

AUCKLAND UNITARY PLAN INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

Proposed Auckland Unitary Plan

Clarification of recommendation on the Rural Urban Boundary for Waiheke

In its report on changes to the Rural Urban Boundary¹ delivered to the Auckland Council on 22 July 2016, at page 15, the Panel stated:

2.5. Reasons for not supporting specific requests to change the Rural Urban Boundary

There were a number of requests for changes to the Rural Urban Boundary that the Panel does not support. The Council also did not support these changes (for a summary of the Council's views see its closing comments on Topic 016/017 of 19 February 2016). The Panel considered these requests and the supporting evidence and concluded they did not meet the recommended criteria in the regional policy statement for changes to this boundary and the Panel's best practice approaches. On this basis the Panel's view concurs with the Council's position.

The Panel's reasons for not supporting three areas, namely Karaka Peninsula, Bombay and the extensions to Kingseat (that were not part of Plan Change 28 to the Auckland Council District Plan – Operative Franklin section) are in Annexure 6 (for Karaka and Bombay) and Annexure 3 (for Kingseat).

A small number of submitters requested changes to the Rural Urban Boundary on Waiheke Island. As noted above the Panel recommends the Rural Urban Boundary be located in the district plan and the district plan in the recommended Plan does not cover Waiheke Island or the other Hauraki Gulf Islands. Within this context the Panel considers any changes to the Rural Urban Boundary on Waiheke Island are best left to a district plan review for the Hauraki Gulf Islands, at which time such possible changes can be considered in the wider context of other district plan issues. The Panel therefore has not recommended changes to the Rural Urban Boundary on Waiheke Island.

During the course of debate at the meeting of the governing body of the Auckland Council on the Panel's recommendations, the meaning of the final sentence of that section was questioned. It was suggested that this sentence may mean that the Rural Urban Boundary, as notified on 30 September 2013 as part of the proposed Auckland Unitary Plan, remains part of the Regional Policy Statement in relation to the Hauraki Gulf Islands, even though it is recommended to be removed from the Regional Policy Statement in respect of the rest of the Auckland Region and relocated as a rule in the District Plan provisions.

The Chairperson of the Panel has been asked by the Auckland Council whether this sentence is an error which requires correction. Reviewing the Panel's report and considering the suggested interpretation in consultation with other members of the Panel, the Chairperson does not consider that there is any error, although it is possible that the report could be misinterpreted. On that basis, this clarification is made. If authority is required for it, then reliance is placed on section 13 of the Interpretation Act 1999 for the purpose of dealing with an omission.

¹ Changes to the Rural Urban Boundary, rezoning and precincts - Hearing topics 016, 017 Rural Urban Boundary, 080 Rezoning and precincts (General) and 081 Rezoning and precincts (Geographic areas)

The suggestion that the Panel's recommendation is intended to leave the Rural Urban Boundary in place as a method in the Regional Policy Statement is incorrect. Such a suggestion is inconsistent with the other recommendations as set out in this section of this report, and with the general recommendations in relation to the Rural Urban Boundary in section 7 of the Overview section of the report. Such a suggestion is also not supported by either the recommended text or the recommended maps of the Unitary Plan, which contain nothing to indicate that the Rural Urban Boundary is to be treated differently on the Hauraki Gulf Islands from how it is recommended to be treated on the mainland of the region.

The removal of the Rural Urban Boundary as a method from the Regional Policy Statement and the addition of it as a rule in the District Plan, coupled with the Panel's jurisdiction being limited to exclude consideration of district planning matters in the Hauraki Gulf Islands, has resulted in the recommended maps showing no Rural Urban Boundary on Waiheke. As the recommendation quoted above makes clear, this is a matter that may be addressed in the next review of the district plan for the Hauraki Gulf Islands.

Accordingly the final sentence "The Panel therefore has not recommended changes to the Rural Urban Boundary on Waiheke Island" is correct, as no change could be recommended in relation to the Hauraki Gulf Islands section of the District Plan.

In the meantime, the Panel recommendations, if accepted, mean that there is no Rural Urban Boundary on Waiheke. In that regard, it is important to note that the absence of a Rural Urban Boundary does not mean that there is no constraint on the urbanisation of areas of Waiheke that are presently not urban. The provisions of the Hauraki Gulf Islands section of the Auckland District Plan, including the zoning controls, still apply and any urbanisation proposal located in rural areas of Waiheke (that is, outside of the area which is currently bounded by the Metropolitan Urban Limit under the operative Regional Policy Statement) would be determined in accordance with those provisions.. Any proposal for a change to the District Plan to rezone any such area to enable urban development would be required to give effect to the Regional Policy Statement, and the provisions of the both the operative and the proposed Regional Policy Statement set high thresholds for any such change. For those reasons, the Panel did not consider that there was any gap or lacuna in its recommendations resulting from the shifting of the Rural Urban Boundary maps from the Regional Policy Statement to the District Plan.

19 August 2016



Judge David Kirkpatrick
Chairperson
Auckland Unitary Plan Independent Hearings Panel