

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

AND

IN THE MATTER **Intensification Planning Instruments (IPI) - Plan Change 78 to the Auckland Unitary Plan – Operative in Part (AUP-OP)**

HEARING DIRECTION (14 March 2023) FROM THE INDEPENDENT HEARING PANEL

PRELIMINARY HEARING – PLAN CHANGE 78 - INTERPRETATION AND SCOPE ISSUES

1. In accordance with Resource Management Act 1991 (RMA) - Part 6 Clause 96 of the First Schedule and sections 34 and 34A, the Auckland Council (the Council) has appointed an Independent Hearing Panel (IHP). The IHP has been delegated to hear submissions and make recommendations to the Council on the IPI plan changes and decisions on the non IPI plan changes.
2. During the Pre-Hearing Conference the IHP and other parties identified several issues of interpretation of relevance to the application of the IPI provisions in the RMA and Plan Change 78, as well as scope issues (in terms of the relief sought by submissions (cl 6 of the RMA First Schedule)). To consider and provide early guidance on these matters the IHP is scheduling a preliminary hearing for **3, 4 and 5 April 2023** to hear **legal submissions only** from the Council and those submitters who have addressed any of the following matters in their submissions.

The Auckland Light Rail Corridor (ALRC) and Special Housing Areas (SHA)¹

3. Are submissions that address the ALRC and the SHAs seeking that the provisions of Plan Change 78 be extended to the deferred ALRC area and the areas covered by the SHAs in the plan maps “on” the Plan Change (cl 6 of the RMA First Schedule), and if so, the implications of this for the IHP’s hearing and recommendation schedule?

Amendments to the AUPOP via Plan Change C78 (either per notification or submission relief) seeking to:

- **Change the zoning of non-residential zones (e.g., Industrial to Mixed Use), or extend existing non-residential zone (e.g., extend a Metropolitan zone), or include a new residential zone (e.g., change from business zone to residential zone).**
 - **Change or remove existing, or introduce new, plan provisions such as: activity status, development standards, noise controls, and AUP definitions (eg dwellings, household units, Community correction facility).**
4. Does s80E of the RMA limit the scope of the amendments that may be made to the AUPOP by the IPI, and if so, to what extent? Are submissions seeking such relief “on” Plan Change 78 in terms of cl 6 of the RMA First Schedule?

¹ Housing Accords and Special Housing Areas Act 2013

Qualifying Matters - Scope of discretion to make MDRS and policy 3 requirements less enabling (s77I (residential areas) and s77O (non-residential areas))

5. Is the Council the only party who can exercise the discretion (i.e., per notification of the IPI, or by way of variation) to include Qualifying Matters per s77I(a) to (j) or s77O(a) to (j)? Or can any party request the inclusion of additional Qualifying Matters, or the extension of notified Qualifying Matters to other geographical areas covered by PC78?
6. If other parties can seek the inclusion or extension of Qualifying Matters, what information is required (in terms of ss77J, 77K and 77L, or ss77P, 77Q and 77R) for them to be included in Plan Change 78?
7. In terms of ss77L and 77R specifically, what does a “site-specific” analysis require?

Urban Environment

8. The definition of “Urban Environment” is:

***urban environment** means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:*

(a) is, or is intended to be, predominantly urban in character; and
(b) is, or is intended to be, part of a housing and labour market of at least 10,000 people
9. Can areas such as Wellsford, Snells Beach and other settlements, be excluded from Plan Change 78 on the basis of their location/disconnection from the contiguous urban area notwithstanding they are predominantly urban in character and are part of Auckland’s housing and labour market (of at least 10,000 people), and if not, what are the implications of this for the IHP’s hearing and recommendation schedule?

Relevant Residential Zone

10. Are the Future Urban Zone and the Residential - Large Lot Zone relevant residential zones under s77G of the RMA and thus required to have the MDRS incorporated in them? If so, what are the implications of this for the IHP’s hearing and recommendation schedule?

Rapid Transit Stops

11. Are Ferry Terminals “Rapid Transit Stops” for the purposes of NPS-UD Policy 3 given their definition and that of “Rapid Transit Service” (as follows), and if so, what are the implications of this for the IHP’s hearing and recommendation schedule?

***rapid transit service** means any existing or planned frequent, quick, reliable and high-capacity public transport service that operates on a permanent route (road or rail) that is largely separated from other traffic*

***rapid transit stop** means a place where people can enter or exit a rapid transit service, whether existing or planned*
12. The IHP Directs that legal submissions from parties, including the Council, are to be filed with the Senior Hearing Advisor (see contact details below) no later than **9am 27 March 2023**.

13. The purpose of this Direction is to provide the opportunity for the IHP and the other parties to have read and considered any legal submissions in advance of the hearing to assist in understanding the case being presented. As the IHP will have read all the pre-circulated material before the hearing, there will be no need for it to be read out. An executive summary may be read out or the key points highlighted.
14. Any enquiries regarding this Direction, or related matters, should be directed to the Senior Hearing Advisor, Mr Sam Otter by email at npsudhearings@aucklandcouncil.govt.nz

Greg Hill Chairperson

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

14 March 2023