

## Minute #2 of Hearing Panel DIRECTION FOR FURTHER INFORMATION

### 1. Introduction

The Hutt City Council has appointed a Hearing Panel to hear, consider and recommend a decision to the Council on a request by M & J Walsh Partnership Ltd (the Requestor) to change the City of Lower Hutt District Plan (Plan Change 58).

The Hearing for Plan Change 58 has been scheduled at this stage for up to two days on **Monday 23<sup>rd</sup> and Tuesday 24<sup>th</sup> September 2024**. The Hearing will be held at the Lower Hutt Events Centre, at 30c Laings Road, Lower Hutt, commencing at 9:30am each day.

The Panel issued Minute #1 on 13<sup>th</sup> August 2024 to provide direction of the circulation of evidence and reports, as well as guidance on the hearing process. The Council's s42A evaluation report was duly circulated on 30<sup>th</sup> August 2024, followed by the circulation of the Requestor's evidence on 6<sup>th</sup> September 2024.

Arising from the circulation of this information and following our site visit on 13<sup>th</sup> September 2024, the Panel has identified a number of questions on which we are seeking further information on from the Requestor.

### 2. Information on the Relationship with the MDRS

The plan change seeks to rezone the entire site at 12 Shaftesbury Grove, Stokes Valley, from *Hill Residential* and *General Recreation* to *Medium Density Residential Activity Area* (MDRAA).

By way of background, the MDRAA replaced parts of the General Residential Activity Area as a result of Plan Change 56, which became operative on 21<sup>st</sup> September 2023. That Plan Change was introduced in response to an amendment to the Resource Management Act (RMA) in 2021 requiring Councils to change their District Plans to enable housing up to 3 storeys high and up to 3 units per section in most residential areas. As part of that legislative change, a set of Medium Density Residential Standards (MDRS) were required to be included in the relevant residential zones to replace existing residential standards, including for subdivision: the MDRS are set out in Schedule 3A of the RMA.

The MDRS makes residential uses a permitted activity if the building density standards specified in Schedule 3A are met, and the subdivision of land for the purpose of the construction and use of residential units a controlled activity.

The duty to give effect to the MDRS in the Council's residential zones is contained in section 77G RMA. Under section 77G(6), the Council may only make the requirements set out in the MDRS less enabling of development if authorised to do so under section 77I. Section 77I requires a Council to make the MDRS less enabling only to the extent necessary to accommodate one or more of the listed qualifying matters. Where a qualifying matter is provided for, the section 32 Evaluation Report must include the additional information set out under section 77J(3). If the matter is not one of the listed qualifying matters, then a further evaluation is required under section 77L.

If rezoned to MDRAA, the MDRS would apply to the subdivision and development of the entire site at 12 Shaftesbury Grove. While Plan Change 58 does not propose to make any changes to the zone provisions in Chapter 4F itself, it is seeking to introduce changes to the subdivision provisions in Chapter 11 as they relate to the MDRAA, including introducing –

- A new restricted discretionary activity rule for subdivision within the identified development area, with a set of assessment matters that relate specifically to subdivision of the site, and
- A new discretionary activity rule for any subdivision outside the identified development area, with a greater range of assessment matters.

The Panel has the following questions:

1. Are the proposed rules for the site in respect of subdivision for residential development less enabling than the MDRS rule for subdivision under Schedule 3A RMA?
2. If yes:
  - a. are the requirements necessary to accommodate any of the qualifying matters (a) to (i) under section 77I, and if so why, and
  - b. if required to accommodate qualifying matter s77I(j), has an evaluation been undertaken in accordance with sections 77J to 77L?

The Requestor is invited to address these questions as part of their opening submissions at the hearing. The Council's reporting planner may also wish to respond to these questions.

### **3. Further Landscape and Visual Information**

Following our site visit on Friday 13<sup>th</sup> September, the Panel would be greatly assisted if the Requestor could provide additional information for the Hearing regarding the physical extent of the site as viewed from more distant locations, such as Taita, Kelson and the eastern side of Stokes Valley. While Figure 3 of the Landscape and Visual Assessment provides some indication, it would be helpful for some of the ground views of the site as provided in Appendix 2 of that Assessment to indicate the boundaries of the site to show how far down the slopes on either side of the ridgeline the site extends. Ideally, it would also be useful to differentiate the extent of the "Development Area" (as shown in Amendment 5, new Appendix Subdivision 10, of the Plan Change request) from the property boundary.

### **4. Correspondence and hearing scheduling**

Any correspondence should be directed through the Hearing Administrator, Saritha Shetty, via email: [Saritha.Shetty@huttcity.govt.nz](mailto:Saritha.Shetty@huttcity.govt.nz).



**Robert Schofield**

Hearing Panel Chair

Dated this 16th September 2024