

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

AND

IN THE MATTER **Intensification Planning Instruments Plan Changes (IPI) and related Regional Policy Statement and Plan Changes to the Auckland Unitary Plan – Operative in Part (AUP-OP) – Plan changes 78, 79 and 80.**

DIRECTION (22 FEBRUARY 2023) FROM THE HEARING PANEL

ALTERNATIVE DISPUTE RESOLUTION PROCESSES AND EXPERT CONFERENCING.

1. In accordance with Resource Management Act 1991 (RMA) - Part 6 Clause 96 of the First Schedule and sections 34 and 34A, the Auckland Council (the Council) has appointed an Independent Hearing Panel (IHP). The IHP has been delegated to hear submissions and make recommendations to the Council on the IPI plan changes and decisions on the non IPI plan changes. It's delegations also include addressing any procedural matters.
2. Clause 8AA – Resolution of Disputes of the First Schedule of the RMA enables a process to clarify and resolve disputes between parties. This Direction is to formally advise parties that the IHP will be using alternative dispute resolution processes (ADR) including: meetings, mediations and expert conferencing.
3. The IHP has identified a number of topics (including subtopics) that will be the subject of expert conferencing¹ as set out below. Those parties who have submission(s) points coded to one or more of the identified topics for expert conferencing will be directly contacted by the IHP's Senior Hearing Advisor requesting the information set out below.
4. IHP expects expert conferencing to commence as soon as possible – potentially as early as mid-March 2023. A schedule will be published once attending parties are known.
5. The purpose of expert conferencing is to identify, discuss and potentially resolve (or not) the issues in contention. This may enable parties to reduce the scope and length of their (expert) evidence; to focus on those matters that remain in contention; and to reduce the amount of hearing time they may request before the IHP. This is particularly so as expert conferencing is to occur (mainly) prior to the filing of the expert evidence as per the IHP's Hearing Procedures document dated 22 December 2022.
6. While this Direction cannot compel the parties to take part in expert conferencing, or compel expert witnesses to attend and participate in expert conferencing, we strongly recommend that they do so. These sessions will provide a degree of formality for those experts who attend in an

¹ Expert Conferencing can only be attended by a professional with specialist qualifications and experience such as economists, architects (including landscape), urban designers and planners.

effort to clarify and narrow the issues in contention. This should assist the experts in their evidence preparation, and ensure that hearing time is used efficiently.

7. Where expert conferencing is held, the IHP directs that it be undertaken in accordance with the “Environment Court Practice Note 2023” and in particular Clause 9 – “Code of conduct for expert witnesses”. This includes 9.6. “Party responsibility for expert conference” which includes the role of Counsel (where engaged). Those experts participating in the conferencing are to make themselves available to appear at the hearing if required to do so by the IHP.

Topics for Expert Conferencing

8. The list of topics and subtopics for expert conferencing² is attached. It has been derived from our own review of the submissions, and those topics identified by the parties arising from the IHP’s Procedural Minute - Alternative Dispute Resolution Processes – Invitation to Suggest Topics.
9. The Council, and submitters who have submission(s) points coded to one or more of the identified topics (see the Summary of Decisions Requested for topic allocation) and are proposing to attend expert conferencing on any of the topics are to advise the IHP’s Senior Hearing Advisor at the email address below no later than **4pm on Wednesday 1 March 2023** of the following:
 - which allocated topic(s) – including subtopic(s) you will attend; and
 - The name(s), expertise, email and phone contacts of the experts.
10. This information is required so that the IHP can organise and schedule the expert conferencing sessions.

Administration and Facilitation

11. The organisation and scheduling of the expert conferencing sessions will be undertaken by the IHP (Secretariat staff).
12. Independent Facilitators have been appointed to facilitate the sessions (where required). The Independent Facilitators are authorised to:
 - Act as independent facilitators;
 - In conjunction with the IHP Secretariat (as administrator) invite the parties to advise who will be attending – and where expert conferencing is scheduled, to confirm which expert witnesses may attend the sessions;
 - In conjunction with the IHP Secretariat (as administrator) organise the sessions, including format, topics, agendas, attendance, outcome statements/reports (including

² Additional topics may be added, or dropped-off, once the IHP more fully understands all of the issues before it, and the IHP may direct meetings and/or mediation sessions rather than expert conferencing where this is more appropriate.

expert Joint Witness Statements), times and venues – in person or on-line (remote facilities) as appropriate³; and

- Report to the Chair of the IHP on an as required basis on progress with the ADR sessions and progress on any outcome statements, including matters agreed and not agreed.
13. The IHP Directs the Council, as the proponent of the Plan Changes, to prepare the initial agenda for the sessions. This is to be provided to the Senior Hearings Advisor (email address below) no later than five working days prior to the scheduled session. This initial agenda should outline (by bullet point) the main issues to be conferenced for each topic/subtopic.
 14. Any enquiries regarding this Direction, or related matters, should be directed to the Senior Hearing Advisor, Mr Sam Otter by email at npsudhearings@aucklandcouncil.govt.nz



Greg Hill Chairperson

22 February 2023

³ It is envisaged that the majority of sessions will be by on-line (remote facilities), but this will be decided by the IHP Secretariat and Independent Facilitator

Topic number	Topic	Subtopic
003-006	PC 80	All subtopics
007	Outside Urban Environment	SHA Precincts
009	Qualifying Matters A-I	SEAs
009	Qualifying Matters A-I	ONL and ONF
009	Qualifying Matters A-I	ONC and HNC
009	Qualifying Matters A-I	Maunga Viewshafts and Height Sensitive Areas
009	Qualifying Matters A-I	Significant Natural Hazards
009	Qualifying Matters A-I	Designations
009	Qualifying Matters A-I	Aircraft Noise
010	Qualifying Matters - Other	Ridgeline Protection
010	Qualifying Matters - Other	Māori Cultural Heritage - Pukekiwiri Pā and Pararēkau Island
011 + 014	Qualifying Matters - Special Character	Special Character Residential - all subtopics + Height -transitions/height next to SCAR
011 + 014	Qualifying Matters - Special Character	Special Character Business - all subtopics + Height -transitions/height next to SCAB
012	Qualifying Matters - Infrastructure	Infrastructure - Areas with long-term infrastructure constraints
012	Qualifying Matters - Infrastructure	Infrastructure - Combined wastewater network
012	Qualifying Matters - Infrastructure	Infrastructure - Stormwater disposal constraints
012	Qualifying Matters - Infrastructure	Infrastructure - Water and wastewater constraints
012	Qualifying Matters - Infrastructure	Infrastructure - Beachlands transport infrastructure constraint
013	Qualifying Matters - Additional	Qualifying Matters - Additional
014	Height	Policy Principles (NPS UD Policy 3b and 3c - at least 6 storeys), Technical Elements, Strategic Approach
015	Single House Zone provisions	Single House Zone provisions
015	Low Density Residential Zone provisions	All subtopics
015	Mixed Housing Urban Zone provisions	All subtopics
015	Terrace Housing and Apartment Buildings Zone provisions	All subtopics
015	Residential Zones	Residential Zones (General or other)
016 + 014	Business Zones (provisions)	City Centre Zone subtopics + Height - City Centre WC Intensification response
016 + 014	Business Zones (provisions)	Metropolitan Centre Zone provisions + Height -Metropolitan Centre WC Intensification response.
016	Business Zones (provisions)	Town Centre Zone - Provisions, Local Centre Zone - Provisions, Neighbourhood Centre Zone - Provisions
016	Business Zones (provisions)	Mixed Use Zone
017 + 014	Walkable Catchments	WC General - General and Methodology + Height - RTN WC Intensification response
017	Walkable Catchments	WC City Centre - Methodology
017	Walkable Catchments	WC City Centre - Extent
018	Subdivision	Urban Subdivision
019	Centres - NPS-UD Policy 3d response	Town/Local/Neighbourhood - Methodology (centre selection)
019	Centres - NPS-UD Policy 3d response	Town/Local/Neighbourhood - Methodology (distance of adjacent)
020	Precincts - NPS-UD MDRS Response	I201 Britomart Precinct
020	Precincts - NPS-UD MDRS Response	I211 Viaduct Harbour Precinct
020	Precincts - NPS-UD MDRS Response	I214 Wynyard Precinct
020	Precincts - NPS-UD MDRS Response	I412 Flat Bush Precinct
020	Precincts - NPS-UD MDRS Response	I530 Orewa 2 Precinct
020	Precincts - NPS-UD MDRS Response	I540 Takapuna 1 Precinct
020	Precincts - NPS-UD MDRS Response	I605 Hobsonville Point Precinct
020	Precincts - NPS-UD MDRS Response	I610 Redhills Precinct
023-040	PC 79	All subtopics