

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)**

DIRECTION (19 MAY 2023) FROM THE HEARING PANEL

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

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. Its delegations also include addressing any procedural matters.
2. The IHP has received a Memorandum from Auckland Council¹ requesting a pause of all hearings and alternative dispute resolution processes (ADR) for PC 78. The reasons for this were set out in the Memorandum, with the final paragraph stating:

For the reasons set out in this memorandum it is therefore respectfully requested that the IHP pauses the current hearing and alternative dispute resolution / expert conferencing processes for all topics under PC78 for the time-being and counsel is available to attend a conference at short notice to discuss this request. We also respectfully suggest that consideration be given at any conference as to whether there are any PC78 topics that are considered discrete enough to be considered at this time.
3. The IHP held a Conference² in which the views of the Council³ and a number of submitters were provided via written statements and presentations. Those views varied from pausing the entire PC 78 hearings and ADR process, continuing with the current hearings and ADR schedule (i.e., not pausing), and partially pausing and continuing with some PC 78 hearings and ADR processes.
4. The IHP issued a preliminary Direction⁴ on this matter stating⁵:

Given the current uncertainty with respect to the timing and scope of the two proposed variations to be advanced by the Council (as set out in the Council's statement presented

¹ Dated 21 April 2023

² 3 May 2023

³ Including the Auckland Council's Memorandum in response to matters raised at conference on request to pause PC78 held on 3 May 2023 – dated 5 May 2023

⁴ Dated 12 May 2023

⁵ Paragraphs 4- 6

at the Conference), and the range of views as to which topics may or may not be able to proceed prior to the variations being notified, the IHP considers it appropriate to not schedule any PC 78 hearings at this time.

This pause of hearings is an interim position. The IHP is currently working through the complexities of which hearing topics could proceed now to ADR and hearing on the basis that they are discrete enough (i.e., less likely to be significantly impacted by the proposed variations) and be heard prior to the foreshadowed variations being notified and merged with PC 78 (per clause 16B of Schedule 1 to the RMA).

Once it is determined what, if any, hearing topics can proceed the IHP will issue another Direction.

5. The preliminary Direction also set out those ADR topics that would continue.
6. The IHP has now completed its analysis of all PC 78 topics and the submissions that relate to them in order to determine which hearings are reasonably able to continue without significant risk of 're-work' being needed next year once the Council's proposed variations are notified and hearings are able to resume. In completing this analysis, the IHP has been mindful of the statutory duties in ss 18A and 21 of the RMA, as well as ensuring the hearing process is fair to all parties, including by avoiding duplication of hearings and the imposition of additional costs on parties that such duplication would bring. The IHP considers that the hearing schedule it has determined for the remainder of 2023 strikes the appropriate balance between those competing considerations.
7. The hearings that the IHP directs shall proceed this year are set out in the attached table. A hearings schedule (and any additional ADR) will be completed as soon as possible and provided to all parties.
8. The following scheduled ADR will continue, but with all other ADR postponed at this time until advised otherwise.
 - 010J - Māori Cultural Heritage - Pukekiwiriki Pā and Pararēkau Island (second session requested by the parties).
 - 016A – City Centre Zone Provisions (but not 014D - Height - City Centre WC Intensification response).
 - 020A - 1201 – Britomart Precinct.
 - 020G- 1211 – Viaduct Precinct.
 - 020I- 1214 – Wynyard Precinct.
 - 20AL – 1540 – Takapuna Precinct.

9. In addition to the above the IHP directs the Council to report back to the IHP no later than **4 July 2023** on the following:
 - the progress in establishing and agreeing the scope of the two variations⁶;
 - the work it has already undertaken on the variations;
 - the work still to be completed on the variations and its timeframe; and
 - the likely notification dates of the variations.
10. In light of the information to be provided above, the IHP also seeks Council's view (at the time the information is provided) as to what other hearings (not already identified in the attached table) could be heard in 2023 on the basis that that hearing topic would not be impacted by the scope of the proposed variations.
11. 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.
12. To avoid any doubt, this Direction does not affect PCs 79 and 80 which are yet to be heard.
13. 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

19 May 2023

⁶ Natural hazards and the Auckland light rail corridor

Plan Change 78, topics to proceed in 2023.

Topic number	Topic name	Subtopic name
Topic 009F	QM A-I	Waitakere Ranges
Topic 009B	QM A-I	Wetland Management
Topic 009E	QM A-I	Outstanding Natural Character and High Natural Character Qualifying Matter
Topic 009N	QM A-I	Emergency Management Areas – Hazardous Facilities and infrastructure: Wiri Terminal and Wiri LPG Depot
Topic 009R	QM A-I	Aircraft Noise
Topic 010I	Qualifying Matters (Other)	Ridgeline Protection
Topic 010J	Qualifying Matters - Other	Māori Cultural Heritage - Pukekiwiriki Pā and Pararēkau Island
Topic 021C	Other Zones	Special Purpose Healthcare and Hospital Zone
Topic 021F	Other Zones	Special Purpose Tertiary Education Zone
Topic 021D	Other Zones	Special Purpose Māori Zone
Topic 016A	Business Zones (provisions)	City Centre Zone subtopics
Topic 020A	Precincts - NPS-UD MDRS Response	I201 Britomart Precinct
Topic 020G	Precincts - NPS-UD MDRS Response	I211 Viaduct Harbour Precinct
Topic 020I	Precincts - NPS-UD MDRS Response	I214 Wynyard Precinct
Topic 020B	Precincts - NPS-UD MDRS Response	I205 Downtown West Precinct
Topic 020C	Precincts - NPS-UD MDRS Response	I206 Karangahape Road Precinct
Topic 020D	Precincts - NPS-UD MDRS Response	I207 Learning Precinct

Topic number	Topic name	Subtopic name
Topic 020E	Precincts - NPS-UD MDRS Response	I209 Quay Park Precinct
Topic 020F	Precincts - NPS-UD MDRS Response	I210 Queen Street Valley Precinct
Topic 020H	Precincts - NPS-UD MDRS Response	I212 Victoria Park Market Precinct
Topic 020L	Precincts - NPS-UD MDRS Response	I308 Central Park Precinct
Topic 020M	Precincts - NPS-UD MDRS Response	I312 Ellerslie 2 Precinct
Topic 020V	Precincts - NPS-UD MDRS Response	I425 Manukau Precinct
Topic 020AC	Precincts - NPS-UD MDRS Response	I502 Albany Centre Precinct
Topic 020AL	Precincts - NPS-UD MDRS Response	I540 Takapuna 1 Precinct