

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

**AND**

**IN THE MATTER** **Intensification Planning Instruments Plan Change (IPI)— Plan Change 78 - to the Auckland Unitary Plan – Operative in Part (AUP)**

**MINUTE FROM THE HEARING PANEL – 4 APRIL 2024**

**PLAN CHANGE 78 – MINISTER’S LETTER TO AUCKLAND COUNCIL DATED 26 MARCH 2024**

1. Pursuant to section 34 and 34A of the RMA, Auckland Council (**Council**) has appointed a Hearing Panel consisting of independent hearing commissioners. The Panel’s function is to hear the submissions on Plan Change 78 (**PC 78**) and make its recommendations to Council.
2. Originally, Council’s decisions on PC 78 were required to be made by 31 March 2024. On 6 April 2023 the Minister for the Environment granted a 12-month extension until 31 March 2025.
3. On 1 February 2024 the Council wrote to Ministers in the recently elected Government urgently requesting a further one-year extension, and an interim pause to the Panel’s hearing process. Unless and until an extension was granted the Panel was not able to defer or delay progress with PC 78 because of the volume of work it needed to complete in time for the Council to meet its 31 March 2025 deadline.
4. Hon Chris Bishop, as Minister Responsible for RMA Reform, replied to Council’s request by letter dated 26 March 2024 (**Minister’s Letter**), a copy of which is attached to this Minute. It has been referred to the Panel, with advice that the Council intends to consider the Minister’s Letter at its next Planning, Environment and Parks Committee meeting on 11 April 2024. In the meantime, and pending clarification of the issues identified in this Minute, the Panel has issued a two-month pause of its scheduled PC 78 program (with two exceptions), as set out in its Minute and Directions of 28 March 2024.
5. The Minister’s Letter appears to accede to Council’s request for a 12-month extension, but with qualifications. The manner in which these have been expressed is somewhat confusing and leaves some uncertainty as to how the Panel should proceed. The Panel is also aware of statements on behalf of the Government indicating that changes will be made to the Medium Density Residential Standards (**MDRS**) provisions of the RMA, although this may not be until towards the end of 2024.
6. As well as seeking clarification on what is expected to occur, the Panel also draws to the attention of Council (and if thought appropriate the Minister) its concerns about potential overlaps and timeframes as they relate to the completion of its work in relation to PC 78.

### **Natural hazards**

7. The Panel notes that the Minister's Letter sets out in his statement of expectations under s 80L(2) RMA that the Council is to "*Notify a plan change, or similar, to address the management of significant risks from natural hazards by 30 April 2025*". The Panel has for some time been concerned that the identification and potential impacts of natural hazards is a significant factor in determining how and where to apply the National Policy Statement on Urban Development (**NPS-UD**) and the MDRS. This has been referred to in the number of the Panel's previous Minutes, and is currently scheduled to be a Topic for later hearings, as a Qualifying Matter.

The Panel expresses its concern that the notification as late as April 2025 of a plan change, or a variation to PC 78, to address natural hazards will not allow sufficient time for the proper assessment of the issue in tandem with PC 78. It is concerned that if natural hazards are not addressed in resolving PC 78, there is a significant risk that intensification provided for under PC 78 will later need to be reversed. It therefore requests that the Council expedite preparation and notification of the plan change or variation well in advance of the Minister's deadline of 30 April 2025.

### **Auckland Light Rail Corridor**

8. The Minister's Letter also sets out his expectation that the Council is to "*Enable intensification within the Auckland Light Rail corridor, and ensure intensification is enabled in appropriate areas by 30 April 2025*". This appears to be in conflict with the earlier statements in the Minister's Letter indicating support for a 12-month extension, during which Council is to notify a plan change/variation covering both natural hazards and the Auckland Light Rail corridor (**LRC**), by 30 April 2025. The statement of expectation that intensification within the LRC is to be "enabled" by that date suggests significantly more than notification.
9. If the expectation is that the Council will have made its decisions on intensification within the LRC by 30 April 2025, then it will need to proceed urgently to ensure that the current PC 78 process can accommodate this. If, as seems more likely, the Minister intended only that the provisions be notified (rather than enabled), this needs to be clarified. Note however, that as with other areas of the City, the issue of natural hazards is also relevant to the LRC.

### **Plan change or variation**

10. As discussed above, the Minister's Letter references undertaking a plan change or a variation for natural hazards and the LRC.
11. A plan change and a variation have very different implications for progression of PC 78 (a variation merging with and becoming part of PC 78, and a plan change sitting outside PC 78). The Panel understands that the Council has to date progressed natural hazards on the basis of a variation to PC 78. It therefore requests that the Council confirm whether natural hazards and the LRC are intended to be addressed by plan change or by variation.

### **Extension to decision deadline**

12. Although the Minister's Letter states that he supports a 12-month extension, he has not expressed this as a direction pursuant to s 80L(1)(c) of the RMA, formally amending the time within which Council must complete PC 78.

**NPS-UD Policies 3 and 4**

13. The Minister’s Letter states that he expects Council to continue progressing the NPS-UD elements of PC 78 to ensure development capacity is enabled in a timely manner. His statement of expectations is that Council continue to progress the parts of PC 78 subject to Policies 3 and 4 of the NPS-UD where practicable, but noting his expectations concerning natural hazards and the LRC as above.
14. While the Panel has completed many of the hearings of discrete Policy 3 and 4 related Topics that are not dependent on what should occur within the LRC, it is limited as to what recommendations it can make without having fully considered the potential impacts of natural hazards, as this has city-wide implications.

**Clarifications from the Minister**

15. The Panel therefore requests from Council that it seek clarification from the Minister as to his intentions with regard to:
- (a) Whether intensification within the LRC is to be enabled (as opposed to notified) by 30 April 2025;
  - (b) Whether his letter constitutes a direction pursuant to s 80L(1)(c) of the RMA that the Council is to complete its PC 78 process by 31 March 2026 (or some other date).

**Report from Council**

16. The Panel requests a report from Council following its consideration of the Minister’s Letter and the above matters, as soon as possible (but no later than Thursday 18 April 2024) after the Planning, Environment and Parks Committee meeting on 11 April 2024.

**Case management conference**

17. The Panel proposes to convene a case management conference of Council and all interested submitters to discuss what course to take in light of the Minister’s Letter and Council’s response, including identifying any topics that the Panel can proceed with. The intention is to do this on 29 April 2024. The conference is likely to be held both in person and by remote attendance. The Panel will issue a further Minute regarding the conference after it receives the response from Council.
18. 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](mailto:npsudhearings@aucklandcouncil.govt.nz)



Matthew Casey, KC Chairperson  
4 April 2024

## **Before the Independent Hearings Panel**

**In the matter** of the Resource Management Act 1991 (**RMA**)

**And**

**In the matter** of Proposed Plan Change 78: Intensification to the Auckland Unitary Plan Operative in Part (**AUP**)

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**Memorandum of counsel for Auckland Council regarding  
correspondence from Minister of Housing, Infrastructure and  
Resource Management Reform**

**Date: 27 March 2024**

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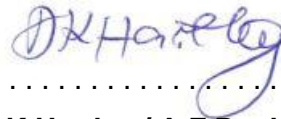
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**MAY IT PLEASE THE PANEL**

- 1 As the Panel is aware, we act for Auckland Council (**Council**) in relation to proposed Plan Change 78: Intensification to the Auckland Unitary Plan Operative in part.
  
- 2 We are instructed that the Council has received the **attached** letter dated 26 March 2024 from the Minister of Housing, Infrastructure and Resource Management Reform.
  
- 3 We are also advised that the letter will be considered by the Council's Planning, Environment and Parks Committee on 11 April 2024, and that the Council will file a further memorandum with the Panel following that Committee meeting.

**Date:** 27 March 2024



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**D K Hartley / A F Buchanan**

Counsel for Auckland Council for  
Proposed Plan Change 78

# Hon Chris Bishop

Minister of Housing  
Minister for Infrastructure  
Minister Responsible for RMA Reform  
Minister for Sport and Recreation  
Leader of the House  
Associate Minister of Finance



**26 MAR 2024**

Wayne Brown  
Mayor  
Auckland Council  
[mayor.wayne.brown@aucklandcouncil.govt.nz](mailto:mayor.wayne.brown@aucklandcouncil.govt.nz)

Dear Wayne,

Thank you for your letter of 28 February 2024, regarding Auckland Council's request for a further 12-month extension to complete the Intensification Streamlined Planning Process (ISPP), giving the council until 31 March 2026 to complete the process.

I acknowledge your concerns, and the complex interactions between the Council's natural hazards work, and its implications on Plan Change 78. I also note the need to now provide for intensification within the Auckland Light Rail corridor.

I appreciate that Auckland is in a unique situation where there are a number of policy interactions with Plan Change 78. It is encouraging that both the Council acknowledge the need to enable more housing supply and provide intensification in the right places. As you are aware, the Government is progressing our Going for Housing Growth work programme. This requires councils to live-zone for 30 years of housing growth but gives them the flexibility to decide how that growth should happen.

Later this year, I am proposing to introduce legislation focused on these key changes. I am aware Plan Change 78 and the Council's concerns will need to be considered as part of this process alongside the Government's objectives and any other submissions received. I support central and local government to continue to work together to ensure there is an efficient and pragmatic legislative solution that addresses both the Auckland Council's concerns and the Government's objectives.

I support a 12-month extension, but I expect the council to continue working on preparing for a plan change process, or a variation to Plan Change 78, for both natural hazards and the Auckland Light Rail corridor. I expect Auckland Council to notify this plan change/variation by 30 April 2025. In addition, I expect the council to continue progressing the National Policy Statement on Urban Development (NPS-UD) elements of Plan Change 78 to ensure development capacity is enabled in a timely manner.

When the Council first notified Plan Change 78, it did not apply to the Auckland Light Rail Corridor as work was still progressing on the station locations. I understand that with the Government's decision on the Auckland Light Rail project, the council now needs to implement the NPS-UD and Medium Density Residential Standards (MDRS) along the corridor.

I will update my Direction to Auckland Council, with a new Statement of Expectations as follows:

## Statement of Expectations

In accordance with clause 80L(2) of the RMA, the Minister's expectations for Auckland Council are to:

- (a) Notify a plan change, or similar, to address the management of significant risks from natural hazards by 30 April 2025.
- (b) Enable intensification within the Auckland Light Rail corridor, and ensure intensification is enabled in appropriate areas by 30 April 2025.
- (c) Continue to progress the parts of the Plan Change 78 subject to Policy 3 and Policy 4 of the National Policy Statement on Urban Development where practicable given the expectations outlined in (a) and (b) above.
- (d) Prior to notifying plan changes, or similar, on natural hazards, and to implement the National Policy Statement on Urban Development and the Medium Density Residential Standards in the Auckland Light Rail corridor, notify the Minister Responsible for RMA on the impacts on Auckland's development capacity.

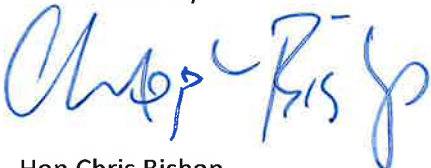
The Minister expects Auckland Council officers to work closely with Ministry for the Environment officials on workable solutions to implement the above.

## Reporting requirements

In accordance with clause 80L(1)(d) of the RMA, the Minister directs Auckland Council to provide a report to the Ministry for the Environment on 31 May 2024 and every three months after that date, about its progress on Plan Change 78 and any related plan changes or variations, including any plan change relating to natural hazards. The report shall demonstrate how the Council is having regard to the statement of expectations and identify any issues which may affect the Council's ability to comply with the Minister's Direction.

Thank you for all your work to date. Housing supply is a critical issue for the Government and I appreciate the work you are doing to advance housing solutions for Auckland.

Yours sincerely



Hon Chris Bishop

**Minister Responsible for RMA Reform**

cc Simon Brown,  
Minister for Auckland