

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)**

PROCEDURAL MINUTE (14 March 2023) FROM THE HEARING PANEL

RESPONDING TO THE COUNCIL’S MEMORANDA (DATED 3 MARCH 2023) RELATING TO THE PLANNING, ENVIRONMENT AND PARKS COMMITTEE RESOLUTION – RE PC 78 AND 80 AND SEEKING TO DEFER HEARINGS ON NATURAL HAZARDS AND STORMWATER MANAGEMENT AND INFRASTRUCTURE PROVISION.

1. In accordance with the 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. The IHP received the Council’s Memorandum¹ at the opening of the IHP’s Pre-Hearing Conference. That Memorandum sought²:

“...the Council respectfully requests that the IHP not schedule any hearing topics and sub-topics on PC78 and PC80 that relate to natural hazards and stormwater management and infrastructure provision until such time as Council officers have reported back to the Planning, Environment and Parks Committee on those matters so that the Council can outline its position on those matters following receipt of investigation work.

This would include Topic 009 Qualifying Matters A-I sub-topic Significant Natural Hazards, Topic 012 Qualifying Matters – Infrastructure sub-topic Infrastructure – Stormwater disposal constraints, and the application of the Residential – Low Density Residential Zone as it relates to natural hazards and stormwater management and infrastructure provision.

The Council also respectfully requests that the IHP make directions in response to the Council's request.

3. The IHP set out at the Pre-Hearing Conference that it would respond to the Memorandum after the Pre-Hearing Conference - so as to give other parties the opportunity to comment on it.

¹ Dated 2 March 2023

² Paragraphs 6 – 8 of the Memorandum

4. Given the circumstances set out in the Council's Memorandum the IHP, in principle, agrees not to schedule any hearing topics and sub-topics as requested - noting we have already deferred scheduling any of those topics as part of the alternative dispute resolution process.
5. However, before making a final determination, the IHP needs to understand:
 - the scope of the work to be undertaken;
 - the timeframe to complete that work; and
 - how the Council intends dealing with the result of that additional work (eg a variation to PC 78).
6. Once the information set out above is known the IHP will be able to respond more definitively to the Memorandum. We note that Council's legal counsel has informed us that this information will be provided on the 20 March 2023.
7. The Committee's resolution also set out:

d) to request that the Minister grant an extension of time to the public notification of council's decisions on the Independent Hearings Panel's recommendations on Plan Changes 78 to enable the council to provide, and the Independent Hearings Panel to consider, additional essential information as referred to in clause c) above.
8. In addition to the required information, prior to making any decision on the deferral of the topics relating to natural hazards and stormwater management and infrastructure provision, the IHP needs to know if the extension of time (and how much time) has been requested, and if that request has been granted by the Minister.
9. Any enquiries regarding this minute, 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

14 March 2023

Before the Independent Hearings Panel

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

And

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

And

In the matter of Related Proposed PC80 to the AUP

**Memorandum of counsel on behalf of Auckland Council regarding
PC78 and PC80 - scheduling issues following resolutions of the
Council's Planning, Environment and Parks Committee on 2 March
2023**

Date: 3 March 2023



Level 15, PwC Tower
15 Customs Street West, Auckland 1010
PO Box 160, Auckland 1140
Tel +64 9 303 2019

Solicitor on the Record	Diana Hartley	diana.hartley@dlapiper.com	+64 9 300 3826
Contact solicitor	Anne Buchanan	anne.buchanan@dlapiper.com	+64 9 300 3807

MAY IT PLEASE THE PANEL

Introduction

- 1 This memorandum of counsel is filed on behalf of Auckland Council (**Council**).
- 2 The purpose of this memorandum is to:
 - 2.1 Advise the Independent Hearings Panel (**IHP**) of resolutions passed by the Council's Planning, Environment and Parks Committee at its meeting on 2 March 2023; and
 - 2.2 In light of the resolutions, respectfully request directions from the IHP regarding the scheduling of various PC78 and PC80 hearing topics and sub-topics.

Planning, Environment and Parks Committee meeting on 2 February 2023

- 3 We are advised that a meeting of the Planning, Environment and Parks Committee took place on 2 March 2023.
- 4 The IHP may be aware that at its meeting on 9 February 2023, the Planning, Environment and Parks Committee delegated the Mayor, Chair, Deputy Chair, and Independent Māori Statutory Board member to approve a scope of work to:

Investigate the regional and localised impacts of flooding, and the implications for land use planning, regulatory, current plan changes to the Auckland Unitary Plan (including Plan Change 78), infrastructure and other policy settings.
- 5 We are advised that, following an initial report back from Council officers at the Committee's meeting on 2 March 2023 on scope of work: recent flooding impacts, implications and improvements, the

Planning, Environment and Parks Committee passed the following resolutions:

Item 8 recommendations

a) tuhi / note the approved scope of work to 'investigate the regional and localised impacts of flooding, and the implications for land use planning, regulatory, current plan changes to the Auckland Unitary Plan (including Plan Change 78), infrastructure and other policy settings' as requested at its 9 February 2023 meeting (PEPCC/2023/6), outlined at paragraphs 18-65 of Attachment A of the agenda report.

b) tuhi / note that the scope of work includes a review of the Qualifying Matters applied in Plan Changes 78 and 80, including relating to stormwater management and flood-prone areas, on a catchment-by-catchment basis, and land stability

c) tono / request that the Plan Change 78 and 80 Independent Hearings Panels not schedule the consideration of matters relating to natural hazards, stormwater management and infrastructure provision until such time as officers have reported back to the Planning, Environment and Parks Committee on those topics as part of "Phase One: Responsive action and advice" so that Council can provide their position on these matters

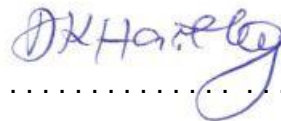
d) tono / request that the Minister grant an extension of time to the public notification of council's decisions on the Independent Hearings Panel's recommendations on Plan Changes 78 to enable the council to provide, and the Independent Hearings Panel to consider, additional essential information as referred to in clause c) above.

- 6 In light of the above resolutions, the Council respectfully requests that the IHP not schedule any hearing topics and sub-topics on PC78 and PC80 that relate to natural hazards and stormwater management and infrastructure provision until such time as Council officers have reported back to the Planning, Environment and Parks Committee on those matters so that the Council can outline its position on those matters following receipt of investigation work.

- 7 This would include Topic 009 Qualifying Matters A-I sub-topic Significant Natural Hazards, Topic 012 Qualifying Matters – Infrastructure sub-topic Infrastructure – Stormwater disposal constraints, and the application of the Residential – Low Density Residential Zone as it relates to natural hazards and stormwater management and infrastructure provision.

- 8 The Council also respectfully requests that the IHP make directions in response to the Council's request.

Date: 3 March 2023



.....
D K Hartley / A F Buchanan

Counsel for Auckland Council for
proposed Plan Changes 78 and 80