

BEFORE THE INDEPENDENT HEARINGS PANEL

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

AND

IN THE MATTER of Intensification Planning Instrument (**IPI**)
Proposed Plan Change (**PC**) 78: Intensification
to the Auckland Unitary Plan Operative in Part
(**AUP**)

AND

IN THE MATTER of Hearing Topic 001A Plan making and
Procedural - Consultation and Engagement

AND

IN THE MATTER of the submissions and further submissions set
out in the Hearing Topic 001A Draft Parties
and Issues Report 1 March 2023

**PRIMARY STATEMENT OF EVIDENCE OF ROSS LINDSAY MOFFATT
ON BEHALF OF AUCKLAND COUNCIL**

**PLANNING – TOPIC 001A PLAN MAKING AND PROCEDURAL -
CONSULTATION AND ENGAGEMENT**

Date: 7 March 2023

1 SUMMARY

- 1.1 Hearing Topic 001A Plan Making and Procedural – Consultation and Engagement (**Topic 001A**) relates to submissions:
- Seeking the rejection of Proposed Plan Change 78 – Intensification (**PC 78**) to the Auckland Unitary Plan operative in part (**AUP**) as notified by Auckland Council (**the Council**) in August 2022 as there has not been genuine or adequate consultation and engagement during its preparation.
 - Raising concerns about, or opposition to, the consultation and engagement process that occurred during the preparation of PC 78.
 - Requesting direct engagement in current and future plan changes, funding or development processes related to PC 78.
 - A range of other matters do not relate to consultation and engagement in the preparation of PC 78.
- 1.2 Submissions on Topic 001A do not relate to any particular proposed district plan provisions in PC 78, which is the Council's Intensification Planning Instrument (**IPi**).
- 1.3 My planning evidence sets out the Council's approach to consultation and engagement during the preparation of PC 78 and how the public, stakeholder and mana whenua feedback from that process was considered in its preparation.
- 1.4 My evidence demonstrates my belief that the consultation and engagement approach delivered by Council was genuine and sufficient in terms of the limited range of matters that were available for the Council to decide, within the requirements of the National Policy Statement on Urban Development 2020 (**NPS-UD**) and amendments made in 2021 to the Resource Management Act 1991 (**RMA**).
- 1.5 I do not support the relief sought by many of the submitters in this topic but do recommend a number of submission points be reallocated to, and considered in other, more relevant hearing topics.

2 INTRODUCTION

2.1 My full name is Ross Lindsay Moffatt. I am employed as a Senior Policy Planner by Auckland Council within the Plans and Places Department.

2.2 I hold the qualifications of Bachelor of Planning, Master of Arts (Urban Design) and New Zealand Certificate in Project Management Level 4. I have PRINCE2 (Projects in Controlled Environments) and IAP2 (International Association for Public Participation) practitioner accreditation. I have 33 years of planning, management and project management experience with local and regional government in New Zealand and the United Kingdom, which has often involved consultation and engagement with the public and a range of other stakeholders. I have worked in these capacities for Auckland local authorities continuously for the past 20 years. I am a full member of the New Zealand Planning Institute.

2.3 I have been part of the Council's project team responsible for overseeing the preparation and process of PC 78 and related plan changes and variations. My main roles in this work have included overall project management and leading the consultation and engagement programme delivered in the preparation of PC 78.

2.4 In conjunction with the Council's PC 78 mana whenua engagement lead I prepared the pre-notification consultation and engagement summary report contained in the PC 78 *Section 32 Overview Evaluation Report*¹.

2.5 I am authorised by the Council to provide planning evidence for Topic 001A.

3 CODE OF CONDUCT

3.1 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and that I agree to comply with it. I confirm that I have

¹ Listed as [PC78- IPI Overall Evaluation Report](#) on Auckland Council's website

considered all the material facts of which I am aware that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

4 SCOPE

4.1 My planning evidence on behalf of the Council responds to submissions for Topic 001A. I have reviewed the submissions and grouped them into themes. My evidence addresses the following four submission themes:

- reject PC 78 as there has not been genuine or adequate consultation
- concerns about, or opposition to, the consultation and engagement process
- requests for direct engagement in current and future plan changes, funding or development processes
- other.

4.2 In preparing my evidence I have considered the following:

- The Council's Summary of Decisions Requested Report (**SDR**), including errata, relevant to the coding framework of the Independent Hearing Panel (**the Panel**) which constitutes Topic 001A.
- Associated submissions.
- The principal section 32 evaluation for PC 78: *Overview Evaluation Report*², including section 4.7 and particularly the pre-notification consultation and engagement summary report contained as Appendix 2 of that report.
- Topic 001A *Draft Parties and Issues Report* issued by the Panel on 1 March 2023.

4.3 I have also read and considered the strategic planning evidence of Mr David Mead filed on behalf of the Council for the pre-

² Listed as [PC78- IPI Overall Evaluation Report](#) on Auckland Council's website

hearing conference on 6 March 2023 in which the Council's overall approach to the IPI is set out.

5 STATUTORY TESTS

- 5.1 Topic 001A concerns the consultation and engagement process around the preparation of PC 78 and submitters seeking on-going consultation and engagement with the Council through the process of PC 78 and beyond.
- 5.2 Topic 001A does not relate to any particular proposed district plan provisions. Accordingly, a narrower range of RMA provisions is relevant to Topic 001A than topics the Panel will consider in later hearings.
- 5.3 When assessing the merits of the matters at issue in Topic 001A, I consider that a limited number of RMA provisions are relevant, including sections 31-32, and clause 95 Part 6 Schedule 1 of the RMA.
- 5.4 A summary of the relevant statutory tests is included in Attachment 1 to my evidence.

6 APPROACH TAKEN TO CONSULTATION AND ENGAGEMENT IN THE PREPARATION OF PC 78

Requirements for engagement and consultation

- 6.1 Clause 95 of Part 6 of Schedule 1 of the RMA sets out the process by which the Council must prepare, notify and progress its IPI. The consultation requirements in clause 3(1), (2) and (4), clause 3B and clause 3C of Part 1 of Schedule 1 of the RMA apply.
- 6.2 Under these clauses in Schedule 1, the Council is required to consult certain government departments, affected local authorities and iwi authorities when preparing plan changes to the AUP including PC 78. Further, the Council may consult with anyone else during the preparation of the proposed plan changes, therefore having discretion to adopt its own process for engagement and consultation in accordance with section 82 of the Local Government Act 2002 (**the LGA**).

Council's approach to consultation and engagement

- 6.3 The Council's overall approach to consultation and engagement on the Council's intensification plan change was endorsed by the Council's Planning Committee at its meeting on 5 August 2021 as follows.

"Resolution number PLA/2021/98

That the Planning Committee:

- a) approve the following engagement approach for the intensification plan change to the Auckland Unitary Plan required under the National Policy Statement on Urban Development 2020:
- i) workshops from October 2021 to early 2022 with the Planning Committee, local boards and mana whenua on the council's preliminary response
 - ii) engagement in March or April 2022 with Aucklanders and key stakeholders on the council's preliminary response
 - iii) workshops in May and June 2022 with the Planning Committee, local boards and mana whenua to consider feedback from Aucklanders and key stakeholders on the matters over which the council has discretion and to progress the proposed intensification plan change
 - iv) public notification of the proposed intensification plan change by 20 August 2022.
- b) note that a more detailed plan for involving local boards and mana whenua and engaging with Aucklanders and key stakeholders will be prepared."

- 6.4 The Planning Committee report entitled 'National Policy Statement on Urban Development – pre-notification engagement on the required intensification plan change to the Auckland Unitary Plan' (CP2021/10631) set out the context for the recommendations that were adopted. This context being that, given the significance of the matters that need to be addressed in the required intensification plan change and their interest to Aucklanders, and also reflecting previous engagement on a pre-notification draft of the Proposed Auckland Unitary Plan in 2013, it was considered appropriate to engage with Aucklanders and key stakeholders on the Council's initial proposals in response to the NPS-UD before formal public notification of a plan change as required in August 2022.

- 6.5 The proposed approach was seen to have two key benefits. Firstly, it would enable Aucklanders and key stakeholders to understand the NPS-UD and the Council's preliminary response to it, and secondly, enable feedback received through this process to inform the intensification plan change required under the NPS-UD prior to public notification in August 2022.
- 6.6 In terms of engaging with Aucklanders and key stakeholders, the report noted that the Council needed to be as clear as possible about the aspects of the intensification plan change that are required by the NPS-UD, and the aspects over which the Council has some discretion i.e. ability to make its own decisions. It was clarified that even though there may be engagement (including consultation) prior to formal public notification of a plan change, the Council would not be able to change its approach in response to feedback received on aspects that are mandatory (such as enabling at least six-storey development inside walkable catchments).
- 6.7 Accordingly, subsequently the consultation focused on those aspects of the NPS-UD policies where the Council had some discretion as to how and where to implement them, including the following matters.
- the approach to identifying walkable catchments around the city centre, metropolitan centres and rapid transit network stops as required under NPS-UD Policy 3(c)
 - the approach to identifying areas of intensification adjacent to town and local centres as required under NPS-UD Policy 3(d)
 - the selection of, and approach to, “other” qualifying matters that should limit height and density of development that would otherwise be enabled, under section 771(j) for residential zones, and section 770(j) for non-residential zones and NPS-UD policy 4.
- 6.8 The inclusion of the public engagement phase presented a challenge to meeting the tight timeframe required to notify the intensification plan change by August 2022. Consulting with Aucklanders and stakeholders on key discretionary matters that were for Council decision-making before formal plan change

notification was considered to be best practice, given the significance of the matters involved.

- 6.9 The approach taken with mana whenua involved iterative engagement in accordance with tikanga. Since October 2021 through to IPI plan change notification, mana whenua groups recognised by the Council, regional mana whenua forums, and co-governance entities have been engaged. Organisations which provide for mataawaka in Tāmaki Makaurau have also been engaged with, including urban Māori authorities and urban marae.

Consultation and engagement activities and outputs

- 6.10 The strategy to deliver the consultation and engagement approach was prepared and delivered through late 2021 and into 2022. This included engagement with mana whenua, local boards and government departments leading to full public consultation on the Council's preliminary response to the NPS-UD and RMA amendments.
- 6.11 Local boards were briefed in October and November 2021 on the implications of the NPS-UD. Local board chairs were invited to the series of Planning Committee NPS-UD policy direction workshops in 2021 and 2022. Local boards received briefings on the Council's preliminary response in March 2022 and submitted feedback through resolutions at meetings in June 2022.
- 6.12 Consultation and engagement with mana whenua included regular collective and individual hui, visits to individual marae, subject matter workshops, presentations and updates to mana whenua forums and co-governance and co-management entities, provision of an independent professional planner to assist representatives to draft feedback, and a formal process of providing pre-notification feedback on the draft IPI plan change for consideration as part of decision-making for notification.
- 6.13 The Council pre-circulated material and proposals to mana whenua representatives to assist the formation of their advice received at hui and directly. Advice was then considered by the

Council with any outcomes (including no change) discussed with representatives at subsequent hui.

- 6.14 Feedback from iwi was extensive. The widespread intensification enabled by the NPS-UD and MDRS has the potential to affect Māori both negatively and positively. This includes with respect to culturally significant sites and landscapes, Treaty Settlement redress land, and urban form.
- 6.15 Public consultation on the Council's 'preliminary response', being an indication of possible IPI plan change content, occurred for three weeks from 19 April to 9 May 2022. The engagement approach was designed to encourage participation from Auckland's diverse communities with a range of channels used to raise awareness and provide further information to that contained in the consultation documents (e.g. AKHaveyoursay platform, community partners and databases).
- 6.16 Communication with Aucklanders and other stakeholders supported the overall community awareness and engagement approach to the NPS-UD and council's response to it. A marketing campaign ran for two weeks prior to the consultation. Advertorials in mainstream and community media, media briefings and statements at key points, extensive information on the Council's website and paid social media channels augmented the awareness of consultation opportunities.
- 6.17 Externally-imposed and procedural time constraints contributed to the limiting of the duration of the public consultation to three weeks. In the report to the Council's Planning Committee in March 2022 (CP2022/02718) that confirmed the consultation period, the following was noted at paragraph 4 as follows.

"While this is a tight timeframe and coincides with Easter and school/university holidays, factors such as central government introducing major changes through the [RMA] Amendment Act at the end of last year while retaining the 20 August 2022 deadline, and the impact of the Covid-19 pandemic, have made it impossible to engage with the public earlier than now. Extending the engagement period further into May runs a very high risk of the council being unable to meet the 20 August 2022 statutory [notification] deadline."

- 6.18 The report also noted that feedback received from the public, together with the ongoing involvement of local boards and mana whenua, will greatly assist the council in finalising the IPI for notification by 20 August 2022.
- 6.19 The online consultation material encompassing the Council's preliminary response contained the following elements.
- a summary preliminary response consultation document
 - a shorter summary document translated into seven languages
 - an 'NPS-UD planning map viewer' illustrating possible zoning and qualifying matters layers
 - eleven detailed information sheets on key matters for consultation feedback
 - reports on residential and business Special Character Area surveys and assessments
 - an online, printed and translated feedback form with questions on feedback topics
 - a set of frequently asked questions and answers on 30 topics
 - explainer videos for the map viewer and the preliminary response
 - an enquiry service for questions and clarifications.
- 6.20 In the months leading up to the public engagement phase, work was undertaken to brief and prepare 'community partners' to engage Auckland's diverse audiences about the NPS-UD and amended RMA requirements, and the upcoming preliminary response.
- 6.21 During the consultation period a programme of mainly online engagement events and activities occurred including four webinars, four community and stakeholder 'Have Your Say' events, two Special Character Areas information sessions. Meetings were also held with three Council advisory panels.
- 6.22 Public feedback was received through multiple channels (e.g. digital, hard copy, phone, meetings). A total of 7,860 items of feedback were received by 9 May 2022, including 6,094 completed feedback forms. 1,766 additional pieces of feedback were also received. A feedback summary report was produced

and published along with all original items of feedback received on the Council's AKHaveyoursay platform.

- 6.23 In addition to the request for feedback, an independent on-line survey was completed by Kantar Public. This involved over 2,000 survey participants, evenly spread across local board areas. The survey asked the same questions as the consultation feedback form and provided an assessment of more general and more representative public sentiment about the preliminary response than received through the consultation feedback. The final survey report was also published at AKhaveyoursay.
- 6.24 It was not possible to consult with the public in April and May 2022 on draft AUP provisions arising from the directions in the NPS-UD and RMA amendments. The analysis, assessment and focused stakeholder engagement required to develop appropriate provisions was not able to be completed between the passing of the RMA amendments just prior to Christmas 2021 and any Council approval of them in March 2022 for the purpose of public engagement. This work proceeded from January 2022 right through to July 2022 in an iterative manner.
- 6.25 Draft plan change provisions were sent to mana whenua in June 2022 as part of draft plan change material for feedback in relation to clause 4A Schedule 1 of the RMA. The draft provisions were also informed by feedback received from the consultation on the Council's preliminary response.

How consultation and engagement feedback was considered

- 6.26 The feedback received on the Council's preliminary response and feedback received from other stakeholders, mana whenua and mataawaka, was assessed and considered towards the development of the IPI and non-IPI plan changes through June and July 2022.
- 6.27 The Council worked to review the feedback relevant to the different topics that were consulted on. The teams evaluated the impact of the feedback on the proposals in the preliminary response and further work that had been ongoing through the consultation period and into early June 2022.

- 6.28 The Council used the themed summary material as well as the full written feedback to assess the evidence and positions taken in the feedback and how they may have potentially adjusted the proposals as shown in the preliminary response.
- 6.29 Workshops were held with the Council's Planning Committee in June 2022 to identify how the feedback on the consultation topics had contributed to proposals related to walkable catchments, areas for intensification around centres, and the council-identified qualifying matters including special character areas and areas with significant infrastructure constraints.
- 6.30 The discussions at these workshops, and requests for further work and consideration of options, would inform the report to the Council's Planning Committee on 30 June 2022 confirming policy directions to enable the IPI plan change to be finally prepared for notification on 18 August 2022. This included feedback from 19 local boards from their meetings in June 2022.
- 6.31 A subsequent Planning Committee workshop on 6 July reviewed the proposed GIS mapping components related to the policy directions and resolutions from 30 June 2022 meeting. Work on the proposed IPI plan change documentation and GIS map viewer continued and was reported Committee meeting on 4 August 2022 for endorsement of the proposed IPI and non-IPI plan changes for public notification by 20 August 2022.
- 6.32 Advice and feedback received at hui with mana whenua was then considered by the Council with any outcomes (including no change) discussed with representatives at subsequent hui. Hui notes were circulated for the benefit of all representatives. This feedback was included in the report to the Council's 4 August 2022 Planning Committee meeting.

7 OUTSTANDING ISSUES, SUBMISSIONS AND THEMES

- 7.1 There are 43 submission points and 321 further submission points that have been allocated to Topic 001A as set out in the Panel's Draft Parties and Issues Report dated 1 March 2023.

7.2 Topic 001A falls within the category of submissions generally in opposition to Plan Change 78 described by the Panel in Procedural Minute 1, of 6 December 2022, that is to be heard before hearings on particular topics and provisions.

7.3 Topic 001A has not been the subject of any mediation or expert witness conferencing.

7.4 After reviewing Topic 001A's submission points, I suggest that four themes are used:

- reject PC 78 as there has not been genuine or adequate consultation
- concerns about, or opposition to, the consultation and engagement process
- requests for direct engagement in current and future plan changes, funding or development processes
- other.

8 EVALUATION OF SUBMISSIONS

8.1 I address the decisions requested in submissions by themes in my evidence using the submission and further submission numbering as set out in the Panel's Parties and Issues report dated 1 March 2023. A full list and summary of decisions requested is included in Attachment 2 organised by submission points' thematic grouping. The table below sets out the number of submission points and further submission points for each of the four suggested topic themes.

Topic 001A Consultation and Engagement	Number of submission points	Number of further submission points in support	Number of further submission points in opposition
Reject PC 78 as there has not been genuine or	10	4	0

Topic 001A Consultation and Engagement	Number of submission points	Number of further submission points in support	Number of further submission points in opposition
adequate consultation			
Concerns about, and opposition to, the consultation and engagement process	16	1	0
Requests for direct engagement in current and future plan changes, funding or development processes	7	10	202
Other	10	4	100
TOTAL	43	19	302

Theme: Reject PC 78 as there has not been genuine or adequate consultation

- 8.2 The submission points in this theme express dissatisfaction with the Council's consultation and engagement approach in the preparation of PC 78 prior to its notification in August 2022, and therefore the plan change should be dismissed.
- 8.3 Submission points from Oliver Moss (33.1), Julia Neville (34.1), Jeffrey Robertson (38.1), Jessica Ward (47.1), Drew Adams (79.1), Angelique Ward (105.1), David Cunningham (510.1) and Tanya Newman (1720.1) say either or both that the consultation

was not genuine, which I take to mean that submitters did not think it would impact on the plan change that was notified, or was not adequate, which I take to mean that submitters did not think there was enough consultation for long enough about more content of the plan change being prepared.

- 8.4 Most of these submitters elaborate by suggesting that there is no detail about how transport, schools and parks will be provided and work in light of the provisions of PC 78. However, the submitters do not suggest any specific changes to the provisions of PC 78.
- 8.5 In my opinion the consultation and engagement approach employed to assist the preparation of PC 78 was genuine and sufficient in terms of statutory requirements. I consider the approach and activities set out in previous sections of my evidence detail as comprehensive a consultation and engagement approach as was possible, delivered within a very tight timeframe not within the Council's control.
- 8.6 Undertaking full public consultation, albeit for a three-week period, on the Council's preliminary response was not a statutory requirement. However, I consider this to have been important due to the significance of the matters to Aucklanders and stakeholders and was meaningful in terms of the extent and impact of feedback received upon the preparation of PC 78.
- 8.7 A submission point from Gregory Lawrence Smith (2211.2) requests that the plan change be withdrawn due to it being advanced so soon after the completion of the AUP process in 2016, and the high level of impact it has on many people. I do not consider the six-year gap between the AUP becoming operative in part and the notification of PC 78 to be 'too soon', and in any case the Council had no choice in law to not notify an IPI plan change in August 2022.
- 8.8 A submission point from Rebecca Macky (2215.1) requests the plan change be withdrawn and consultation proceed widely with the community to determine the level of support for intensification proposed by it. Again, I consider the consultation and

engagement undertaken was sufficient under the circumstances and the Council had no choice in law to not notify an IPI plan change in August 2022.

- 8.9 I understand that the Council's legal submissions will address consultation issues further. However, in light of the consultation I described above, I recommend that the ten submission points and four further submission points in this theme be rejected.

Theme: Concerns about, or opposition to, the consultation and engagement process

- 8.10 This theme is similar in nature to the first theme, in that submissions in this theme express dissatisfaction with the Council's approach to consultation and engagement that preceded the notification of PC 78, and often the lack of information provided about the proposals. The main difference being that the submitters in this theme raise issues about consultation but do not seek the rejection of PC 78 for these reasons.
- 8.11 Similarly to my response to the submissions of the first theme, I consider that the public consultation and engagement approach in the lead up to PC 78 notification, including the extent and clarity of information provided on the matters for Council discretion, was sufficient to enable the public to understand the issues and options involved, and to enable feedback to be provided that informed the preparation of the plan change that was notified in August 2022.
- 8.12 In my view the level of feedback response was extensive across all areas of Auckland impacted by the NPS-UD and RMA amendments, and adequate in terms of informing the Council of views, concerns and positions with respect to the issues that the Council had discretion to make decisions.
- 8.13 Further, I consider that the overall content and positions expressed in the feedback received indicated general support for the Council's approach to implementing the requirements of the NPS-UD and RMA amendments as contained in the Council's preliminary response consulted on in April and May 2022, with

regard to the matters it was able to determine. To this extent, and in consideration of much helpful information in the feedback received, I consider the consultation and engagement had a clear impact on the plan change that was endorsed by the Council and prepared for notification.

- 8.14 Accordingly, for the above reasons, I recommend that the submission points from Liadan Cotter (668.2), Lynette Brumby (669.2), Simon Ingram (888.2), Thomas and Emily Barou (891.2), Dianne Giles (1031.6), Laurence Nash & Paul Willetts (1500.9), Sara Bruce (1563.3), Shane Pratt (2362.3) and Wu Yong (2363.3) be rejected.
- 8.15 A submission point from Gerlinde (Gina) Stradwick (60.2) says that Aucklanders have not given the Council the permission to make the changes contained in PC 78. Again, my response is that the notification of an IPI plan change was a statutory requirement that did not require community support. I recommend that this submission point be rejected.
- 8.16 A submission point from Stuart Bode and Jan Hewitt (1614.2) says that there was insufficient time to understand proposals contained in the Council's preliminary response when consultation occurred in April-May 2022. I acknowledge the limited timescale for the consultation but again, I consider that sufficient information was provided. There was in my view sufficient opportunity provided in the consultation to engage with staff through questions and ability to clarify matters arising. I recommend that this submission point be rejected.
- 8.17 There are five submission points in this theme that I consider would be better addressed in other hearing topics or subtopics.
- 8.18 In my view there are three submission points that would be better considered in Hearing Topic 001D Plan making and Procedural – Central Government Process (**Topic 001D**). These are:
- 8.18.1 A submission point from Gay and Victor Scaniglia (59.1) says that the government-imposed process is not democratic

- 8.18.2 A submission point from Howick-Pakuranga Grey Power (1900.5) concerns central government's directive to intensify without public input. I consider that this point is about the existence of the NPS-UD and RMA amendments not about consultation and engagement in the preparation of PC 78
- 8.18.3 A submission point from Arthur John Harris (2139.1) which is not about consultation and engagement in the preparation of PC 78 but about central government's consultation on the NPS-UD and RMA amendments.
- 8.19 I understand Topic 001D will be heard at the same time as Topic 001A. Ms Rebecca Greaves is providing evidence on Topic 001D. I agree with Ms Greaves' view that the Council was obliged to promulgate PC 78 and her recommendation that submissions of this nature should be rejected.
- 8.20 A submission point from Milford Residents Association Inc (2353.2) is also not about consultation and engagement in the preparation of PC 78 but about PC 78 having been prepared 'in a panic'. In my view, this submission point would be better considered in Hearing Topic 001I Plan making and Procedural – General (**Topic 001I**), which I understand is due to be heard later this year.
- 8.21 A Submission point from Espano, 20 Poynton Terrace Body Corporate Committee (1600.3) suggests that the statutory notification process for PC 78 did not follow standard Council procedure. Again, I consider that this point is not about consultation and engagement in the preparation of PC 78 and would also be better considered in Topic 001I.
- 8.22 I therefore recommend that two submission points should be considered in other hearing topics as outlined above and that the other 14 submission points and one further submission point in this theme be rejected.

Theme: Requests for direct engagement in current and future plan changes, funding or development processes

- 8.23 The submission points in this theme generally requested ongoing engagement between the organisations or entities and the Council, during the plan change hearing process and afterwards through implementation of the resulting approved amendments to the AUP.
- 8.24 The submissions in this theme do not relate to the Council's consultation and engagement that occurred in the preparation of PC 78 and the submissions do not seek any changes to PC 78 provisions.
- 8.25 I agree with submitters that consultation and engagement with relevant organisations and the public of Auckland is important. However, now that PC 78 has been notified the hearing process before the Panel provides the opportunity for interested parties to be involved.
- 8.26 I therefore recommend that the seven submission points and 212 further submission points in this theme should be rejected.

Theme: Other

- 8.27 These submission points cover a range of matters that I consider are not relevant to Topic 001A and may require reallocation to an appropriate topic or subtopic, or I recommend for rejection.
- 8.28 The submission point in this theme from South Epsom Planning Group (1893.2) contains a number of concerns about the PC 78 process that largely relate to the mandatory nature of the NPS-UD and RMA amendments and its timeframes and requirements outside of the Council's control. In my view, this submission point would be better considered in Topic 001D as it does not relate to consultation and engagement on PC 78.
- 8.29 As discussed earlier in my evidence, given that Topic 001D will be heard at the same time as Topic 001A and Ms Greaves is providing evidence on Topic 001D, I agree with Ms Greaves' view that the Council was obliged to promulgate PC 78 and her

recommendation that submissions of this nature should be rejected.

- 8.30 The submission points from by Russell Halliday (485.2), Kerryn M. Downey (1099.1) and Counties Energy Limited (2020.2) request consultation with particular parties be included in development consent processes. In my view, these submission points would be better considered in Topic 001I as they do not relate to consultation and engagement on PC 78.
- 8.31 Submission points from North Eastern Investments Limited (836.17), Judith Gayleen Mackereth (976.5) and Woolworths New Zealand Limited (1779.1) relate to the submissions and further submissions process, and involvement in the hearings process. In my view, these submission points would also be better considered in Topic 001I as they do not relate to consultation and engagement on PC 78.
- 8.32 Submission points from Bernard Adrian Parker (1095.3), Sarah Jane Langstone-Ross (1324.3) and Ngāti Te Ata Waiohua (2392.21) request or relate to specific provisions in PC 78. In my view, these submission points would be better considered in other hearing topics as follows as they do not relate to consultation and engagement on PC 78:
- 8.32.1 Submission point 1095.3 (Bernard Adrian Parker) - Hearing Topic 012E Qualifying Matters (Infrastructure) - Water and wastewater constraints
 - 8.32.2 Submission point 1324.3 (Sarah Jane Langstone-Ross) - Hearing Topic 013 Qualifying Matters - (Additional)
 - 8.32.3 Submission point 2392.21 (Ngāti Te Ata Waiohua) - Hearing Topic 008 Urban Environment.
- 8.33 I therefore recommend that nine submission points and 102 further submission points in this theme be considered in the other hearing topics discussed above and not as part of Topic 001A. I consider that one submission point from South Epsom Planning Group (1893.2) and two further submission points should be rejected.

9 CONCLUSIONS

- 9.1 43 submissions allocated to Hearing Topic 001A Plan making and Procedural - Consultation and Engagement have been categorised into four themes and assessed as outlined in this statement of evidence.
- 9.2 My evidence sets out the Council's approach to consultation and engagement through 2021 and 2022 during the preparation of PC 78 for notification in August 2022. It is my view that the consultation and engagement was genuine and sufficient in terms of statutory requirements and the limited time available for preparing PC 78 for notification.
- 9.3 My evidence addresses the submissions and further submissions received on these topics and recommends the rejection of 32 submission points and that 11 submission points be reallocated to, and considered in other, more relevant hearing topics.

Ross Lindsay Moffatt

7 March 2023

Attachment 1 – Statutory tests

A. General requirements - district plan (change)

1. A district plan (change) should be designed to **accord with**³ — and assist the territorial authority to **carry out** — its functions⁴ so as to achieve the purpose of the Act.⁵
2. The district plan (change) must also be prepared in accordance with any regulation⁶ and any direction given by the Minister for the Environment.⁷
3. When preparing its district plan (change) the territorial authority must give effect to any national policy statement (including Policies 3 and 4 of the National Policy Statement on Urban Development 2020 (**NPS-UD**)), New Zealand Coastal Policy Statement, and any applicable national planning standard.⁸
4. When preparing its district plan (change) the territorial authority shall:
 - (a) **have regard to** any proposed regional policy statement (change);⁹
 - (b) **give effect** to any operative regional policy statement.¹⁰
5. In relation to regional plans:
 - (a) the district plan (change) must not be inconsistent with an operative regional plan for any matter specified in section 30(1) or a water conservation order;¹¹ and
 - (b) the district plan (change) **must have regard** to any proposed regional plan (change) on any matter of regional significance.¹²
6. When preparing its district plan (change) the territorial authority must also:
 - **have regard to** any relevant management plans and strategies under other Acts, and to any relevant entry in the New Zealand Heritage List/ Rārangi Kōrero and to any relevant project area and project objectives (if section 98 of the Urban Development Act 2020 applies)¹³ to the extent that their content has a bearing on resource management issues of the district; and to consistency with plans and proposed plans of adjacent territorial authorities;¹⁴ and to any emissions reduction plan and any

³ RMA, section 74(1).

⁴ As described in section 31 of the RMA.

⁵ RMA, sections 72 and 74(1).

⁶ RMA, section 74(1).

⁷ RMA, sections 74(1)(c) and 80L.

⁸ RMA, section 75(3).

⁹ RMA, section 74(2)(a)(i).

¹⁰ RMA, section 75(3)(c).

¹¹ RMA, section 75(4).

¹² RMA, section 74(2)(a)(ii).

¹³ RMA, section 74(2)(b).

¹⁴ RMA, section 74(2)(c).

national adaptation plan made under the Climate Change Response Act 2002;¹⁵

- **take into account** any relevant planning document recognised by an iwi authority;¹⁶ and
- not have regard to trade competition or the effects of trade competition.¹⁷

7. The formal requirement that a district plan (change) must¹⁸ also state its objectives, policies and the rules (if any) and may¹⁹ state other matters.

B. Objectives [the section 32 test for objectives]

8. **Examine** the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the Act.²⁰

C. Policies and methods (including rules) [the section 32 test for policies and rules]

9. The policies are to implement the objectives, and the rules (if any) are to **implement** the policies;²¹

10. Whether the provisions (the policies, rules or other methods) are the most appropriate way to achieve the purpose of the district plan change and the objectives of the Auckland Unitary Plan by:²²

(a) identifying other reasonably practicable options for achieving the objectives;²³ and

(b) assessing the efficiency and effectiveness of the provisions in achieving the objectives, including by:²⁴

i. identifying and assessing the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for:

- economic growth that are anticipated to be provided or reduced;²⁵ and

¹⁵ RMA, section 74(2)(d) and (e).

¹⁶ RMA, section 74(2A).

¹⁷ RMA, section 74(3).

¹⁸ RMA, section 75(1).

¹⁹ RMA, section 75(2).

²⁰ RMA, sections 74(1) and 32(1)(a).

²¹ RMA, section 75(1)(b) and (c).

²² See summary of tests under section 32 of the RMA for 'provisions' in *Middle Hill Limited v Auckland Council* Decision [2022] NZEnvC 162 at [30].

²³ RMA, section 32(1)(b)(i).

²⁴ RMA, section 32(1)(b)(ii).

²⁵ RMA, section 32(2)(a)(i).

- employment that are anticipated to be provided or reduced;²⁶
- ii. if practicable, quantifying the benefits and costs;²⁷ and
- iii. assessing the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.²⁸

D. Rules

11. In making a rule the territorial authority must **have regard to** the actual or potential effect of activities on the environment.²⁹
12. Rules have the force of regulations.³⁰
13. Rules may be made for the protection of property from the effects of surface water, and these may be more restrictive³¹ than those under the Building Act 2004.
14. There are special provisions for rules about contaminated land.³²
15. There must be no blanket rules about felling of trees³³ in any urban environment.³⁴

E. Other statutes:

16. Finally territorial authorities may be required to comply with other statutes (which within the Auckland Region include the Hauraki Gulf Marine Park Act 2000).

F. Requirements relating to Medium Density Residential Standards (MDRS)

17. Every relevant residential zone of a specified territorial authority must have the MDRS incorporated into that zone³⁵ except to the extent that a qualifying matter is accommodated.³⁶

G. Specific requirements relating to Policy 3 of the NPS-UD

18. Every residential zone in an urban environment of a tier 1 specified territorial authority must give effect to policy 3 in that zone,³⁷ and every tier 1 specified territorial authority must ensure that the provisions in its district plan for each urban non-residential zone within the authority's urban environment give effect to the changes

²⁶ RMA, section 32(2)(a)(ii).

²⁷ RMA, section 32(2)(b).

²⁸ RMA, section 32(2)(c).

²⁹ RMA, section 76(3).

³⁰ RMA, section 76(2).

³¹ RMA, section 76(2A).

³² RMA, section 76(5).

³³ RMA, section 76(4A).

³⁴ RMA, section 76(4B).

³⁵ RMA, section 77G(1).

³⁶ RMA, section 77G(6).

³⁷ RMA, section 77G(2).

required by policy 3³⁸ except to the extent that a qualifying matter is accommodated.³⁹

H. Additional requirements for qualifying matters

19. In relation to a proposed amendment to accommodate a qualifying matter,⁴⁰ the specified territorial authority must:
- (a) **demonstrate** why the territorial authority considers—
 - i. that the area is subject to a qualifying matter;⁴¹ and
 - ii. in relevant residential zones that the qualifying matter is incompatible with the level of development permitted by the MDRS (as specified in Schedule 3A of the RMA) or policy 3 for that area⁴² or in non-residential zones that the qualifying matter is incompatible with the level of development as provided for by policy 3 for that area;⁴³ and
 - (b) **assess** the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity;⁴⁴ and
 - (c) **assess** the costs and broader impacts of imposing those limits.⁴⁵
 - (d) **describe** in relation to the provisions implementing the MDRS—
 - i. how the provisions of the district plan allow the same or a greater level of development than the MDRS;⁴⁶
 - ii. how modifications to the MDRS as applied to the relevant residential zones are limited to only those modifications necessary to accommodate qualifying matters and, in particular, how they apply to any spatial layers relating to overlays, precincts, specific controls, and development areas, including—
 - any operative district plan spatial layers; and
 - any new spatial layers proposed for the district plan.⁴⁷

I. Alternative process for existing qualifying matters

³⁸ RMA, section 77N(2).

³⁹ RMA, sections 77G(6) and 77N(3)(b).

⁴⁰ As defined in section 77I(a)-(i)/77O(a)-(i) of the RMA.

⁴¹ RMA, section 77J(3)(a)(i)/77P(3)(a)(i).

⁴² RMA, section 77J(3)(a)(ii).

⁴³ RMA, section 77P(3)(a)(ii).

⁴⁴ RMA, section 77J(3)(b)/77P(3)(b).

⁴⁵ RMA, section 77J(3)(c)/77P(3)(c).

⁴⁶ RMA, section 77J(4)(a).

⁴⁷ RMA, section 77J(4)(b).

20. When considering existing qualifying matters,⁴⁸ the specified territorial authority may:
- (a) **identify** by location (for example, by mapping) where an existing qualifying matter applies;⁴⁹
 - (b) **specify** the alternative density standards proposed for the area or areas identified;⁵⁰
 - (c) **identify** why the territorial authority considers that 1 or more existing qualifying matters apply to the area or areas;⁵¹
 - (b) **describe** in general terms for a typical site in those areas identified the level of development that would be prevented by accommodating the qualifying matter, in comparison with the level of development that would have been permitted by the MDRS and policy 3 in residential zones⁵² and by policy 3 in non-residential zones.⁵³

J. Further requirements for 'other' qualifying matters under section 77I(j)/77O(j)

21. A matter is not a qualifying matter under section 77I(j)/77O(j) unless an evaluation report:
- (a) **identifies** for relevant residential zones the specific characteristic that makes the level of development provided by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 inappropriate in the area⁵⁴ or for non-residential zones **identifies** the specific characteristic that makes the level of urban development required within the relevant paragraph of policy 3 inappropriate;⁵⁵ and
 - (b) **justifies** why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD;⁵⁶ and
 - (c) includes a site-specific analysis that—
 - i **identifies** the site to which the matter relates;⁵⁷ and
 - ii **evaluates** the specific characteristic on a site-specific basis to determine the geographic

⁴⁸ Being a qualifying matter referred to in [section 77I\(a\)-\(i\)/77O\(a\)-\(i\)](#) that is operative in the relevant district plan when the IPI is notified.

⁴⁹ RMA, section 77K(1)(a)/77Q(1)(a).

⁵⁰ RMA, section 77K(1)(b)/77Q(1)(b).

⁵¹ RMA, section 77K(1)(c)/77Q(1)(c).

⁵² RMA, section 77K(1)(d).

⁵³ RMA, section 77Q(1)(d).

⁵⁴ RMA, section 77L(a).

⁵⁵ RMA, section 77R(a).

⁵⁶ RMA, sections 77L(b)/77R(b).

⁵⁷ RMA, sections 77L(c)(i)/77R(c)(i).

area where intensification needs to be compatible with the specific matter;⁵⁸ and

- iii **evaluates** an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS (as specified in Schedule 3A)⁵⁹ or as provided for by policy 3⁶⁰ while managing the specific characteristics.

⁵⁸ RMA, sections 77L(c)(ii)/77R(c)(ii).

⁵⁹ RMA, section 77L(c)(iii).

⁶⁰ RMA, section 77L(c)(iii)/77R(c)(iii).

Attachment 2 – Key themes and submission points

Submission point number	Name of submitter	Summary of decision requested
Theme: Reject PC 78 as there has not been genuine or adequate consultation		
33.1	Oliver Moss	Reject the plan change as has not had a genuine or acceptable plan consultation process. Requires practical detail on how transport, schools and parks will be provided and work.
34.1	Julia Neville	Reject the plan change as has not had a genuine or acceptable plan consultation process. Requires practical detail on how transport, schools and parks will be provided and work.
38.1	Jeffrey Robertson	Reject the plan change as has not had a genuine or acceptable plan consultation process. Requires practical detail on how transport, schools and parks will be provided and work.
47.1	Jessica Ward	Reject the plan change as has not had a genuine or acceptable plan consultation process. Requires practical detail on how transport, schools and parks will be provided and work.
79.1	Drew Adams	Reject the plan change as plan change has not had a genuine or acceptable plan consultation process. Requires practical detail on how transport, schools and parks will be provided and work.
105.1	Angelique Ward	Reject the plan change as has not had a genuine or acceptable plan consultation process. Requires practical detail on how transport, schools and parks will be provided and work.
510.1	David Cunningham	Decline the plan change as there has been lack of consultation with the community and the plan change will have adverse impacts on culture and feel of community.
1720.1	Tanya Newman	Reject intensification as it relates to St Marys Bay due to insufficient assessment and consultation which is not consistent with sound resource management practices.
2211.2	Gregory Lawrence Smith	Reject plan change as is too much to expect public to engage in another round of process

Submission point number	Name of submitter	Summary of decision requested
		so soon [inferred since AUP developed]. Express concern with high level of impact this plan change will have on so many people.
2215.1	Rebecca Macky	Withdraw the plan change and consult widely with the community as to whether there is support for the widespread and indiscriminate intensification currently provided for through its provisions.
Theme: Concerns about, or opposition to, the consultation and engagement process		
59.1	Gay and Victor Scaniglia	Process is not democratic.
60.2	Gerlinde (Gina) Stradwick	City has not given the council any go ahead to make these changes.
668.2	Liadan Cotter	Oppose the lack of public engagement and lack of information provided by Council surrounding the proposed changes.
669.2	Lynette Brumby	Oppose the lack of public engagement and lack of information provided by Council surrounding the proposed changes.
888.2	Simon Ingram	Oppose the lack of public engagement and lack of information provided by Council surrounding the proposed changes.
891.2	Thomas and Emily Barou	Oppose the lack of public engagement and lack of information provided by Council surrounding the proposed changes.
1031.6	Dianne Giles	Oppose the level of engagement and lack of transparency around the plan change.
1500.9	Laurence Nash & Paul Willetts	Concerns for lack of consultation regarding how intensification can be successfully implemented, with particular reference to a lack of controls in the THAB zone and Freemans Bay.
1563.3	Sara Bruce	Concerns the consultation process has been inadequate, complex and too difficult for most ordinary people without a background in law or planning.
1600.3	Espano, 20 Poynton Terrace Body Corporate Committee	Concerns relating to such a significant plan change departed from the normal standards of statutory notification long established at Auckland Council.

Submission point number	Name of submitter	Summary of decision requested
1614.2	Stuart Bode and Jan Hewitt	No specific decision stated. Insufficient time to understand the proposals for intensification and respond. [Comment relates to earlier engagement phase in April/May.]
1900.5	Howick-Pakuranga Grey Power	Concerns relating to Central government mandatory directive to intensify without democratic public input into the process.
2139.1	Arthur John Harris	Opposes intensification in Devonport. There has been inadequate research and consultation and it is not necessary. [Inferred] includes some or all of the properties on streets including Abbotsford Terrace, Albert Road, Allenby Avenue, Anne Street, Arawa Avenue, Ariho Terrace, Ascot Avenue, Bartley Terrace, Bath Street, Beaconsfield Street, Buchanan Street, Bulwer Street, Burgess Road, Calliope Road, Cambria Road, Cambridge Terrace, Cautley Street, Cheltenham Road, Church Street, Clarence Street, Cowper Street, Cracroft Street, Derby Street, Domain Street, Duders Avenue, Empire Road, Eton Avenue, Everest Street, Ewen Alison Avenue, First Avenue, Flagstaff Terrace, Fleet Street, Garden Terrace, Glen Road, Grahame Street, Grove Road, Hastings Parade, High Street, Huia Street, Jim Titchener Parade, Jubilee Avenue, Kapai Road, Kerr Street, King Edward Parade, Kiwi Road, Lake Road, Lytton Street, Macky Avenue, Marine Square, Matai Road, Mays Street, Moata Place, Morrison Avenue, Mozeley Avenue, North Avenue, Old Lake Road, Owens Road, Oxford Terrace, Patuone Avenue, Queens Parade, Rata Road, Roslyn Terrace, Roslyn Terrace, Russell Street, Rutland Road, Second Avenue, Shoal Bay Road, Sinclair Street, Spring Street, St Aubyn Street, St Leonards Road, Stanley Point Road, Summer Street, Tainui Road, Takarunga Road, Tudor Street, Tui Street, Turnbull Road, Vauxhall Road, Victoria Road, Wairoa Road, Waterview Road, William Bond Street and Wynyard Street, Fleet Street, Anne Street, Bartley Terrace, Rattray Street, Clarence Street, Victoria Road, Queens

Submission point number	Name of submitter	Summary of decision requested
		Parade, Wynyard Street, Devon Lane, Flagstaff Terrace, Kerr Street, King Edward Parade and Marine Square, Devonport.
2353.2	Milford Residents Association Inc	Concerns relating to plan change proposals being made in a panic, lack of recognition of previous Auckland Unitary Plan process.
2362.3	Shane Pratt	Concerns relating to the level of public engagement and lack of information provided by Council surrounding the proposed changes.
2363.3	Wu Yong	Concerns relating to the level of public engagement and lack of information provided by Council surrounding the proposed changes.
Theme: Requests for direct engagement in current and future plan changes, funding or development processes		
801.3	Golden Bay Cement, a division of Fletcher Concrete & Infrastructure Ltd (GBC)	Requests direct engagement with Golden Bay Cement Ltd (GBC) on the future development of the Coastal Hazards Plan Change and associated provisions. [Further detail set out in appendix B, page 10 of the submission].
871.22	Property Council New Zealand	Work closely with Central Government to unlock further joint funding of core infrastructure to support development [refer to page 2 of the submission for further details].
871.24	Property Council New Zealand	Collaborate with the Property Council on their proposed approach to zoning in the Auckland Light Rail corridor [refer to page 3 of the submission for further details].
892.7	Ministry of Education Te Tāhuhu o Te Mātauranga	Auckland Council to engage regularly so the Ministry of Education can keep up to date with the housing typologies being proposed, staging and timing of development so that the potential impact of the plan change on the local school network can be planned for.
988.3	Summerset Group Holdings Limited	Council should engage constructively with The Retirement Villages Association of New Zealand in relation to Council's housing intensification plan change.

Submission point number	Name of submitter	Summary of decision requested
1261.2	Mike Jackson	Request that local iwi be consulted on this specific plan change objection.
2222.1	Carole & Rato Brajkovich	Continue the consultation process, with as many people as possible involved.
Theme: Other		
485.2	Russell Halliday	Implement mandatory notification mechanisms so developers are obliged to advise affected neighbours of intended development.
836.17	North Eastern Investments Limited	NEIL supports a duplicate submission in English of all Te Reo submissions being approved by the original submitter (as a correct submitter-approved English translation) prior to further notification. NEIL supports the original Te Reo submission and the English translation of the original Te Reo submission being numbered as the same submission for further submission notification. NEIL supports the provision of an English interpreter for all Te Reo at hearing
976.5	Judith Gayleen Mackereth	Request more time for [inferred] further submissions.
1095.3	Bernard Adrian Parker	Provide more clarity on the capacity of the current wastewater system and how it will be provided for in development.
1099.1	Kerryn M. Downey	Inform surrounding residents of new developments with time to submit objections.
1324.3	Sarah Jane Langstone-Ross	Amend the plan to include the Coastal Policy objectives and policies as qualifying matters.
1779.1	Woolworths New Zealand Limited	Allow submitter to reserve its position to make further representations should the provisions of PC 78 evolve or alter through the course of the plan change.
1893.2	South Epsom Planning Group	Concerns relating to the process by which PC78 has been promulgated including: - The RMA(Enabling Housing Supply and other Matters) Amendment Act ('the Act') lacks insight into Auckland's unique situation. - the Act is flawed and reactive. - Central government misdiagnosis-, lack of insight risks Auckland being a liveable city

Submission point number	Name of submitter	Summary of decision requested
		<p>being destroyed</p> <ul style="list-style-type: none"> - Density provisions over-riding elements in the Unitary Plan that are worthy of protection - Sufficient development capacity in the Unitary Plan - Auckland Council's response in acquiescing to central government. - Loss of rights to be notified and feedback on property development in the immediate neighbourhood. - MDRS provisions particularly boundary interface (i.e. shading, privacy) - lack of Council involvement in resource consent processing. - Constrained timeframes for developing PC78
2020.2	Counties Energy Limited	<p>Add requirement for developers to first consult with Counties Energy Limited where transformers and switch gear must be installed within new developments to provide for the increased demand for electricity in an area, in order to establish the layout and maximum number of dwellings that can be established, while ensuring access to and the safe operation of network equipment.</p>
2392.21	Ngāti Te Ata Waiohua	<p>Rezone land adjacent to Pukekohe Hill from MHU to new Low Density Residential Zone [refer to map on page 6 of submission for extent]. Seeks that Council give urgent attention to engaging an appropriate review of this area, including a landscape / character analysis and further consultation with Ngāti Te Ata Waiohua.</p>