

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

AND

IN THE MATTER of **Private Plan Change 51** – Karaka and Drury Limited - land generally bounded by Drury Creek to the east, Future Urban Zoned land to the west and Karaka Road/State Highway 22 to the south and south east (Drury West) to the Auckland Unitary Plan – Operative in Part.

DIRECTION FROM THE HEARING PANEL

WAIVER REQUEST FOR MR MENTZ TO FILE AND PRESENT ADDITIONAL EXPERT EVIDENCE FOR KĀINGA ORA – HOMES AND COMMUNITIES (KĀINGA ORA) AND THE MINISTRY OF HOUSING AND URBAN DEVELOPMENT (HUD)

1. Pursuant to section 34 and 34A of the RMA, Auckland Council (the Council) has appointed a Hearing Panel consisting of independent hearing commissioners - Greg Hill (Chairperson), Mark Farnsworth and Karyn Kurzeja. The Hearing Panel's function is to hear the application and submissions and make a decision on the Plan Change proposal. It is also to address any procedural issues.
2. The Hearing Panel has received a Memorandum from Kāinga Ora and HUD's legal counsel on the 1 November 2021¹. Mr Matheson stated at paragraphs 1.3 – 1.5:

Kāinga Ora and HUD understand the limitations in presenting further evidence at this stage in the proceeding, however to assist the Commissioners Mr Mentz has presented 2 additional diagrams that he wishes to speak to at the hearing.

In my submission that evidence is explanatory in nature and merely conveys in diagrammatic terms what would otherwise need to be explained by Mr Mentz. Providing a diagram therefore assists with an efficient hearing process, particularly given the need to proceed with the hearing through the use of AVL. Because of that, no formal application for leave is considered necessary. Nonetheless, to ensure that all parties, and in particular the proponent of Plan Change 51, have ample notice of this material I have attached it to this memorandum.

In the event that the Commissioners disagree with my submission in paragraph 1.4 and consider that leave does not need to be sought, then leave is sought accordingly and I will be prepared to address this at the presentation of Kāinga Ora and HUD's case.

3. The Hearing Panel does not agree that the additional evidence is “*explanatory in nature and merely conveys in diagrammatic terms what would otherwise need to be explained by Mr*

¹ The memorandum was dated Friday 29 October 2021

Mentz". We find that it is new evidence. As set out in previous Directions, the Hearing Panel is not seeking further evidence from any party, and if additional evidence was sought to be filed a waiver would need to be sought from the Hearing Panel addressing the matters set out in section 37 and 37A of the RMA.

4. For the following reasons the Hearing Panel refuses to grant a waiver for this evidence to be filed and presented.
5. Mr Mentz has provided evidence-in-chief setting out why he does not support the location of the Town Centre as proposed by PC 51. He suggests an alternative location for the Town Centre to the south and west of that proposed by PC 51, based around a train station. His evidence-in-chief includes text, maps and diagrams explaining and showing the alternative town centre. We understand his evidence.
6. The new evidence sought to be filed by Mr Mentz has more detailed diagrams of the town centre he supports, but also shows an alternative Town Centre design. As mentioned, we understand his evidence-in-chief and do not require any further evidence in this respect. We also note that an alternative town centre (as suggested by Mr Mentz) is not before us to consider and is not part of the plan change proposal. Accordingly, this additional evidence will not assist us in making a decision on this Plan Change.
7. Moreover, the Applicant's rebuttal evidence was filed on 1 September 2021. We are not clear why the submitters have waited until now to provide the additional evidence from Mr Mentz. It is likely that had we accepted this evidence, we would have had to provide an opportunity to the Applicant (and potentially other submitters) to file further rebuttal evidence. This would have taken time; be an unreasonable imposition of other experts to prepare further evidence so close to the hearing; and result in an inefficient hearing process.
8. Accordingly, we do not grant a waiver pursuant to section 37 and 37A of the RMA to enable Mr Mentz's additional evidence to be filed and presented at the hearing. The reasons for this are those set out above.
9. Any enquiries regarding this Direction or related matters should be directed to the Council's Senior Hearings Advisor, Mr Sam Otter by email at sam.otter@aucklandcouncil.govt.nz.



Greg Hill Chairperson
1 November 2021