

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

AND

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

DIRECTION (5 JULY 2023) FROM THE HEARING PANEL

HEARING PANEL’S DIRECTION IN RESPONSE TO THE AUCKLAND COUNCIL’S MEMORANDUM DATED 4 JULY 2023¹ - REGARDING REQUESTING A PAUSE OF ALL HEARINGS AND ALTERNATIVE DISPUTE RESOLUTION PROCESSES FOR PC 78

1. In accordance with the Resource Management Act 1991 (RMA) - Part 6 Clause 96 of the First Schedule 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 change (PC 78). Its delegations also include addressing any procedural matters.
2. The IHP has received a Memorandum from Auckland Council² responding to its Direction dated 19 May 2023 – Hearing Panel’s Direction in Response to the Auckland Council’s Memorandum Requesting a Pause of all Hearings and Alternative Dispute Resolution Processes for PC 78.
3. The IHP notes the process, work done to date, and work to be done on the two variations - Natural Hazards and the Auckland Light Rail Corridor (ALRC); and the possible notification date for the ALRC³.
4. Section 6.1 of the Memorandum states:

In terms of natural hazards, a paper relating to public consultation for the ‘Making Space for Water’ programme will be reported to the Governing Body at its 27 July 2023 meeting. (our emphasis)
5. While at section 9 it states:

The Council would be happy to provide a further update at the end of September 2023 about the matters addressed in this memorandum, if that would be of assistance to the Panel. (our emphasis)
6. The IHP considers that the “end of September 2023” is too distant for an ‘up-date’ on the Council’s scope of, and work programme for, both variations. The IHP directs that the Council report back to the IHP on the Council’s scope of and work programme for both variations no later than **1 August 2023** (following the 27 July 2023 Governing Body meeting).

¹ Responding to Hearing Panel direction of 19 May 2023

² Dated 4 July 2023

³ Noting no date has been suggested for the Natural Hazards variation

7. The reason for this is as we set out in the 19 May 2023 Direction:

The IHP will continually seek updates from the Council regarding progress in advancing the variations. This is to ensure that the IHP will be able to meet its obligations to hear all submissions and make its recommendations to the Council within the time period set by the Minister for the Environment. If the IHP considers insufficient progress is being made, or the notification of the variations is delayed, the IHP will need to consider scheduling all of the hearings that are currently adjourned.

8. The IHP acknowledges the suggestion of the two additional topics⁴ that are likely to be discrete enough to proceed to hearing this year. As indicated in previous directions, the IHP will now (re) consider the current hearing schedule for the remainder of this year, and will be issuing a revised hearing schedule accordingly.
9. Any enquiries regarding this Direction, or related matters, should be directed to the Senior Hearing Advisor, Mr Sam Otter by email at npsudhearings@aucklandcouncil.govt.nz.



Greg Hill Chairperson

5 July 2023

⁴ 009H Qualifying Matters A-I - Historic Heritage and 010H Qualifying Matters - (Other) Local Public Views

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**)

**Memorandum of counsel for Auckland Council in response to Hearing
Panel direction of 19 May 2023**

Date: 4 July 2023



Solicitor on the Record
Contact solicitor

Diana Hartley
Anne Buchanan

diana.hartley@dlapiper.com
anne.buchanan@dlapiper.com

+64 9 300 3826
+64 9 300 3807

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

MAY IT PLEASE THE PANEL

Introduction

- 1 This memorandum of counsel for Auckland Council (**Council**) responds to the direction of the Independent Hearings Panel (**IHP**) of 19 May 2023 to report back to the IHP no later than 4 July 2023 on the following:¹
 - 1.1 The progress in establishing and agreeing the scope of the two variations (relating to natural hazards and the Auckland Light Rail Corridor (**ALRC**));
 - 1.2 The work the Council has already undertaken on the variations;
 - 1.3 The work still to be completed on the variations and their timeframes; and
 - 1.4 The likely notification dates of the variations.
- 2 In light of this information, the IHP has also requested that the Council provides its view on what other Proposed Plan Change 78 (**PC78**) hearing topics (not already identified by the IHP as proceeding in 2023) could be heard in 2023 on the basis that the hearing topic(s) would not be impacted by the scope of the proposed variations.²

Progress in establishing and agreeing the scope of the two variations

- 3 In relation to the progress the Council has made to date in establishing and agreeing the scope of variations to PC78 relating to natural hazards and the ALRC, counsel for the Council are

¹ Direction (19 May 2023) from the IHP at [9].

² Direction (19 May 2023) from the IHP at [10].

advised that work is still underway with respect to establishing the scope of the variations.

Work already undertaken on the variations

4 In respect of work already undertaken by the Council regarding natural hazards, we are advised that:

4.1 Council staff have completed an initial investigation into recent flooding impacts, implications and improvements and this was reported to the Council's Planning Environment and Parks (**PEP**) Committee on 29 June 2023 recommending several main lines of action. These are to strengthen the provisions of the Auckland Unitary Plan Operative in part (**AUP**), speed up community action on adaptation and to progress the 'Making Space for Water' flood risk reduction programme, which is to be considered for public consultation. The recommendations in this report to PEP Committee were moved and passed by the PEP Committee (Resolution no. PEPCC/2023/81 attached to this memorandum).

4.2 A separate report regarding the action of strengthening the AUP was also presented to the PEP Committee. This report outlines:

- the on-going work that has been occurring in relation to the AUP;
- the work that has been, and that will need to continue to be, undertaken to understand the impacts and learnings from the latest weather events;
- what the potential options are to strengthen the AUP;

- the process within which any changes to the AUP can be achieved.

4.3 Overall, the report notes that the preliminary work undertaken to date indicates that there are potential gaps in the AUP planning framework. However, it is not possible at this stage to determine the specific changes or improvements that are required. Data and information from the latest weather events are in the process of being collated and reviewed for detailed analysis. The investigation seeks to determine where the gaps may be and what changes are required in both the current regulatory and non-regulatory settings.

4.4 The report recommended that the PEP Committee, among other matters, endorse the preparation of changes to the AUP to strengthen the management of risk from natural hazards. These recommendations were also moved and passed by the PEP Committee (Resolution no. PEPCC/2023/82 attached to this memorandum) and included a resolution that the Committee would be asked to provide direction on the nature and extent of the changes to the AUP.

5 In respect of work already undertaken by the Council regarding the ALRC, we are advised that:

5.1 Planning is underway for the variation for the ALRC. The process of investigating options for land uses is being progressed within the corridor and around specific proposed station locations. In addition, the Council team is undertaking scenario testing and the analysis of development capacity for development in the corridor.

Work still to be completed on the variations and its timeframe and likely notification dates of variations

- 6 Counsel for the Council are advised in relation to work still to be completed and likely timeframes that:
- 6.1 In terms of natural hazards, a paper relating to public consultation for the 'Making Space for Water' programme will be reported to the Governing Body at its 27 July 2023 meeting.
- 6.2 Detailed analysis of the recent weather event data is expected to take at least another few months to complete. This will shape the next stage of work which will involve determining the appropriate planning response and scope of any changes required.
- 6.3 Direction on changes to the AUP will also need to be sought from the PEP Committee, as noted in the resolution discussed earlier.
- 6.4 There are also regular discussions occurring with officials from the Ministry for the Environment.
- 6.5 The indicative programme timeline for preparing and notifying a variation to PC78 for the ALRC is as follows::
- August 2023 – Commence engagement with Mana Whenua;
 - September/October 2023 – Seek PEP Committee endorsement for engagement on the draft variation;

- Mid October/End November 2023 – public consultation on draft variation to PC78 for the ALRC;
- Early February 2024 – Seek endorsement from the PEP Committee to notify the variation in February 2024.

6.6 This timeline is predicated on the lodgement of the Notice of Requirement for the light rail route and stations in August 2023.

7 The Panel may also be aware that recent correspondence from the Ministers of Finance and Housing to Kāinga Ora about planning processes within the ALRC was the subject of a resolution of the Council's Governing Body on 29 June 2023. A copy of the letter from the Ministers and relevant Minutes from the Governing Body are attached to this memorandum for the Panel's information.

Additional hearing topics that could be heard in 2023

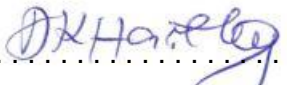
8 The Council continues to be of the view that there are few additional PC78 topics that are discrete enough to proceed to hearing in 2023, on the basis that they would not be impacted by the scope of the proposed variations. The only additional hearing topics/subtopics that the Council considers are likely to be discrete enough to proceed to hearing this year are:

8.1 009H Qualifying Matters A-I - Historic Heritage

8.2 010H Qualifying Matters - (Other) Local Public Views

- 9 The Council would be happy to provide a further update at the end of September 2023 about the matters addressed in this memorandum, if that would be of assistance to the Panel.

Date: 4 July 2023


.....
D K Hartley / A F Buchanan
Counsel for Auckland Council for
Proposed Plan Change 78

Komiti mō te Whakarite Mahere, te Taiao, me ngā Papa Rēhia / Planning, Environment and Parks Committee

OPEN MINUTES

Minutes of a meeting of the Planning, Environment and Parks Committee held in the Reception Lounge, Auckland Town Hall, 301-305 Queen Street, Auckland on Thursday, 29 June 2023 at 1.24pm

TE HUNGA KUA TAE MAI | PRESENT

Chairperson	Cr Richard Hills	
Deputy Chairperson	Cr Angela Dalton	
Members	Cr Andrew Baker	
	Mayor Wayne Brown	From 1.36pm, Item 1, Until 3.56pm, Item 10
	Cr Chris Darby	From 1.28pm, Item 1
	Cr Julie Fairey	
	Cr Alf Filipaina, MNZM	Until 1.47pm, Item 5
	Cr Christine Fletcher, QSO	
	Cr Shane Henderson	
	Cr Mike Lee	
	Cr Kerrin Leoni	
	Cr Daniel Newman, JP	
	Deputy Mayor Desley Simpson, JP	
	Cr Sharon Stewart, QSM	Via electronic link From 3.19pm, Item 10
	IMSB Chair David Taipari (alt)	Via electronic link
	Cr Ken Turner	
	Cr Wayne Walker	From 1.32pm, Item 1
	Cr John Watson	From 1.26pm, Item 1

TE HUNGA KĀORE I TAE MAI | ABSENT

Members	Cr Josephine Bartley
	Cr Lotu Fuli
	IMSB Member Hon Tau Henare
	Cr Greg Sayers
	Cr Maurice Williamson

9 Accelerating a Resilient Tāmaki Makaurau Auckland

A PowerPoint presentation was given. A copy has been placed on the official minutes and is available on the Auckland Council website as a minutes attachment.

Deputy Chairperson A Dalton returned to the meeting at 2.36pm.

Resolution number PEPCC/2023/81

MOVED by Chairperson R Hills, seconded by Deputy Chairperson A Dalton:

That the Planning, Environment and Parks Committee:

- a) **ohia / endorse the Accelerating a Resilient Tāmaki Makaurau Auckland insight report in Attachment A of the agenda report.**
- b) **tuhi ā-taipitopito / note that for the three main lines of actions:**
 - i) **strengthening the Unitary Plan details are being considered in a separate report to this meeting**
 - ii) **speed up community adaptation action is funded**
 - iii) **making space for water is to be considered for public consultation and a paper will be reported to the Governing Body at its July meeting.**

CARRIED

Attachments

- A 29 June 2023 - Planning, Environment and Parks Committee, Item 9 - Accelerating a Resilient Tāmaki Makaurau Auckland - PowerPoint presentation

10 Accelerating a Resilient Tāmaki Makaurau/Auckland - Strengthening the management of natural hazard risks through the Auckland Unitary Plan

A PowerPoint presentation was given. A copy has been placed on the official minutes and is available on the Auckland Council website as a minutes attachment.

Cr D Newman left the meeting at 3.17pm.

Cr S Stewart joined the meeting via electronic attendance at 3.19pm.

Cr D Newman joined the meeting via electronic attendance at 3.52pm.

Resolution number PEPCC/2023/82

MOVED by Chairperson R Hills, seconded by Deputy Chairperson A Dalton:

That the Planning, Environment and Parks Committee:

- a) **tuhi ā-taipitopito / note the work carried out to date and the additional work that will need to be undertaken to understand the impacts of the recent weather events and what changes may be required to the current planning framework.**
- b) **ohia / endorse the preparation of changes to the Auckland Unitary Plan to strengthen the management of risk from natural hazards, which may include but not be limited to:**
 - i) **downzoning;**
 - ii) **activity status for resource consents;**
 - iii) **new standards and/or rules;**
 - iv) **objectives and policies;**
 - v) **intensify development of well-connected lower-risk areas;**

- c) tuhi ā-taipitopito / note that the Committee will be asked to provide direction on the nature and extent of the changes to the Auckland Unitary Plan in order to complete the changes for final reporting
- d) tono / request staff prepare an engagement plan in collaboration with the Recovery Office to be agreed by the Chair and Deputy Chair of the Planning, Environment and Parks Committee and a member of the Independent Māori Statutory Board.

CARRIED

Attachments

- A 29 June 2023 - Planning, Environment and Parks Committee, Item 10 - Accelerating a Resilient Tāmaki Makaurau/Auckland - Strengthening the management of natural hazard risks through the Auckland Unitary Plan - PowerPoint presentation

Mayor W Brown retired from the meeting at 3.56pm.

11 Waitākere Ranges Heritage Area Five Year Monitoring Report 2017-2022

Note: changes were made to the original recommendation, adding new clause c), as a chair's recommendation.

Resolution number PEPCC/2023/83

MOVED by Cr K Turner, seconded by Cr S Henderson:

That the Planning, Environment and Parks Committee:

- a) whai / adopt the Waitākere Ranges Heritage Area Five-year Monitoring Report 2017-2022 at Attachment C of this agenda report
- b) tautapa / delegate authority to the Manager Planning, Regional, North, West and Islands to make any minor amendments to the Waitākere Ranges Five-year Monitoring Report 2017-2022 prior to publication
- c) tono / request that staff, led by Ngā Mātārae, engage with Te Kawerau ā Maki and Ngāti Whātua to progress a Deed of Acknowledgement under the Waitākere Ranges Heritage Area Act 2008 and to report back by December 2023.

CARRIED UNANIMOUSLY

12 Auckland Unitary Plan - Making operative Private Plan Change 76 - Kohe in eastern Pukekohe

Resolution number PEPCC/2023/84

MOVED by Cr A Baker, seconded by Deputy Chairperson A Dalton:

That the Planning, Environment and Parks Committee:

- a) whakaae / approve Private Plan Change 76 to the Auckland Unitary Plan (Operative in Part) under clause 17(2) of Schedule 1 of the Resource Management Act 1991 as set out in Attachments A, B and C to the agenda report
- b) tono / request staff to complete the necessary statutory processes to publicly notify the date on which the plan change becomes operative as soon as possible, in accordance with the requirements in clause 20(2) of Schedule 1 of the Resource Management Act 1991.

CARRIED

Hon Dr Megan Woods

MP for Wigram

Minister of Housing

Minister for Infrastructure

Minister of Energy and Resources

Minister for Building and Construction

Associate Minister of Finance



26 June 2023

Vui Mark Gosche Chair,
Kāinga Ora – Homes and Communities
PO Box 2628
WELLINGTON 6140

Tēnā koe Vui,

DIRECTION TO ASSESS AUCKLAND LIGHT RAIL PROJECT AS A POTENTIAL SPECIFIED DEVELOPMENT PROJECT

We, the Minister of Housing and Minister of Finance, acting jointly, direct Kāinga Ora – Homes and Communities, under section 29(b) of the Urban Development Act 2020 (UDA), to assess the Auckland Light Rail project, as a potential specified development project (SDP).

Key features of the Auckland Light Rail urban development project

Proposed project

The Auckland Light Rail urban development project (ALRUDP) is defined as enabling:

1. the development and renewal of the urban environment, with a focus on enabling large-scale urban development and housing development, and
2. the development of related commercial, industrial, community, or other amenities, infrastructure, facilities, services, or works

within the ALRUDP proposed project area specified below.

Proposed ALRUDP project area

The proposed project area for ALRUDP is the geographic area referred to as the “ALR corridor”, most of which was excluded (“whited-out”) from the Proposed Intensification Planning Instrument – Plan Change 78, as noted in the August 2022 Proposed Plan Change 78 Information Sheet #13: [Plan Change 78 and the Auckland Light Rail corridor](#). This area includes the majority of the 24km City Centre to Airport route identified in the Indicative Business Case (IBC). The majority of land within the central business district (CBD) is within scope of the proposed project area, minus land around the waterfront. Annex A provides the exact boundaries of CBD land within scope.

Proposed ALRUDP project objectives

The key outcomes and outputs expected for the ALRUDP are that it contributes to sustainable, inclusive, and thriving communities in Auckland by:

1. enabling urban development uplift associated with the case for the ALR project, including at least the estimated 66,000 additional households by 2051 set out in the IBC. This would contribute to 'Unlocking significant urban development potential, supporting a quality compact urban form, and enabling integrated and healthy communities' (IBC investment Objective 3), and realise Investment in rapid transit plus urban interventions (IBC Future Three).
2. enabling 97,000 additional jobs by 2051, of which 81,000 are already anticipated whether or not the core transport investment proceeds.

Proposed governance body

Under the UDA, Kāinga Ora, as part of its assessment report, will recommend the composition and terms of reference of the proposed governance body of any SDP recommended to be established. We note a project body can be a variety of legal forms. We anticipate that the governance body will have representation from Kāinga Ora, and other key partners (partners involved in the governance of ALR).

Rationale for inclusion of the CBD

We acknowledge that the planning provisions for the CBD are very permissive of urban development and that Auckland Council has already given effect to the National Policy Statement on Urban Development in relation to the CBD. Our intention for including the CBD in the proposed project area is not to open these existing urban planning provisions up for extensive debate. Rather, we seek consideration of whether the powers available to SDPs may be applied to the CBD to support the project objectives. Our expectation is that this is clearly communicated to stakeholders when undertaking the assessment.

Timing of related decisions

A Final Investment Decision on ALR by the Crown and Auckland Council is currently anticipated in mid-2024. We, and the Minister of Transport, as ALR Sponsor Ministers, believe that it is important to have as much clarity as possible by that time as to whether an alternative path exists under the UDA to enable and realise the urban development outcomes critical to ALR.

We appreciate that assessing the ALRUDP project as a potential SDP will be a significant undertaking for Kāinga Ora and other stakeholders who contribute to an assessment. We therefore request that Kāinga Ora use best endeavours to assess the ALRUDP in accordance with the requirements of the UDA and to provide its project assessment report and recommendation to establish or not establish the ALR project as an SDP by 1 July 2024.

We acknowledge that Kāinga Ora may choose to place particular, but not exclusive, focus on key urban development locations identified in the IBC (Dominion Junction, Mount Roskill/Wesley, Onehunga and Māngere), and land within a walkable catchment (radius) of preferred ALR route and station locations to be agreed by ALR Sponsors.

We acknowledge that Kāinga Ora may prefer to conduct its project assessment in stages, and that at any point before or after public notice is given in accordance with section 35 of the UDA, Kāinga Ora may consult with us, and if necessary seek an amendment to the parameters of the ALRUDP project as set out in this direction.

Kind regards,



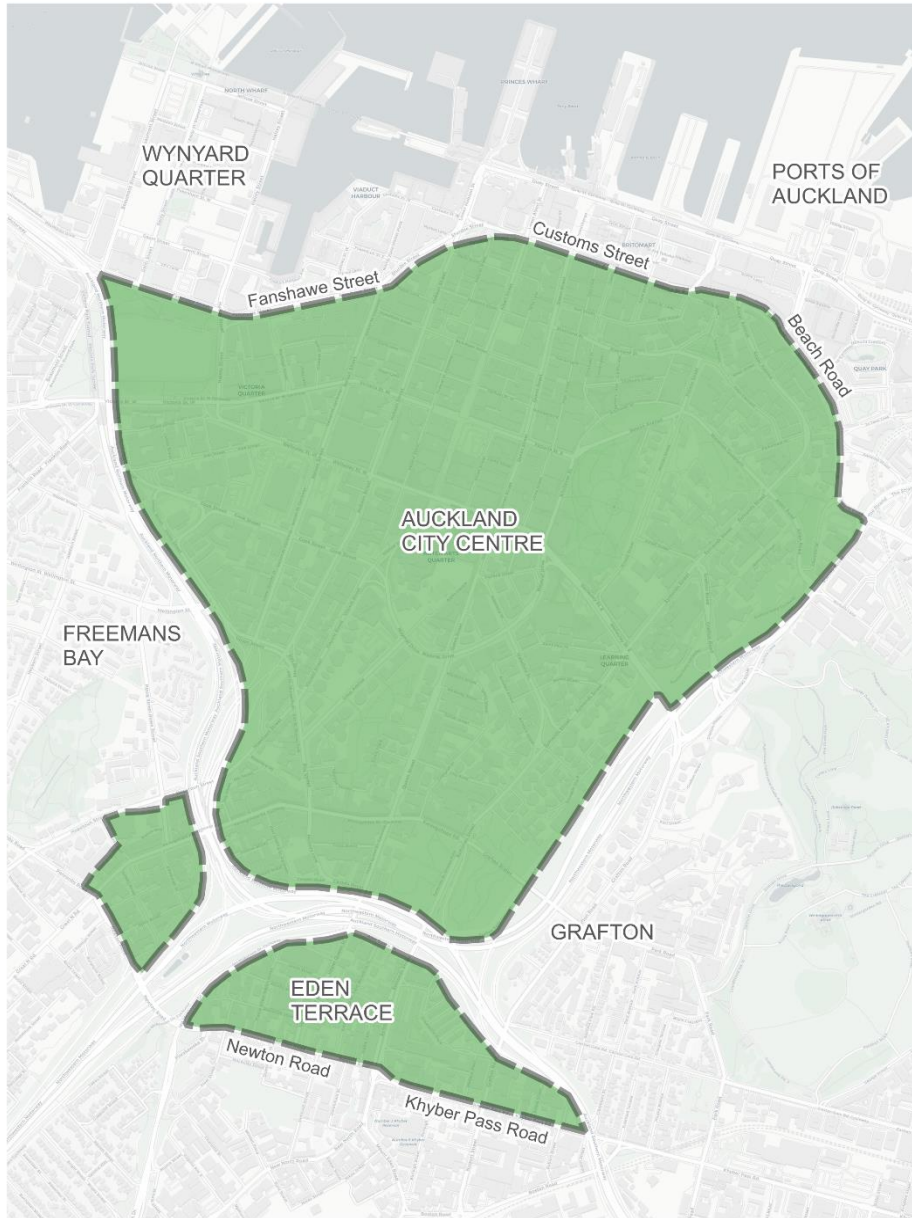
Hon Grant Robertson
Minister of Finance
22 / 06 / 2023




Hon Dr Megan Woods
Minister of Housing
20 / 06 / 23

Annex A: Land in the CBD within scope of the proposed project area

Proposed Project Area in the Auckland City Centre



 Proposed project area in the Auckland City Centre



Tira Hautū / Governing Body

OPEN MINUTES

Minutes of an extraordinary meeting of the Governing Body held in the Reception Lounge, Auckland Town Hall, 301-305 Queen Street, Auckland on Thursday, 29 June 2023 at 10.03am.

TE HUNGA KUA TAE MAI | PRESENT

Mayor	Wayne Brown	
Deputy Mayor	Cr Desley Simpson, JP	
Councillors	Cr Andrew Baker	From 10.16am, Item 6
	Cr Josephine Bartley	From 10.18am, Item 6 Until 11.52am
	Cr Angela Dalton	
	Cr Chris Darby	
	Cr Julie Fairey	
	Cr Alf Filipaina, MNZM	
	Cr Christine Fletcher, QSO	
	Cr Lotu Fuli	From 10.09am, Item 6
	Cr Shane Henderson	
	Cr Richard Hills	
	Cr Mike Lee	From 10.10am, Item 6
	Cr Kerrin Leoni	
	Cr Daniel Newman, JP	
	Cr Sharon Stewart, QSM	
	Cr Ken Turner	
	Cr Wayne Walker	
	Cr John Watson	
	Cr Maurice Williamson	

TE HUNGA KĀORE I TAE MAI | ABSENT

Cr Greg Sayers	On council business
----------------	---------------------

10 Te Whakaaro ki ngā Take Pūtea e Autaia ana | Consideration of Extraordinary Items

Under Standing Order 2.4.6, the Governing Body agreed to receive a verbal update on Government Direction on specified development projects.

During discussion it became apparent that a decision would be required.

The meeting adjourned at 11.52am.

Cr J Bartley left the meeting at 11.52am.

The meeting reconvened at 12.14pm.

With the agreement of the meeting the Chairperson returned to Item 5 - Ngā Pakihi Autaia | Extraordinary Business.

5 Ngā Pakihi Autaia | Extraordinary Business

5.1 Extraordinary business – Government Direction on specified development projects

Resolution number GB/2023/122

MOVED by Cr C Fletcher, seconded by Cr W Walker:

That the Governing Body:

- a) **kohuki / consider an extraordinary item “Government Direction on specified development projects” at Item 10 – Consideration of Extraordinary Items of this agenda, noting:**
 - i) **the reason the matter was not on the agenda is because notice was given to council on 28 June 2023, and**
 - ii) **the reason why this matter cannot be delayed until a subsequent meeting is because it requires immediate action from council.**

CARRIED

10 Te Whakaaro ki ngā Take Pūtea e Autaia ana | Consideration of Extraordinary Items

10.1 Government Direction on specified development projects

Resolution number GB/2023/123

MOVED by Cr C Fletcher, seconded by Cr J Watson:

That the Governing Body:

- a) **tono / request the Mayor to contact the Prime Minister and Ministers of Finance and Housing to:**
 - i) **request that they withdraw their direction to Kainga Ora to assess the Auckland Light Rail Corridor area as a specified development project until the Ministers have discussed this with the other Auckland Light Rail sponsors, including Auckland Council, and agreed on next steps;**
 - ii) **note the council's disappointment that the government made that direction without any discussion or agreement with Auckland Council;**
 - iii) **note that the council has not yet completed its planning and regulatory investigation into the severe weather events;**
- b) **tautohu / refer this matter to the Planning, Environment and Parks Committee for further consideration, and report back to the Governing Body.**

CARRIED

12.49 pm

The chairperson thanked members for their attendance and attention to business and declared the meeting closed.

CONFIRMED AS A TRUE AND CORRECT RECORD
AT A MEETING OF THE GOVERNING BODY HELD
ON

DATE:.....

CHAIRPERSON:.....