



5 May 2026

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Chair, Independent Hearing Panel for PC120 to the AUP  
c/o IHP Panel Secretariat  
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Dear Sarah

**PLAN CHANGE 120 TO THE PARTLY OPERATIVE AUCKLAND UNITARY PLAN (“PC120”) – REMOVAL OF PANEL MEMBER STUART DONOVAN**

1. On behalf of the trustees of The Rosanne Trust (“Trust”), we are aware the Panel has now requested and received advice from Lachlan Muldowney dated 21 April 2026, regarding the identification and management of conflicts of interest arising for Panel members. Clearly, this advice is directly relevant to matters the Trust has raised regarding Stuart Donovan’s membership of the Panel, via our correspondence of 11 March and 10 April 2026.
2. We note Mr Muldowney records that the Panel is currently preparing both a *Register of Interests* and a *Register of Relationships with Submitter Parties* (collectively, the “Registers”). The Registers will be made available on the Panel’s website once completed. Mr Muldowney then goes on to advise as follows:
  - (a) In accordance with the *Auditor-General’s Managing conflicts of interest: a guide for the public sector*, predetermination is one of the categories of conflict that should be identified and recorded in the Registers, as appropriate.
  - (b) Responsibility for deciding what action should be taken to best manage identified conflicts primarily lies with you as the Panel Chair. And that decision will be informed by an assessment of how “serious” the conflict is (or we would note, is *perceived* to be).
  - (c) In accordance with the High Court Recusal Guidelines (“Guidelines”),<sup>1</sup> a Panel member should stand aside or stand down if:<sup>2</sup>

*in the circumstances, a fair-minded, fully informed observer would have a reasonable apprehension that the Panel member might not bring an impartial mind to the resolution of the question the Panel is required to determine and make a recommendation on.*

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<sup>1</sup> High Court Judicial Recusal Guidelines: Hon Justice G J Venning Chief High Court Judge – Te Kaiwhakawā Matua 12 June 2017.

<sup>2</sup> *Ibid*, at [1.2] (with necessary amendments to reflect reference to Panel members, rather than Judges).

- (d) With respect to a conflict arising due to previously expressed opinions, the Guidelines state:<sup>3</sup>
- 5.1 *A judge should consider recusing him or herself if the case concerns a matter upon which the judge has made public statements of firm opinion on the issue before the court.*
- 5.2 *An expression of opinion in an earlier case or in an earlier stage of a proceeding is not of itself a ground for recusal.*
- (e) While it is not the final decision maker for PC120, the Panel may make decisions which affect submitter rights and interests and could therefore be subject to review.
3. The Trust:
- (a) Is pleased to hear the Registers are being prepared and awaits the public release of those in a timely manner; and
- (b) Otherwise agrees with and endorses Mr Muldowney's advice as outlined in paragraph 2 above.
4. Consistent with Mr Muldowney's advice, the Trust therefore expects the Registers will identify and record Dr Donovan's strong and well publicised views in support of wide-spread upzoning (as appropriate), as raising potential conflict issues under the category of pre-determination. The following are examples of Dr Donovan's recent memberships, research papers and public statements (from the many we could have selected), which would need to be reflected in the Registers:
- (a) From May 2024 to early 2025, Dr Donovan was a member of the Housing Expert Advisory Group ("HEAG"). The HEAG was appointed by Chris Bishop and its role was to support policy design for this administration's "Going for Housing Growth" work programme, with a specific focus on increasing land supply and development efficiency. This work included considering and advising on potential amendments to the National Policy Statement on Urban Development ("NPSUD") to further strengthen its intensification requirements. Those amendments were ultimately not pursued, due to resourcing constraints. However, they considered matters (such as the appropriate extent of walkable catchments) directly relevant to PC120, given that plan change is required to implement the NPSUD.
- (b) Dr Donovan is co-author of a paper<sup>4</sup> which argues that equal merit should *not* be given to "*both sides*" of the debate on zoning reforms, as this would create a "*false equivalency*". In other words, he considers it is now beyond question (and not even worth debating) that upzoning increases housing supply and reduces housing prices. In his paper, he dismisses those to argue to the contrary as "*supply sceptics*" and even suggests they should be "*sanctioned*" as expert witnesses for not presenting economic evidence in an "*accurate and balanced manner*".

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<sup>3</sup> Ibid, at [5.1]-[5.2].

<sup>4</sup> Stuart Donovan and Matthew Maltman (February 2025): *Dispelling myths: Reviewing the evidence on zoning reforms in Auckland*, Land Use Policy, Volume 151, id 107498.

- (c) An experienced Australian lawyer and urban designer published evidence<sup>5</sup> demonstrating that continuing to upzone in the face of declining construction activity (primarily due to increasing construction cost) can actually reduce housing supply and increase housing prices (the main component of which is land value). Because the upzoning artificially inflates land values to a level that land development becomes increasingly costly and then eventually, economically unfeasible. At that point, landowners simply landbank their properties at the inflated land value. In response, Dr Donovan strongly dismissed this theory and “encouraged” his peer to “rethink your logic on excessive upzoning”.
- (d) An experienced Canadian urban planner shared an article<sup>6</sup> regarding population decline in Vancouver, at a time when British Columbia is also pursuing policies seeking to increase housing supply. In doing so, he suggested that “community” should be put back into “community planning”, by allowing residents to have a greater voice in shaping the future of their neighbourhoods. Rather than those communities being required to uncritically (and unthinkingly) implement provincially mandated development/upzoning targets which may result in poor planning/amenity outcomes. Dr Donovan responded by encouraging the planner to “reflect on what growth means in this context”. And arguing that this was not an issue of “growth” versus “community”. But rather an ethical judgement of how much weight should be given to meeting the needs of existing versus new residents. In doing so, Dr Donovan clearly demonstrated he is strongly of the view that the latter deserves (significantly) more weight.
- (e) In March 2025, Dr Donovan told Radio New Zealand reporter Emile Donovan he would:<sup>7</sup>

*love to see a lot more development in central areas...If we don't we are going to see more sprawl...I think we've kind of got ourselves in a delusion recently that we can just build townhouses and small apartment buildings and that will be enough...I don't think we've fully embraced the benefits of height and really allowing buildings of up to 20 storeys tall. We should be seeing a lot more buildings of that height in places like Auckland, because the land values support it, and we just haven't allowed it to happen in enough places. And when you start going really tall with your buildings like that, you free up more green space, either within the city or on the edge of the city, for things like trees...We haven't quite realised the benefits of height.*

5. The issue then arises for you as Chair (together with Dr Donovan) to decide what action should be taken to best manage that identified conflict. As Mr Muldowney has outlined, the appropriate action is likely to be one of the following:
- (a) Disclosure only;
- (b) Disclosure and seeking views of interested parties before action taken;
- (c) Disclosure and action taken within the PC120 process for the Panel member to step aside from participating in and influencing the Panel's evaluation of an issue; or
- (d) Disclosure and full recusal/stepping down, or removal by the Council or Ministers, as a Panel member.

<sup>5</sup> [Link to Stephen Mikicich's LinkedIn post.](#)

<sup>6</sup> [Link to Marc Lane's LinkedIn post.](#)

<sup>7</sup> [Link to Radio New Zealand interview, March 2025.](#)

6. For the reasons outlined in our previous correspondence to you/the Panel, our clear view is that in this instance, Dr Donovan's views (and his continuing, recent reiteration of those views via social media) would cause a fair-minded, fully informed observer to reasonably apprehend that he might not bring an impartial mind to the resolution of the economic (and broader planning) issues the Panel is required to determine and make a recommendation on. Thus, the appropriate action is either for Dr Donovan to voluntarily step down from the Panel or if not, for him to be removed from the Panel by the Ministers who appointed him (at your request/instigation).
7. Alternatively,<sup>8</sup> if the Ministers fail to remove him from the Panel, as Chair and a lawyer, you must then take all steps necessary to ensure his predetermination and bias is not allowed to infiltrate or impact on the Panel's recommendations in any way. As Mr Muldowney has indicated, such steps could (and should) include, for example, not allowing him to participate in hearing or deliberating on certain hearing topics or submissions. Given there will be very few (if any) PC120 hearing topics/submissions which do not involve the economic matters that Dr Donovan has expressed strong views on, we consider this means he would only be able to participate in an extremely limited range of PC120 hearings.
8. The Trust awaits the release of the Registers and following that, confirmation of how you have decided Dr Donovan's identified conflicts should be best managed.
9. In the interim, we reiterate that the Trust will consider taking legal proceedings to challenge any of the Panel's recommendations (or Auckland Council decisions made on the basis of those recommendations), which it considers have not been made in accordance with natural justice. We also again confirm we are instructed that this correspondence can, and should, be made publicly available via the Panel's website.

Yours faithfully



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Director

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<sup>8</sup> And noting the Trust does not support this alternative, over Dr Donovan being removed from the Panel.