

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)**

MINUTE FROM THE HEARING PANEL – 11 DECEMBER 2023

PLAN CHANGE 78 – REQUEST FOR RE-HEARING BEFORE NEW MEMBERS OF HEARING PANEL

1. Pursuant to section 34 and 34A of the RMA, Auckland Council (**Council**) has appointed an Independent Hearing Panel (**IHP** or **Panel**) to hear (inter-alia) the submissions on Plan Change 78 (**PC 78**) and to make recommendations on them and on the Plan Change proposal.
2. The IHP as originally constituted comprised 6 members including Mr Greg Hill as chairperson and Mr Kitt Littlejohn. It conducted a number of hearing sessions in relation to procedural and preliminary matters, and some of the submission topics, prior to the resignations of Mr Hill and Mr Littlejohn. Two new members were appointed to replace them, with effect from August 2023.
3. The Panel has received a request from Michael Kampkes on behalf of Citizens Against the Housing Act 2021 (Catha21), a submitter, to re-present their oral submissions presented at a hearing session on 28 March 2023. The reason given for the request is that the impact of Catha21's submissions will be diluted by the replacement of two 'key' members of the Panel, and that the two new members will not otherwise obtain a true sense of the depth of feeling in the community against the changes proposed by PC 78 and its antecedents.
4. Mr Kampkes' request for a re-hearing is declined, for the reasons set out below.
5. There is no requirement or expectation that all Panel members will attend all hearing sessions. As set out in its Hearings Procedures Manual dated 6 December 2022, the IHP determined that two Panel members are required for a quorum at any hearing session.
6. The IHP's practice is to commence deliberations following the conclusion of each hearing session. The collective view of the members who attend each session forms part of the Panel's deliberations and its ultimate recommendation. The four remaining members who sat on 28 March 2023 are well able to complete the Panel's recommendation as it relates to the matters addressed at that session.
7. Mr Kampkes asked that if his request for a re-hearing is declined, the two new members of the Panel read and consider Catha21's submission and view the video footage of the oral presentation. He says that this is necessary so that those members can obtain an understanding of the depth of public opinion against the plan change.

8. I have read Catha21's submission and viewed Mr Kampkes' oral presentation at the hearing on 28 March 2023. This has reinforced the view that no rehearing is required to understand Catha21's opposition and the basis for it.

Any enquiries regarding this Minute or related matters, should be directed to the Senior Hearings Advisor, Mr Sam Otter by email at npsudhearings@aucklandcouncil.govt.nz



Matthew Casey KC, Chairperson

11 December 2023

From: [catha21](#)
To: [Sam Otter](#)
Subject: Request to be heard by the New Members of the Independent Hearings Panel
Date: Friday, 20 October 2023 12:58:47 pm

Kia ora Sam

We have previously verbally raised concerns that our original submissions will not be given due consideration due to the untimely resignations of the key members of the panel. On further consideration, we do not believe it is reasonable for the impact of our submissions to be diluted by these unfortunate resignations which in our opinion will be exacerbated by the now drawn-out process.

We respectfully request that we have the opportunity to make our oral submission once more. This will give the new members a true sense of the depth of feeling in the community against the MDRS provisions within the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (Intensification Act) and the onerous aspects of the NPS-UD that PC78 is set to enforce.

In our opinion, this cannot be effectively translated by reviewing video footage. The purpose and value of face-to-face oral submissions have been lost with the resignations of the panels key members. We believe this request is reasonable and look forward to the panel's favourable consideration.

Should this request be denied we respectfully request the following be provided,

- written confirmation the new members have read and considered our written submissions and viewed the video footage of our oral submission, and when this took place.
- written confirmation that matters raised in these submissions are being given full consideration and are not being lost in the midst of time. Given no feedback on any points raised in our submissions has ever been given, it is a genuine concern within our group this may happen as the PC78 planning process is set to enter its second year.

We also request the panel properly consider the legal matters raised in our further submissions; a generic copy of which is copied below for your convenience. While we have been advised we cannot expect feedback until the final report by the IHP we do ask the panel to confirm they have undertaken the requisite steps to clarify the legal obligations of the Council and potential developers in the light of the many shortcomings of the Intensification Act.

We look forward to your favourable consideration of the above and your reply.

Kind regards
Michael Kampkes
Founder of 'Citizens Against the Housing Act 2021'
021674314
<https://www.facebook.com/groups/1071945533581901>

Generic Text of 'Further Submissions'

1 We oppose this submission as, in one form or another, and/or to a greater or lesser extent it supports the deployment of the NPS-UD and the provisions under the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act

2021 (the Intensification Act), yet fails to prove the need for such development, which is over and above the development capability within the existing Auckland Unitary Plan (AUP).

The AUP has sufficient development potential for another 900,000 living dwellings and, based on market observation, it is already delivering Auckland out of the so-called housing crisis. In so doing it is already meeting the objectives of the NPS-UD, the MDRS and the Intensification Act.

2. With respect to the Intensification Act, the Crown failed to carry out substantive proof of need, which resulted in the passing of an unnecessary law, particularly as it pertains to Auckland.

This then obliges Auckland Council and submitters who desire development over and above the existing AUP to:

- a) prove there is an actual need for more intensification outside of zones already designated for such development in the AUP and,
- b) carry out an assessment of effects to demonstrate that the Plan Change 78 amendments proposed are in accordance with sustainable resource management, as legally required under the RMA S 5(1) and S 5 (2) (a) (b) and (c), copied here for the avoidance of doubt:

“5 Purpose

(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety, while:

(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and

(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.”

Similarly, Sections 7 (c) and 7 (f) of the RMA are relevant:

3. To the best of our knowledge, considering the limited and therefore unfair amount of time allowed to conduct a detailed analysis, we argue this submitter will have done neither of the above. As such their submission should not be considered until such time as these requirements are met.