

Memo

23 September 2014

To: Phill Reid - Planning Manager, Auckland Unitary Plan Hearings Panel

From: John Duguid - Unitary Plan Manager, Auckland Council

Subject: Council response to further memorandum on Procedural Minute No. 6

1. The memorandum of 9 September 2014 from Phill Reid, Hearings Panel Planning Manager, clarified the information that has been requested by the Panel in Procedural Minute No. 6 in relation to submissions on scheduled items¹. In particular the memorandum requests that:
 - the Council carefully read paragraphs 14, 15, 16 and 24 of Procedural Minute No. 6 and provide a response;
 - the Council indicate its proposed approach or the best method for considering and potentially resolving the submissions on scheduled items; and
 - the Council include its views on how it could best use the options of mediation or direct discussion with submitters to potentially resolve issues.

2. Paragraphs 14, 15, 16 and 24 of Procedural Minute No. 6 are as follows:
 14. We are concerned at the amount of time that may be needed to traverse all of these considerations in respect of every item that is proposed to be added to the schedules of the PAUP.
 15. Where the addition of items is approved or supported by its owner (point i) and the submission contains adequate or nearly enough information to demonstrate that the item meets the relevant criteria for scheduling (point ii or iii), then it appears to us that consideration of that submission should proceed on its merits.
 16. Where the addition of the item is opposed by the owner (point i) and/or the submission lacks any sufficient information to demonstrate that it meets or is likely to meet the relevant criteria (point iv), then we do not consider that the submission should proceed to be considered on its merits as it does not meet the second *Clearwater* test. In these cases a better approach may be for the Council to consider these subsequent to our processes.
 24. We direct the Council to report to us by 1st September 2014 on its approach and categorisation of the submissions on scheduled items as set out above.

¹ Scheduled items collectively refers to sites, places or areas identified in a schedule to the PAUP.

Council's response

3. The Council has identified a number of categories of submissions on scheduled items, including those that are referred to by the Panel in paragraphs 15 and 16 of Procedural Minute No. 6. I refer to each of these categories below, with the Council's proposed approach for resolving these submissions.
4. **New scheduled items proposed without landowner consent and/or information:** The Council acknowledges the concerns that have been expressed by the Panel in paragraph 16 about a landowner potentially not being on notice about items being proposed for scheduling on their property (paras 8 and 10 of Procedural Minute No. 6) and that in many cases limited information has been provided by the submitter. The Council notes that it is not unusual for a submitter to provide limited information with their submission, and that many submitters provide relevant information/evidence at council hearings. That said, the Council considers that submissions in this category should more properly be the subject of a subsequent process. The Council respectfully suggests that the Panel reject these submissions (or the relevant submission points) in its recommendation report, and recommend that the Council includes this category of submissions as nominations for scheduled items in subsequent plan changes.
5. **New scheduled items proposed by the landowner or with landowner consent:** The Council agrees with the Panel's proposal in paragraph 15, that submission points should be able to proceed on their merits where the addition of the item is approved/supported by the landowner, and the submission contains adequate, or nearly enough information to demonstrate that the item meets the criteria set out in the PAUP. The Council considers that such submissions would benefit from:
 - direct discussions with the Council, with additional supporting information to be provided by the submitter (where required) in the first instance; and/or
 - expert conferencing between the experts for the Council, the submitter, and any further submitters.
6. **New scheduled items proposed in the Council submission based on recent plan changes:** The Council's submission sought to include a number of new scheduled items that were the subject of recently concluded plan changes to operative legacy plans of the Council. In such circumstances, the items were notified as part of those plan changes, and affected landowners had the opportunity to be involved in the relevant hearing. These items were considered to meet the relevant criteria in the PAUP. The Council considers that submissions in this category would benefit from mediation. If mediation is not successful, the Council would seek that these matters proceed to a hearing.
7. **Submission points seeking to amend/correct scheduled items:** The Council considers that submissions seeking amendments to either increase or decrease the extent of scheduled items, or to change their classification in the PAUP, would benefit from:
 - direct discussions with the Council in the first instance, and site visits of relevant Council experts where required; and/or
 - expert conferencing between the experts for the Council, the submitter, and any further submitters.
8. **Submission points seeking to add (with landowner consent), amend/correct or delete scheduled items and the Council agrees:** The Council case teams have been assessing the submissions that seek to add (**with landowner consent**), amend/correct or delete a scheduled item. Where the Council agrees with the submission AND where there are no contrary further submissions, the Council proposes to:

- submit a joint memorandum of the submitter and the Council (and any relevant further submitters) to the Panel setting out a proposed recommendation to amend the PAUP.
9. **Submission points seeking to delete scheduled items and the Council disagrees:** The Council considers that where the Council disagrees with submissions seeking to delete scheduled items from the PAUP, those submissions should proceed straight to a hearing.

Next steps

10. However, before the Council commences direct discussions with the submitters (and further submitters where relevant), the Council seeks directions from the Panel on whether such discussions should in fact be delayed until the criteria for scheduling (of natural, historic and cultural heritage and Significant Ecological Areas) have been the subject of expert conferencing and/or hearing by the Panel, so that all parties are clear on the criteria that apply.
11. If the approach outlined above is considered acceptable by the Panel, the Council will progress an initial evaluation of submissions received to assist the Panel in estimating the time required for expert conferencing, mediation and hearings. The Council will propose time for hearing (or expert conferencing) on the criteria to occur first, with estimates for expert conferencing, mediation and hearings on scheduled items to follow.