

**UNDER** the Local Government (Auckland Transitional Provisions) Act 2010, and the Resource Management Act 1991

**IN THE MATTER** of the proposed Auckland Unitary Plan

**AND**

**IN THE MATTER** submissions by Ngati Whatua Orakei Whai Maia Limited on the proposed Auckland Unitary Plan

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**MEMORANDUM OF COUNSEL REGARDING OPERATIVE REGIONAL  
POLICY STATEMENT ISSUES**

**DATED 23 JANUARY 2015**

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**MAY IT PLEASE THE HEARINGS PANEL:**

1. This memorandum is filed on behalf of Ngati Whatua Orakei Whai Maia Limited (**Whai Maia**) and addresses the issue raised by the Hearings Panel regarding the matter of whether the Regional Policy Statement provisions (**RPS provisions**) in the proposed Auckland Unitary Plan (**PAUP**) should be made operative or otherwise be subject to a recommendation, prior to the consideration and recommendations on the provisions of the PAUP's lower level planning instruments<sup>1</sup> (**lower level provisions**).
2. Whai Maia has made submissions, and has been heard in support of those submissions, on a number of RPS provisions of the PAUP, and is also heavily involved in the lower level provisions.
3. Whai Maia's position on the issue is as follows:
  - (a) It generally supports the proposal advanced by Russell McVeagh as outlined in paragraph 11 of its letter of 16 December 2014. The support is provided in the context of the issues noted below, and noting that the precise timing of the proposed steps may vary due to practical and logistical issues.
  - (b) It agrees that it is preferable for the lower level provisions of the PAUP to be considered primarily in the context of the RPS provisions of the PAUP, rather than the operative Regional Policy Statement. As Auckland's first unitary plan, the PAUP is intended to provide for a comprehensive framework for policy and plan provisions, rather than being heavily influenced (at least at the lower level provisions) by the historic operative Regional Policy Statement provisions. Counsel anticipates that the majority of cases presented and to be presented to the Panel in relation to the lower level provisions, are advanced on the basis that the consideration of all provisions of the PAUP should largely be self-contained and not be dictated by the operative Regional Policy Statement provisions.
  - (c) There will be inevitable and potentially lengthy delays if the RPS provisions were to be made finally operative before the lower level

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<sup>1</sup> Comprising the Regional Plan, Regional Coastal Plan and District Plan provisions of the PAUP

provisions were considered and determined. To make the RPS provisions operative would require a number of steps and decision, starting with the Panel's recommendation, and followed by the Council's decision, appeals to the Environment Court or High Court (during which the RPS provisions would remain inoperative), and potentially references of matters back to the Environment Court or Council for reconsideration from any appeals. During this potentially lengthy period, the lower level provisions of the PAUP would need to remain on hold. This would be an inefficient and time consuming process. Whai Maia does not support the request that this process be adopted due to the delays, process complexity and inability for the RPS provisions to be revisited in light of issues raised in respect of the lower level provisions.

- (d) Submitters would benefit from having an indication of the Panel's recommendations and Council's position on the RPS provisions when addressing submissions on the lower level provisions. However, it is submitted that the Panel should retain the ability to revisit the RPS provisions should that be necessary as a result of considering the lower level provisions. It is appropriate to retain this ability as in many cases the final position on and wording of the RPS provisions is likely to be influenced by the recommendations in respect of related lower level provisions.

**DATED** 23 January 2015



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**D R Clay**  
Counsel for **NGATI WHATUA ORAKEI**  
**WHAI MAIA LIMITED**