

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

**AND**

**IN THE MATTER** of **Private Plan Change 94** – Wairaka Precinct in Carrington Road, Mt Albert to the Auckland Unitary Plan

### **HEARING DIRECTION #7 FROM THE HEARING PANEL**

#### **THE APPLICANT'S REPLY EVIDENCE.**

1. The Hearing Panel has received the Applicant's reply submissions and reply evidence<sup>1</sup>.
2. In response to that material, we received a memorandum from counsel for Open Space for Future Aucklanders Incorporated's (OSFA), and an email from the Council's legal counsel<sup>2</sup>; both concerned about the nature of the reply evidence.
3. The requests from OSFA and the Council, respectively, were:

*"Finally, counsel is unsure whether or not the Applicant's additional evidence has been brought to the Panel's attention. If the Panel has not seen or considered the Applicant's additional evidence it is submitted that scenario would minimise natural justice issues. If the Panel has seen and considered the Applicant's additional evidence then it submitted that it is fair and appropriate that the Panel puts that evidence to one side and does not rely on it in reaching its decision on PC 94"<sup>3</sup>.*

*"The Council therefore respectfully requests that the "reply evidence" filed with HUD's reply submissions be excluded by the Panel and that HUD be requested to remove any references to this reply evidence in its reply submissions before the submissions are considered by the Panel"<sup>4</sup>.*

4. The Hearing Panel has read the reply submissions and reply evidence<sup>5</sup>. It is our finding that the reply evidence (excluding the reply provisions<sup>6</sup>) is not determinative, nor required, in making our decision. On this basis, and as requested, the Hearing Panel intends to not accept the evidence *and* will not rely on it in reaching our decision on PC 94.
5. The Applicant is invited to file submissions setting out if it agrees with, or has a contrary view to, the Hearing Panel's findings. The Council or any submitters may also file submissions if they have a contrary view to the Hearing Panel (with reasons). Any such submissions must be provided to the Council's Hearings Advisor no later than **5:00pm Friday 13 December 2024**.

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<sup>1</sup> Date 5 December 2024.

<sup>2</sup> Both dated 5 December 2024.

<sup>3</sup> Paragraph 8 of OSFA's memorandum.

<sup>4</sup> Final paragraph of the Council's email.

<sup>5</sup> Transport, landscape/urban design, open space and planning.

<sup>6</sup> Appendix A to Messrs Duthie and Smallburn's reply evidence (Reply Version).

6. If any submissions are filed with a contrary view to that of the Hearing Panel, we will then need to determine what action or process (if any) is required. A separate direction will then be issued on this matter.
7. If the Applicant agrees with the Hearing Panel's findings, and no other contrary view is expressed by the Council or other submitters, the Applicant must remove all references to the reply evidence from the reply submissions (other than section 11 – Reply Version Provisions), make any other consequential changes necessary to give effect to this Direction, and refile their reply submissions (and reply provisions) no later than **5:00pm Wednesday 18 December 2024**.
8. Any enquiries regarding this Direction are to be directed to the Council's Hearings Advisor, Chayla Walker, by email at [Chayla.walker@aucklandcouncil.govt.nz](mailto:Chayla.walker@aucklandcouncil.govt.nz)



Greg Hill – Chairperson  
10 December 2024