

**IN THE MATTER** of the Resource Management Act 1991 (**RMA**)

**AND**

**IN THE MATTER** **Private Plan Change 61** (PC 61) – Lomai Properties Limited (Lomai) for land in the area generally bounded by Jesmond Road and Future Urban Zoned land to the east, Oira Road to the west, Future Urban Zoned land to the north and Karaka Road/State Highway 22 to the south (Drury West) to the Auckland Unitary Plan – Operative in Part.

**DIRECTION FROM THE HEARING PANEL**

**A WAIVER OF THE TIME LIMIT FOR FILING EVIDENCE OF MR LALA**

1. Pursuant to section 34 and 34A of the RMA, Auckland Council (the Council) has appointed a Hearing Panel consisting of independent hearing commissioners - Greg Hill (Chairperson), Mark Farnsworth and Karyn Kurzeja. The Hearing Panel has been delegated the authority to hear the plan change request and submissions, and make a decision on the plan change proposal.
2. The Hearing Panel has received an Application from Lomai's counsel<sup>1</sup> seeking a waiver for the late filing of the expert planning evidence of Mr Lala.
3. We issued directions<sup>2</sup> requiring that Lomai's expert evidence in support of its application for PC 61 be filed and pre-circulated on Friday 17 September 2021. On Sunday 19 September 2021, Mr Lala's evidence was filed and placed on the Council's website. Accordingly, while the evidence was late, it was not late with respect to "working days".
4. We grant the waiver sought for the reasons set out in the Application by Lomai's counsel.
5. Given the date the evidence was filed, we do not consider any party is unduly prejudiced. On this basis we have not amended the submitter or rebuttal evidence exchange dates set out in our initial directions. However, if any party considers it is prejudiced such that they cannot meet the evidence exchange date (for a planning witness) due to the late filing of Mr Lala's evidence then an application for a waiver of time can be made.

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<sup>1</sup> Dated 20 September 2021

<sup>2</sup> Dated 31 March 2021

6. Any enquiries regarding this Memorandum or any related matters should be directed to the Council's Senior Hearing Advisor, Mr Sam Otter by email at [sam.otter@aucklandcouncil.govt.nz](mailto:sam.otter@aucklandcouncil.govt.nz)

A handwritten signature in black ink, appearing to read "Greg Hill", followed by a period.

Greg Hill - Chairperson

20 September 2021

**BEFORE AN INDEPENDENT HEARINGS PANEL  
OF THE AUCKLAND COUNCIL**

**IN THE MATTER** of the Resource Management  
Act 1991 (**RMA**)

**AND**

**IN THE MATTER** of an application by Lomai  
Properties Ltd for a private plan  
change to the Auckland Unitary  
Plan (Operative in Part) to  
rezone 56 ha of Future Urban  
Zoned land in Drury West to a  
variety of residential, business  
and open space zones (Private  
Plan Change 61)

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**Application for waiver of time on behalf of Lomai Properties Ltd**

**20 September 2021**

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 **Simpson Grierson**  
Barristers & Solicitors

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**MAY IT PLEASE THE PANEL:**

1. Lomai Properties Ltd (**Lomai**) respectfully seeks a waiver of time for filing Mr Vijay Lala's statement of primary planning evidence in the application for plan change 61 (private): Waipupuke (**PC61**).
2. Lomai is the applicant of PC61. Lomai's evidence was due on Friday 17 September. Lomai filed 16 statements of evidence by 5pm on 17 September; however, Mr Lala's evidence was filed at 4pm on Sunday 19 September.
3. The reasons for the delay in filing Mr Lala's evidence are:
  - (a) As the planner for PC61, Mr Lala's evidence could not be completed until he had reviewed all 16 other witnesses' completed briefs of evidence;
  - (b) Several of Lomai's witnesses had difficulty preparing their draft evidence briefs within the scheduled timetable due to the current COVID-19 Alert Level 4 restrictions that have applied to Auckland since August 18;
  - (c) Specifically, several of Lomai's witnesses have childcare obligations which they needed to fit around work. This meant that for these witnesses, their working hours were restricted when compared to a typical working day;
  - (d) A further witness, Ms Ellen Cameron, had an urgent family emergency arise and had to travel to Canada which meant she was delayed in circulating her draft brief;
  - (e) As a result, and while Lomai were able to manage around these difficulties to some extent, and file all but one statement by the scheduled deadline, Mr Lala's evidence could not be completed until the weekend.
4. It is submitted that a waiver of time should be granted because:

- (a) The delay in filing Mr Lala's evidence is minor: only two days but no working days;
- (b) No person or submitter will be unduly prejudiced by the short extension, as it is for just one statement (the remaining evidence being filed within the deadline) and the extension involves no working days. Therefore, the extension will not affect a submitter's ability to respond to the applicant's evidence;
- (c) The extension is reasonable and justified given the COVID Alert Level 4 restrictions that apply to Auckland and the pressure that this has put on everyone, including Lomai's witnesses.

5. It is submitted that due to the short time delay in filing Mr Lala's evidence, no further changes are required to the hearing timetable.

**DATED** at Auckland this 20<sup>th</sup> day of September 2021



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Bill Loutit / Rachel Abraham  
Counsel for Lomai Properties Limited