

IN THE MATTER OF

The Resource Management Act 1991, Subpart 6
concerning the Intensification Streamlined Planning
Process

AND

IN THE MATTER OF

Hearings on an Intensification Planning Instrument,
as a proposed plan change to the Upper Hutt City
District Plan under the Resource Management Act
1991, Schedule 1 Subpart 6.

MINUTE NO. 1 / TE PĀNUI TUATAHI OF THE HEARING

PANEL Dated: 28 February 2023

Panel and Powers

Greetings Tēnā tātou katoa,

1. This Minute contains directions and information for the hearings on an Intensification Planning Instrument, as a proposed plan change to the Upper Hutt City District Plan.
2. Under clause 96 of the Resource Management Act 1991 (RMA), Schedule 1, Subpart 6, the Upper Hutt City Council (the Council) appointed a Hearing Panel of independent commissioners to hear submissions and make a recommendation to Council for Council's Intensification Planning Instrument.
3. The Key Elements of the Intensification Planning Instrument are:
 - a. The incorporation of the Medium Density Residential Standards (MDRS) into all relevant residential zones in accordance with section 77G(1) of the RMA;
 - b. To give effect to the heights and densities of urban form required by Policy 3(a), (c)(i) and (ii), and (d) of the National Policy Statement on Urban Development 2020 (NPS-UD);
 - c. Introduction of new High Density Residential, Town Centre, Local Centre, Neighbourhood Centre and Mixed Use zones with new objectives, policies and rules for these zones;
 - d. Rezoning of St Patrick's Estate Area to High Density Residential Zone;
 - e. Introduction of a Papakāinga Chapter with objectives, policies, and rules;
 - f. Amendments to the City Centre zone and General Residential zone to enable intensification of housing and remove the building height limit from the City Centre Zone;
 - g. Introduction of new definitions associated with these changes;
 - h. Changes to financial contributions to ensure that contributions can be collected for the new housing enabled by this change.
 - i. Introduction of hydraulic neutrality provisions; and
 - j. Make consequential amendments across the District Plan and amend or include provisions that support or are consequential on the MDRS or Policies 3 and 4 of the NPS-UD.
4. The Hearing Panel's function is to hear the Council's proposal to change the district plan in the notified form, consider submissions and make recommendations in a report to the Council. The Panel's delegations also include addressing any procedural issues.
5. The appointed Panel comprises:
 - Eileen von Dadelszen (Chair);
 - Lindsay Daysh;
 - Rawiri Faulkner

Panel's kaupapa or values

6. The Panel will conduct a process that makes people comfortable so the Panel can obtain the best possible information relevant to the Panel's task.
7. The Panel will also operate transparently and ensure fairness while meeting its obligation to conduct an efficient hearing.

Council Administrator

8. Council's Hearing Administrator, Hayley Boyd, will assist the Panel with administration and will be the key contact for submitters. The email address is Planning@uhcc.govt.nz or Hayley can be contacted on 04 885 4600.

9. Any matters involving the Intensification Planning Instrument and the process, should be directed to the Hearing Administrator.

Hearing date, format, and venue

10. The hearings are scheduled to commence on Wednesday 26 April and to continue on as many of the following days as are required:

- Wednesday 26, Thursday 27 and Friday 28 April
- Monday 8, Friday 12, Monday 29, Tuesday 30 and Wednesday 31 May
- Thursday 1, and Friday 2 June.

11. Hearings will generally commence at 9.00am.

12. The hearing will generally be in-person, but parties may present their submissions by audio-visual internet link if requested to avoid any unnecessary expense (e.g., a witness not located in the Wellington Region).

The hearing will be held in Upper Hutt in the “Murray Room” at the NZCIS Conference Centre: 48 Somme Road, Trentham. A map will be provided to those wishing to speak.

Structure of Council planning evidence

13. The evidence on which the Council relies is within the notified materials available on the Council’s website, and any additional evidence sought to inform recommendations on matters raised in submissions. Any additional evidence is to be included with the Council’s evidence.

14. In addition, the Panel requires the Council’s evidence, at the time directed in this Minute, to include the following:

- a. A report covering the matters raised in submissions and any key matters outstanding. This shall include a table of the outcome for each submission point arising from the Council’s evidence based on topic and submitter name;
- b. A record of the Council’s view of out-of-scope requests in that table and a summary by the Council of what it considers are out-of-scope requests.
- c. Any recommendations for the acceptance of late submissions.

Directions for the exchange of evidence and other matters

15. The purpose of these directions is to provide the opportunity for the Hearing Panel and the other parties to read and consider any legal submissions, evidence, or statements in advance of the hearing to assist in understanding the case being presented.

16. The Panel’s directions for the exchange of evidence under the Resource Management Act (RMA), section 41B, are as follows:

- a. The Council’s evidence must be available to the parties and on the Council’s website no later than 5.00 pm, Thursday, 6 April 2023.
- b. Under section 41B (4), submitter expert evidence (evidence from a professional with specialist qualifications and experience) is to be provided to the Council’s Administrator no later than 5.00 pm Friday, 14 April 2023. It will be made available to the parties and on the Council’s website no later than 5.00 pm, Monday, 17 April 2023.

17. The Hearing Panel directs that no later than midday, Wednesday, 19 April 2023, any opening legal submissions shall be provided, so that they will be read before the hearing.

18. As the Hearing Panel will have read all the pre-circulated material before the hearing, there will be no need for it to be read aloud at the hearing. An executive summary may be read out, or the key points highlighted.
19. In respect of non-expert material or lay presentations/evidence over 3 A4 pages, these shall be provided to the hearing administrator no later than 5.00 pm, Monday, 17 April 2023. Summaries or written material less than 3 A4 pages can be read aloud at the hearing.

Procedure for the hearing

20. At the start of the hearing, the Council reporting staff and consultants will speak to their reports, and then the submitters will be invited to present their submissions and evidence. Not all experts providing supporting information in the RMA section 32 report need to attend unless the submissions suggest particular matters are disputed and need a response. The Council, as the applicant, will have a right to reply.
21. All written material presented to the Panel will be available on the website. The Hearing will be livestreamed, and a video recording will be made available on the council website.
22. To assist submitters, the Hearing Administrator will prepare a schedule of speaking times available to enable submitters to have a specific time during which they may speak. Wherever possible the Hearing Administrator will try to meet individual requests, but it might not be possible to accommodate every request. In the interests of fairness and efficiency, submitters are asked to provide a realistic estimate of the time needed to present their submissions.

Electronic availability of materials and equipment for the hearing

23. Pre-circulated evidence will be published on the Council's website.
24. The Council will also publish on the Council's website copies of additional material received by the Panel.
25. The materials will be found on the particular part of the Council's website addressing the Intensification Planning Instrument at the following URL: www.upperhuttcity.com/ipi.
26. The Hearing Administrator will advise submitters by email and on the website when evidence is available. The Council will not automatically distribute hard copies. Therefore, if a physical copy is needed to be distributed it is essential to advise the Hearing Administrator as soon as possible before the day of the submitter appearing on the day scheduled.
27. The Council will have available electronic equipment at the hearing to enable projection onto large screens in the hearing room. If information is to be presented electronically, it should be included in a portable drive. This will enable projection during the hearing and sent in advance of the hearing day to the hearing administrator.
28. The Panel's preference is that any evidence not previously circulated, is in an electronic format so that the Panel, other participants and the Council can use it easily.

Questioning and Cross-Examination of Witnesses

29. One feature of the ISPP that differentiates it from the usual First Schedule hearings process is that there is potential for submitters to ask questions/cross examine the witnesses of other parties (including the Council) at the discretion of the Panel. We must be satisfied that it is in the interests of justice before we permit such questions or cross-examination.

30. If anyone wishes to ask questions or to cross examine the witnesses of another party (including the Council) they must:

- give written notice before 5.00pm on Wednesday 19 April to the hearing administrator
- include with the notice the following information:
 - (1) the subject-matter of the proposed questions/cross-examination,
 - (2) the length of time they estimate will be required, and
 - (3) the reasons why they believe leave should be granted. This should include why they believe the interests of justice will be served by such leave being granted.

31. Anyone seeking such leave will be advised whether their request is granted before the hearing begins on Wednesday 26 April.

32. Anyone considering making such a request should understand that the Panel intends to test thoroughly all evidence and other representations we hear. Leave to ask questions/ cross examine will be granted only if it appears to us that the party concerned intends to focus on avenues of inquiry that we do not intend to pursue, and/or will be asking questions/cross examining with the benefit of information or perspective that the we will not bring to bear.

33. While there is no need to table the proposed questions in advance, requests for leave should include sufficient details to enable us to determine that permitting questioning/cross examination will add material benefit to our deliberations and will be in the interests of justice.

Nomenclature for versions of Intensification Planning Instrument

34. We are mindful of the need to have common terminology relating to the various versions of the IPI which are likely to be discussed during the hearing. This explanation will be useful for participants, and we will use this terminology in our recommendation. It helps everyone involved to know what specific version of the IPI is being referred to.

35. In an IPI process under the RMA, Schedule 1, there are likely to be the following versions of the Plan Change:

(a) IPI(N) = the IPI as notified;

(b) IPI(R1) = the IPI recommendations in the Section 42A Report version 1 that is pre-circulated within the Council's evidence;

(c) IPI(R2) = the IPI recommendations in the Council's right of reply, that is, version 2, following consideration of the evidence at the hearing; and then

(d) IPIC) = the IPI provisions as recommended by the Panel in its report.

36. It would be helpful to the Panel and all others involved in the Hearing if submitters would also note any changes that they recommend to IPI(R1). It would be helpful if submitters were to use a similar format if they have sufficient time between receipt of IPI(R1) and the hearing. If not, it is useful to use the same numbering version for the provision in dispute as the one used by the reporting planner.

Site Visits

37. The Panel might undertake site visits and will do these unaccompanied by Council officers or other parties unless there is a need to gain secure access.

Other matters

Scope: The recommendations made by the Panel must be related to a matter identified by the Panel or any other person during the hearing; but they are not limited to being within the scope of submissions made on the IPI.

38. If there are any questions of clarification required, they can they be submitted to the Hearings Administrator and we will respond as soon as we can.

Hei kona ra,

A handwritten signature in cursive script, appearing to read "Eileen von Dadelszen".

Eileen von Dadelszen (Chairperson)