

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)**

MINUTE (1 MARCH 2023) FROM THE INDEPENDENT HEARING PANEL – ADDRESSING

MEMORANDUM FROM AUCKLAND COUNCIL RE: -

- **PROPOSED PLAN CHANGE (PC) 78: INTENSIFICATION TO THE AUCKLAND UNITARY PLAN OPERATIVE IN PART (AUP)**
- and
- **IN THE MATTER OF HEARING TOPICS 001 PLAN MAKING AND PROCEDURAL AND 002 MEDIUM DENSITY RESIDENTIAL STANDARDS RESPONSE**
- and
- **IN THE MATTER OF RELATED PROPOSED PC79 AND PC80 TO THE AUP**
- and
- **IN THE MATTER OF RELATED PROPOSED PC81: ADDITIONS TO SCHEDULE 14 HISTORIC HERITAGE SCHEDULE, PC82: AMENDMENTS TO SCHEDULE 14 HISTORIC HERITAGE SCHEDULE AND PC83: ADDITIONS AND AMENDMENTS TO SCHEDULE 10 NOTABLE TREES SCHEDULE**

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.
2. The IHP's responses to the Council's Memorandum are set out in the order that they were addressed in the Memorandum.

Council reporting for hearing of submissions on PC81 to PC83

3. Paragraph 6 of the Memorandum states:

As PC81 Additions to Schedule 14 Historic Heritage Schedule, PC82: Amendments to Schedule 14 Historic Heritage Schedule and PC83: Additions and amendments to Schedule 10 Notable Trees Schedule are subject to the usual process in Part 1 of Schedule 1 of the RMA, and are more discrete in their ambit, the Council respectfully seeks directions from the

IHP that section 42A reports only are provided for those plan changes as well an indication as to when such reports may need to be filed.

4. The IHP agrees that section 42A reports are to be provided in relation to PCs 81 - 83. On this basis the IHP directs that section 42A reports only need to be prepared in relation to PCs 81- 83.
5. The timing of these section 42A reports will be set out in an IHP Direction and hearing notification which will be issued shortly. However, we can advise that the hearings of PCs 81- 83 are scheduled to commence **2, 9 and 16 May 2023** respectively. On this basis the section 42A reports will be required by **4.00 pm 4, 13 and 20 April 2023** respectively.

IHP's directions of 20 February 2023 regarding Hearing Topics 001 and 002 for PC78 (paragraphs 7- 14)

6. The IHP understands the matters raised by the Council. In response the IHP's secretariat has created a guide to finding the list of submitters. This will be available on the IHP's webpage by Wednesday 1 March 2023.
7. A Parties and Issues Report for the 'support/ oppose' hearing will be available by the Wednesday 1 March 2023.

Hearing Schedule

8. Paragraph 15 of the Memoranda states:

The Council also respectfully requests that the IHP give consideration as to whether it may be of assistance for an indicative overview of the hearing schedules for PC78 to PC80 to be released as soon as possible. This would assist the Council and submitters to efficiently allocate resources in the coming weeks.

9. The IHP intends to outline the hearing schedule for all of the Plan Changes and Variations at the beginning of the Pre-Hearing Conference. It will then be placed on the IHP's webpage.
10. Any enquiries regarding this Minute, or related matters, should be directed to the Senior Hearing Advisor, Mr Sam Otter by email at npsudhearings@aucklandcouncil.govt.nz



Greg Hill Chairperson

1 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 Hearing Topics 001 Plan Making and Procedural and 002 Medium Density Residential Standards response

And

In the matter of Related Proposed PC79 and PC80 to the AUP

And

In the matter of Related Proposed PC81: Additions to Schedule 14 Historic Heritage Schedule, PC82: Amendments to Schedule 14 Historic Heritage Schedule and PC83: Additions and amendments to Schedule 10 Notable Trees Schedule

Memorandum of counsel on behalf of Auckland Council in relation to Independent Hearings Panel Directions and PC78 Hearing Notification Letter dated 20 February 2023 regarding Hearing Topics 001 and 002, and seeking directions regarding Council reporting for PC81 to PC83

Date: 22 February 2023



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MAY IT PLEASE THE PANEL

Introduction

- 1 We act for Auckland Council (**Council**).
- 2 The purpose of this memorandum of counsel is to seek directions from the Independent Hearings Panel (**IHP**) regarding the format of the Council's reporting, which will be presented for the hearing of submissions on PC81 to PC83, as well as to seek clarification regarding the IHP's directions dated 20 February 2023 relating to Hearing Topics 001 and 002.

Council reporting for hearing of submissions on PC81 to PC83

- 3 The Council respectfully seeks clarification and directions from the IHP in relation to the IHP's expectations regarding the manner in which the Council responds to submissions on the companion plan changes to the Council's IPI, PC78, being PC81 to PC83.
- 4 PC78 is subject to the Intensification Streamlined Planning Process (**ISPP**) in Part 6 of Schedule 1 of the RMA. The usual Schedule 1 RMA process applies to the companion plan changes PC79 to PC83.
- 5 The Council understands from the IHP's directions to date that submissions and issues arising from submissions on PC78, PC79 and PC80 will be the subject of the preparation of evidence on behalf of witnesses including Council witnesses.
- 6 As PC81 Additions to Schedule 14 Historic Heritage Schedule, PC82: Amendments to Schedule 14 Historic Heritage Schedule and PC83: Additions and amendments to Schedule 10 Notable Trees Schedule are subject to the usual process in Part 1 of Schedule 1 of the RMA, and are more discrete in their ambit, the Council respectfully seeks directions from the IHP that section

42A reports only are provided for those plan changes as well an indication as to when such reports may need to be filed.

IHP's directions of 20 February 2023 regarding Hearing Topics 001 and 002 for PC78

7 We refer to the IHP notification letter and directions relating to the hearing of submissions on PC78 which have been allocated to the following topics/subtopics in respect of which a hearing is scheduled to commence on 28 March 2023:

7.1 Topic 001 – Plan Making and Procedural

7.1.1 Subtopic – Central Government process – mandatory requirements;

7.1.2 Subtopic – Consultation and Engagement – general; and

7.2 Topic 002 – Medium Density Residential Standards response.

8 The IHP's notification letter and directions dated 20 February 2023 identified that the hearing of submissions to these topics and subtopics largely address those submissions generally opposing or supporting aspects of or the entirety of PC78 and directed the following timetable:

8.1 The Council's evidence is filed with the IHP no later than 4.00pm on Monday 6 March 2023;

8.2 The submitters' evidence is filed with the IHP no later than 4.00pm on Monday, 13 March 2023;

8.3 Appearance forms are due at 4.00pm on Monday, 13 March 2023;

8.4 Any rebuttal evidence is filed with the IHP no later than 4.00pm on Monday, 20 March 2023;

8.5 Legal submissions are filed with the IHP no later than three working days before the hearing, being at 4.00pm on Wednesday, 22 March 2023.

9 The hearings for Topics 001 and 002 were foreshadowed in paragraph 7 of the IHP's Procedural Minute 1 dated 6 December 2022, which concerned advance notice of the Pre-Hearing Conference and initial hearing for PC78, PC79 and PC80. Paragraph 7 of the Minute stated:

7. Following the Pre-Hearing Conferencing session, the first hearing of submissions will be those generally opposing the plan changes (examples may include those opposing the plan changes on the basis that Auckland already has sufficient development capacity, or those seeking to change the Medium Density Residential Standards prescribed in the RMA), and then those submitters who generally support the plan changes. The hearings that follow will be 'topic based' and will be set out in the IHP's hearing schedule (to be made available when it is completed).

10 The Council understands from the IHP's notification letter dated 20 February 2023 that the IHP's reference in the directions to Topics 001 and 002 descriptions are references to topics that were used in the Council's Summary of Decisions Requested (**SDR**) for PC78.

11 In this regard, the IHP's notification letter dated 20 February 2023 states:

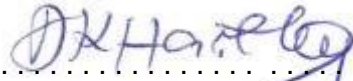
The hearings for Plan Change 78 are being broken down into topics. The topics submitters have been allocated were determined by how submission points were allocated in the Summary of Decisions Requested. If your submission was categorised to a couple of topics, you can present once if you wish. Please let the Hearing Advisor know if you would like to present more than one topic at this hearing.

- 12 The Council is respectfully concerned that lay submitters in particular may not be aware in the absence of a document such as a parties and issues report or a list of submissions and further submissions in the topic how to easily identify other submissions and further submissions which have been allocated to Topics 001 and 002. Potentially, such submitters may wish to address such submissions and further submissions in their primary evidence and submissions to the IHP for the hearing scheduled to commence on 28 March 2023.¹
- 13 In addition, the Council respectfully considers that, if such submitters have more than one submission point, in the absence of a hearing topic schedule, submitters may not appreciate which topic they would be best to present any evidence and submissions within.
- 14 As a result, the Council respectfully requests that the IHP give consideration as to whether it may be of assistance particularly to submitters to circulate a parties and issues report or a list of submission and further submission points that have been allocated to the relevant Topics and Subtopics for the hearing scheduled to commence on 28 March 2023. The Council would also appreciate the opportunity to make sure that it has addressed all submission points assigned by the IHP to the relevant hearing topics.
- 15 The Council also respectfully requests that the IHP give consideration as to whether it may be of assistance for an indicative overview of the hearing schedules for PC78 to PC80 to be released as soon as possible. This would assist the Council

¹ Given that submitters would need to navigate the separate SDRs which have been prepared for submissions and further submissions, as well as the various errata prepared in respect of the SDR for submissions.

and submitters to efficiently allocate resources in the coming weeks.

Date: 22 February 2023



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D K Hartley / A F Buchanan

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proposed Plan Changes 78, 80 and
81 to 83



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proposed Plan Change 79