



Submission to Auckland Unitary Hearings' Panel

On behalf of the Auckland Branch of the New Zealand Planning Institute
November 2014

1. About NZPI

- 1.1 The New Zealand Planning Institute (NZPI) welcomes the opportunity to provide comment on the Auckland Unitary Plan (AUP) process.
- 1.2 Established in 1949, NZPI is the professional organisation representing planners and planning practitioners throughout New Zealand. NZPI is the home of the planning profession”. It aspires to a better future for New Zealand by championing the profession, promoting excellence and supporting its members. NZPI membership is broad, and individuals within our organisation have a varied range of opinions and experiences which underpins this feedback.
- 1.3 NZPI members are therefore well placed and eager to take up the opportunity provided by the AUP Panel to provide constructive, insightful, and informed feedback on the AUP process.
- 1.4 This submission has been prepared by NZPI officers on behalf of the Auckland Branch of NZPI.

2. The Auckland Branch

- 2.1 The Auckland Branch of the New Zealand Planning Institute has over 700 members who work within both the public and private sectors. Over 269 members within the Auckland Branch are senior members of the Institute with more than 10 years experience in the planning profession. Branch members will be working with the final AUP on a day to day basis, and have the greatest professional interest in ensuring that the AUP provides for a quality, liveable compact city.
- 2.2 NZPI is aware that both the Auckland Council and the Ministry for Environment (MfE) are currently working on an evaluation framework for the Auckland Unitary Plan process. NZPI applauds that intent and wishes to contribute to that work by providing timely, thoughtful and constructive comments, in addition to ongoing engagement with both the Council and MfE
- 2.3 In anticipation of such an opportunity, the Auckland Branch held a workshop in late October which elicited perspectives on the AUP process. The output of that workshop was subsequently circulated to the Auckland and Waikato branches for feedback/comment and endorsement

3. About the AUP Process

- 3.1 The Auckland Unitary Plan was notified on 30 September 2013. Part 4 of the Local Government (Auckland Transitional Provisions) Act 2010 (LGATPA)¹ sets out the process for the development of the Auckland Unitary Plan, and includes provisions relating to: 1) pre-hearing meetings, 2) expert conferencing, 3) mediation; and, 4) hearing sessions.
- 3.2 The Auckland Unitary Plan Independent Hearings Panel was appointed by the Minister for the Environment and Minister of Conservation, and comprises eight panel members, one of which is the chair.

¹http://www.legislation.govt.nz/act/public/2010/0037/latest/DLM3016607.html?search=ts_act%40bill%40regulation%40deemedreg_Local+Government+%28Auckland+Transitional+Provisions%29+Act+2010_resel_25_a&p=1

3.3 The Unitary Plan timeline as on the Auckland Council² website is:

- September 2014 - Start of pre-hearing meetings
- November 2014 - Estimated start of hearings
- April 2016 - Estimated end of hearings

3.4 Auckland Council received more than 9400 submissions on the Proposed Auckland Unitary Plan (PAUP) during the five-month notification period which closed on 28 February 2014. In the further submission period, which closed on 22 July 2014, Auckland Council received over 3800 further submissions either supporting or opposing original submissions. Each unique request, and the details of who made it, were collated and summarised in the Summary of Decisions Requested (SDR) report. In total, there were more than 93,600 unique requests, represented in the SDR as summary points. The further submissions contained over 1,400,000 points. In short, the Auckland Council is faced with an unprecedented task.

3.5 A late submission relating to the Proposed Auckland Unitary Plan was accepted by the Independent Hearings Panel resulting in a separate further submissions process in respect of that submission. This was notified on 3 November 2014 and further submission period closes 15 December 2014³.

3.6 Submitters who indicated they wish to be heard will be contacted by the panel office regarding their hearing. The Hearings Panel has a [dedicated website](http://www.aupihp.govt.nz/) (<http://www.aupihp.govt.nz/>) that provides a guide to the hearings process, supporting documents, independent legal advice, procedural minutes, and fact sheets on, for example how to communicate with the Independent Hearings Panel.

3.7 Submitters who wish to be heard are given ten minutes at hearing sessions and are required to dedicate this time to making the main points relevant to the hearing topic.

3.8 Submitters have limited appeal rights under [Sections 154 - 159 of the LGATPA](#).

4. The Auckland Branch Workshop

4.1 The workshop was initiated by the Auckland Branch Chair, Graeme McCarrison and facilitated by the CEO of NZPI, Susan Houston. Workshop participants were requested to focus on three key questions:

- What had worked particularly well with the Auckland Unitary Plan process thus far?
- What had not worked so well with the Auckland Unitary Plan process thus far?
- What could improve the process?

4.2 What follows is a summation of the responses offered by members of the Auckland Branch to the above three questions.

²<http://www.aucklandcouncil.govt.nz/EN/planspoliciesprojects/plansstrategies/unitaryplan/Pages/abouttheproposedunitaryplan.aspx>

5. What has worked particularly well with the Auckland Unitary Plan process?

5.1 Human Resources

5.2 Participants unanimously agreed that Hearing Panel members possess vast planning experience, have struck an excellent tone, and possess a clarity and consistency in messaging. The Panellists' approachability was perceived as encouraging to submitters. The gender mix on the panel and the effectiveness and strength of the Chair, along with an apparent willingness to make bold decisions in the interests of Auckland also attracted praise. The Panel's focus on outcomes rather than process was noted as a positive attribute, as was the fact that the hearings were open to the public. Equally, the Panel's support team was perceived as dedicated and doing the best that they could within very tight and demanding timeframes.

5.3 The workshop also felt that there were sufficient numbers of mediators.

5.4 Members of the Auckland Branch noted the fact that the process had acted as a catalyst serving to bring the planning and legal professions together with an absolute focus on achieving an outcome that will serve Auckland communities well.

5.6 Infrastructure Resources

Participants at the workshop commended the venue and facilities.

5.7 Information Technology Resources

5.8 Members noted that the Auckland Council continues to demonstrate its willingness to use all technologies available to support its goals, as it did so successfully with the E-Plan during the consultation phase. Members supported the notion of a website that holds all of the information relevant to the AUP in one place and mentioned the quality of the interactive maps on that portal and that the website enabled rapid lodgement and receipt of electronic messages.

Members were particularly pleased with the recent changes to the website as advised on the 4 November, 2014. The new tabs and links were perceived as a welcomed addition that will make the website more user friendly.

6.0 What hasn't worked so well with the Auckland Unitary Plan Process to date?

The following comments are made in the knowledge that the process is still in its infancy and in a spirit of contribution.

6.1 Human Resources:

- 6.2 The pressure on all participants within the AUP process appears extreme, for the panellists, the submitters, the Council and the lay people who wish to have a voice. That pressure is perceived to have been primarily generated by the timeframe/deadline imposed on the process, a pressure that branch members' are concerned may affect the quality of the AUP.
- 6.3 Members are concerned that the September 2016 may prove too short, and may impact negatively on many aspects of the process. For example, from the overlapping and sometimes confusing timing for hearings and mediations, to the time that individual submitters are given to speak within both forums and to the fragmentation of big issues into constituent parts. Members held this view in the knowledge that this pressure will only increase in 2015 as anticipated changes to the RMA and ongoing review of other documents (as dictated by legislation) such as bylaws take effect and add to the demands of experts.
- 6.4 The human cost of the deadline has been emphasised by some members who experience the process as confusing and almost impenetrable for lay people, especially iwi.

6.5 Financial Resources:

Members sought reassurance from both the Panel, that it and its support staff felt sufficiently resourced to undertake their respective roles.

6.6 Information Technology Resources:

Members very much appreciated and valued the online presense created for the AUP process. The following potential issues were noted:

- The fact that the content on the website is already outstripping the structure of the website and thereby leading to confusion
- The lack of a strong search function that could filter by category and chronologically
- The websites inability to generate automatic reminders/updates of changes, via email
- The lack of interactivity
- The lack of a user friendly calendar that showed time/dates of each mediation/hearing.
- How lay people might experience the website given the highly technical content.

6.7 Process

Members noted the lack of a Section 32, especially on existing rules, the gaps in rules, and the bottom- up planning that is now needing to occur to fill the breach.

7. 0 What might improve the process in the views of the NZPI members?

- 7.1 Having deliberated on what they believe to be working well and less well within the Auckland Unitary Plan process members have compiled the following list of suggestions for enhancement which it now offers to the Hearings Panel for consideration. The suggestions are presented in no particular order or priority and the contributions range from the very detailed to the more strategic.
- 7.2 NZPI recognises procedure minute 11 offers the opportunity to extend the deadline beyond September 2016 and encourages the panel to take up that option if in a number of months time the panellists feel such an extension to be desirable.
- 7.3 NZPI is aware that the PAUP process has been allocated a budget of over \$30m over 3 years, \$15m of which is tagged for the IHP and that \$1.5 m of that funding is for independent legal advice, and \$300 for technical advice. NZPI encourages the panel to review the appropriateness of this budget at some point in the next 12 months.
- 7.4 NZPI encourages the Panel to consider more time for mediation, both within and between sessions. The reasoning being that a problem solved at this point has the potential to save considerable time and funds if progressed to a legal dispute.
- 7.5 NZPI encourages the Panel to consider providing a section on the website for lay people that is written in less technical language where possible.
- 7.6 NZPI applauds the recent changes to both the website and the introduction of clinics. Encourages the Panel to seek changes to the AUP online portal that a) will enable subscribers to receive email alerts of reminders/updates/changes automatically, b) provide a calendar of hearings/mediation/clinics and c) a stronger search function.
- 7.7 NZPI asks if consideration has been given to easing requirements around protocol, for example, a) enabling lay people to speak without a written statement being pre-circulated and b) allowing discretion to amend submissions at hearings if things have evolved since lodgement of the original submission. Potential to create and promote a lay person/submitter only hearing days.
- 7.8 NZPI encourages the Panel to make transparent through the online portal the rationale for some issues going to mediation and others straight to hearing.
- 7.9 NZPI suggests that the provision of more guidance on how to identify and shape problems and solutions, and how to refer back/cross reference to other evidence and topics may be useful to submitters.
- 7.10 NZPI asks that the Panel consider placing a timer on the TV screen to alert submitters as to when their time is up.

- 7.11 NZPI asks that the Panel reconsider the costs/benefits of creating a ‘Friends of Submitters’ for lay people.
- 7.12 NZPI asks if the Panel has considered development of a sounding board for decisions before they are released. Feedback can be limited, and not re-litigated. It would help if there was an opportunity to work through the practicalities of a decision before it was announced; i.e. relationship to other rules/cascade.
- 7.13 NZPI wonders if the Panel believes that the idea of creating a ‘Friends of the Panel’ has merit. Such a group could serve as an independent advisory body that the Panel can ask to review evidence, draft directions, write provisions, review for accuracy and check for alignment with other relevant documents.
- 7.14 NZPI asks that the Panel consider the development of guidance notes for consistency of interpretation - potentially eliminating some of the ad-hoc decisions down stream and securing all of the work that has been done to support submissions and write decisions.
- 7.15 NZPI suggests that the Panel consider conducting mediations via phone or videoconferencing.
- 7.16 NZPI asks if the Panel believes that the creation of a pathway that allows for more open ended submissions that permits the panel to give interim direction as to the nature and scope of changes has merit.
- 7.17 NZPI is of the view that changes to text could be best shown as tracked changes, rather than the current practice.
- 7.18 NZPI appreciates the huge task of scheduling currently borne by the support team and asks, where possible that scheduling of hearings is guided by the principle of grouping related topics.
- 7.19 Finally, NZPI asks the Panel to consider how the interlinkages between proposed changes to the entire plan be made more transparent throughout the process?

On behalf of the Auckland Branch of NZPI, I thank you for the opportunity to contribute a number of constructive ideas to the ongoing AUP process. Should you have any questions regarding this feedback, please feel welcome to contact Mr Graeme McCarrison, Chair of Auckland Branch of NZPI, or Susan Houston, CEO of NZPI on 027 4811 816 and 027 555 754 respectively.

NZPI looks forward to ongoing discussion with Auckland Council on the 17th November, 2014.

Yours sincerely,



Graeme McCarrison - Chair of the Auckland Branch of NZPI

On behalf of the Workshop dated: 30 October 2014