

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

AND

IN THE MATTER of Intensification Planning Instrument Proposed
Plan Change 78: Intensification (**PC78**) to the
Auckland Unitary Plan Operative in Part (**AUP**)

JOINT WITNESS STATEMENT IN RELATION TO:

Hearing Topic 009G PC78 Maunga Viewshafts and Height and Building Sensitive Areas

Expert conferencing held on	17 April 2023
Venue	Online
Independent facilitator	Richard Blakey
Secretariat planner	Clare Wall Shaw

1. Attendance

1.1. The list of participants is included in the schedule at the end of this Statement.

2. Basis of attendance and Environment Court Practice Note 2023

2.1. All participants agree to the following:

- a) The Environment Court Practice Note 2023 provides relevant guidance and protocols for the expert conferencing session;
- b) They will comply with the relevant provisions of the Environment Court Practice Note 2023;
- c) They will make themselves available to appear before the Independent Hearing Panel; and
- d) This statement is to be filed with the Independent Hearing Panel and posted on the Council's website.

3. Matters considered at conferencing - agenda and outcomes

Unless otherwise stated – no name reflects a neutral position. Some experts were not present during all of the discussion/paragraph statements.

3.1. Are Maunga Viewshafts (MVs) a valid qualifying matter?

3.1.1. All experts agree MVs are a valid qualifying matter under s77I(a). This includes both regionally significant, and locally significant viewshafts.

3.2. Are Height and Building Sensitive Areas (HBSAs) a valid qualifying matter?

- 3.2.1. All experts agreed HBSAs are a valid qualifying matter under s77I(a) as identified in council's s32 analysis.
- 3.2.2. **John McCall** questioned how the MDRS has been modified within the identified HBSAs only to the extent necessary to accommodate the identified Qualifying Matter - noting the direction afforded by both Section 77J(4)(b) of the RMA and Policy 4 of the NPSUD.
- 3.2.3. In response to John McCall's point above:
 - a. **Peter Reaburn, Dave Serjeant, Makarena Dalton and Alice Morris** stated that if there are areas of concern, these should be made known and based on evidence, for areas appropriate or not appropriate for heights and why.
 - b. **Stephen Brown** stated that work has been completed since the mid-1970s to provide a foundation for the HBSAs and Maunga Viewshafts. This included studies undertaken prior to the AUP hearings in 2015 and 2016. Any challenges to the HBSAs and MVs would need to be supported by evidence. The landscape report referred to in the s32 analysis will be included with Stephen's evidence. **Dave Serjeant and Makarena Dalton** agreed.
- 3.2.4. All experts would welcome a direction from the IHP that the landscape report be uploaded to the IHP or council website as soon as possible.

3.3. Are new standards required to the extent necessary to accommodate the QM?

The rationale for some of the standards is understood to be contained within the landscape report, it is difficult for experts to be definitive in their views as this has not been made publicly available. The relevant standards relate to building coverage, landscaped areas, yards and earthworks.

- 3.3.1. **Anthony Blomfield and John McCall** stated that none of the new standards are necessary.
- 3.3.2. All other experts agreed that new standards are necessary.

3.4. Clarification of the Rules (NB: including the issue relating to the HBSAs rules applying irrespective of the MVs rules).

- 3.4.1. **Peter Reaburn** notes a number of submissions outlining a concern that a site subject to a QM cannot implement MDRS development even if the QM is not infringed. He notes that the s32 report makes it clear that the QM only applies where the MV or HBSAs rules are infringed, however, it is acknowledged that there may be an issue relating to council's administration of QMs. **Dave Serjeant** advised that this issue relates to at least one other overlay. This lack of clarity also relates to other overlays. The experts agree that the MDRS and Policy 3 of the NPS-UD need only be less enabling where the MV or HBSA rules are infringed.
- 3.4.2. **Anthony Blomfield** indicated where both a MV (below 9m) and HBSA apply, it is unclear which provision pathway should apply. There is an opportunity for this issue to be clarified to confirm whether a consent is required (restricted discretionary or permitted activity status). The submission by Ascot Hospital and Clinics Limited (submission 952) sought to clarify the situation where a site is subject to both a MV and a HBSA and sought the following change:

“Where a site is subject to both a Maunga Viewshaft and a Height and Building Sensitive Area, and where the height limit of the Maunga Viewshaft is lower than the height limit of the Height and Building Sensitive Area, Rules D14.4.1(A1) to (A6) do not apply, and Rules D14.4.1(A7) to (A11) apply.”

3.4.3. **Peter Reaburn** questioned if this is an issue that is ‘on’ the plan change, and whether it should be addressed through the PC 78 process. **Tania Richmond and Peter Kensington** stated that they do not agree that this matter is ‘on’ the plan change.

3.4.4. Should there be jurisdiction to address this issue, then in principle, **Peter Reaburn and Stephen Brown** support the relief sought in the above submission.

3.5. **Whether further protections (areas, viewshafts, standards) are appropriate.**

3.5.1. **Tania Richmond and Peter Reaburn** stated that additional protections should be addressed through a separate Schedule 1 process, and at least some may be out of scope of PC 78.

3.6. **Matters relating to Devonport**

3.6.1. **Dave Serjeant, Peter Reaburn, Stephen Brown and Alice Morris** agree that the notified provisions in relation to the Devonport HBSA should be confirmed.

3.7. **Matters relating to the exclusion of construction cranes**

3.7.1. The Ascot Hospital and Clinics Limited made a submission seeking an amendment to D14.6.4 in respect of construction cranes, the experts note that there was no change sought to this standard through the plan change, so the submission point may be out of scope. If there was scope, **Anthony Blomfield** considers the following change (which is based on the further submission of Tūpuna Maunga o Tāmaki Makaurau Authority) would resolve the relief sought by the submission:

D14.6.4. Temporary construction and safety structures

(1) Temporary construction and safety structures must be removed within 30 days 24 months or upon completion of the construction works, whichever is the lesser.

(2) Temporary construction and safety structures intruding into Maunga Viewshafts or Height and Building Sensitive Areas greater than 30 days:

a. Must not display advertising, including logos, signage and flags.

b. Any lighting is limited to that necessary to comply with safety or civil aviation requirements.

c. Be non-reflective and painted in a matte colour.

3.7.2. The experts **Anthony Blomfield, Tania Richmond, Peter Reaburn, Peter Kensington and Stephen Brown** agree with the standard, subject to the resolution of the definition of advertising, including logos, signage and flags.

3.7.3. Experts note that if this change was adopted, this may lead to a consequential change to the activity table to be clear on the activity status for cranes in place longer than 24 months. **Anthony Blomfield** preferred a restricted discretionary activity status (for both A6 and A11 irrespective of whether it was in a locally or regionally significant viewshaft); **Tania Richmond,**

Peter Reaburn and Makarena Dalton preferred the existing non-complying activity status under both rules.

3.8. **New Policy D14.3(5A) - change proposed by The Ascot Hospital and Clinics Limited**

3.8.1. **Anthony Blomfield** considers the policy was inserted to ensure the standards had a policy basis, however, height and mana whenua values are addressed by reference to the existing policies D14.3 (1), (3) and (5), and the new standard will only apply to residential zones. If the new policy and standards are to be retained (noting **Anthony Blomfield's** first position is that the new policy should be deleted), the policy should be amended to limit its application to the residential zones as follows:

(5A) Within Residential zones. Protect the unique visual character, identity, physical integrity and form of the maunga by:

(a) limiting building height and bulk;

(b) using building coverage and landscaped area controls to maintain and enhance visual permeability to the slopes of the maunga

(c) minimising earthworks and retaining walls; and

(d) respecting the maunga as sacred places to mana whenua.

3.8.2. Policy (5A) is generally supported by the experts, but the experts may further consider what is being addressed by the policy and the techniques to address it in their evidence.

4. PARTICIPANTS TO JOINT WITNESS STATEMENT

4.1. The participants to this Joint Witness Statement, as listed below, confirm that:

- a) They agree that the outcome(s) of the expert conferencing are as recorded in this statement; and
- b) They have read the Environment Court's Practice Note 2023 and agree to comply with it; and
- c) The matters addressed in this statement are within their area of expertise; and
- d) As this session was held online, in the interests of efficiency, it was agreed that each expert would verbally confirm their position to the Facilitator and this is recorded in the schedule below.

4.2. **Confirmed online - 17 April 2023**

Unless otherwise stated - no name reflects a neutral position. Some experts were not present during all of the discussion/paragraph statements.

EXPERT'S NAME	PARTY	EXPERT'S CONFIRMATION (para 4.1(d) above)
Tania Richmond (Planning)	Tūpuna Maunga o Tāmaki Makaurau Authority	3.1.1, 3.2.1, 3.2.4, 3.3.2, 3.4.1, 3.4.3, 3.5.1, 3.7.2, 3.7.3 and 3.8.2
Peter Kensington	Tūpuna Maunga o Tāmaki Makaurau Authority	3.1.1, 3.2.1, 3.2.4, 3.3.2, 3.4.1, 3.4.3, 3.7.2 and 3.8.2

(Landscape)		
Dave Serjeant (Planning)	Devonport Heritage	3.1.1, 3.2.1, 3.2.3, 3.4.1, 3.6.1 and 3.8.2
Graeme Burgess (Heritage)	Devonport Heritage Remuera Heritage	3.8.1
Anthony Blomfield (Planning)	The Ascot Hospital and Clinics Limited Dilworth Trust Board Scentre (New Zealand) Limited BLUM Investments Limited Elizabeth Knox Home and Hospital	3.1.1, 3.2.1, 3.2.4, 3.3.1, 3.4.2, 3.7.1, 3.7.2, 3.7.3 and 3.8.1
John McCall (Planning)	Kāinga Ora	3.1.1, 3.2.1, 3.2.2 and 3.3.1
Milan Covic (Planning)	Steven and Shirley Wang	3.1.1
Peter Reaburn (Planning)	Auckland Council	3.1, 3.2, 3.3.2, 3.4.1, 3.4.2, 3.4.3, 3.5, 3.6, 3.7.2, 3.7.3 and 3.8.2
Stephen Brown (Landscape)	Auckland Council	3.1.1, 3.2.3(b), 3.4.4, 3.6.1, 3.7.2 and 3.8.2
Makarena Dalton (Planning)	Ngāti Whātua Ōrākei Group	3.1.1, 3.2.1, 3.2.3 (a) and (b), 3.2.4, 3.3.2, 3.7.3 and 3.8.2
Alice Morris (Planning)	Heritage New Zealand Pouhere Taonga	3.1.1, 3.2.1, 3.2.3a, 3.3.2, 3.6.1 and 3.8.2
Robin Byron (Heritage)	Heritage New Zealand Pouhere Taonga	Did not attend
Sarah Nairn / Karen Thomas (Planning)	The Surveying Company Ltd	Did not attend
Ross Cooper (Planning)	Russell Property Group Villages of New Zealand Cornwall Park Trust Board Piper Properties Consultants Limited Avant Group Limited	Did not attend

	<p>Winton Land Limited Gibbonsco Management Limited Shundi Tamaki Village Limited Cassiny Limited Templeton Group</p>	
<p>Mark Vinall (Planning)</p>	<p>Russell Property Group Villages of New Zealand Cornwall Park Trust Board Piper Properties Consultants Limited Avant Group Limited Winton Land Limited Gibbonsco Management Limited Shundi Tamaki Village Limited Cassiny Limited Templeton Group</p>	<p>Did not attend</p>
<p>Tom Morgan (Planning)</p>	<p>Russell Property Group Villages of New Zealand Cornwall Park Trust Board Piper Properties Consultants Limited Avant Group Limited Winton Land Limited Gibbonsco Management Limited Shundi Tamaki Village Limited Cassiny Limited Templeton Group</p>	<p>Did not attend</p>
<p>Craig McGarr (Planning)</p>	<p>Scentre (New Zealand) Limited BLUM Investments Limited Elizabeth Knox Home and Hospital</p>	<p>Did not attend</p>

Expert Conference attendance sheet

Topic 009G: Maunga Viewshafts and Height Sensitive and Building Areas

Date: 17 April 2023

Facilitator: Richard Blakey

Location: Online

Time: 9.30am finished at 5.14pm

Submission number	Submitter name	Representative at expert conferencing	Email	Notes
1991	Tūpuna Maunga o Tāmaki Makaurau Authority	Tania Richmond (Planning)	tania@richmondplanning.co.nz	Attended full session
1991	Tūpuna Maunga o Tāmaki Makaurau Authority	Peter Kensington (Landscape)	peter@kplc.co.nz	Attended full session
937	Devonport Heritage	Dave Serjeant (Planning)	dave@merestone.co.nz	Attended full session
937, 948, FS94	Devonport Heritage, Remuera Heritage	Graeme Burgess (Heritage)	graeme.nz.burgess@gmail.com	Left at 10.30am, returned at 1.30pm
952, 2226, 1811, 2389	The Ascot Hospital and Clinics Limited, Scentre NZ, Dilworth Trust Board, Elizabeth Knox Home and Hospital	Anthony Blomfield (Planning)	ablomfield@bentley.co.nz	Attended full session
895	Ngāti Whātua Ōrākei Group	Makarena Dalton (Planning)	MakarenaD@barker.co.nz	Attended full session

Plan Change 78 Intensification

Submission number	Submitter name	Representative at expert conferencing	Email	Notes
1090	Steven and Shirley Wang	Milan Covic (Planning)	milan.covic@ckl.co.nz	Attended full session
939	Auckland Council	Peter Reaburn (Planning)	PeterR@catobolam.co.nz	Attended full session
939	Auckland Council	Stephen Brown (Landscape)	stephen@brownltd.co.nz	Attended full session
872	Heritage New Zealand Pouhere Taonga	Alice Morris (Planning)	AMorris@heritage.org.nz	Attended full session
873	Kāinga Ora	John McCall (Planning)	john.mccall@beca.com	Attended full session
1984	The Surveying Company	Sarah Nairn (Planning)		Did not attend
1984	The Surveying Company	Karen Thomas (Planning)		Did not attend
872	Heritage New Zealand Pouhere Taonga	Robin Byron (Heritage)		Did not attend
226, FS173, 2389	Scentre	Craig McGarr (Planning)		Did not attend
873	Kāinga Ora	Matthew Lindenberg (Planning)		Did not attend