at the email address below), no later than **midday, Monday 4 November 2024.** It will then be made available to parties on-line no later than **5.00 pm, Monday 4 November 2024.**
 - (e) Pursuant to sections 41B of the RMA, any rebuttal evidence is to be emailed to the Council (at the email address below), no later than **midday, Monday 18 November 2024.** It will then be made available to parties on-line no later than **5.00 pm, Monday 18 November 2024.**
8. While these Directions do not strictly apply to lay or non-expert statements/evidence, the Hearing Panel would appreciate any written statements to be presented at the hearing to be emailed to the Council (at the email address below) no later than, **midday, Thursday 21 November 2024.** It will then be made available to parties on-line no later than **5.00 pm, Thursday 21 November 2024.**
9. The Hearing Panel also requests parties to pre-circulate their legal submissions (if any) in advance of the hearing to be emailed to the Council (at the email address below), preferably no later than no later than, **midday, Thursday 21 November 2024.** They will then be made available to parties on-line no later than **5.00 pm, Thursday 21 November 2024.**
10. The purpose of this Direction is to provide the opportunity for the Hearing Panel and the other parties to have read and considered any legal submissions, evidence or statements in advance of the hearing to assist in understanding the case being presented. As the Hearing Panel will have read all the pre-circulated material before the hearing, there will be no need for it to be read out. An executive summary may be read out or the key points highlighted.

Expert Conferencing

11. Clause 8AA – Resolution of Disputes of the First Schedule of the RMA enables a process to clarify and resolve disputes between parties. Accordingly, the Hearing Panel directs expert conferencing as set out below.

12. The purpose of the conferencing process is for the parties' experts to identify, discuss and potentially resolve (or not) the issues in contention between them.
13. Expert conferencing will be held for the topic **Ecosystems and Indigenous Biodiversity**, and we direct accordingly. The conferencing session(s) on this topic will be open to the 'technical experts' as well as the planning experts.
14. The conferencing session(s) are likely to occur between **7 and 12 November 2024**. The date(s) for the conferencing session(s) will be confirmed as soon as possible, and will be communicated to those experts attending the conferencing session(s).
15. Parties are to inform the Council's Hearing Administrator, Kayla Hemara via email (address below) of the expert witnesses (name, expertise, and contact details) who will attend the conferencing sessions. This is to be provided no later than **16 August 2024**.
16. The Hearing Panel directs that conferencing is undertaken in accordance with the Environment Court Practice Note 2023 and in particular – Section 9 - Code of conduct for expert witnesses. Also, those experts participating in the conferencing are to make themselves available to appear at the hearing if required to do so by the Hearing Panel.
17. That Ms Marlene Oliver is appointed as the independent facilitator for the expert conferencing session(s). She is authorised to:
 - a. Act as independent facilitator;
 - b. In conjunction with the Council (as administrator) invite submitters and the Council as regulator (in its section 42A reporting function) to advise whether their expert witnesses in the relevant fields will attend the expert conferencing sessions;
 - c. In conjunction with the Council (as administrator) organise the sessions (including format, topics, agendas, attendance and Joint Witness Statements (JWS), times and venues – in person or on-line as appropriate;
 - d. Liaise with the Council (in its section 42A reporting function) and submitters' experts; and;

- e. Report to the Chair of the Hearing Panel on an as required basis on progress with the conferencing sessions and progress on any JWS setting out the outcomes, including matters agreed and not agreed.
- 18. While this direction cannot compel the parties to agree to take part in the conferencing sessions or compel expert witnesses to attend and participate, we strongly recommend that they do so. These sessions will provide a degree of formality for those parties and witnesses who attend in an effort to clarify, resolve or narrow the issues in contention. This should ensure that the hearing is more efficient than if the conferencing sessions were not held.

Enquires

- 19. Any correspondence relating to this Direction and related matters should be sent to the Council's Hearing Administrator, Kayla Hemara via email kayla.hemara@waitomo.govt.nz



Greg Hill (Chair)

for the Hearing Panel

29 July 2024

Appendix 1 – Tranche 2 Hearing Topics

Tranche 2

Part 1

Introduction and General Provisions

1. Mihi
2. Contents
3. Purpose
4. Description of the district

How the Plan works

5. Statutory context
6. General approach
7. Cross boundary matters
8. Relationships between spatial layers

Interpretation

9. Definitions
10. Abbreviations
11. Glossary

National Direction Instruments

12. National policy statements and New Zealand Coastal Policy Statement
13. National environmental standards
14. Regulations

Mana Whenua

15. Mana Whenua

Part 2 – District Wide Matters

Strategic Direction

16. Strategic Direction

Energy, Infrastructure and Transport

17. Energy
18. National Electricity and Gas Transmission
19. Network Utilities
20. Transport

Historical and Cultural Values

24. Historic Heritage
25. Sites and Areas of Significance to Māori

Natural Environmental Values

- 26. Ecosystems and Indigenous Biodiversity
- 27. Natural Character
- 28. Natural Features and Landscapes

Part 3 Area Specific Matters

- 41. Residential zone

Designations

- 55. Designations

Part 4 – Appendices and Maps

Schedules

- SCHED1 Heritage buildings and structure
- SCHED2 Significant archaeological sites
- SCHED3 Sites and areas of significance to Maori
- SCHED4 Sites and areas of significance to Maori – wahi tapu sites
- SCHED5 Sites and areas of significance to Maori – cultural alert layer
- SCHED6 Significant natural areas
- SCHED7 Outstanding natural landscapes
- SCHED8 Outstanding natural features
- SCHED9 Landscapes of high amenity value
- SCHED12 Karst overlay

Appendices

- APP1 Information requirements for resource consent applications
- APP2 Cultural impact assessment process
- APP3 ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value
- APP4 Biodiversity offsetting framework
- APP6 Statutory Acknowledgement Areas – Maraeroa A and B Blocks
- APP7 Statutory Acknowledgement Areas – Ngati Tuwharetoa
- APP8 Statutory Acknowledgement Areas – Raukawa

Maps

- Proposed Waitomo District Plan Maps

Please note that this Tranche will also include any other submissions not addressed in the Tranche 1 and 2 topics.