

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 (22 March 2023) FROM THE HEARING PANEL

RESPONDING TO THE COUNCIL'S MEMORANDA (DATED 20 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 – AND THE COUNCIL'S RESPONSE TO THE INDEPENDENT HEARING PANEL'S MINUTE (14 MARCH 2023).

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 the Council's Memorandum¹ responding to the IHP's Minute dated 14 March 2023 addressing 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.
3. The IHP understands the Council's position at this time. However, the IHP has determined that until the Minister's decision has been made to grant (or not) an extension of time for the Council to notify its decisions on the IHP's recommendations on PC78, the IHP is not able commit to deferring the hearings as requested. This is because unless an extension of time is granted, the deferral of the subject hearings would mean the IHP is unlikely to be able to complete the hearings and formulate its Recommendations on PC 78 within the current time limit set by the Minister.
4. Once the decision of the Minister is known, the IHP will consider the Council request set out in paragraph 17 of its Memorandum - that “ *..once the Minister's response is received, it may be appropriate for the IHP to convene a further conference to discuss with the Council and submitters the approach to the hearing schedule*”.

¹ Dated 20 March 2023

5. 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.

A handwritten signature in black ink, appearing to read "Greg Hill", followed by a period.

Greg Hill Chairperson

22 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**)

Memorandum of counsel on behalf of Auckland Council in response to the Independent Hearing Panel's Procedural Minute dated 14 March 2023 - Planning, Environment and Parks Committee resolution

Date: 20 March 2023



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MAY IT PLEASE THE PANEL

Introduction

- 1 This memorandum of counsel is filed on behalf of Auckland Council (**Council**) in relation to the Independent Hearings Panel's (**IHP**) Procedural Minute dated 14 March 2023 (**Minute**), in relation to the Council's memorandum dated 3 March 2023.
- 2 The Council's memorandum dated 3 March 2023 concerned various Planning, Environment and Parks (**PEP**) Committee resolutions of 2 March 2023 and sought to defer hearings on hearing topics concerning natural hazards and stormwater management and infrastructure provision while investigation work is undertaken following the recent rain events.
- 3 In paragraph 4 of its Minute the IHP indicated that, in principle, it agreed not to schedule any hearing topics and sub-topics concerning these matters as requested by the Council.
- 4 However, before making a final determination, the IHP advised it needed to understand:
 - 4.1 The scope of the work to be undertaken;
 - 4.2 The timeframe to complete that work; and
 - 4.3 How the Council intends dealing with the result of that additional work.
- 5 The PEP Committee's resolutions also directed that a request be made to the Minister for the Environment for an extension of time to the public notification of Council's decisions on the IHP's recommendations on Plan Change 78 (**PC78**) to enable the Council to provide, and the IHP to consider, additional information arising from the investigations.

- 6 The IHP's Minute also advised that the IHP needed to know if an extension of time to the public notification of the Council's decisions on the IHP's recommendations on PC78 has been requested by the Council. If so, the Council was asked to advise the IHP how much time had been sought, and whether that request has been granted by the Minister.
- 7 This memorandum provides the Council's response to the information requested by the IHP.

Scope of work, timeframes and Council response

- 8 We are instructed, by way of high-level overview, that the scope of the investigation work currently being undertaken by the Council involves gathering evidence and conducting research about how Auckland communities were impacted by the recent flooding and landslides, how they are positioned to manage such hazards in the future and the implications for land use planning, current plan changes to the Auckland Unitary Plan Operative in part (**AUP**) (including PC78), infrastructure and other policy settings.
- 9 The intent of the work is to consider existing and future risks of water related hazards, identify any gaps and constraints with the existing provisions, and recommend potential improvements and next steps so that Auckland and its communities are more resilient to water related hazards.
- 10 We are advised that the evidential basis underpinning the investigation will include:
 - 10.1 Information obtained as a result of the Council's monitoring requirements under section 35 of the Resource Management Act 1991 (**RMA**), particularly in respect of provisions of the AUP relating to natural hazards and climate change;

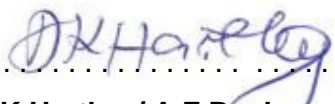
- 10.2 Civil defence emergency management data arising from the recent extreme weather events. This encompasses Fire and Emergency New Zealand incident reports, Insurance Council claims, red/yellow/white placards (stickering), and Healthy Waters engineering assessments; and
- 10.3 Case study analysis of flooding by the Council's Healthy Waters department.
- 11 We are advised that the Council is moving from a response phase to an evidence-gathering phase. We are further advised that, given the diverse and complex nature of the flood and landslide related data that needs to be sourced, verified and analysed, evidence-gathering and insights exercise phase of the investigation work is likely to take in the order of six months.
- 12 We are instructed that the Council's response to the result of the additional work will depend on the nature of the recommendations arising from the investigation work. Once an appropriate planning response to the result of the investigation work is identified, the Council will then be able to identify the most efficient and effective planning process for implementing the planning response. This could involve a variation to PC78 or a wider plan change to the AUP. There may also potentially be scope within submissions on PC78 to address some matters arising from the recommendations of the work.
- 13 Should a further planning process need to be initiated to implement the recommendations, this will require a resolution of the PEP Committee.

Correspondence to Minister

- 14 We are advised that the Council wrote to the Minister on Friday, 17 March 2023 to request an extension to the time for the Council to notify its decisions on the IHP's recommendations on PC78.

- 15 We are further instructed that the Council has sought a one year extension to the timeframe that the Minister for the Environment has directed the Council to notify its decisions on the IHP's recommendations on PC78 from 31 March 2024 to 31 March 2025.
- 16 We are also advised that at the time of filing this memorandum, a response to the Council's request has not yet been received from the Minister.
- 17 Once the Council has received a response from the Minister, the Council will advise the IHP as soon as possible. The Council respectfully suggests that once the Minister's response is received, it may be appropriate for the IHP to convene a further conference to discuss with the Council and submitters the approach to the hearing schedule.

Date: 20 March 2023


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