

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 SUBMISSION FROM MR LUKE MEYS - 23, 23A, 25, 25A, 31, 31B, 33A, 33B, 35A and 35B John Court Street Birkenhead - RE 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. Its 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 submissions.
3. The IPI and non IPI plan changes were notified on 18 August 2022, with the submission period closing on 29 September 2022. The “Summary of Decisions Requested” to the submissions lodged to the IPI and non IPI plan changes was notified on 5 December 2022. The further submission period closed on the 20 January 2023¹.
4. Mr Meys has sought to file a late submission in relation to the zoning of the properties listed above on John Court Street, Birkenhead. His submission seeks *“that all of the properties proposed to be zoned orange for terrace/apartment zone by PC78 which are more than 80-100 metres down the one-way driveway are zoned mixed urban”*.
5. The reason given for the lateness was set out in an email from Mr Meys dated 11 February 2023:

“The reason why my submission was late is because my wife told me she had lodged a submission on our behalf in about August 2022, so I did not put in my separate submission. It was only when I followed up asking about a response that I saw a copy of her submission recently and realised it was not going to meet the criteria for a submission.”
6. No submission has been received from Mr Meys’ wife. It appears that “feedback” was provided by her in early May 2022 as part of the Council’s consultation process undertaken as part the IPI development.
7. The IHP does not accept the late submission for the reasons that following:

¹ For those submissions that were summarised and notified on the 5 December 2022.

8. The submission is substantially late. As set out above, the submission period closed on 29 September 2022, and the further submission period closed on the 20 January 2023. Accepting the late submission would require a “summary of the decision requested” to be publicly notified for further submissions. This would, in the IHP’s view, result in an unreasonable delay to the plan change hearings process.
9. The IHP set out in its Hearing Direction 1², among other things, the following:

The IHP notes that it is highly unlikely to grant any waivers that will impact the scheduled notification of the primary submissions for Further Submissions, or once that summary of submissions has been notified, unless there are significant extenuating circumstances.
10. We do not consider that the reason for the lateness of the submission amounts to “*significant extenuating circumstances*” that would justify the delay that would be created in the plan change hearing process. Furthermore, not accepting the late submission will not affect the interests of the wider community in achieving an adequate assessment of the effects of the plan change due to the nature and range of submissions already lodged to PC 78.
11. Any enquiries regarding this decision should be directed to the Council’s Senior Hearing Advisor, Mr Sam Otter by email at npsudhearings@aucklandcouncil.govt.nz



Greg Hill Chairperson

14 February 2023

² Dated 25 October 2022