

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

AND

IN THE MATTER of **Private Plan Change 88** – 110 Jack Lachlan Drive; and 620, 680, 682, 702, 712, 722, 732, 740, 746, 758 and 770 Whitford-Maraetai Road, Beachlands to the Auckland Unitary Plan

HEARING DIRECTION #2 FROM THE HEARING PANEL

1. Pursuant to section 34A of the RMA, Auckland Council (the Council) has appointed a Hearing Panel consisting of three independent hearing commissioners – Vanessa Hamm (Chairperson), Dr Ian Boothroyd and Trevor Mackie. The Hearing Panel’s function is to hear the application and submissions and make a decision on the Plan Change proposal, including any changes to it that are within scope of the notified Plan Change. It is also to deal with any procedural matters.
2. On Friday 30 June 2023 the hearing panel directed the applicant to file a memorandum outlining what, if any, changes they recommend to the proposal and outline which changes are in response to which submissions. The applicant filed the memorandum on Monday 24 July 2023. Both documents are attached to this Direction. The applicant has sought expert conferencing be carried out and the hearing panel agree with this request.
3. Clause 8AA – Resolution of Disputes of the First Schedule of the RMA enables a process to resolve disputes between parties. Accordingly, in terms of this Plan Change the Hearing Panel agrees that expert conferencing may be useful.
4. The purpose of the conferencing is for the parties’ experts to identify, discuss and potentially resolve (or not) issues in contention between them. This may enable all parties to focus on those matters that remain in contention at the hearing.
5. The Chair directs that any conferencing that is undertaken is to be in accordance with the Environment Court Practice Note 2023. Those experts participating in the conferencing are to make themselves available to appear at the hearing in person if required to do so by the Hearing Panel.
6. The Hearing Panel has appointed Marlene Oliver as the independent facilitator. The facilitator is authorised to:
 - Act as independent facilitator;
 - In conjunction with the Council’s Hearings Advisor, invite the applicant, all submitters and the Council as regulator (in its s42A reporting function) to advise

whether their expert witnesses in the relevant fields will attend the conferencing sessions;

- Liaise with the applicant, submitters, Council as regulator and experts who register an interest in attending the conferencing;
 - In conjunction with the Council's Hearings Advisor and applicant, organise the topics (including agendas), attendees, sessions, times and venues for conferencing.
7. For each session, a joint witness statement should be prepared identifying areas of agreement and disagreement, with the reasons for each witness's position recorded succinctly. All joint witness statements are to be provided to the Senior Hearings Advisor as soon as possible.
8. The hearing panel have considered the applicant's memorandum and accordingly directs the following:
- (a) Pursuant to section 42A of the RMA, the S42A hearing report is to be with the Council's Hearings Advisor, Sidra Khan by 9am on Monday 18 September 2023 and shall be released to all parties no later than 5pm **Wednesday 20 September 2023**.

The hearing panel is not able to direct the section 42A hearing report to include an assessment of the revised provisions as that would be contrary to Part 2 of Schedule 1 of the RMA.

- (b) Pursuant to sections 41B(1) and (2) of the RMA, the Applicant's expert evidence (evidence given by a professional with specialist qualifications and experience) is to be provided to the Council's Hearings Advisor no later than midday, **Wednesday 4 October 2023** and will be made available to the parties and on the Council's website no later than 5.00 pm the same day.
- (c) Should changes to the Plan Change be proposed by the applicant the evidence provided in (b) must include a S32AA report and reasons why any proposed changes are in scope.
- (d) Pursuant to sections 41B(3) and (4) of the RMA, any submitter who intends to call expert evidence at the hearing (evidence given by a professional with specialist qualifications and experience) is to provide that evidence to the Council's Hearings Advisor no later than midday, **Wednesday 18 October 2023** and will be made available to the parties and on the Council's website no later than 5.00 pm the same day.
- (e) If, following the receipt of expert evidence there are matters still in disagreement between experts, expert conferencing can be carried out. This will take place between **Wednesday 25 October 2023 and Friday 3 November 2023**. It will be

up to the Applicant to liaise with Marlene Oliver as the independent facilitator to make arrangements for any expert conferencing and to provide a Joint Witness Statement to the Panel at the conclusion (**by 3 November 2023**).

To enable the expert conferencing arrangements to be made, parties (Council and submitters) are required to provide the Hearings Advisor with the topics they wish to be the subject of expert conferencing and the names and contact details of their experts that would attend conferencing by **midday, Thursday 28 September 2023**. Please note that it is the responsibility of the submitter to reimburse their experts for attendance at expert conferencing. The applicant has already suggested topics such as traffic, urban design/landscape, ecology, stormwater and planning.

- (f) Pursuant to section 42A of the RMA, if required, the reporting planner shall provide an addendum S42A hearing report to the Council's Hearings Advisor no later than midday, **Wednesday 8 November 2023** and will be made available to the parties and on the Council's website no later than 5.00 pm the same day.
 - (g) Pursuant to sections 41B(1) and (2) of the RMA, any rebuttal evidence to be provided by the Applicant is to be provided to the Council's Hearings Advisor no later than midday, **Tuesday 14 November 2023** and will be made available to the parties and on the Council's website no later than 5.00 pm the same day.
 - (h) The hearing shall commence on **Monday 27 November 2023** and has been set down for 3 days, with 2 overflow days.
9. While these Directions do not apply to lay or non-expert statements/evidence, the Hearing Panel would appreciate any written statements to be presented at the hearing by submitters to be provided to the Council's Hearings Advisor no later than midday, **Tuesday 21 November 2023** and will be made available to the parties and on the Council's website no later than 5.00 pm the same day.
10. The Hearing Panel also encourages parties to pre-circulate any opening legal submissions in advance of the hearing, preferably no later than midday, **Thursday 23 November 2023**. The Hearing Panel and other parties will be assisted if the legal submissions can be pre-read.
11. The purpose of these Directions is to provide the opportunity for the Hearing Panel and the other parties to have read and considered any legal submissions, evidence or statements in advance of the hearing to assist in understanding the case being presented. As the Hearing Panel will have read all the pre-circulated material before the hearing, there will be no need for it to be read out. An executive summary maybe read out or the key points highlighted.

12. Any enquiries regarding these Directions or related matters should be directed to the Council's Hearings Advisor, Sidra Khan, by email at sidra.khan@aucklandcouncil.govt.nz



Vanessa Hamm, Chairperson
Thursday 17 August 2023