

## **Outcome**

[302] The answer to the preliminary questions is:

(a) Did the IHP interpret its statutory duties contained in Part 4 of the Local Government (Auckland Transitional Provisions) Act 2010 (the Act) lawfully, when deciding whether its recommendations to the Council were within the scope of submissions made in respect of the first Auckland Combined Plan?

**Yes**

(b) Did the IHP have a duty to:

(i) Identify specific submissions seeking relief on an area by area basis with specific reference to suburbs, neighbourhoods or streets?

**No**

(ii) Identify when it was exercising its powers to make consequential alterations arising from submissions?

**No**

(c) Was it lawful for the IHP to:

(i) Determine the scope of submissions by reference to another submission?

**Yes**

(ii) Determine the proper scope of a submission by reference to the recommended Regional Policy Statement?

**Yes**

(d) To what extent are principles (regarding the question of scope) established under the Resource Management Act 1991 case law relevant, when addressing scope under the Act?

**See discussion at [101]-[136]**

(e) Did the IHP correctly apply the legal framework in the test cases?

(i) **Mt Albert – Yes**

(ii) **Glendowie – Yes**

(iii) **Blockhouse Bay – Yes**

(iv) **Judges Bay – Yes**

(v) **Wallingford Street – Yes**

(vi) **Howick – Yes**

(vii) **Strand Holdings Limited – No**

(viii) **WGL – No**

(ix) **Albany – Yes**

(x) **Man O War – Yes**

(f) Are the appellants'/applicants' allegations against the Council concerning the IHP's determination on issues of scope appealable pursuant to the Act and/or reviewable?

**Both**

(g) What relief can the High Court grant the appellants/applicants if the IHP and/or the Council acted unlawfully in respect of the IHP's determination on an issue of scope under the Act?

**See discussion at [300]-[301]**

### **Effect of Judgment/Relief**

[303] The purpose of resolving the test cases was to provide affected appellants with guidance on the issue of scope. It will be for them to decide whether and to what extent they wish to pursue their appeals in light of my decision. It should be evident that I consider the appeals concerning residential upzoning and the Albany and Man O' War appeals should be dismissed on the question of scope, while the SHL and WGL appeals should be upheld on the same issue. My current view is that the SHL and WGL matters should now be referred to the Environment Court for resolution.

[304] The parties are invited to file a joint memorandum in respect of relevant appeals for case management purposes within 10 working days. A further case management conference will be set down in relation to the scope appeals on the first available date thereafter.

### **Costs**

[305] The parties have leave to seek costs. Submissions no longer than three pages in length are to be filed within 10 working days, unless the parties agree otherwise.