

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

RESOURCE MANAGEMENT ACT 1991
DIRECTION #8
INDEPENDENT HEARING PANEL

PURPOSE

1. The purpose of Direction #8 is to provide further directions regarding Historic Heritage Areas (HHAs).

INTRODUCTION

2. Between 29 May 2023 and 2 June 2023 the Panel heard evidence, representations and legal submissions relating to HHAs proposed through PC9.
3. Whilst there is clearly support for the inclusion of stronger provisions in the District Plan, both heritage experts and lay submitters expressed concerns about the methodology adopted as well as areas identified for inclusion. We also record that some HHAs were not expressly contested by submitters – but the Panel is not minded simply to endorse those HHAs with a s.6(f) RMA protection given the extent of professional disquiet.
4. In the normal course of events the Panel would simply weigh those competing arguments in coming to a decision on the matter. However, in this instance the Panel considers that further work may assist that decision – particularly because the last PC9 topic areas (including built heritage) are not scheduled to be heard until November 2023, providing sufficient time for that to occur and, if necessary, be heard.
5. The Panel has identified the following key areas of concern:
 - (i) The relationship of Mr Knott's assessment criteria with that of the WRPS Appendix 7;
 - (ii) The "*moderate*" threshold adopted by Mr Knott for inclusion as a s.6(f) HHA;
 - (iii) The size / scale of some of the proposed HHAs; and
 - (iv) The unevenness of the time bands of the three development periods adopted by Mr Knott.
6. To some extent those matters may reflect Council's relatively late change in direction from heritage themes to development periods, and a change of heritage consultants. The absence of national or agreed heritage industry assessment methodology and/or standards is a further complication.

7. Given the importance of this matter, both as a s.6(f) RMA matter and also to potentially affected landowners, the Panel has turned its mind to how best to address it - and has concluded that further discussion by the relevant experts under tight direction may assist. It has identified two options for that (in addition to some preparatory work from Mr Knott):
 - (i) Reference through the Regional Heritage Forum.
 - (ii) Expert mediation.

Option 1: Regional Heritage Forum

8. The Panel notes that the WRPS allocates to a Regional Heritage Forum (HCV-M1) the task of identifying and inventorying historic and cultural heritage areas of significance (HCV-M2 and M3) – as well as the task of developing the management framework.
9. As HCV-PR1 (Principal reasons) explains:

HCV-M3 targets improving knowledge of the region's heritage through the identification of heritage resources in a consistent manner for future assessments.
10. While that task does not appear to have been achieved, and the Panel accepts that Council is not bound to await that outcome before moving to protect its historic heritage, mobilising that Forum could prove an appropriate vehicle for confirming those PC9 HHAs that merit regional / district protection status.
11. Whether the Regional Council, which is a submitter on PC9 although not specifically on historic heritage areas, is prepared to initiate the Forum is a question for Council to consider and advise the Panel on.
12. Should this option prove feasible the Panel would issue clear directions as to the matters the Forum is to consider.

Option 2: Expert mediation

13. Expert mediation (rather than conferencing) is another alternative and one for which the Panel would similarly set clear boundaries. For example, Mr Knott's methodology itself would not be in issue but, rather, agreement sought about / on the trigger threshold at which s.6(f) would come into play. The Panel shares concerns about the relatively low threshold currently proposed (being "moderate" or 5/7), and would be requesting consideration of the appropriate minimum areal size or property density as well as representative numbers required to recognise the significant development period (i.e. whether all areas meeting the threshold should be recognised for each development period or recognition should be limited to one, two or the best example of each).
14. The Panel sees no further value in debating the argument already put before us about the adequacy of the historic associations / stories behind the HHAs selected. That discussion is on the record and the Panel will need to determine its position on that in due course. The present task is to determine whether there is professional agreement that any of the HHAs before the Panel merit s.6(f) RMA protection and why.
15. As a pre-condition for both of the above options the Panel would require Mr Knott to produce a more detailed articulation of the manner in which his methodology accommodates Appendix 7 of the WRPS.

DIRECTION

16. The Panel therefore:
 - (i) invites Council to decide and advise the Panel which optional approach (or some feasible alternative approach) is most efficient in terms of the available timeframe, and propose a suitable timetable (we leave the discretion with Council as to which parties it may consult on this matter); and
 - (ii) directs Mr Knott to prepare the report referred to in paragraph 15 above for filing with the Hearing Coordinator no later than 13 July 2023.
17. Further directions – including the scope of matters for resolution - may be given once the Panel has received Council's advice.
18. All parties are to be advised accordingly.
19. Any queries or correspondence related to this Direction should be sent through to the Hearing Coordinator, Steve Rice at: steve@riceres.co.nz.



David Hill (Chairperson)
Independent Hearing Panel

14 June 2023