

**IN THE MATTER**

of the Resource  
Management Act 1991

**AND**

**IN THE MATTER**

of Submissions and Further  
Submissions on the  
Proposed Wellington City  
District Plan

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**Minute 6:**

**Directions for Resolution of Procedural Issues Regarding**

**Allocation of Topics to ISPP**

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1. In Minute 1, we identified the potential for dispute around the allocation of topics to the ISPP process and provided until 30 January for parties to file a detailed Memorandum explaining the basis for their view. We said that we would make further directions for the resolution of any issues raised thereafter.
2. At the close of 30 January, the Hearing Panel had received four responses as follows:
  - (a) For Wellington International Airport Limited<sup>1</sup>, a detailed Memorandum of Counsel;
  - (b) Mr Matthew Keir and Ms Sarah Cutten<sup>2</sup> provided a letter noting that they had only recently been alerted to the need to register their objection to the Council's approach and therefore had not had the opportunity to take expert advice/counsel, but nevertheless setting out in detail the reasons for their objection<sup>3</sup>;
  - (c) For Wellington Character Charitable Trust<sup>4</sup>, a detailed Memorandum of Counsel;
  - (d) For Kāinga Ora<sup>5</sup>, a request to extend the time for filing its memorandum, by reason of the disruption caused by recent extreme weather conditions in Auckland, and the fact that 30 January was a public holiday in Auckland.
3. We also received advice from Ms Felicity Wong on behalf of Historic Places Wellington<sup>6</sup> supporting the position of Wellington Character Charitable Trust, as above.
4. The events of the weekend and the consequential effects that has had in Auckland speak for themselves. The fact that 30 January was a holiday in Auckland is rather less persuasive. Unlike the recent rainfall, that was readily identifiable in advance. We direct that Kāinga Ora may file its memorandum by 5pm on 1 February.

<sup>1</sup> Submission #406

<sup>2</sup> Submission #415

<sup>3</sup> Having said that, Mr Keir and Ms Cutten included a copy of their submission which in turn includes preliminary legal advice they had received.

<sup>4</sup> Submission #233

<sup>5</sup> Submission #391

<sup>6</sup> Submission #182

5. Mr Keir and Ms Cutten asked to see a copy of the Council's legal advice on this point, referred to in the section 42A report. The Council is of course free to accede to that request if it wishes to do so. We are, however, reluctant to make an order to that effect. The Council's legal advice is a privileged communication, and we would not direct it be produced without hearing from the Council. The directions we make below will, we think, make the issue moot.
6. From the memoranda that have been filed, we understand there to be 2 issues that we need to address:
  - a) Whether the Hearing Panel has the power to hear submissions on provisions notified as falling within the ISPP under the 'normal' First Schedule process, and vice versa (or put another way, whether the Council's identification on the face of the PDP as notified, of the process each provision falls under is conclusive);
  - b) If we find that we have that power, whether the Hearing Panel should exercise it in relation to the provisions put in issue by the parties.
7. To assist resolution of those issues, we direct that the Council file submissions explaining the legal and factual basis for the position it has taken on these matters. Those submissions should be filed by 1pm on 8 February and copied to each of the parties listed above.
8. The parties who have given notice, as above, then have leave to file legal submissions/representations in response to the Council. For the avoidance of doubt, that leave extends to Historic Places Wellington. Such submissions/representations should be filed by 1pm on 15 February.
9. The Hearing Panel's intention is to hear first from Counsel for the Council, followed by the parties who have given notice on these issues, as above, as to the first item of business following the karakia opening the hearing on 21 February. We note that the parties should not expect to address the Hearing Panel at length on 21 February. The Panel will have read the material filed in advance and will use the opportunity to explore the issues with each party through discussion with counsel/ the parties appearing (as applicable).



**Trevor Robinson**  
**Chair**

**For the Wellington City Proposed District Plan Hearings Panel**

Dated: 31 January 2023