

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

AND

IN THE MATTER of **Private Plan Change 99** – 13 Cresta Avenue & 96 Beach Haven Road, Beach Haven to the Auckland Unitary Plan

HEARING DIRECTION #4 FROM THE HEARING PANEL

1. Pursuant to section 34A of the RMA, Auckland Council (the Council) has appointed a Hearing Panel consisting of three independent hearing commissioners – Karyn Kurzeja (Chairperson), Peter Kensington and Cherie Lane. 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. On 30 September 2024, the Applicant provided their reply submissions. Accompanying the reply was a tracked and clean version of the final Beach Haven Precinct Provisions proposed by the Applicant (**Reply BHP Provisions**).
3. Counsel for the Applicant advised that the amendments made are agreed as between Ms Morgan and Ms Hart and the tracked version includes in addition to the identified tracked amendments, comments where appropriate from Ms Morgan and Ms Hart which explain the reason for the amendments.¹
4. Paragraph 8 of the reply submissions sets out a summary of the key changes and reasons for those changes.
5. The Hearing Panel has reviewed the Reply BHP Provisions and seeks further clarification on the following matters:

Item 1 – Development Standards IXXX.6.1.9 and IXXX.6.1.10

We note that there are two proposed development standards; being IXXX.6.1.9 Windows facing the street and IXXX.6.1.10 Pedestrian Access to Beach Haven Road that do not have specific assessment criteria for buildings that do not comply with one or more of Standards IXXX.6.1.1 to IXXX.6.1.10 proposed within IXXX.7.2 Assessment criteria.

The Hearing Panel has observed that these matters were originally provided for in the version of the Precinct provisions attached as Appendix A to Ms Morgan's Statement of Evidence dated 20 August 2024 but no longer form a part of the Reply BHP Provisions.

¹ Reply Submissions on behalf Beach Haven Road Apartments Limited dated 30 September 2024, paragraph 7.

Question:

1. Was it the Applicant's intention to not provide specific assessment criteria for an infringement of either IXXX.6.1.9 and IXXX.6.1.10, and instead rely solely on an assessment against Policy IXXX.3(5)? Please clarify and explain the reasoning behind this proposed change to the precinct provisions.

Item 2 - IXXX.6.1.10 Pedestrian Access to Beach Haven Road

The Hearing Panel notes that IXXX.6.1.10 Pedestrian Access to Beach Haven Road is shown on the Precinct Plan and it is also a Development Standard. In that regard (as a Standard), an activity requires resource consent as a Restricted Discretionary activity if there is an infringement of this development standard.

The Panel understood based on the Applicant's evidence before us that pedestrian only access to Beach Haven Road was an important design aspect of the Beach Haven Precinct.

Questions:

1. Can you please clarify why an infringement of this standard is proposed to be a restricted discretionary activity, when activities are classed as restricted discretionary where they are generally anticipated in the existing environment and the range of potential adverse effects is able to be identified in the Plan, but in this case they do not appear to have been captured within the precinct provisions?
2. Is there a misalignment between the standard (and its stated purpose) potentially defaulting to a restricted discretionary activity and the notation on 1556. Beach Haven Precinct Plan 1 which requires pedestrian only access along the entrance strip from Beach Haven Road. Please clarify and explain with reasoning.

Item 3 - 1556. Beach Haven Precinct Plan 1

The Hearing Panel notes that IXXX.6.1.3(2) Height in relation to boundary was originally proposed to be shown on the Precinct Plan in the version of the Precinct provisions attached as Appendix A to Ms Morgan's Statement of Evidence dated 20 August 2024, but it is no longer shown in the Reply BHP Provisions.

Questions:

1. Can the Applicant please clarify whether this reference to the qualifying matter being IXXX.6.1.3(2) has been mistakenly removed from 1556. Beach Haven Precinct Plan 1 and replaced inadvertently with a second reference to IXXX.6.1.10 Pedestrian Access to Beach Haven Road?
2. Has the Applicant considered including a precinct provision which requires consistency with 1556. Beach Haven Precinct Plan 1? Please clarify and explain the reasoning.

6. The Hearing Panel directs that the Applicant provides a written response to the Panel to the above clarification questions by **8 November 2024**. Should any changes be made to the precinct provisions an amended version of the Reply BHP Provisions must also be provided to the Panel by **8 November 2024**. If the Applicant requires additional time beyond 8 November 2024, please contact the Hearings Advisor.
7. Any enquiries regarding these Directions or related matters should be directed to the Council's Hearings Advisor, Bevan Donovan, by email at bevan.donovan@aucklandcouncil.govt.nz.



Karyn Kurzeja, Chairperson
31 October 2024