



I hereby give notice that an ordinary meeting of the Unitary Plan Committee will be held on:

**Date:** Tuesday, 24 February 2015  
**Time:** 2.00pm  
**Meeting Room:** Level 26, Rooms 1 & 2  
**Venue:** 135 Albert Street  
Auckland

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## Unitary Plan Committee

### OPEN AGENDA

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#### MEMBERSHIP

<b>Chairperson</b>	Cr Alf Filipaina
<b>Deputy Chairperson</b>	Deputy Mayor Penny Hulse
<b>Members</b>	Cr Anae Arthur Anae
	Cr Dr Cathy Casey
	Cr Chris Darby
	Cr Denise Krum
	Member Liane Ngamane
	Member Josie Smith
	Cr Wayne Walker
	Cr Penny Webster
<b>Ex-officio</b>	Mayor Len Brown, JP

(Quorum 5 members)

**Katherine Sowry**  
**Democracy Advisor**

**17 February 2015**

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## TERMS OF REFERENCE

### Responsibilities

A committee that will give direction to officers on matters associated with the Unitary Plan including:

- Council's submission to the UP (final sign off with parent committee)
- Response to matters raised by the submission process
- Pre-hearing mediation

Substantive issues of policy require approval by the parent committee.

### Powers

All powers necessary to perform the Committee's responsibilities.

### Except:

- (a) powers that the Governing Body cannot delegate or has retained to itself (see Governing Body responsibilities)
- (b) where the Committee's responsibility is limited to making a recommendation only

## **EXCLUSION OF THE PUBLIC – WHO NEEDS TO LEAVE THE MEETING**

### **Members of the public**

All members of the public must leave the meeting when the public are excluded unless a resolution is passed permitting a person to remain because their knowledge will assist the meeting.

### **Those who are not members of the public**

#### General principles

- Access to confidential information is managed on a “need to know” basis where access to the information is required in order for a person to perform their role.
- Those who are not members of the meeting (see list below) must leave unless it is necessary for them to remain and hear the debate in order to perform their role.
- Those who need to be present for one confidential item can remain only for that item and must leave the room for any other confidential items.
- In any case of doubt, the ruling of the chairperson is final.

#### Members of the meeting

- The members of the meeting remain (all Governing Body members if the meeting is a Governing Body meeting; all members of the committee if the meeting is a committee meeting).
- However, standing orders require that a councillor who has a pecuniary conflict of interest leave the room.
- All councillors have the right to attend any meeting of a committee and councillors who are not members of a committee may remain, subject to any limitations in standing orders.

#### Staff

- All staff supporting the meeting (administrative, senior management) remain.
- Only staff who need to because of their role may remain.

#### Local Board members

- Local Board members who need to hear the matter being discussed in order to perform their role may remain. This will usually be if the matter affects, or is relevant to, a particular Local Board area.

#### IMSB

- Members of the IMSB who are appointed members of the meeting remain.
- Other IMSB members and IMSB staff remain if this is necessary in order for them to perform their role.

#### CCOs

Representatives of a CCO can remain only if required to for discussion of a matter relevant to the CCO.

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This report was not available when the agenda was compiled as the Judicial Conference ended on 15 February 2015.

11 Consideration of Extraordinary Items

**PUBLIC EXCLUDED**

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## 1 Apologies

An apology from Deputy Chairperson PA Hulse has been received.

## 2 Declaration of Interest

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

## 3 Confirmation of Minutes

That the Unitary Plan Committee:

- a) confirm the ordinary minutes of its meeting, held on Wednesday, 4 February 2015, including the confidential section, as a true and correct record.

## 4 Petitions

At the close of the agenda no requests to present petitions had been received.

## 5 Public Input

Standing Order 3.21 provides for Public Input. Applications to speak must be made to the Committee Secretary, in writing, no later than **two (2)** working days prior to the meeting and must include the subject matter. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders. A maximum of **thirty (30) minutes** is allocated to the period for public input with **five (5)** minutes speaking time for each speaker.

At the close of the agenda no requests for public input had been received.

## 6 Local Board Input

Standing Order 3.22 provides for Local Board Input. The Chairperson (or nominee of that Chairperson) is entitled to speak for up to **five (5)** minutes during this time. The Chairperson of the Local Board (or nominee of that Chairperson) shall wherever practical, give **two (2)** days notice of their wish to speak. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders.

This right is in addition to the right under Standing Order 3.9.14 to speak to matters on the agenda.

At the close of the agenda no requests for local board input had been received.

## 7 Extraordinary Business

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“An item that is not on the agenda for a meeting may be dealt with at that meeting if-

- (a) The local authority by resolution so decides; and
- (b) The presiding member explains at the meeting, at a time when it is open to the public,-
  - (i) The reason why the item is not on the agenda; and
  - (ii) The reason why the discussion of the item cannot be delayed until a subsequent meeting.”

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“Where an item is not on the agenda for a meeting,-

- (a) That item may be discussed at that meeting if-
  - (i) That item is a minor matter relating to the general business of the local authority; and
  - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion.”

## 8 Notices of Motion

At the close of the agenda no requests for notices of motion had been received.



## Auckland Unitary Plan Independent Hearings Panel - Update on Progress

File No.: CP2015/01441

### Purpose

1. To update the committee on the progress made by the Auckland Unitary Plan Independent Hearings Panel since last reported in October 2014.

### Executive Summary

2. The Independent Hearings Panel (IHP) is a statutory body appointed by the Ministers for the Environment and Conservation. The Panel's job is to hear submissions and evidence on the Proposed Auckland Unitary Plan (PAUP) and then report back to the Auckland Council about changes it recommends should be made to the Plan.
3. The setup of the office is complete and the hearings programme is underway with most of the hearings on the regional policy statement component of the plan now completed. Staff supporting the Panel and hearing processes have all been appointed. The hearing rooms on-site and off-site are meeting expectations.
4. Hearing events are successfully being completed within timeframes. Overall participation of submitters at hearings is on a par with other District Plan and Plan Change processes. A breakdown by submitter groups shows that participation by community groups, special interest groups and individuals is lower than business and public sector categories of submitter. It is expected that the number of community groups and individuals attending hearings will increase as the schedule moves from the high level policy framework of the Regional Policy Statement (RPS) to the hearings on schedules, zones and precincts which directly impact on people's properties.
5. Mediation has been successful in reducing matters addressed at the hearing and resulting in joint representation at hearings. Given this impact, mediation has now been scheduled for the majority of all hearing topics.
6. The hearing process has been modified to the extent considered appropriate by the Panel in response to feedback from submitters and memoranda from counsel, as well as several judicial conferences and a feedback session with an external review group. For example, pre-hearing meetings have moved to predominately a paper based approach rather than submitters needing to attend, the schedule for 2015 has been adjusted to provide some 'breathing space', mediation is now focused on tracked changes to the text and the process and templates have been simplified, expert conferencing is now used only sparingly to clarify particular technical matters, evidence exchange timetables have been extended and guidance provided on how to prepare evidence to facilitate the process for submitters and Panel.
7. Steps have been taken to improve communication and accessibility of information. Drop in clinics have been provided, a simple process map and video of key steps has been added to the website, and a 'find my hearing' tool has been developed to help submitters link their points to hearing topics. Improvements to website content and presentation of information are ongoing. Staff are always available to help submitters navigate the process and information and there has been positive feedback from submitters regarding this service.
8. The Panel remains open to modifying its process in response to feedback where it feels there is scope to do so. Three judicial conferences have been held so far and established useful dialogue and led to changes in the Panel's process. An external peer review group was convened in November and will continue to meet at regular intervals until the completion of the hearings. Community groups have been approached for feedback on options for making site specific hearings more 'submitter friendly'.

## Recommendation/s

That the Unitary Plan Committee:

- a) receive this report and notes the progress of the programme for the hearing of submissions by Independent Hearings Panel on the Proposed Auckland Unitary Plan
- b) request this report and resolutions be forwarded to local boards, the Independent Maori Statutory Board and advisory panels for their information.

## Comments

### Background

9. On the 14 October 2014 the IHP provided an update to the Unitary Plan Committee on progress made on the establishment of the Independent Hearings Panel, hearing progress, website and the evaluation by the Ministry for the Environment. The resolutions were accepted. These included a quarterly update to the Auckland Unitary Plan Committee from the Independent Hearings Panel and that the report be forwarded to local boards for their information.
10. The Committee requested that the next report include an update on mechanisms to improve the process, participant numbers, the mediation process, budget and options to engage the public.

### Establishment of the Independent Hearings Panel

#### Premises for the IHP

11. As the committee will be aware, 130 people can be accommodated on level 16 (to meet fire safety requirements). Off-site venues have been required for some pre-hearing meetings, mediation and expert conferencing. Aotea Centre, the Town Hall and the Manukau Service Centre have been used. These venues have worked successfully. It is likely that some hearings will be held in suitable council venues once the hearing programme moves onto site specific matters.

#### Staff appointments

12. The IHP staffing levels will continue to be monitored against expected workload to ensure adequate support for the hearing programme and enable delivery of the hearings on schedule. All staffing levels are currently being managed within allocated budgets.

### Hearing programme

#### Schedule

13. Hearing events are on track against the schedule as it stands (see below para 15), with 84.1 per cent of events scheduled through to late 2015 completed under or on time. One hearing (009 Mana Whenua issues) required additional time and several mediation sessions required longer (006 RPS natural resources and 013 RPS urban growth). 90.9 per cent of hearing events on RPS topics (including pre-hearing, mediation, and expert conference) have been completed.
14. Note that the scheduled events for site specific hearings are provisional and no hearing days have been included in the schedule as yet specifically for precincts. Following a report back from Council in the first quarter of 2015 categorising the submissions on site specific topics the Panel will consider the options for dealing with these hearings topics and will revise the hearing schedule accordingly.
15. The IHP planning team has made good progress with parties and issues reports for the hearing topics, with 74 per cent of these reports now completed.

### Budget

16. Financial reports show 33 per cent of the IHP budget spent year to date compared with 58 per cent of year elapsed as at 31 January 2015. The actual costs are expected to track more closely against the budget by the end of the financial year (30 June), by which time there will have been 8 full months of hearings.

### Participation

17. The overall participation rate is 11.8 per cent for hearings and mediation (the participation rate is the percentage of those notified who actually attended the event). There are no strictly comparable baselines for the Unitary Plan hearings, but previous plan processes show a considerable range (e.g. 14.5 per cent for the Hauraki Gulf Islands District Plan process, 10.86 per cent for the Whangaparoa Golf course, 13.76 per cent for the Central Interceptor, 2.26 per cent for the Te Arai private plan change and 2.69 per cent for the Milford plan change).
18. Participation rates vary for different categories of submitters with business and public sector the highest (public sector includes Auckland Council which has a presence at all hearing events), followed by Mana Whenua/mataawaka, community groups and special interest, then individual submitters.
19. The overall participation rate for the RPS mediation and hearings is 12.7 per cent for both types of event. The rate for community groups is 9.4 per cent (mediation) and 11.8 per cent (hearings) and for individuals it is 2.8 per cent and 3.3 per cent. Participation rates for community groups and individuals are expected to increase in 2015 once the hearings get into site specific topics (i.e. schedules, zones, precincts and designations). The Panel is exploring options on how to run the hearing process for these topics to better meet the needs of community groups. Feedback on these options was requested from 70 community groups in mid-December (mainly residents and ratepayer associations) but only 7 have responded (the due date was 31 January 2015).
20. 17 per cent of attendees at hearings have requested more speaking time and most requests have been granted (93 per cent).
21. When considering these participation rates the following points should be noted:
  - It is a statutory RMA process so inevitably will have a degree of formality and procedural intricacy that can be perceived as off-putting by individual 'lay' submitters and community groups.
  - While there are no strictly comparable baselines (see next point), examples such as the Hauraki Gulf Islands District Plan review and the Milford Plan Change (PC34) show that low levels of participation in formal hearing processes are typical.
  - It has been many years since a full plan review has been carried out in Auckland, so there are no recent comparable baselines and submitters are judging the process against expectations based on plan change hearings which are mostly local in focus, and/or much narrower in scope than the Proposed Unitary Plan.
  - While the process is offering multiple opportunities for submitters to participate, through pre-hearing, mediation and hearing, many submitters have limited capacity to take advantage of these opportunities because of the amount of time required by multiple and overlapping hearing tracks and the scheduling of events during working hours.

- Participation rates are expected to increase as the hearings programme moves from the high level policy framework of the RPS to the hearings on schedules, zones and precincts which directly impact on people's properties. The way the hearings on these topics could be run is being considered by the Panel in the light of feedback to encourage greater participation by community groups and individual submitters.

#### Pre-hearing meetings

22. The Panel has moved towards dealing with pre-hearing matters of an administrative nature 'on the papers', if submitters wish to choose this option, rather than expecting most submitters to attend the meeting. The website provides a document where submitters can fill in an application for additional hearing time and coding errors. This has reduced submitters needing to attend the pre-hearing meetings and has had support from submitters.

#### Impact of mediation

23. Mediation so far in the programme appears to be achieving the objective of reducing the matters to address at the hearing. It has also resulted in joint witness statements being prepared, for example 004 Chapter G hearing approximately 20 submitters were jointly represented by Russell McVeagh.
24. Based on the positive outcomes, the Panel has been supportive of increasing the amount of mediation for some topics. Mediation has been scheduled for a number of RPS topics when the original programme did not include this and has had a beneficial outcome. Mediation is scheduled for almost all topics in 2015. The Panel has also provided mediator support for informal 'offline' (i.e. not scheduled as part of the topic) mediation between parties on three topics so far.
25. Based on the initial experience with expert conferencing the use of this has been reduced, with more emphasis placed on mediation. Where pre-hearing processes, including mediation, identify a need to resolve specific technical matters an expert conference can be convened.

#### Review by the Panel of support provided by Auckland Council

26. The first quarterly review by the Panel of the support provided by Auckland Council was completed in December 2014 and a high overall level of satisfaction reported.

#### External peer review and Judicial Conferences

27. An external peer review of the Auckland Unitary Plan Hearing Procedure was held on 17 November 2014. Reviewers were selected and invited by the Panel to attend and included a range of organisations and people who have a regional remit and have a history of involvement in council plan processes.
28. Three judicial conferences have been held to address matters of process raised by legal practitioners and other parties to the hearing process.
29. Following the review session and judicial conferences the Panel decided to address the matters raised in the following ways:
- The schedule for 2015 was reviewed and some additional "breathing space" built in.
  - The Panel has confirmed its intention to release interim guidance on the RPS in mid-March.
  - The Council is providing a marked up version of the relevant PAUP provisions in advance of mediation or hearing sessions on every topic.
  - The timetable for exchange of evidence has been modified to build in more time and to stagger the dates with council providing its evidence first.
  - Additional mediation has been scheduled for hearings in 2015. The process for mediation has been simplified and improved.

- The Panel is looking at ways to encourage lay submitters and community groups to take part in hearings, for example holding hearings in local areas, holding some hearings in evenings or weekends, combining some hearing topics to reduce the frequency of attendance. Community groups were asked for their views on these options but the response was limited, though there was support for holding hearings in local areas.
- Three drop in clinics were held for the public to ask the IHP planners questions about the process. These clinics were held in Orewa, the city and Manukau during the day and evenings. Only eight people attended the Orewa and City clinics and two people attended the Manukau clinic. The Panel is not likely to commit resources to further clinics.
- Improving the website and communications as follows: a simple process map and video of key steps has been added to the website, and a “find my hearing” tool has been developed to help submitters link their points to hearing topics. Improvements to website content and presentation of information are ongoing.
- Staff are always available to help submitters navigate the process and information and there has been positive feedback from submitters regarding this service.
- Pre-hearing meetings are now generally based ‘on the papers’ to avoid participants having to attend for administrative purposes (see above).
- To assist submitters prepare for hearings more efficiently and effectively the Panel has provided on the IHP website best practice examples of evidence, rebuttal and joint witness statements.

## Consideration

### Local Board Views and Implications

30. The views of local boards are able to be represented by the attendance of all local board chairs at the Unitary Plan Committee.

### Maori Impact Statement

31. It is considered that there are no specific impacts on Maori arising from any decisions made by the Unitary Plan Committee in response to this report.

## Implementation Issues

32. The Panel and the IHP support team will continue to work accordingly to the hearing schedule. The delivery of the hearings and the support to the Panel is being delivered within existing allocated budgets.

## Attachments

There are no attachments for this report.

## Signatories

Author	Phill Reid - Hearings Panel Planning Manager
Authoriser	Penny Pirrit – General Manager - Plans & Places



## Exclusion of the Public: Local Government Official Information and Meetings Act 1987

That the Unitary Plan Committee:

- a) exclude the public from the following part(s) of the proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

### **C1 Proposed Auckland Unitary Plan submissions - council position for mediation and hearings - City Centre Residential Controls**

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(g) - The withholding of the information is necessary to maintain legal professional privilege.  In particular, the report contains legal advice..	s48(1)(a)  The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.