

IN THE MATTER OF: The Resource Management Act 1991

AND

**IN THE MATTER OF: The Local Government (Auckland
Transitional Provisions) Act 2013**

AND

IN THE MATTER OF:

**Judicial Conference on 27th January 2015
on the issuing of interim recommendations
on the Regional Policy Statement of the
Auckland Unitary Plan.**

To: The Auckland Unitary Plan Independent Hearings Panel (The Panel)

AND

To: The Auckland Council

May it please the Panel,

1. This memorandum is in respect to whether or not the Panel should issue some form of interim recommendations on the Regional Policy Statement in the PAUP.
2. I have read the memorandum of Russell McVeagh, Richard Brabant and Jon Maplesden.
3. This memorandum addresses matters of planning principle, it does not address the legal matters covered in the other memorandum other than to recognise that Russell McVeagh believe there is ability within the legislation to authorise the release of interim recommendations.
4. The scope of the PAUP is quite unique in New Zealand planning history in that it combines in one document a Regional Policy Statement (RPS), Regional Plan and District Plan. What makes it problematic is that the lower order documents are subservient to the RPS. This raises the issue of how can the lower order documents be considered by submitters or the IHP in the absence of clear direction on the RPS. This dilemma is clearly described in the legal memoranda.

5. A further dilemma exists in that the IHP has not yet heard submissions on the main provisions of the lower order documents. This was a point I made at the hearings on the RPS. Specifically in the absence of hearing all the evidence from submitters on the lower order provisions, how can the IHP be confident that it has made the correct decisions on the RPS? For example the Council's case for a "Quality Compact Urban Form" may seem attractive when considered at a broad RPS level but when examined in the cold light of the District Plan rules the IHP may decide that it cannot be achieved by the rules in the plan. If this should occur the IHP needs to be able to reconsider its RPS decisions and perhaps amend them in its final recommendations.
6. In my opinion the IHP needs to give some indicative interim recommendations on the RPS; however these should not be binding on the parties or the IHP. In my example above; if the IHP found in favour of the concept of a "Quality Compact Urban Form" evidence could still be called at the District Plan level that demonstrated that this laudable objective cannot in fact be achieved given the rule structure in the Plan. This may then lead the IHP to the view that the RPS objective should be amended in some way to reflect the evidence they have subsequently heard.
7. A problem with RPS documents in the past is that they tended to contain many laudable objectives but often lacked reality and substance. Rather like a beauty queen asked what she wished to do during her reign replying "solve world poverty", RPS documents lacked substance and integration with lower order documents.
8. The PAUP provides the opportunity to have a vertically integrated set of planning documents. To achieve this IMO the IHP needs to retain the flexibility to release interim decisions on the RPS but then be able to reconsider and amend those decisions if subsequent evidence on the lower order documents warrants.

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22nd January 2015