

AUCKLAND UNITARY PLAN INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

Interim Guidance Text for Topic 020 Viewshafts

17 July 2015

PAUP Sections

B4.3.2 Landscape and Natural Features

J6.3 Volcanic Viewshafts and Height-sensitive Areas

Appendix 3.3 Volcanic Viewshafts Survey Coordinates

Planning Maps

Volcanic Viewshafts and Height-sensitive Areas

Further to Procedural Minute 12, having read submissions and heard evidence and legal submissions from submitters (including the Auckland Council) the Panel issues this guidance on Topic 020 Viewshafts. The purpose of this guidance is to enable submitters (including the Council) to further consider the proposed volcanic viewshafts provisions and advance any further changes to those provisions in order to give effect to the matters set out in this guidance. There are directions to the parties at the end of this interim guidance to allow this to occur.

The absence of guidance on any particular issue is not intended to indicate that the Panel has no view on that issue or that it is unimportant.

This interim guidance is not a recommendation within the meaning of section 144 of the Local Government (Auckland Transitional Provisions) Act 2010. It is not binding on submitters (including the Council) or on the Panel.

The Panel will not enter into debate on this interim guidance. However submitters and their representatives are welcome to raise any questions and seek clarification of the interim guidance in the context of the continuing hearing process for Topic 020.

This interim guidance should be read in conjunction with Procedural Minute 12.

General Approach to Volcanic Viewshafts

1. The Panel has been presented with two different methodologies for the identification and management of viewshafts to and between volcanic cones and local views. The Council has proposed a single level of protection for regional volcanic viewshafts, and Housing NZ has proposed a 3 stage hierarchy of regional, district and local volcanic viewshafts.
2. The volcanic cones are a defining element of Auckland's natural heritage. Views to and between the cones are generally worthy of protection. The issues are:

- a. How or from where should views to and between the volcanic cones be identified?
 - b. How many views are of sufficient public value that it is appropriate for them to be included in the PAUP?
 - c. How should those identified views of public value be protected to meet the purpose of the Act?
 - d. To what extent should the protection of identified views of public value be limited when protected viewshafts are but one of many layers of constraints on land use in the PAUP which cumulatively may hinder the strategic framework of the Auckland Plan and the objectives of the Regional Policy Statement?
3. This guidance outlines the Panel's current views to the parties in order to assist all participants at a resumed hearing.

Section 32 Analysis

4. The Panel considers that the objectives, policies and rules in relation to viewshafts do not meet the s32 requirements of the Act for the following reasons:
- a. The PAUP is a new plan and the requirements of s32 must be applied accordingly.
 - b. The inclusion of protected viewshafts in legacy plans is a relevant matter but does not obviate the need for analysis to show that the PAUP meets the statutory requirements, especially where there is an absence of historical detailed evaluation records for each viewshaft.
 - c. Significant amendments were made to s32 in 2013 to require employment and economic growth opportunities (including lost opportunities) to be taken into account and these post-date many if not all of the legacy provisions.
 - d. The PAUP is the first substantive planning process to propose increased levels of intensification to achieve a quality compact city so it is appropriate that the viewshafts are now re-evaluated within that strategic context.
 - e. GIS technology that was not available when many of the viewshafts were originally identified now enables viewshafts to be assessed to see if modifications can mitigate the adverse impact on development while still retaining the key values that are to be protected.
 - f. Improved development capacity modelling tools are now available to better understand the opportunity costs of the viewshafts alongside the benefits so that better informed assessments can be made than in the past.
 - g. It is necessary to assess the values of the viewshafts first in order to then determine whether or not they are regionally significant. Identification of the

values also better enables appropriate protection of the viewshafts from inappropriate subdivision, use and development. While the values of longstanding protected views, for example to the Museum and Mt Eden, may be straightforward to identify and could almost be taken for granted, not all of the viewshafts that are claimed to be regionally significant warrant that status when the values have not yet been fully determined.

- h. On the basis of the material before it, the Panel considers that not all views are equally significant or equally sensitive to development change. The Panel is not persuaded that all of the viewshafts identified in the PAUP are regionally significant or that any development that penetrates a viewshaft would be inappropriate.
 - i. The legal submission that it is relevant to consider whether a person purchased land that they knew was subject to a viewshaft is incorrect in relation to the consideration of submissions on the PAUP: there is no presumption in favour of proposed plan provisions, even where such provisions may have been in the previous planning document (*Leith v Auckland CC* [1995] NZRMA 400). In any event, the Panel understands that Housing NZ's ownership of its land generally predates the imposition of the viewshafts.
5. While the Panel said in Procedural Minute 12 that it did not consider it necessary for submitters to attempt to convert the effect of viewshafts in terms of lost floor area into dollar values given the difficulties that the valuation exercise might create, if it is possible to quantify those costs of the viewshaft provisions, then that would assist in decision making. The Panel is mindful that if too many assumptions are made the results of analysis become less reliable. Where it is appropriate to draw the line on the level of assessment is a matter for expert evidence that is then tested in the hearing process.

Directions:

- A. The Council, Housing NZ and any other submitters on this topic who wish to, either jointly or separately, are to develop a methodology of view identification, protection and management based on regional, district and local viewshafts. IHP staff will be available to assist parties in any discussions in relation to this process.
- B. The stages for the development of the methodology, in light of the evidence, appear to be along the following lines:
 - a. Identification of criteria appropriate to view identification;
 - b. General identification of views to volcanic cones that merit assessment (starting with the existing 87 viewshafts in the PAUP and any others specifically identified in submissions);

- c. Identification, description and assessment of the public values of each view;
 - d. Specification of the boundaries of the viewshaft needed to protect the identified public values of the view;
 - e. Assessment of the overall value of each viewshaft at regional, district or local level;
 - f. Extent of protection appropriate to the viewshaft in light of its values and significance and taking into account other relevant PAUP provisions (other overlays, zoning, development controls, designations etc.);
 - g. Consideration of the appropriateness of inclusion of the viewshaft in the PAUP informed by s32 analysis, including all benefits and costs; and
 - h. Review of the view or viewshaft where s32 analysis indicates amendment, reassessment or deletion is required.
- C. The parties are to liaise with one another and agree by 31 July 2015 on a work programme and a timetable to prepare for a resumed hearing. The Panel can assist with mediation resources and advice on suitable dates.
- D. If the parties are unable to agree on the tasks and dates then the Panel will make any further directions that may be required.



Peter Fuller

Chairperson for the Hearings Panel of Topic 020 on the
proposed Auckland Unitary Plan