

## Auckland Unitary Plan – Proposed Plan Change 78 – Decisions on Independent Hearing Panel recommendations for Metropolitan Centres

### Te take mō te pūrongo Purpose of the report

1. To seek Auckland Council decisions on the Independent Hearings Panel recommendations on proposed Plan Change 78: Intensification for the Metropolitan Centre Zone provisions including relevant precincts and qualifying matters.

### Whakarāpopototanga matua Executive summary

2. On 18 August 2022, Auckland Council publicly notified Plan Change 78: Intensification (PC78), its Intensification Planning Instrument (IPI). PC78 was required to give effect to Policy 3 of the National Policy Statement on Urban Development 2020 (updated May 2022) (NPS-UD) by enabling greater levels of intensification than already enabled in the Auckland Unitary Plan (AUP), and incorporating medium density residential standards (MDRS) into most residential zones. With respect to metropolitan centres, the NPS-UD required PC78 to enable “in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least six storeys”.
3. The AUP applies the Metropolitan Centre Zone to 11 of Auckland's larger commercial/civic centres. The 11 locations are:
  - Albany
  - Takapuna
  - Westgate
  - Henderson
  - New Lynn
  - Newmarket
  - Sylvia Park
  - Manukau
  - Botany
  - Papakura
  - Drury
4. While the council has recently withdrawn the majority of PC78 and replaced it with Proposed Plan Change 120: Housing Intensification and Resilience (PC120), given the advanced stage of the hearings for most of the Metropolitan Centre Zones (except New Lynn and Westgate), this part of PC78 has not been withdrawn. The only Metropolitan Centres included in PC120 are New Lynn and Westgate.
5. By way of background, the AUP already provides for a general maximum building height of 72.5 metres (which is approximately 18-19 storeys) in these locations. PC78 largely retained that control, while proposing a relaxation of some other controls on building density and urban form.

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6. In March 2023, the council appointed an Independent Hearings Panel (IHP) to hear the submissions on PC78 and to make recommendations to the council. The IHP provided its recommendations for the Metropolitan Centre Zone provisions on 12 September 2025.
7. The IHP Recommendation Report (appended as Attachment A to this agenda report) supported most of the council's proposed Metropolitan Centre Zone provisions.
8. The main benefit of the recommended changes to the Metropolitan Centre Zone provisions is that they will enable even greater opportunities for commercial and residential development (through a relaxation of some of the controls on building density and form) in locations with excellent access to a wide range of goods, services and community activities/facilities, supported by frequent/rapid public transport.
9. The council is now required to make decisions on the IHP recommendations and must decide whether to accept or reject each recommendation. For any IHP recommendation the council rejects, the council will need to refer those rejected recommendations to the Minister for the Environment (including reasons for the rejection) and provide an alternative recommendation. The Minister's decision cannot be appealed.
10. This report recommends that the Policy, Planning and Development Committee accepts the IHP recommendations and adopts the reasons set out in Attachment A, with the exception of the recommendations applying to part of the Newmarket Special Character Area Business overlay, as this land is outside the Newmarket Metropolitan Centre Zone, has been withdrawn from PC78 and is included in PC120.

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## Ngā tūtohunga Recommendation/s

That the Policy, Planning and Development Committee:

- a. whiwhi / receive the Independent Hearings Panel Recommendation Report for Metropolitan Centre Zone provisions, appended as Attachment A to the agenda report.
- b. whakaae / accept the Independent Hearings Panel recommendations and adopt the reasons as set out in Attachment A, with the exception of the recommendation applying to the part of the Newmarket Special Character Area Business overlay outside the Newmarket Metropolitan Centre Zone.
- c. whakahē / reject the Independent Hearings Panel recommendation applying to the part of the Newmarket Special Character Area Business overlay outside the Newmarket Metropolitan Centre Zone because:
  - i. the recommendation applies to land outside the Newmarket Metropolitan Centre Zone
  - ii. Proposed Plan Change 78 was withdrawn in part on 9 October 2025 in relation to those areas of land (which are included in Proposed Plan Change 120: Housing Intensification and Resilience).
- d. tūtohu / recommend to the Minister for the Environment that the existing operative Auckland Unitary Plan provisions are retained for those areas of land identified in recommendation (c).
- e. whakaae / approve the correction of minor errors, as set out in Attachment B of the agenda report, in accordance with clause 102(2), Schedule 1 of the Resource Management Act.
- f. tono / request staff to undertake the necessary steps to make the Metropolitan Centre Zone provisions operative, for all accepted Independent Hearings Panel recommendations.

- g. tono / request staff to refer the rejected recommendations, together with the reasons for rejection in (c) and any alternative recommendation in (d) to the Minister for the Environment.

## Horopaki Context

### Legislative and policy context

11. The National Policy Statement on Urban Development 2020 (NPS-UD), amended May 2022, sets out the requirements for territorial authorities to provide development capacity and well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.
12. The RMA was amended by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021, which set out the process that councils must follow to give effect to the NPS-UD and incorporate medium density residential standards (MDRS) into relevant residential zones in their district plans through the use of an Intensification Planning Instrument (IPI).
13. NPS-UD Policy 3(b) and Policy 4, and sections 77I and 77O of the RMA are relevant to the Metropolitan Centre Zone. There are no relevant residential zones in the Metropolitan Centre Zone into which MDRS must be incorporated.
14. Policy 3(b) of the NPS-UD requires that, in relation to tier 1 urban environments, regional policy statements and district plans enable in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys.
15. The council notified its IPI, Plan Change 78: Intensification (PC78) to the Auckland Unitary Plan (AUP), on 18 August 2022.
16. The Resource Management (Direction for the Intensification Streamlined Planning Process to Auckland Council) Amendment Direction 2025 came into force on 17 March 2025 and directed that Council must notify its decisions on the IHP recommendations on PC78 (including the Metropolitan Centre Zone provisions that are subject to Policy 3(b) of the NPS-UD), no later than 31 March 2026.

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### Metropolitan Centre Zone context

17. The IHP recommendations address the Business – Metropolitan Centre Zone, four precincts (Albany Centre, Takapuna 1, Manukau and Sylvia Park); and those parts of overlays, controls and designations that apply within the spatial extent of the Metropolitan Centre Zone.
18. The recommendations do not address the New Lynn or Westgate Precincts that apply within the Metropolitan Centre Zone as these precincts also include residential zoned land, and the IHP has determined that it would be inappropriate to issue recommendations on these precincts in advance of hearing submissions on the residential zones. The New Lynn and Westgate precincts have been included in PC120: Housing Intensification and Resilience, which was notified on 3 November 2025.

### Plan Change 78 Metropolitan Centre Hearings

19. In March 2023, the council appointed an IHP to hear the submissions on PC78 and to make recommendations to the council. The members of the IHP have expertise in resource management law, planning, urban design, special character, heritage and Te Ao Māori.
20. The hearings before the IHP on the PC78 Metropolitan Centre Zone provisions and relevant precincts was split into two sessions between 19 and 20 September 2023, and between 25 to 26 November 2024. A further hearing on Metropolitan Centre Outstanding Matters was held on 3 and 4 June 2025, and a final hearing of three additional submissions points omitted in the earlier hearings was held online on 20 August 2025.

## Recommendations and decisions process

21. The process that council must follow in making decisions on the IHP's recommendations on PC78 is set out in clause 101 of Schedule 1 of the RMA.
22. The council is required to make decisions on the IHP recommendations and must decide whether to accept or reject each recommendation of the IHP.
23. If the council rejects an IHP recommendation, the council must provide a reason for the rejection and may provide an alternative recommendation. Rejected recommendations go to the Minister for the Environment (the Minister) for a decision.
24. When the council is making decisions on the IHP recommendations, clause 101(4) of Schedule 1 of the RMA sets out that the council:
  - a. is not required to consult any person or consider submissions or other evidence from any person
  - b. must not consider any submission or other evidence unless it was made available to the IHP before the IHP made the recommendation that is the subject of the council's decision
  - c. may seek clarification from the IHP on a recommendation in order to assist the council to make a decision on the IHP recommendation.
25. Clause 101(5) provides that the council may accept recommendations of the IHP that are beyond the scope of the submissions made on PC78 (the IPI).

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## Accepting Independent Hearings Panel recommendations

26. For any IHP recommendations that the council accepts, when the council publicly notifies its decisions, the plan (as altered by those recommendations) is deemed to have been approved by the council under [clause 17\(1\)](#) of Schedule 1 of the RMA, and the council will also advise the date that the Metropolitan Centre Zone provisions will be made operative. This process is provided for in clauses 103 and 104 of Schedule 1 of the RMA.
27. This is different to the usual approach for making a plan change operative, where plan change decisions are made by Independent Hearing Commissioners and it is only once the Environment Court appeal period expires and there are no appeals, or any Environment Court appeals are resolved, that a Committee of the council can approve the plan change and direct staff to make it operative.
28. This difference is because for the IPI process there are no rights of appeal in relation to the council's decision (or the Minister's decision) on PC78, and the RMA specifies that for any IHP recommendations that the council accepts, when the Council publicly notifies its decisions, the plan (as altered by those recommendations) is deemed to have

been approved by the council under [clause 17\(1\)](#) of Schedule 1 of the RMA when the council publicly notifies its decision.

29. The date that the provisions will be made operative must be at least five working days after the public notice, in accordance with clause 20(2) of Schedule 1 of the RMA. Clause 102(2) of Schedule 1 of the RMA provides for councils to accept a recommendation but alter the recommendation in a way that has a minor effect or to correct a minor error. Council staff have identified some minor errors to be corrected, as set out in Attachment B.

## Rejecting Independent Hearings Panel recommendations

30. For any IHP recommendations that the council rejects, the council will need to provide reasons for the rejection and an alternative recommendation to refer to the Minister. The Minister will then consider the IHP recommendation and the council's alternative recommendation and make a decision.
31. The Minister must decide to accept or reject any or all of the IHP recommendations referred to the Minister (where the council has made a decision to reject the IHP recommendation). For any IHP recommendation that the Minister rejects, the Minister must decide whether to accept the council's alternative recommendation.
32. There is no timeframe set in the RMA for the Minister's decision. The Minister's decision cannot be appealed.

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## Tātaritanga me ngā tohutohu Analysis and advice

33. On 12 September 2025, the IHP provided their recommendations to the council on the parts of Plan Change 78 that are subject to Policy 3(b) of the NPS-UD. The IHP Recommendation Report and appendices are available on the council's website at <https://new.aucklandcouncil.govt.nz/en/plans-policies-bylaws-reports-projects/our-plans-strategies/unitary-plan/auckland-unitary-plan-modifications/proposed-plan-changes/pc-78-intensification.html>.
34. The IHP Recommendation Report, is attached as Attachment A.
35. Staff have considered the IHP recommendations in light of the council's expert witness evidence for the hearings on the PC78 Metropolitan Centre Zone provisions, and its position in legal submissions.

## Independent Hearings Panel recommendations

36. The IHP largely accepted the council's planning and other expert evidence, and supported most of the proposed Metropolitan Centre Zone provisions, along with a small number of consequential amendments. There are however, two recommendations of the IHP that did not align with council's position. These recommendations and the staff's responses are outlined in Table 1 below.

**Table 1: IHP recommendations that differed from council's position**

Topic	Special Character Area (SCA) Business overlay in Newmarket
IHP recommendations	(1) The IHP recommended retaining the operative extent of the SCA Business overlay applying to the Newmarket Metropolitan Centre Zone, which included Business – Mixed Use and residential zoned sites at the

	<p>corner of Remuera and Middleton Roads outside of the Metropolitan Centre Zone. They determined that it was necessary to retain the operative extent of the SCA Business overlay to accommodate the qualifying matter.</p> <p>(2) The IHP also recommended adoption of a site-specific restricted discretionary activity status rule (in Table D18.4.2 – Activity Table), not only for 424 Khyber Pass Road (as the Council had suggested in its reply submissions) but also for the Business – Mixed Use zoned sites re-categorised to character defining buildings located at the corner of Remuera and Middleton Roads (refer Attachment C).</p>
<b>Staff recommendation</b>	<p>Council rejects that part of the IHP's recommendations applying to the Newmarket SCA Business overlay that is outside the Newmarket Metropolitan Centre Zone. These are recommendations on the extent of the overlay and the site-specific restricted discretionary activity demolition rule for Business – Mixed Use zoned sites at the corner of Remuera and Middleton Roads.</p> <p>The IHP recommendations were made on 12 September 2025. On 9 October 2025, the council withdrew the remaining parts of Plan Change 78 (PC78), except where they relate to the:</p> <ul style="list-style-type: none"> <li>• Business - Metropolitan Centre Zone topics</li> <li>• Business - Metropolitan Centre Zone precinct topics (excluding Westgate and New Lynn precincts which are withdrawn), and</li> <li>• qualifying matter topics related to the Business – Metropolitan Centre Zone.</li> </ul> <p>PC78 has been withdrawn from land outside the Metropolitan Centre zones (including the Newmarket Metropolitan Centre Zone). The council is unable to accept the IHP's recommendations insofar as they relate to the Business – Mixed Use and residential zoned sites beyond the Metropolitan Centre Zone.</p> <p>Plan Change 120: Housing Intensification and Resilience was notified on 3 November 2025, and includes provisions relating to these sites at the corner of Remuera and Middleton Roads.</p>

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### Staff recommendations

37. Staff recommend that the council **rejects** that part of the IHP's recommendations applying to the Newmarket SCA Business overlay that is outside the Newmarket Metropolitan Centre Zone. These are recommendations on the extent of the overlay and the site-specific restricted discretionary activity demolition rule for Business – Mixed Use zoned sites at the corner of Remuera and Middleton Roads.
38. These parts of the IHP's recommendations apply to land that does not align with the council's withdrawal of PC78 (in part) on 9 October 2025 from land outside the Metropolitan Centre Zones and notification of PC120, which proposes an intensification response for the Business – Mixed Use and residential zoned sites at the corner of Remuera and Middleton Roads outside the Metropolitan Centre Zone.

### Minor errors

39. Some minor errors have been identified by staff which require correction in Attachment B. Clause 102(2), Schedule 1 of the RMA, enables council to accept a recommendation but alter the recommendation in a way that has a minor effect or to correct a minor error. If council wishes to use the power in clause 102(2) it must, when publicly notifying its decisions, set out the alterations that it has made to the IHP's recommendation.

## Tauākī whakaaweawe āhuarangi Climate impact statement

40. The council's climate plan, Te Tāruke-ā-Tāwhiri: Auckland's Climate Plan, has called for a 64 per cent reduction in transport emissions by 2030. The council's Transport Emissions Reduction Plan 2022 outlines concrete actions to dramatically reduce transport emissions by 2030.
41. The Metropolitan Centre Zone provisions of PC78 contribute to emissions reductions by relaxing some controls on the overall intensity of development, and continuing to provide for a zone height standard of 72.5 metres (approximately 20 storeys) in locations that are close to employment, rapid and/or frequent public transport, and a wide range of amenities. This is well in excess of the "at least six storeys" referenced in the NPS-UD.

## Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

42. The council group including Auckland Transport and Watercare Services Limited contributed to the development of the PC78 Metropolitan Centre Zone provisions and hearings process. Auckland Transport and Watercare Services Limited have not raised any concerns with the IHP recommendations.

## Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe Local impacts and local board views

43. Local board contributed to the development of PC78 through workshops and through the formal expression of their views through resolutions at business meetings. The IHP recommendations are not in conflict with the views expressed by local boards.

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## **Tauākī whakaaweawe Māori**

### **Māori impact statement**

44. Consultation with mana whenua was undertaken under clause 3(1)(d) of Schedule 1 of the RMA during the preparation phase of PC78 and council staff sought the views of mana whenua at that time. In addition, the council provided a copy of the proposed draft PC78 to the iwi authorities consulted under clause 3(1)(d) of Schedule 1, and had particular regard to any advice received on proposed PC78 from those iwi authorities, as required by clause 4A of Schedule 1 of the RMA.
45. Three mana whenua groups: Ngāti Tamaoho, Ngāti Te Ata Waiohū, and Te Ākitai Waiohū along with the Tūpuna Maunga o Tāmaki Makaurau Authority lodged submissions on the Metropolitan Centre Zone provisions and relevant qualifying matters.
46. These submissions covered matters including Significant Ecological Areas, Maunga Viewshafts and Height Sensitive Areas, Natural Hazards, Notable Trees, and the Metropolitan Centre Zone provisions. The requests were largely supported by the IHP.

## **Ngā ritenga ā-pūtea**

### **Financial implications**

47. The PC78 process has been budgeted for as part of the Planning and Resource Consents Department work programme.

## **Ngā raru tūpono me ngā whakamaurutanga**

### **Risks and mitigations**

48. The IHP have now made recommendations on the PC78 Metropolitan Centre Zone provisions. The council can either accept or reject the recommendations and is required to publicly notify its decisions on the IHP recommendations no later than 31 March 2026.
49. There is no timeframe set in the RMA for the Minister's decision on any rejected IHP recommendation referred to them. However, the IHP recommendations that the staff are proposing be rejected are on land outside of the Metropolitan Centre Zone, where the PC78 provisions were withdrawn by the council on 9 October 2025, so there is no urgency around the Minister's decision-making. IHP recommendations which are accepted by the council are deemed approved on notification of the council's decisions and will become operative in accordance with clause 104 (if some IHP recommendations are accepted and some are rejected) and clause 20 of Schedule 1 of the RMA.
50. There are no rights of appeal under the RMA against the council's decisions on the IHP recommendations, or on the Minister's decisions. However, the council's decisions could be challenged by way of judicial review proceedings in the High Court. To mitigate this risk, it is important that the council ensures that it follows the process set out in clauses 101-104 of Schedule 1 of the RMA for making its decisions on the IHP recommendations. Under clause 101(4) of Schedule 1 the council is not permitted to consider any submissions or other evidence that was not made available to the IHP before they made their recommendations. The council must consider all relevant matters, not consider irrelevant matters, and it must act reasonably.

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## Ngā koringa ā-muri Next steps

51. Once the council has made its decisions on the IHP recommendations, it is required to publicly notify its decisions in accordance with clause 102, Schedule 1 of the RMA. The next steps the council will take following the council making its decisions on the IHP recommendations will be as follows:
- The council will publicly notify its decisions on the IHP recommendations on the Metropolitan Centre Zone provisions in PC78, and include in the public notice the date that the Metropolitan Centre Zone provisions that are accepted by the council will become operative.
  - The council will refer any rejected IHP recommendation(s), together with the council's reasons for rejecting the IHP recommendation(s) and provide any alternative recommendation(s) to the Minister to make a decision.
  - The council will serve a copy of the public notice of the council's decisions on the IHP recommendations on the Metropolitan Centre Zone provisions in PC78 on every person who made a submission on the Metropolitan Centre Zone provisions of PC78 not later than five working days after the council's decisions are publicly notified.
  - The council will make a copy of the public notice and the council's decisions on the IHP recommendations on the Metropolitan Centre Zone provisions in PC78 publicly available on the council's website.
52. Once decisions are made on the IHP recommendations on the Metropolitan Centre Zone and the provisions become operative, the PC78 process will be concluded.

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## Ngā tāpirihanga Attachments

- A - Independent Hearings Panel Recommendation Report
- B - Corrections of Minor Errors via Clause 102 Schedule 1 RMA
- C - Independent Hearings Panel Recommendation – Newmarket SCA Business Overlay map
- D. PRESENTATION - PC78 Metro Centre Zone

## Ngā kaihaina Signatories

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