

WELLINGTON REGIONAL COUNCIL

PROPOSED CHANGE 1 TO THE WELLINGTON REGIONAL POLICY STATEMENT

MINUTE 16

HEARING STREAM 4 – RESPONSE TO MEMORANDUM FILED BY COUNSEL FOR STRIDE INVESTMENT AND INVESTORE PROPERTY, ADDITIONAL INFORMATION SOUGHT BY PANELS FROM WAKA KOTAHI AND RESPONSE TO MEMORANDUM FILED BY COUNSEL FOR KĀINGA ORA

HEARING STREAM 5 - PRESENTATION EXTENSION REQUESTS

Memorandum filed on behalf of Stride Investment Management Limited and Investore Property Limited

1. The timetabling directions in Minute 3 required the following documents to be filed for Hearing Stream 4 (HS4) by 5pm on the dates set out below:
 - a. Section 42A report: 4 September 2023
 - b. The Regional Council's evidence and legal submissions: 11 September 2023
 - c. Submitter evidence, expert evidence and legal submissions: 15 September 2023
 - d. Submitter notification of wish to present at the hearing: 15 September 2023
 - e. Hearing Schedule: 20 September 2023
 - f. Rebuttal evidence from Council: 26 September 2023.
2. HS4 started on 2 October 2023. Before the hearing started, Counsel for Stride Investment Management Limited and Investore Property Limited filed a 'Letter providing feedback on the S 42A Report' (**Letter**) and asked that the Letter be provided to the Panels.
3. The Letter contains legal submissions on the HS4 provisions and so in accordance with the above timetable, it should have been filed by 5pm on 15 September 2023. Alternatively, the submitters could have presented at the hearing but they chose not to do that.
4. In Minute 14, we directed that we were unable to accept the late information as it had been provided on the day of the hearing and so we did not have sufficient time to consider, assess or test it, nor did any other submitters who may have been impacted by Counsel's interpretation of the provisions.
5. On 19 October 2023, Counsel for Stride Investment Management Limited and Investore Property Limited objected to our direction and stated that it was appropriate for the Letter to be tabled and considered by the Council officers and the Panels, and it would be prejudicial to Stride Investment and Investore not to do so. Counsel said that the Council officers' reply was not due until 24 November so there was enough time for them to consider the information and it would not be prejudicial to other submitters if the information was considered as part of the Council's reply.
6. We have considered Counsel's memo of 19 October but maintain our previous view that the information was provided too far outside of the scheduled timetable such that we are unable to accept it. We continue to hold the view that it would raise issues of fairness and natural

justice for us to accept what essentially amounts to legal submissions filed more than 10 working days after their due date. Another submitter may have wanted to address Counsel's legal submissions but would have been denied the opportunity to do so.

7. We do not think anything turns on the fact that the information is contained in a 'Letter' as opposed to being titled 'Legal submissions'. The Letter clearly sets out legal submissions on HS4 provisions. We do not agree with Counsel's position that a 'Letter' that sets out legal analysis and submissions can be appropriately provided at any time up until the hearing closes. As noted above, other submitters may have been impacted by the content in the Letter but be unable to respond as hearings commenced on the day the Letter was received.
8. In Minute 3 we set a timetabling procedure that we considered appropriate and fair and in accordance with our powers under s 39 and clause 40 of the First Schedule. Submitters are able to seek an extension of time to the required filing due dates if needed but no extension request was received in this instance.
9. We note that in this same Hearing Stream, another party sought leave to file planning evidence 2-days outside the filing due date and we were able to grant this request as the evidence was still filed in enough time to allow Council officers to respond to it in their rebuttal evidence.
10. Counsel for Stride Investment and Investore state that there is plenty of time for Council officers to consider the Letter in their Reply as it is not due until 24 November. This is not completely accurate. There are two reporting officers for HS4 and one officer has been out of the country since 10 November and we understand that they completed their evidence in reply before they left.

Hearing Stream 5 presentation extension requests

11. The following submitters requested additional time to present their submissions and evidence during Hearing Stream 5 (HS5):
 - Winstone Aggregates S162 - 90 mins
 - Rangitāne o Wairarapa Inc S168 - 20 mins
 - Te Rūnanga o Toa Rangatira S170 – 30-45 mins
 - Wellington Water Limited S113 – 30 mins
12. The reasons given by submitters include the need for longer presentation times given the breadth and complexity of the HS5 issues.
13. The Hearing Advisors have advised us that the extension requests can be accommodated within the allocated hearing schedule. We see no issues of fairness or natural justice arising if we are to grant the extensions requested in paragraph 11 and therefore we approve submitters' requests. We appreciate this topic is complex and large and of the 4 submitters who requested an extension of time, all have numerous submissions on almost every sub-topic within HS5.

Additional information sought by Panels from Waka Kotahi

14. During HS4, the Panels asked Waka Kotahi to provide further consideration of Policy 33 and in particular whether the Council's proposed amendment would result in duplication of defined terms.
15. On 20 October 2023 Waka Kotahi filed a Supplementary Statement of Evidence of Catherine Lynda Heppelthwaite in response to the Panels' request.
16. We acknowledge Ms Heppelthwaite's Statement of Evidence and instruct the Regional Council's 42A Reporting Officer to respond to the evidence in their Reply. We also ask that the Hearings Advisors upload the evidence to the Hearings webpage.

Response to Memorandum filed by Counsel for Kāinga Ora

17. On 7 November 2023, Counsel for Kāinga Ora filed a Memorandum requesting the opportunity for their planner, Mr Heale, to provide a brief reply to Wellington City Council's, Porirua City Council's and Hutt City Council's comments on the 'centres hierarchy' issue as directed in Minute 14. There was some concern that the territorial authorities' (TAs) comments went beyond the scope of their submissions.
18. Our concern with allowing a further exchange of comments on this issue as Kāinga Ora requests is that natural justice may then require that we allow the relevant TAs a further round of comment. This is not possible or fair in the time available given that Council's Reply is due by 24 November. Therefore, we do not grant Counsel's request, but instead, will consider issues of scope and weight relating to the TAs' comments as part of our deliberations.

Dated: 13 November 2023



D Nightingale
Chair
Part 1, Schedule 1 Panel
Freshwater Hearings Panel