

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

AND

IN THE MATTER **Plan Change 78 - to the Auckland Unitary Plan - Operative in Part (AUP)**

MINUTE AND DIRECTION FROM THE HEARING PANEL – 11 AUGUST 2025

**THE PANEL’S APPROACH TO THE REMAINING PC78 TOPICS IN LIGHT OF THE RESOURCE MANAGEMENT
(CONSENTING AND SYSTEM CHANGES) AMENDMENT BILL**

Introduction

1. The Panel is issuing this Minute to share with submitters and others the Panel’s views about the status of Plan Change 78 (**PC78**) and how it proposes to approach the uncertainty about PC78’s future. In summary, the Panel intends to complete its recommendations to Council in relation to Policy 3(b) of the NPS-UD (applying to the Business - Metropolitan Centre Zone and Precincts), but to defer any further hearings on other Topics, subject to any contrary indication from Auckland Council.

Background

2. Following the Minister’s letter dated 12 March 2025, the Panel requested Council to provide a way forward to complete the remainder of the PC78 topics in time for Council to notify its decisions by the 31 March 2026 date that the Minister’s letter emphasised would still need to be met.
3. Following Council’s response the Panel requested input from interested submitters to the proposed way forward. After considering Council’s and submitters’ responses, the Panel issued a Minute dated 6 May 2025 conveying its decision not to schedule any more PC78 hearings (other than completing the Metropolitan Centre) until the Select Committee Report (**Report**) on the Resource Management (Consenting and Other System Changes) Amendment Bill (**Amendment Bill**) expected in June, in anticipation that it would provide for Council to withdraw PC78 in whole or in part. The Panel’s decision was so as to avoid Council and submitters using their resources unnecessarily until the content of the Amendment Bill was known.
4. The 6 May 2025 Minute also set out an indicative timeline if the Amendment Bill did not provide for the Council to withdraw PC78 or should parts of PC78 still need to be heard. This would have involved a hearing in August as to the scope issues relating to the Light Rail Corridor (**LRC**) and for the remaining topics (including LRC if necessary) to be heard together from mid-October to mid-December.

5. The Panel in the meantime proceeded with hearings on Policy 3(b) in relation to Metropolitan Centre outstanding matters, and has progressed the consideration of submissions on PC78 insofar as it relates to the Metropolitan Centre zone provisions and related Precincts.

Select Committee Report / Amendment Bill / Ministers' statement

6. The Report on the Amendment Bill was released on 11 June 2025. It records the challenges faced by the Council in relation to natural hazard issues, and the Council's request to be able to withdraw PC78 so that it can notify a new plan change to address natural hazards and the LRC. The Amendment Bill provides that the Council may withdraw PC78 in full or in part provided it notifies a new Plan Change in its place, ahead of the local body elections on 10 October 2025.
7. The Report was followed by a press release from the Ministers for Housing (Hon Chris Bishop) and for Auckland (Hon Simeon Brown) (**Ministers' statement**) stating that agreement had been reached with Auckland Council on certain matters. It stated that the Amendment Bill has the effect of abolishing the MDRS in Auckland, while requiring more housing density in certain areas.
8. In its monthly report to the Panel on 30 June 2025 the Council advised that it had received no further correspondence from the Minister directly relevant to PC78 since his letter of 12 March 2025. There was no discussion of the Report, the Amendment Bill or the Ministers' statement, nor the agreement referred to in it. Council advised that work was still continuing on the natural hazards planning response (but seemingly not on the LRC).

Panel Direction of 11 July 2025 and Council's response

9. On 11 July 2025 the Panel issued a Direction seeking assistance from the Council as to its likely approach to the remainder of PC78 in light of the indications in the Amendment Bill and the Ministers' statement. Council responded to this Direction on 1 August 2025, in terms similar (if not identical) to its report of 30 June 2025, and otherwise providing little insight into what Council might do or the process it might follow.
10. Essentially the Council's response was that no decision could be requested of or made by Council's governing body unless and until the Amendment Bill is passed, and no indication could be provided of what that decision might be or when it might be made.
11. There was nothing in Council's response to indicate what it thinks the Panel should do while that decision is awaited. Nor was there any indication as to whether the Council will be in a position to satisfy the precondition to the withdrawal of PC78 that it notify a replacement Plan Change by 10 October 2025.

Panel's understanding and position

12. The Panel understands that the relevant Council committee will consider the replacement plan change for PC78 in the coming weeks to allow sufficient time for it to be notified by 10 October. In the absence of advice from the Council to the contrary, the Panel anticipates that the replacement Plan Change will also address natural hazards and the LRC and is well advanced.

The Panel also understands that the Amendment Bill is likely to be enacted shortly. If so, in light of the Council having requested the ability to withdraw PC78 as contained in the Amendment Bill and the agreement referred to in the Ministers' statement, the Panel considers it very likely that the Council will decide to withdraw the balance of PC78.

13. Having reached that view, the Panel considers that it would be acting irresponsibly if it was to press ahead with the hearing of the remaining Topics, as this would put the Council and submitters to considerable time and expense (and possibly false expectations) that would be entirely wasted if, as the Panel anticipates, the Council withdraws PC78 and notifies a replacement Plan Change. Council resources will be better deployed proceeding with the replacement Plan Change than preparing evidence and attending hearings which are likely to be redundant.

What this means, particularly if PC78 is not withdrawn

14. As things presently stand, Council is required to notify its decisions on PC78 by 31 March 2026. The Panel has therefore turned its mind to what will happen if, contrary to the indications in the Report, the Amendment Bill and the Ministers' statement, PC78 is not withdrawn. The Panel is concerned that it would be unable to complete the hearings on the remaining Topics in time for its recommendations to reach the Council ahead of that deadline.
15. As outlined in its 6 May 2025 Minute, the Panel would have conducted hearings in October – December 2025, after first determining the scope of hearings on the LRC. To schedule hearings in that period would require the Panel to direct the exchange of evidence, starting with Council's evidence, then allowing time for the submitters to prepare their evidence, then reply evidence and submissions by the Council. That process would need to get underway immediately, and even then it could not be done in time for any hearings in October.
16. Even if the Amendment Bill is enacted shortly, it is unlikely that Council will be in a position to make a decision this month, and it seems the earliest it could do so would be in late September. If it decides not to withdraw PC78 or cannot do so because the replacement Plan Change is not able to be notified by 10 October, it will be too late for the Panel to hold hearings in 2025. The Panel could then set a timetable for hearings in early 2026, but would not be able to provide Council with its recommendations in time to meet the 31 March 2026 deadline.
17. The Panel understands, and supports, that Council's priority at this stage is to progress the replacement Plan Change to enable it to be notified by 10 October. However if Council's preference is that the Panel should proceed with hearing the remaining PC 78 matters so that the 31 March 2026 deadline is not compromised, it should communicate this to the Panel without delay.
18. The Panel no longer requires monthly reports from Council as directed in its Direction of 26 September 2024. The Panel instead **DIRECTS** the Council within five working days to:
 - Respond to this Minute, and in particular to the foregoing paragraph 17. If Council's preference is that the Panel proceeds with a hearing of the remaining PC78 matters, then its response is to include a high level indicative timetable.

- Provide the Panel with an update as to progress with the replacement Plan Change; and within five working days following each of the governing body's meetings in August and September 2025, as to any consideration of, or decision about, PC78.

19. The Panel would appreciate any other information the Council is able to provide that would assist its understanding of the likely future of PC78.

Any enquiries regarding this Direction, or related matters, should be directed to the Senior Hearings Advisor, Mr Sam Otter by email at npsudhearings@aucklandcouncil.govt.nz

A handwritten signature in dark ink, appearing to read 'McCasey'.

Matthew Casey, KC
Chair
11 August 2025