

<b>IN THE MATTER OF</b>	the Resource Management Act 1991
<b>AND</b>	
<b>IN THE MATTER OF</b>	Hamilton City Council's PC9 - Historic Heritage and Natural Environments

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**RESOURCE MANAGEMENT ACT 1991**  
**DIRECTION #15**  
**INDEPENDENT HEARING PANEL**

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**PURPOSE**

1. The purpose of Direction #15 is to set directions for the Built Heritage and Historic Heritage Area topics to be heard in November 2023 and for the expert conferencing scheduled for 24 August 2024. The direction also addresses matters remaining from Ms Muggeridge's memorandum of 20 July 2023.

**BACKGROUND**

2. Direction #14 invited submissions on counsel for HCC's 1 August 2023 request for procedural directions. A number of parties responded as summarised in counsel for HCC's reply memorandum of 10 August 2023 (Reply Memorandum).
3. As noted in that further memorandum, while there was general support for the direction sought, particularly to resolve methodological differences of opinion, positions were divided as to how (or whether) to achieve integration across the two heritage strands.
4. Support also appeared evident for a Panel *interim decision* confirming the assessment methodology to be used prior to consideration of individual built heritage item. HCC accepts that will likely require a deferral of hearing on those particular matters – potentially for some months.
5. A key point of difference is whether the expert conferencing for both heritage strands should occur simultaneously – in no small part to minimise submitter time and costs. If that were to be agreed it would necessitate vacating the scheduled HHA 24 August 2023 conference session and associated evidence exchange timetable.
6. HCC sought that the current HHA timetable not be disturbed and that the Built Heritage timetable remain as programmed (refer Direction #12) to converge at the November hearing. Its reasons are set out in counsel's Reply Memorandum. Counsel for HCC helpfully noted that, if following expert evidence exchange there is merit in Built Heritage expert conferencing, the timetable has sufficient flexibility to allow that to occur.
7. To that end, counsel for HCC seeks the following directions:
  - (a) *The HHA topic will continue to be progressed in accordance with the directions set out in Panel Direction #10 which establishes the conferencing requirements*

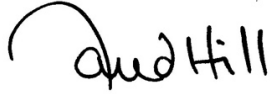
*and Direction #12 which sets the further evidence timetable ahead of the reconvened hearing in November 2023;*

- (b) The Built Heritage topic will be heard in stages, with Stage 1 commencing in the first week of the November hearing and will be confined to:
  - i. Assessment method;*
  - ii. Planning framework; and*
  - iii. Built Heritage items which are opposed and for which HCC agrees can be withdrawn;**
- (c) The evidence presented at the November hearing in relation to the Built Heritage topic will be confined to these sub-topics. Evidence specific to each contested Built Heritage item will be heard at a later date (yet to be determined).*
- (d) The Panel intends to issue an interim decision in respect of the assessment method sub-topic as soon as possible after hearing evidence in week one of the November hearing.*
- (e) The evidence filing timetable set out in paragraph 15 of Direction #12 is confirmed;*
- (f) If the Panel requires pre-hearing expert conferencing on the Built Heritage topic, directions to that effect will issue during the week of 9 October 2023; and*
- (g) Subject to any necessary fine-tuning, the November hearing will proceed on the basis that:
  - I. The first three days of week one will be allocated to the Built Heritage topic;*
  - II. The remaining two days of week one will be allocated to the Archaeological Sites topic;*
  - III. The first two days of week two will be allocated to the HHA topic; and*
  - IV. The final day of week two will be allocated to hearing any evidence filed on the National Policy Statement for Indigenous Biodiversity.**

## **DIRECTION**

- 8. While the Panel acknowledges the logic of combining the two heritage strands for the purpose of attempting to resolve common assessment methodology questions by expert conference, and that such conferencing will likely involve many of the same experts, it agrees with HCC that doing so introduces uncertainty and risks unnecessarily delaying the conclusion of the HHA hearing process. Under s.21 of the RMA we have an express duty to avoid unreasonable delay. We are also required (under s.39 of the RMA) to establish an appropriate and fair hearing procedure. Taking those matters into consideration the Panel agrees that continuing with the present timetable for HHAs better serves the overall process and is more likely to reflect the s.18A RMA requirement to:
  - (a) use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions or powers being performed or exercised.*

9. The Panel agrees to the directions sought in paragraph 7 above and directs accordingly.
10. Any queries or correspondence related to this Direction should be sent through to the Hearing Coordinator, Steve Rice at: [steve@riceres.co.nz](mailto:steve@riceres.co.nz)

A handwritten signature in black ink, appearing to read 'David Hill', with a large, sweeping initial 'D'.

David Hill (Chairperson)  
Independent Hearing Panel

11 August 2023

