

**BEFORE THE INDEPENDENT HEARING PANEL  
APPOINTED BY THE HAMILTON CITY COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991 (RMA)

**AND**

**IN THE MATTER** of hearing submissions on Plan Change 9 to the Hamilton  
City District Plan

**BETWEEN** **THE ADARE COMPANY LIMITED**

**Submitter #33**

**AND** **HAMILTON CITY COUNCIL**

**Local Authority**

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**MEMORANDUM OF COUNSEL FOR THE ADARE COMPANY LIMITED  
REGARDING EVIDENCE EXCHANGE TIMETABLE**

**25 July 2023**

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**WYNN WILLIAMS**

## MAY IT PLEASE THE HEARING PANEL

- 1 On 25 July 2023, the Independent Hearing Panel (**Panel**) for Plan Change 9 to the Hamilton City District Plan (**PC9**) issued Direction #12. This Direction responded to various memoranda of parties in relation to the recent promulgation of the National Policy Statement for Indigenous Biodiversity (**NPS-IB**), and set out the timetable for the resumed substantive hearing for PC9 (**Timetable**).
- 2 This Memorandum addresses the Timetable directions, in particular the opportunity for Council and submitters to provide rebuttal evidence in relation to Session 1 topics addressing the NPS-IB.
- 3 The Timetable as expressed in the Direction provides for:
  - (a) Council evidence in chief on Session 2 topics and supplementary evidence on Session 1 topics addressing the NPS-IB (due 1 September 2023);
  - (b) Submitter evidence on those same matters (due 22 September 2023); and
  - (c) Rebuttal evidence from Council and submitters on Session 2 topics only (due 6 October 2023).
- 4 In the interests of fairness and efficiency, Counsel submits that the Council and submitters should also be afforded the opportunity to file written rebuttal evidence, on 6 October 2023, in relation to submitters' supplementary evidence on the Session 1 topics relating to the NPS-IB which are to be filed on 22 September 2023.
- 5 The reasons for this are as follows:
  - (a) Submitters may wish to file evidence responding to the evidence-in-chief of other submitters, not just the Council.
  - (b) Council may wish to file evidence responding to the evidence-in-chief of submitters.
  - (c) Submitters should not be required to attempt to anticipate the evidence that may be filed by other submitters in their evidence-in-chief and attempt to respond to/address those issues in their own evidence-in-chief (which is to be filed on the same day as all other submitters).

- (d) If submitters are not afforded an opportunity to file written rebuttal evidence, but an issue arises in the evidence of another submitter, the submitter's relevant witness(es) will have to present oral evidence to the Panel at the hearing. This is not the most efficient or effective method of presenting evidence on (often) complex matters.
  - (e) Allowing submitters to file rebuttal evidence will likely reduce the amount of evidence-in-chief filed, as the evidence-in-chief can be focussed on the core issues for the submitter, rather than speculatively covering all possible issues which may be raised by others. If a genuine issue does arise in another submitters' evidence-in-chief, that can be efficiently dealt with in rebuttal.
- 6 On this basis, Counsel respectfully seeks that the Timetable<sup>1</sup> be amended as follows:

Any rebuttal expert evidence from Hamilton City Council and submitters on the Session 2 topics, or the Session 1 topics addressing the NPSIB only, is to be provided to the Hearing Coordinator no later than **4pm Friday, 6 October 2023**.

**Dated this 25<sup>th</sup> day of July 2023**



**M J Doesburg**

Counsel for The Adare Company Limited

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<sup>1</sup> At paragraph [15](d) of Direction #12.