Before the Hearing Panel
Appointed by the Waitaki District Council

Under	The Resource Management Act 1991 (RMA)
In the matter of	Submissions on the Proposed Waitaki District Plan

Summary of Submissions on Scope by Counsel for Waitaki District Council

24 September 2026

Waitaki District Council's solicitor:
Michael Garbett
Anderson Lloyd
Level 12, Otago House, 477 Moray Place, Dunedin 9016
Private Bag 1959, Dunedin 9054; or
DX Box YX10107 Dunedin
p + 64 3 477 3973
michael.garbett@al.nz

anderson lloyd.

May it please the hearing panel:

1 Counsel for Waitaki District Council addressed the Hearing Panel at the hearing on 23 September on the issue of scope relating to the relationship between the Energy and Infrastructure chapters and withdrawn overlays or provisions addressing section 6 matters. This arose following a range of evidence and legal submissions particularly by Forest and Bird, EDS and DoC.

2 The Hearing Panel asked for Counsel to put in writing what was presented, which this summary does.

3 A number of Submitters have sought that the Energy and Infrastructure chapters address aspects of environmental protection reflected in section 6 RMA.

4 The Proposed Plan started out as a full integrated district plan addressing section 6, relevant higher order documents and Part 2 of the Act.

5 The Government by the "plan stop" legislation halted parts of the Plan which were not expressly exempt from proceeding. This means that a range of environmental protection overlays in the notified plan are precluded from proceeding and have been withdrawn.

6 It was submitted that if any submitter seeks to "reinstate" or "resurrect" overlays that were in the Proposed Plan that are precluded by the plan stop legislation, this would subvert the plan stop legislation and be out of scope.

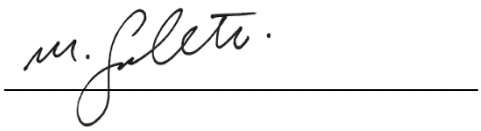
7 Where a submitter sought that the Energy or Infrastructure chapters address section 6 matters, or they supported withdrawn overlays applying across the plan, it is considered now that this gives rise to scope to seek the PDP cross refers to make the existing provisions in the operative plan, such as the Rural Chapter, apply to activities managed in the Energy or Infrastructure chapters.

8 For example, where Forest and Bird now seeks changes to the note in the Energy and Infrastructure chapter to state that aspects of the rural chapter in the operative plan apply, this is reasonably within scope of their submission. It is then a merit issue for the Hearing Panel about whether this is most appropriate, or not (in section 32 terms).

9 I did submit that the Hearing Panel cannot change the provisions in the operative plan at all. The operative Plan provisions are not up for submission and therefore cannot be changed by this process.

10 I also submitted in response to questions from the Hearing Panel that it is a consequence of the plan stop legislation that the proposed plan overlays cannot proceed and it is not available to the Hearing Panel to "plug the gap" left by withdrawal of those chapters to re-write them, or "resurrect" them. That is a consequence of the law preventing those overlays from proceeding.

Dated this 24th day of September 2026



Michael Garbett
Counsel for the Waitaki District Council