

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

AND

IN THE MATTER **Intensification Planning Instruments Plan Changes (IPI) and related Regional Policy Statement and Plan Changes to the Auckland Unitary Plan – Operative in Part (AUP-OP)**

REFUSING A LATE FURTHER SUBMISSION FROM 151 PROPERTY NZ LIMITED - PLAN CHANGE 78.

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. It's delegations also include addressing any procedural matters.
2. Under clause 98(3), Part 6 of Schedule 1 and section 37 (and for the reasons set out in section 37A) of the RMA, the IHP has the ability to accept or reject any late (further) submissions.
3. Counsel for 151 Property NZ Limited has sought a waiver to file a late further submission¹. The reasons for this are set out in paragraph 10 and 11 of the waiver request. The waiver request also stated²:

The IHP's minute also states that "unless there are extenuating circumstances [the IHP] is unlikely to accept other late further submissions. This is because this is likely to impact the planning and scheduling of the alternative dispute resolution sessions and the hearings."

4. Paragraph 11 of the waiver request states:

Overall, it is submitted that these are extenuating circumstances. 151 Property is a significant property manager in the Viaduct Harbour Precinct and Wynyard Precinct, and it (and the ground lease holders) will be significantly adversely affected by the relief sought in the submission by VVHL. Notwithstanding the lateness of the further submission, there will be significant prejudice to 151 Property if this late submission is not accepted.

5. It is the IHP's decision that no extenuating circumstances have been proven in relation to the filing of the request. The Further Submission period closed earlier in 2023, and a process was put in place to accept a number of late Further Submissions after that date; allowing a significant period in which to file further submissions. Since that time a number of hearings have been held and dispute resolution sessions (ADR), both mediation and expert conferencing, has already occurred in relation to the Viaduct Harbour and Wynyard Precincts.

¹ Dated 11 July 2023

² Paragraph 6

6. Furthermore, the IHP does not consider it will be assisted by accepting the late further submission as the issues raised are already canvassed by other submitters, as evidenced by the following³:

The submission points by Viaduct Harbour Holdings Limited (VHHL) (submitter 1088), that 151 Property opposes, are already opposed by other parties including in the further submissions made by The Parc Bodies Corporate Et al (further submission 392) and Eke Panuku Development Auckland (further submission 252);

In addition, paragraphs 10(b)(i), (ii) & (iv) of the waiver provide full or partial support for the submissions of other submitters who are already involved in the hearing.

7. On this basis the IHP is not convinced that accepting the late submission will further assist the IHP in achieving an adequate assessment of the plan change.
8. Any enquiries regarding this decision, or related matters, should be directed to the Council's Senior Hearing Advisor, Mr Sam Otter by email at npsudhearings@aucklandcouncil.govt.nz



Greg Hill Chairperson

24 July 2023

³ Paragraph 10 (b) (iii).