

15 June 2015

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Dear Phill

RESPONSE TO DIRECTIONS IN PROCEDURAL MINUTES NO.6 AND NO.7 – RURAL URBAN BOUNDARY TOPICS 016 AND 017

1. This letter sets out the Council's (the **Council**) additional response to the relevant parts of Procedural Minutes 6 and 7 from the Auckland Unitary Plan Independent Hearings Panel (the **Panel**).
2. In addition to the information provided on 16 February and 16 March 2015, this letter outlines the following:
 - a) Suggested Rural Urban Boundary (**RUB**) hearing programme and hearing topic data
 - b) The Council's assumptions used to determine the amount of hearing time required and the estimates of the hearing time that is required
 - c) The Council's suggestion regarding mediation for these Topics
 - d) Suggestions regarding the sufficiency of information provided by submitters
 - e) Alternative approaches to the Council's evidence and reporting to the Panel
 - f) Directions sought from the Panel in relation to the RUB Topics 016 and 017.

Suggested Rural Urban Boundary Hearing Programme

3. The Council respectfully suggests the following approach to the hearing of the RUB submissions. It considers that the hearing should commence with consideration of region-wide matters associated with the location of the RUB and region-wide submissions, and then proceed to hear geographical Topics 016 and 017 – North, West, Waiheke Island and South. A diagram of this is attached as **Attachment 1**.
4. Given the limited number of days required to hear submissions, which the Council has calculated to be approximately 16 days if attendance meets a 60 percent rate (see paragraph 11 below), the Council respectfully suggests that the full Panel hear both the region-wide and the geographical submissions in Topics 016 and 017. The Council proposes to discuss the order for the hearing of submissions with Panel staff once the overall approach and dates have been confirmed by the Panel.

5. The Council proposes that it will provide over-arching (region-wide) evidence at the start of the hearing. It will also respond to the submissions relating to the RUB in geographically based areas on subsequent hearing days. There are three components to this.
6. Firstly, region-wide evidence will provide an appropriate context for the location of the RUB, enable the Council to present its response to the matters raised in the Panel's Interim Guidance issued on 24 February 2015, and the overarching case about the identification and spatial extent of the RUB.
7. Secondly, it enables the Council to provide information to assist the Panel following the completion of the Future Urban Land Supply Strategy (the **Strategy**). The Strategy will set out the sequencing and timing of structure planning and infrastructure alignment for Future Urban zoned land within the RUB. Integrated planning across the Auckland region will mean that bulk infrastructure will be programmed for delivery in line with timing of structure planning and rezoning. The Strategy is being developed in accordance with the purposes of local government, as set out in the Local Government Act 2002, and its ultimate adoption will be by way of the statutory process under that Act. It will have implications for future structure planning and rezoning of land under the Resource Management Act 1991.
8. It is expected that the draft Strategy will undergo consultation by way of the Special Consultative Procedure (section 83 of the Local Government Act 2002) between mid-July and mid-August 2015. This will enable Mana Whenua, landowners, developers, infrastructure providers and the community at large to provide comment on the draft Strategy. Following this feedback phase, staff will make amendments to the Strategy and seek adoption of it by the Council by the end of September 2015. The Council respectfully suggests that Topics 016 and 017 are heard after the Strategy is adopted by Council. The Council considers that scheduling hearings in November 2015 would enable time for all submitters to respond to the relevant aspects of the approved Strategy in their evidence.
9. Thirdly, it will enable the Panel to hear submissions that are about the Region-wide location of the RUB. Therefore, the Council respectfully suggest that Topics 016 and 017 are heard by the full Panel.
10. A large number of submissions on the RUB relate to site specific geographical locations. Within Topic 016 and 017, the site specific geographic submissions would be further grouped for the purposes of the hearings. The geographical approach delivers the following advantages:
 - a) Provides for an efficient use of the Panel's hearing time, and
 - b) Allows local context to be addressed whilst being cognisant of region-wide land supply and zoning issues.

Assumptions used in calculating the hearing time for the RUB

11. Prior to formulating the estimates and calculating the time required for hearing submissions on the RUB, the Council took into consideration the following assumptions.

Programming and submitter numbers

- a. Programming is based on those submitters who indicate that they "wish to be heard" and/or who indicate that "if others make a similar submission, I will consider presenting a joint case with them at a hearing".
- b. Based on this, the Council is providing three scenarios of attendance at an 80%, 60% and 50% turn-out of primary submitters at hearings. It is expected that attendance will be higher at the RUB hearings than previous Proposed Auckland Unitary Plan hearings.

- c. These hearings are about people's own property and neighbourhood so submitters are more likely to attend these hearings.
- d. Programming has also taken into account further submitters that wish to be heard and their likely attendance. The Council estimates a 20% attendance by further submitters that are not primary submitters within a topic. The 20% attendance has been added to the three scenarios, to give a total estimate of hearing time per topic.
- e. The number of submitters is adjusted by removing duplication of RUB submitters within a hearing topic.

Major Submitters

- f. Submitter participation is likely to be higher where the submitter is defined as "major". This list is not exclusive but recognises submitters who:
 - a) Have made submissions in three Topics (RUB, Rezoning and Precinct Topics), or
 - b) Have landholdings throughout Auckland, or
 - c) Are a landowner who owns large areas of land or land that is located in strategic locations, or
 - d) Are a submitter that has submitted in multiple geographical areas.
- g. Submissions by major submitters have been made as a primary submission on RUB locations, and these submitters may also be a further submitter to other submission points. It is anticipated that major submitters will wish to present extensive evidence and therefore are likely to request more time than the general 10 minutes allocated to present their case.
- h. Based on this, an average of 30 minutes is allocated as a starting point for each major submitter within a topic, with the maximum of 2 hours given to that submitter where they have a large quantum of submission points in a topic.

General Submitters

- i. General submitters receive the usual 10 minute allocation that applies to submitters on other PAUP hearing Topics. All submitters have the option of applying for additional speaking time.
- j. It is anticipated that some submitters and/or community groups will seek additional time, more than 10 minutes, so a buffer of half a day has been added to each topic to factor such variables and requests. As an example, the Council considers this may occur in the case of the submissions on an area known as "Takanini North", as there are 30 pro-forma submissions where numerous individual submitters may wish to appear on this issue.

Programme and process

- k. RUB submissions in proximity to each other in a particular local area can be heard at the same hearing, and this may reduce time due to cross over of interests.
- l. All estimates are based on a 6.5 hour hearing day.
- m. A buffer of 0.5 day is added to each of Topics 016 and 017 to factor any variables or requests for additional time by submitters in either topic.

- n. Time has been added to each topic for the Council to present its case on the RUB submissions in each of Topics 016 and 017.

Estimates of the hearing time required

12. A range of attendance assumptions from 80% to 50% have been developed. The Council assumes that there will be a high level of interest in the RUB Topics, and this is reflected in the proportion of submitters that have indicated that they wish to be heard. Looking at the range of percentages, the Council proposes that the 60% attendance is the most appropriate to use for programming the hearing days for the RUB Topics. This aligns with the analysis of the re-zoning and precinct submissions, which have similar characteristics, in that they too relate to actual land holdings.
13. Based on the assumptions (set out in paragraph 11 above), the Council estimates that total hearing days required for the RUB (assuming a 60 % attendance) is **16 days**. This figure includes Council time to present its evidence and an assumption that 20% of further submitters will attend in each topic. The Council has taken into consideration all submitters that wish to be heard for the RUB submissions. The Council has also factored in additional time required for major submitters and complex submissions (defined by the relief sought from the submitter and/or level of supporting information provided for in the submission), and removed duplicate submissions provided by submitters.
14. The detailed information that has been used to calculate the number of hearing days is provided to the Panel for each RUB topic, and can be found in **Attachments 2A and 2B**. It provides the following information:
- a) Total number of submission points
 - b) Number of primary submitters
 - c) Number of major submitters
 - d) Number of primary submitters that wish to be heard
 - e) Number of further submitters
 - f) Number of further submitters that wish to be heard
 - g) Primary submitters hearing day estimate
 - h) Major submitter hearing day estimate
 - i) Other complex submissions hearing day estimate.

Estimates of the mediation time required

15. Due to the nature of the submissions and further submissions in Topics 016 and 017, it is considered that there is little value in holding mediation for the RUB submissions. The location of the RUB is clearly mapped, in that the Council has identified land as either inside or outside the RUB. While the Council is considering recommending some potential changes to the location of the RUB, it considers that there is little or no scope to reach mediated outcomes. It is therefore recommended that no mediation on these submission points occurs, and considers that these matters should all progress straight to hearing.
16. The Council considers that it would assist the Panel and all submitters and further submitters if a second pre-hearing meeting was scheduled. This could discuss the hearing programme, timing of hearings and information and evidence requirements (see paragraph 17 below).

Sufficiency of information provided and experts providing evidence

17. The Council considers it is important for the Panel to provide clarification and direction for submissions where they provide no, or have a lack of supporting information to support the relief sought in their submission. The Council considers that the lack of such information makes it difficult for the Council and other submitters to assess the merits of the relief sought.
18. While the Council acknowledges that there is no requirement to provide supporting information with a submission, the Council expects that it will have difficulties considering the merits of a submission to amend the RUB in the absence of such information. The Council respectfully requests that the Panel require submitters to provide all supporting information 12 weeks in advance to the scheduled RUB hearing Topic in which the submission relates, and allow related submitters (or further submitters) on those submission points to be informed of the request made and the response. This amount of time enables Council, other submitters and further submitters to analyse this information, and address that in their evidence.
19. The Council also respectfully requests that all submitters and further submitters be required to advise the Panel and the Council of the witnesses that they will be calling (or at the very least the areas of expertise that they will be calling evidence on) in advance of or at a pre-hearing conference. This will allow the Council and all other submitters and further submitters to be informed about the nature and extent of evidence that will be presented.

Proposed alternative to evidence

20. In addition to the hearing programme and estimates provided above, the Council is considering efficiencies in preparing and reporting evidence to the Panel on the RUB submissions.
21. To streamline the evidence and avoid a potentially large number of separate statements, the Council proposes to provide a comprehensive overview case with expert briefs of evidence where required. This will contain an overview of the key issues, the response to the Panel's interim guidance, the Future Urban Land Supply Strategy and will address matters raised in general and region-wide RUB submissions. This statement will be endorsed by all of the Council's witnesses. It will include their joint agreement to abide by the expert witness code of conduct contained in the Environment Court Practice Note 2014. As required the joint statement will include annexures outlining the expert witness assessments.
22. The evidence responding to the specific submissions on the location of the RUB will then be grouped together by location, rather than each individual point of submission being addressed separately. This approach to evidence will likely require input from a number of witnesses.
23. The Council does acknowledge that for some submissions by major submitters, their submission points may need to be addressed as individual submissions, and may require separate statements of evidence.
24. The Council also acknowledges that, unlike many previous PAUP Topics, RUB submissions seek relief associated with the PAUP maps rather than changes to text provisions. Therefore, a key element of the Council evidence will be showing clearly any changes to the PAUP maps within each topic. This will involve producing maps that identify
 - a) the RUB maps for the PAUP as notified

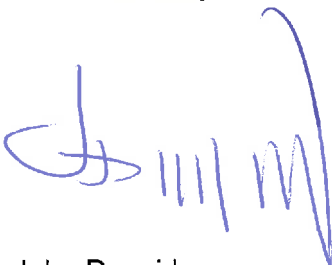
- b) the RUB maps showing changes proposed by submitters
- c) the RUB maps with any changes to the RUB supported by the Council.

Directions sought from the Panel

25. The Council respectfully request that the Panel provides clarification and/or direction on the following matters:
- a) Confirm whether the approach and scenarios stated above are agreed as the hearings programme for the RUB submissions
 - b) Consider scheduling a pre-hearing meeting (ideally in July 2015) and that the hearings programme be adjusted as required, as a result of discussion at that meeting
 - c) Confirm that all submitters and further submitters will be required to provide information that supports their submission(s) to the Panel and Council in advance of or at the next pre-hearing meeting (should the Panel decide to schedule one)
 - d) Confirm that all submitters and further submitters will be required to identify in writing all witnesses that they intend to call (or the areas of expertise that they will be calling evidence on) in support of their submission(s) in advance of or at the next pre-hearing meeting (should the Panel decide to schedule one)
 - e) Confirm that mediation on the RUB Topics 016 and 017 will not be scheduled.

If you have any queries, please contact Eryn Shields, Team Leader Area Planning, or myself.

Yours sincerely



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