

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

AND

IN THE MATTER of Private Plan Change 90 – 8 Sparky Road, Ōtara to the Auckland Unitary Plan.

RESOURCE MANAGEMENT ACT 1991

S42 ORDER – PROTECTION OF SENSITIVE INFORMATION

1. Pursuant to section 34A of the RMA, Auckland Council (the Council) has appointed the chair of the Hearing Panel – Peter Reaburn (Chairperson) and James Whetu. Other hearing panel members will be appointed shortly. 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. Plan Change 90, in summary, seeks to rezone approximately 4.4 hectares of land on the north-western side of Highbrook Drive at 8 Sparky Road, Ōtara, from Business – Light Industry to Residential – Terrace Housing and Apartment Building zone. The proposed private plan change also seeks to introduce a Highbrook Precinct applying to the rezoned land.
3. The council reporting planner, via the Hearings Advisor, has provided advice that Ngāti Tamaoho and Te Akitai Waiohua Waka Taua have both provided Cultural Values Assessments (CVA) to Highbrook Living Limited. The CVA from Ngāti Tamaoho is copyrighted and states it is not to be shared with others. The CVA from Te Akitai Waiohua Waka Taua is marked confidential and not to be disclosed to any third party for purposes outside of the specified project without the express permission of Te Akitai Waiohua.
4. To avoid serious offence to tikanga Māori or to avoid the disclosure of the location of waahi tapu the hearing panel has been requested to issue an order under s42(1)(a) of the RMA.
5. Having considered the reasonableness of that request, and after taking into consideration the general principles of open and accessible justice, we agree that the request meets the threshold of:
 - (a) Section 42(1)(a) RMA in regard to the need to avoid serious offence to tikanga Māori and to avoid the disclosure of the location of waahi tapu; and
 - (b) Section 42(2)(a) RMA in regard to excluding the public from part of the hearing and prohibiting publication or communication of the particular information supplied (the CVA's in their entirety).

6. Accordingly, the Hearing Panel, acting under delegated authority, makes the following Orders under s42 of the Resource Management Act 1991:
- (a) The publication or communication of the Cultural Values Assessments by Ngāti Tamaoho and Te Akitai Waiohua Waka Taua that relate to this application is hereby prohibited. This Order takes immediate effect and shall remain in place for an indefinite period as per s42(3)(a) of the RMA.
 - (b) That part of the hearing at which the confidential CVA is likely to be referred to shall be held with the public excluded unless otherwise advised by Ngāti Tamaoho and Te Akitai Waiohua Waka Taua. For the avoidance of doubt, that exclusion does not apply to Council and the applicant.
 - (c) This Order ceases to have effect at the conclusion of the hearing proceedings per s42(3)(b) of the RMA.

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



Peter Reaburn, Chairperson
26 September 2023