

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of hearing submissions and further submissions on the Proposed Waikato District Plan.

AND

IN THE MATTER of Hearing of Rezoning Requests (excluding for the Ohinewai Area): Hearing 25

MINUTE AND DIRECTIONS FROM HEARING COMMISSIONERS ON THE HEARINGS FOR REZONING REQUESTS (EXCLUDING THE OHINEWAI AREA): HEARING 25

12 May 2020

Introduction

1. The Waikato District Council ("**Council**") has received a large number of submissions on the Proposed Waikato District Plan ("**proposed plan**") seeking rezoning of particular areas. With the exception of rezoning requests in the Ohinewai area, which are subject to a separate hearing (Hearing Topic 19), all other rezoning requests ("**General Rezoning Submissions**") are scheduled to be heard in early 2021 (Hearing Topic 25). Where possible, the intention is that the hearing of the General Rezoning Submissions will be organised by geographic area so that submissions on a particular area can be heard consecutively.
2. The Directions issued by the Hearing Panel on 21 May 2019 ("**First Directions**"), as slightly amended by further Directions issued on 26 June 2019 ("**Second Directions**"), set out the timetable for the exchange of the section 42A reports and evidence for all hearings as follows:
 - (a) Council's section 42A report on each hearing topic to be filed at least 25 working days prior to the commencement of the hearing;¹
 - (b) All evidence to be filed at least 15 working days prior to the commencement of the hearing;²
 - (c) Rebuttal evidence by submitters to be filed at least 10 working days prior to the commencement of the hearing;³

¹ First Directions, paragraph 18.

² First Directions, paragraph 25.

³ First Directions, paragraph 26.

- (d) Rebuttal evidence by Council to be filed at least 5 working days prior to the commencement of the hearing.⁴
3. For the most part, the General Rezoning Submissions do not provide any technical information to support the various rezoning requests. Further, as the rezoning requests have arisen from submitters' own submissions on the proposed plan, rather than being part of the notified version, the section 32 report published at the time the proposed plan was notified does not provide an evaluation of the submitters' rezoning requests. We imply no criticism in this regard – the process followed by submitters is typical in these situations and “is what it is”.
 4. Requests for rezoning on a district plan review are site-specific and require site-specific assessments to be undertaken, and the Council cannot be expected to provide that information. That is properly the responsibility of the individual submitters seeking the rezoning. For some submitters, we anticipate that the technical information required to support their rezoning proposals will need to be extensive and include expert assessments on a range of matters that could include such things as transport, landscape and urban design, geotechnical stability, natural hazards, provision of three waters infrastructure and strategic growth planning issues, amongst others.

Timing of information by parties

5. The Hearings Panel has determined that the timetable for the exchange of evidence set out in the First and Second Directions should be amended for the hearing of the General Rezoning Submissions in order to first require the respective rezoning proponents to provide their evidence (including all supporting technical information), and for this to be followed, sequentially, by any evidence in opposition, and then the Council's section 42A report(s). This will enable all information (in support of and in opposition to each rezoning proposal) to be evaluated by the section 42A report author when preparing their report and recommendations.
6. It is also our view that the submitters seeking rezoning will need to provide a section 32AA assessment to support their proposal. This is consistent with our directions of 20 August 2019 relating to the rezoning proposals for the Ohinewai area.⁵
7. Accordingly, we anticipate that many submitters may wish to seek professional legal and/or planning advice in relation to the preparation of their evidence, although that is a matter for individual submitters to determine. What we can say though is that submitters' evidence will need to justify their proposals, in Resource Management Act terms.
8. Given the large number of General Rezoning Submissions, Council staff have indicated to the Hearings Panel that there will be more than one section 42A report author for Hearing 25, with different authors likely to be assigned to the reports for different geographical areas.
9. Council staff have also indicated that:
 - a) They intend to make all the section 42A reports available at the same time; and,
 - b) To ensure a consistent approach is adopted by the different section 42A report authors when addressing the relevant statutory matters (planning and legal), they

⁴ Second Directions, paragraph 18.

⁵ Minute and Further Directions from Hearing Commissioners dated 20 August 2019, paragraph 23.

propose to prepare an overarching framework section 42A report which will apply to all subsequent individual section 42A reports (“**Framework s42A Report**”). The Panel understands that the Framework s42A Report will provide an overview of common matters to be considered in assessing submissions seeking rezoning changes, and include a summary of the basis on which the zones and zone boundaries in the notified version of the proposed plan were selected.

10. Regarding paragraph 9 b) above, we consider that a Framework s42A Report will assist in providing a consistent approach amongst the different section 42A report authors and will also avoid unnecessary repetition in each individual report, thus resulting in a more efficient and effective hearing. Furthermore, we consider the Framework s42A Report should be provided prior to the submitters’ filing their evidence to provide helpful guidance on the matters that need to be addressed by the submitters.
11. The Panel considers that the timetable for Hearing 25 also needs to allow sufficient time for the (previously unseen) submitters’ information to be assessed by the section 42A report authors.

Directions

12. To ensure hearings on the General Rezoning Submissions are dealt with in an efficient, fair, and focussed manner, we make the following Directions:
 - (a) The Council is to prepare and release the Framework s42A Report no later than **80 working days prior to the commencement of the hearing;**
 - (b) The submitters requesting rezoning are to file their evidence for the hearing, including a section 32AA assessment, no later than **60 working days prior to the commencement of the hearing;**
 - (c) The submitters opposing any rezoning request are to file their evidence for the hearing no later than **45 working days prior to the commencement of the hearing;**
 - (d) The Council is to prepare and release all individual section 42A reports for the hearing no later than **20 working days prior to the commencement of the hearing;**
 - (e) Any rebuttal evidence by the proponents and opponents of the rezoning is to be filed no later than **10 working days prior to the commencement of the hearing;**
 - (f) The Council is to prepare Reply section 42A reports to address matters arising in the evidence of the parties, no later than **5 working days prior to the commencement of the hearing;**
 - (g) Any legal submissions and a written summary of the evidence (“highlights package”) are to be filed no later than **3 working days prior to commencement of the hearing** in accordance with paragraphs 27, 28, 29 and 31 of the First Directions;
 - (h) Unless otherwise amended by paragraphs 12 (a) to (g) above, the directions set out in the First and Second Directions remain applicable to the hearing for the General Rezoning Submissions.

13. The Directions set out in paragraph 12 will be updated with the actual dates identified once the hearing dates for the rezoning topic has been confirmed. At this stage the hearing is likely commence in mid-February 2021, but confirmation of the date and specific details will be provided in due course.

Questions from the parties

14. If any party has any questions or concerns regarding these Directions, they are to be addressed by email to the Hearings Coordinator, Ms Sandra Kelly, at the following email address:

Email: Districtplan@waidc.govt.nz



PH Mitchell (Chair)

On behalf of Commissioners P Mitchell, P Cooney, J Gibb, D Fulton, L Te Aho, J Sedgwick and W Maag

12 May 2020