

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

AND

IN THE MATTER of **Private Plan Change 95** – 26 Golding Road and 52 Golding Road, Pukekohe, 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 the Hearing Panel – Richard Blakey (Chairperson), Bridget Gilbert and Vaughan Smith. The Hearing Panel's function is to hear the application and submissions and make a decision on the Plan Change 95 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 8 April 2024 the Chair 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 16 April 2024. Both the direction and the response are attached to this Direction.
3. The Hearing Panel received a subsequent memorandum from the Applicant on 24 May 2024 providing amended draft plan provisions and seeking directions for expert conferencing. The Applicant's memorandum is attached and the parties are urged to review the amended draft plan provisions.
4. Clause 8AA (Resolution of Disputes) of the First Schedule of the RMA provides for a process to resolve disputes between parties. The purpose of expert 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 in their evidence and at the hearing. Accordingly, in terms of this Plan Change the Hearing Panel agrees that expert conferencing may be useful in respect of the topic referred to in the Applicant's memorandum.
5. The Hearing Panel has considered the Applicant's memorandums and accordingly directs the following:

Council report and evidence exchange

- (a) Pursuant to section 42A of the RMA, the hearing report is to be with the Council's Hearings Advisor, Chayla Walker by 9am on Monday 24 June 2024 and shall be released to all parties no later than 5pm **Wednesday, 26 June 2024**.

Please note that 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, **Monday, 8 July 2024** 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 section 32AA report with reasons as to why the 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, **Thursday, 18 July 2024** and will be made available to the parties and on the Council's website no later than 5.00pm the same day.
 - (e) Pursuant to section 42A of the RMA, the reporting planner shall provide an addendum section 42A hearing report to the Council's Hearings Advisor no later than midday, **Thursday, 25 July 2024** and will be made available to the parties and on the Council's website no later than 5.00pm the same day.
 - (f) 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, **Wednesday, 31 July 2024** and will be made available to the parties and on the Council's website no later than 5.00pm the same day.
 - (g) The hearing shall commence on **Monday, 5 August 2024** and has been set down for 1 day.
6. 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 in advance of the hearing.
7. The Hearing Panel also encourages parties to pre-circulate any opening legal submissions in advance of the hearing, preferably no later than midday, **Wednesday, 31 July 2024**. The Hearing Panel and other parties will be assisted if the legal submissions can be pre-read.

8. 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 may be read out or the key points highlighted.

Expert Conferencing

9. Expert conferencing is to be undertaken in accordance with the Environment Court Practice Note 2023 in advance of preparing evidence. The Hearings Advisor is to work with the facilitator, Applicant, submitter(s) and Council experts to arrange a suitable time. 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.
10. At this stage, and without intending to constrain the scope of expert conferencing, the Hearing Panel directs the expert conferencing to be in respect of Auckland Transport's comment to delete the reference to "*including provision for cycle facility on northern berm*" in (T1) of The Transport Infrastructure Upgrade within the sub-precinct at page 17 (Table I453.6.5.4.1).
11. The session may be attended by planning and transport experts.
12. The Hearing Panel will appoint an independent facilitator. The facilitator is authorised to:
 - (a) Act as independent facilitator;
 - (b) In conjunction with the Council's Hearings Advisor, invite the Applicant, all submitters and the Council as regulator (in its section 42A reporting function) to advise whether their expert witnesses in the relevant fields will attend the conferencing sessions;
 - (c) Liaise with the Applicant, submitters, Council as regulator and experts who register an interest in attending the conferencing; and
 - (d) In conjunction with the Council's Hearings Advisor and applicant, organise the agenda, attendees, sessions, times and venues for conferencing.
13. The expert conferencing will take place prior to the preparation of evidence, ideally before the release of the section 42A report. In accordance with this Direction, the detailed scheduling of sessions is delegated to the facilitator, in conjunction with the Applicant.
14. 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 Hearings Advisor as soon as possible.

15. While these directions cannot compel all of the parties to agree to take part in the conferencing session(s) or compel expert witnesses to attend and participate, the Hearing Panel strongly recommends that they do so. The sessions will provide a degree of formality for those parties and witnesses who attend in an effort to clarify and narrow the issues in contention. This should ensure that the hearing is more efficient than if conferencing session(s) was not held.
16. Any enquiries regarding these Directions or related matters should be directed to the Council's Hearings Advisor, Chayla Walker, by email at Chayla.walker@aucklandcouncil.govt.nz.



Richard Blakey, Chairperson
24 May 2024