

**IN THE MATTER** of the Resource Management Act 1991 (**RMA**)  
**AND**  
**IN THE MATTER** of Intensification Planning Instrument Proposed  
Plan Change 78: Intensification (**PC78**) to the  
Auckland Unitary Plan Operative in Part (**AUP**)

**MEDIATION AGREEMENT IN RELATION TO:**  
Hearing Topic 020G I211 Viaduct Harbour Precinct

|                                |  |
|--------------------------------|--|
| <b>Mediation held on</b>       | Wednesday 7 June 2023  |
| <b>Venue</b>                   | Simpson Grierson offices, Level 27,<br>88 Shortland Street, Auckland |
| <b>Time</b>                    | 9.30am - 1.15pm  |
| <b>Independent facilitator</b> | Marlene Oliver   |
| <b>Secretariat staff</b>       | Clare Wall Shaw  |

**1. Attendance**

1.1. The list of participants is included in the schedule at the end of this Agreement.

**2. Authority to participate in mediation**

2.1. The mediator confirmed with the submitters or their representatives that they have full authority to participate in the mediation sessions and where necessary can reach agreement on the matters being mediated for and on behalf of the submitters / further submitters that they represent.

2.2. In response to para 2.1, it was confirmed that: Vrinda Moghe (Eke Panuku Development Auckland), Paula Brosnahan (Precinct Properties New Zealand Limited), Angela Bull (Viaduct Harbour Holdings Limited), Bianca Tree (The Parc Bodies Corporate Et al), Evan Keating (Waka Kotahi) and Bianca Tree (Stratis Body Corporate) have authority to settle and sign the Mediation Agreement. John Duguid

(Auckland Council), confirmed he has authority to settle technical changes, but any major policy shifts require confirmation from a sub-group of councillors who are on stand-by by phone.

### 3. Matters considered at Mediation - agenda and outcomes

- 3.1. **Council's rationale for making no substantive changes to the Precincts, contrary to Policy 3(a)**
- 3.2. **Parties to summarise their positions in response**
- 3.3. **Discussions regarding:**

#### a. The relevance and application of NPS-UD Policy 3(a) to the Precincts.

**Summary of issue:** These three agenda items in general address the approach to Policy 3(a)

**Auckland Council position:**

**Diana** stated that for the Viaduct Harbour Precinct the Council's view is that the notified provisions implement Policy 3(a) of the NPS-UD and will result in a well-functioning urban environment.

**Diana** confirmed that the Council is interested to receive technical analysis that VHHL have prepared to support their submission.

**Other parties' positions:**

**Douglas** confirmed that **VHHL** does not support PC78 as notified, as it relates to the Viaduct Precinct. VHHL considers changes are required to give effect to Policy 3(a) of the NPS-UD. VHHL considers there is a need to increase heights within the precinct and remove site intensity controls. The heights proposed by VHHL moderate the NPS-UD requirement for "as much intensification as possible" and have been derived with reference to key urban design principles in order to ensure good quality built form outcomes and retention of the key characteristics of the precinct.

**Paula** confirmed that **Precinct** is a tenant of Viaduct Harbour, including 204 Quay Street (which is subject to a historic heritage overlay and is listed by Heritage NZ). Precinct considers historic heritage is an appropriate qualifying matter, and considers a height limit of 72.5m (as proposed by VHHL) is inappropriate for 204 Quay Street. Precinct supports PC78 (as notified) as it applies to the Viaduct Harbour precinct, including the identified qualifying matters.

**Bianca** confirmed that **The Parc Bodies Corporate Et al** support PC78 as notified with some specific changes to the Viaduct Harbour Precinct provisions. The Bodies Corporate support the qualifying matters identified by Auckland Council that are applied to the Viaduct Harbour Precinct. The Bodies Corporate

also support the introduction of natural hazards as a qualifying matter, which the Council is undertaking further investigations.

**Bill** stated that **Eke Panuku** considers there are important differences between the City Centre Zone and the precincts (including both the Viaduct Harbour Precinct and the Wynyard Precinct) that need to be recognised through PC78. To that end, Eke Panuku generally supports the Council's identification of qualifying matters in relation to the Viaduct Harbour precinct. In particular, Eke Panuku supports the retention of building height and site intensity (including FAR and GFA) controls to manage the effects of intensification on the special qualities of the precincts. Notwithstanding this position, Eke Panuku considers that, on a site-by-site basis, there may be some opportunities to enable limited increases in building heights at specific sites within the Viaduct Harbour precinct. The approach will need to be informed by analysis of the effects of increased development capacity including impacts on public open space, shading, amenity and other characteristics of the precincts.

**Evan** stated that **Waka Kotahi** supports the intent of the NPS-UD and seeks to maximise the benefits of intensification through increases in development in the city centre as a whole. With regard to this precinct, the Waka Kotahi interest primarily concerns effects of traffic from an increase in development beyond that provided by PC78. As per the primary Waka Kotahi submission, city centre parking rates should be re-considered in light of increases in development to ensure that traffic effects are managed. Waka Kotahi also has a further submission on VHHL's submission which seeks increases in development capacity in the precinct.

**Douglas (For VHHL)** stated that in terms of Waka Kotahi's relief seeking to reduce the maximum car parking provisions in the City Centre as a whole and in Viaduct Harbour Precinct, VHHL consider this to be out of scope, Waka Kotahi consider this to be in scope.

**Peter** indicated that **Stratis** fully support the notified provisions, there is room for lots of capacity in the core CBD, no need to add height in this area that is already largely developed. Stratis consider existing heights already meet the requirements of the NPS-UD. The presence of hazards in this precinct mean that Stratis consider upzoning of the precinct is not appropriate.

***Conclusion – matters agreed / disagreed:***

Refer to conclusion at the end of agenda item 3(b) below.

**3b. The anticipated implications, if any, of Council's review of infrastructure matters for the Precincts**

***Summary of issue:*** Auckland is facing a number of infrastructure challenges including wastewater, as well as flooding and inundation. (This relates in part to the investigations into the implications of the recent severe weather events in Auckland).

***Auckland Council position:***

**John** confirmed that the Council are not just looking at infrastructure solutions, and are looking at what the planning implications might be including where there is no obvious infrastructure solution.

***Other parties' positions:***

**Bianca** stated that the **Parc Bodies Corporate** consider that the area is subject to natural hazards, and consider that the hearing of this topic be deferred until all information is available and can be heard together.

**Peter for Stratis** stated that there are many unknowns in how we respond to natural hazards, including how Central Government may respond in due course, and supports the statement from **Bianca**.

**Douglas** stated that **VHHL** opposes any qualifying matter on the Precinct relating to 'natural hazard risks'. **VHHL** considers any potential natural hazard risks related to flooded can be addressed independent of height and density in this context.

**Note from Marlene Oliver (Facilitator): The attention of the IHP is drawn to the following statements:**

**Conclusion – matters agreed / disagreed in relation to agenda items 1, 2, 3(a) and 3(b):**

**Expert Conferencing - Urban Design, Landscape/Visual, Heritage and Planning**

**All parties agree** to have technical expert caucusing involving urban design/architects, landscape/visual, heritage and planning. The experts for **VHHL** will prepare some material to be the basis of the discussions. **Douglas Allan** for **VHHL** to advise all parties when his team are ready and available so that a session can be scheduled (most likely after 29 June). The parties identified the following experts as attendees: For **VHHL** (**Graeme McIndoe**, **Rachel DeLambert** and **Nick Roberts**), for Auckland Council (**Deb Lee Sang**, **Peter Kensington**, **Sarah Wong**, **Elisabeth Laird** and **Megan Walker**), for **Eke Panuku Development Auckland** (**Nick McKay**, **Stephen Brown**, **Panjama Ampanthong**), for **Precinct Properties (TBC)**, for **Parc Bodies Corporate et al** (**David Haines**), and for **Stratis Body Corporate** (**Garth Falconer** and **Brian Putt**). If there are any other parties not present at mediation that wish to participate in expert conferencing, please contact the IHP Secretariat.

**(Note from Marlene Oliver (Facilitator):** At the end of the mediation session, following discussion among the affected experts, it was agreed to schedule the above expert conferencing session on 3 July 2023. Two relevant experts (one each for Auckland Council and The Parc Bodies Corporate are not available for the 3 July 2023. It is to be noted that the current hearing timetable restricts the time period when expert conferencing can occur prior to evidence exchange dates).

**Expert Conferencing - Transport**

**Auckland Council, Waka Kotahi and VHHL** agree that expert conferencing could occur relating to maximum parking rates after the expert conferencing on height and intensity described above.

**Timing of the hearing**

**The Parc Bodies Corporate et al, and Stratis Body Corporate** wish to record that they consider that the hearing on the Viaduct Harbour Precinct be deferred until the Council has completed its investigations into the implications of the recent severe weather events in Auckland.

**VHHL** are opposed to a deferment.

**Eke Panuku Development Auckland, Waka Kotahi, Precinct Properties and Auckland Council** will abide by the Panel's decisions.

**Duration of the hearing**

**VHHL** anticipates making a request to the panel to extend the number of hearing days (currently three days have been allocated) for the City Centre and City Centre precincts.

**3.4. Outstanding requests to Council for further information**

**Summary of issue:** section 32 material by Stephen Brown referred to an Architectus report, this has now been provided by Council to VHHL. Other parties have requested a copy and Diana Hartley confirmed this will be provided.

**Conclusion – matters agreed / disagreed:**

Resolved. No further action required.

**Note from Marlene Oliver (Facilitator): The following agenda items were not discussed:**

**3.5. Precinct description**

3.5.1. Whether the proposed amendment to the I211.1. Precinct description to include reference to "close to the water edge and public spaces" should be retained as sought in submissions?

**3.6. Objectives**

3.6.1. Whether to retain or reject the notified amendment to Objective I211.2(2)?

**3.7. Policies**

3.7.1. Whether to retain or reject the proposed amendments to Policy I211.3(4)(b) and whether to reinstate Policy I211.4(4)(c) in the operative AUP?

**3.8. Activity Table**

3.8.1. Whether to retain operative activity rule I211.4.1(A8) or to amend it as requested in submissions? [Note no change to Rule (A8) and activities in the Precinct is proposed by PC78].

**3.9. Maximum parking rates (Table I211.6.2.1)**

3.9.1. Whether to retain the operative maximum parking rates for dwellings in Viaduct Harbour Precinct in Table I211.6.2.1 or to delete them as requested in submissions? [Note no change to Table I211.6.2.1 is proposed by PC78].

**3.10. Precinct Height**

3.10.1. Whether to retain the notified approach to height for the Precinct as requested in some submissions or to delete all provisions governing height and replace them with new maximum height standards as requested in other submissions?

### **3.11. Precinct site intensity**

- 3.11.1. Whether to retain the notified approach to building intensity for the Precinct as requested in some submissions or to delete all provisions governing intensity as requested in other submissions?

### **3.12. Sub-precinct C - height limit, coverage, built intensity and Floor Area Ratio**

- 3.12.1. Whether to retain the notified approach to height, coverage, built intensity and Floor Area Ratio (FAR) for Sub-Precinct C as requested in the submission?

### **3.13. Open spaces**

- 3.13.1. Whether to retain the notified approach to I211.10.2 Viaduct Harbour Precinct plan 2 - Wharves and open spaces and Standard I211.6.6 Building coverage which manages the scale of development within Waitemata Plaza and Market Square to maintain their open space character as requested in the submission?


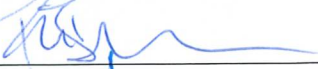



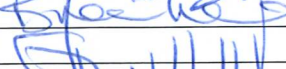
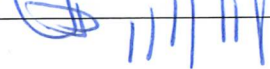
### **3.14. Natural hazards**

- 3.14.1. Whether to include an additional qualifying matter due to natural hazard risks to not enable any additional intensification?

## **4. Parties to Mediation Agreement**

- 4.1. The parties to this Mediation Agreement, as listed below, confirm that:
- a) They agree that the outcome(s) of the mediation are as recorded in this agreement; and

4.2 5.2. Confirmed 7 June 2023

| Name of representative | Party                                   | Representative's confirmation  |
|------------------------|---|--|
| Vrinda Moghe           | Eke Panuku Development Auckland         |  |
| Paula Brosnahan        | Precinct Properties New Zealand Limited |  |
| Angela Bull            | Viaduct Harbour Holdings Limited        |  |
| Bianca Tree            | The Parc Bodies Corporate et al         |  |
| Evan Keating           | Waka Kotahi                             |  |
| Bianca Tree            | Stratis Body Corporate                  |  |
| John Duguid            | Auckland Council                        |  |



## Mediation attendance sheet

Topic 020G: I211 Viaduct Harbour Precinct

Date: 7 June 2023

Mediator: Marlene Oliver

Location: Simpson Grierson, Level 27, 88 Shortland Street

| Submission number | Submitter name                  | Representative at mediation      | Email  | Notes (include arrival and leaving time where different) |
|-------------------|---------------------------------|----------------------------------|--|--|
| 950, FS252        | Eke Panuku Development Auckland | Nick McKay (Urban Design)        | <a href="mailto:nick.mckay@ekepanuku.co.nz">nick.mckay@ekepanuku.co.nz</a>                 |  |
| 950, FS252        | Eke Panuku Development Auckland | Panjama Ampanthong (Planning)    | <a href="mailto:panjama.ampanthong@ekepanuku.co.nz">panjama.ampanthong@ekepanuku.co.nz</a> |  |
| 950, FS252        | Eke Panuku Development Auckland | Vrinda Moghe (Planning)          | <a href="mailto:vrinda.moghe@ekepanuku.co.nz">vrinda.moghe@ekepanuku.co.nz</a>             |  |
| 950, FS252        | Eke Panuku Development Auckland | Stephen Brown (Landscape/Visual) | <a href="mailto:stephen@brownltd.co.nz">stephen@brownltd.co.nz</a>                         |  |
| 950, FS252        | Eke Panuku Development Auckland | Todd Langwell (Traffic)          | <a href="mailto:Todd@trafficplanning.co.nz">Todd@trafficplanning.co.nz</a>                 | Online   |

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| Submission number | Submitter name                          | Representative at mediation   | Email  | Notes (include arrival and leaving time where different) |
|-------------------|---|-------------------------------|--|--|
| 950, FS252        | Eke Panuku Development Auckland         | Bill Loutit (Legal)           | <a href="mailto:bill.loutit@simpsongrierson.com">bill.loutit@simpsongrierson.com</a>     |  |
| 950, FS252        | Eke Panuku Development Auckland         | Tracey Turner (Legal)         | <a href="mailto:tracey.turner@simpsongrierson.com">tracey.turner@simpsongrierson.com</a> |  |
| 1068, FS189       | Precinct Properties New Zealand Limited | Paula Brosnahan (Legal)       | <a href="mailto:paula.brosnahan@chapmantripp.com">paula.brosnahan@chapmantripp.com</a>   |  |
| 1068, FS189       | Precinct Properties New Zealand Limited | Campbell Arnott (Corporate)   | <a href="mailto:Campbell.Arnott@precinct.co.nz">Campbell.Arnott@precinct.co.nz</a>       |  |
| 1088              | Viaduct Harbour Holdings Limited        | Nick Roberts (Planning)       | <a href="mailto:nickr@barker.co.nz">nickr@barker.co.nz</a>                               |  |
| 1088              | Viaduct Harbour Holdings Limited        | Mary Wong (Planning)          | <a href="mailto:maryw@barker.co.nz">maryw@barker.co.nz</a>                               |  |
| 1088              | Viaduct Harbour Holdings Limited        | Graeme McIndoe (Urban Design) | <a href="mailto:graeme@mcindoeurban.co.nz">graeme@mcindoeurban.co.nz</a>                 |  |
| 1088              | Viaduct Harbour Holdings Limited        | Douglas Allan (Legal)         | <a href="mailto:dallan@ellisgould.co.nz">dallan@ellisgould.co.nz</a>                     |  |
| 1088              | Viaduct Harbour Holdings Limited        | Alex Devine (Legal)           | <a href="mailto:ADevine@ellisgould.co.nz">ADevine@ellisgould.co.nz</a>                   |  |
| 1088              | Viaduct Harbour Holdings Limited        | Angela Bull (Corporate)       | <a href="mailto:angela@tramco.co.nz">angela@tramco.co.nz</a>                             |  |

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| Submission number | Submitter name                   | Representative at mediation  | Email  | Notes (include arrival and leaving time where different) |
|-------------------|----------------------------------|------------------------------|--|--|
| 1088              | Viaduct Harbour Holdings Limited | Drugh Woods (Corporate)      |  |  |
| 2291              | The Parc Bodies Corporate Et al  | David Haines (Planning)      | <a href="mailto:david.haines@hainesplanning.co.nz">david.haines@hainesplanning.co.nz</a>   |  |
| 2291              | The Parc Bodies Corporate Et al  | Bianca Tree (Legal)          | <a href="mailto:bianca.tree@minterellison.co.nz">bianca.tree@minterellison.co.nz</a>       |  |
| 2291              | The Parc Bodies Corporate Et al  | Henry Sullivan (Legal)       | <a href="mailto:henry.sullivan@minterellison.co.nz">henry.sullivan@minterellison.co.nz</a> |  |
| 2291              | The Parc Bodies Corporate Et al  | Rebecca Tansley (Resident)   |  |  |
| 2291              | The Parc Bodies Corporate Et al  | Michelle Boag (Resident)     |  |  |
| 2049, FS43        | Waka Kotahi                      | Evan Keating (Planning)      | <a href="mailto:evan.keating@nzta.govt.nz">evan.keating@nzta.govt.nz</a>                   |  |
| 939               | Auckland Council                 | Sarah Wong (Planning)        | <a href="mailto:Sarah.Wong@aucklandcouncil.govt.nz">Sarah.Wong@aucklandcouncil.govt.nz</a> |  |
| 939               | Auckland Council                 | Deb Lee Sang (Urban Design)  | <a href="mailto:deb.leesang@isthmus.co.nz">deb.leesang@isthmus.co.nz</a>                   |  |
| 939               | Auckland Council                 | Severin Soder (Urban Design) | <a href="mailto:severin.soder@architectus.co.nz">severin.soder@architectus.co.nz</a>       |  |
| 939               | Auckland Council                 | Peter Kensington (Landscape) | <a href="mailto:peter@kplc.co.nz">peter@kplc.co.nz</a>                                     |  |
| 939               | Auckland Council                 | Ian Clark                    | <a href="mailto:ian@flownz.com">ian@flownz.com</a>   |  |

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| Submission number | Submitter name         | Representative at mediation                          | Email  | Notes (include arrival and leaving time where different) |
|-------------------|------------------------|--|--|--|
| 939               | Auckland Council       | Megan Walker (Historic Heritage / Special Character) | <a href="mailto:megan.walker@aucklandcouncil.govt.nz">megan.walker@aucklandcouncil.govt.nz</a>       |  |
| 939               | Auckland Council       | John Duguid (Planning)                               | <a href="mailto:John.Duguid@aucklandcouncil.govt.nz">John.Duguid@aucklandcouncil.govt.nz</a>         |  |
| 939               | Auckland Council       | Elisabeth Laird (Planning)                           | <a href="mailto:Elisabeth.Laird@aucklandcouncil.govt.nz">Elisabeth.Laird@aucklandcouncil.govt.nz</a> |  |
| 939               | Auckland Council       | Diana Hartley (Legal)                                | <a href="mailto:diana.hartley@dlapiper.com">diana.hartley@dlapiper.com</a>                           |  |
| 939               | Auckland Council       | Anne Buchanan (Legal)                                | <a href="mailto:anne.buchanan@dlapiper.com">anne.buchanan@dlapiper.com</a>                           |  |
| 2240              | Stratis Body Corporate | Adam Thompson (Capacity and Property Economics)      | <a href="mailto:adam@ue.co.nz">adam@ue.co.nz</a>   |  |
| 2240              | Stratis Body Corporate | Peter Fuller (Legal)                                 | <a href="mailto:peter.fuller@quaychambers.co.nz">peter.fuller@quaychambers.co.nz</a>                 | Online   |
| 2240              | Stratis Body Corporate | Mark Payman  | <a href="mailto:peryman@mac.com">peryman@mac.com</a>   |  |
| 2240              | Stratis Body Corporate | Brian Davis  | <a href="mailto:LJ-Davis@xtra.co.nz">LJ-Davis@xtra.co.nz</a>   |  |
| FS274             | Sanford Limited        | Daniel Sadlier (Legal)                               | <a href="mailto:dsadlier@ellisgould.co.nz">dsadlier@ellisgould.co.nz</a>                             | Online observer  |