HEARING

Members of the Hearing Panel,

We assume that you have read our submission and the additional written material forwarded to you last week provided for your fuller understanding.

Summary

Re the Amendment ACT and Plan Change 78 being in breach of the law.

We are saying that the Resource Management Enabling Housing Supply Amendment Act and Plan Change 78 are in breach of S 5 of BORA and S 5 of the RMA by the wrong dictation of this Plan Change by government and the Local Authority via an unjustified removal of people and communities normal right of appeal to an independent Environment Court over a Plan Change. That this removal was not "*demonstrably justified*" , as required under S 5 of BORA, when there was enough housing supply enabled in Auckland already under the Unitary Plan, sufficient for the next 30 years (as cited in our submission) with no urgent need therefore of more housing supply and to fast track its provision by removal of the people's normal right of appeal over the Plan Change .

Given this and the radically different nature and extent of housing being imposed by the Government and the Crown to that known in NZ historically, removal of the right of appeal to an independent Environment Court was unjust by unfairly not enabling people and communities to provide for their wellbeing re the ability to avoid any potential adverse effects of the Plan Change on them, in breach of S 5 (2) (c) of the RMA.

The government has dictated this Plan Change and <u>not</u> "*mandated*" it, which is clearly spin by Auckland Council for obvious reason that to dictate anything unjustifiably is not permitted by law in our democracy. Plus "*streamlining*", yet more spin, implies a legitimately more efficient process, when it is really time being unjustly saved by the unjustified removal of the normal right of appeal.

Furthermore, government has imposed'' the Plan Change and not "*proposed*" it, as publicly notified, plus the Plan Change has already been brought into effect, effectively cancelling people's normal right and power of protection from "*any adverse effects on the environment*" under (S 5 (2) (c) of the RMA. This wrongly dictated Plan Change has <u>not</u> enabled people and communities to provide for their wellbeing in accordance with the S 5 (2) of the RMA.

This is a sick situation and especially as Auckland Council has admitted it has done no environmental assessment or feasibility work on the Plan Change, at least in the Botany area and presumably anywhere else. The Council was only required to monitor effects on a regular basis - but given the nature and scale of the changes and the potential accumulative adverse effects, this approach cannot be considered proper planning, promoting the sustainable management of natural and physical resources in accordance with S 5 (the purpose) of the RMA, as normally done before settlement of a Plan Change.

In short, people and communities should have had their right to appeal matters and re any adverse effects to an independent Environment Court upheld **first** before the Plan Change was adopted and implemented. Legally there was no demonstrable justification for government and Council to remove this right.

Re Omission of the Sensitive Ridgeline along Point View Drive, East Auckland

We have said that omission of this SRL was based on a false dichotomy * promulgated by Council that there was no need to consider it because it was in the rural area outside of the urban area in concern. Whereas the relevant matter is height restrictions over residential property in the urban area put in place by the Local Authority to protect the SRL upheld over decades, which clearly show Council s omission was wrong and failing to protect the SRL.

The views both to and from this SRL are protected under S 6 (b) of the RMA. i.e. *"The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development."* The Council could **not** ignore this SRL and its protection via building height restrictions in the urban area.

The height restriction was raised from 8 metres to 9 metres at the apex of the roof under the Unitary Plan by a last-minute government dictate moving part of this SRL into a Special Housing Area, unjustly precluding the right of appeal.

We should point out that MS Absolum, Council's expert over the city ridgelines, has now advised that the building height of this SHA urban area popping up high inside the SRL now, should remain at 9 metres and not be increased to 12 metres under the Medium Density Housing Standards. Given her opinion AND our submission over Council's incorrect omission of historic height restrictions in the urban area to protect this SRL, we are saying the IHP must ensure that these are upheld and as necessary re the Plan Change. We require the IHP to duly amend the Plan Change re Council's error denying protection of this SRL.

Medium Density Residential Standards.

We rely upon statements made in our submission and relief together with our objection to the illegal removal of the right of appeal to the Environment Court in breach of S 5 of BORA and S 5 of the RMA.

NB

Council presented the public with a false dichotomy of a division between urban and rural for omission of the SRL because the actual relevant matter was existing urban residential height restrictions in place for protection of the SRL and not the rural location of the SRL. i.e. This protection was found to be necessary because otherwise the height of residential buildings in the urban area could obscure the outstanding protected views from this long line of hills which also forms a visual backdrop of hills to the eastern urban side of the city.

Therefore, contrary to Council's wrong conclusions (which Ms Absolum also wrongly supported) the SRL was and is a highly relevant matter to this Plan Change, especially given the increased height of residential buildings to 12 metres in this same urban area under the MHDS which is well beyond the 8- 9-metre height restriction to protect the SRL. Also given high rise development of 6 stories plus to extend 800 metres along the eastern perimeter of the Botany town centre for much of the length of the SRL urban height restricted area.

Thus, development to much greater heights in this part of the Botany area under the Plan Change is illegal, breaching the 8-9-metre height limit over residential property put in place for protection of the SRL under 6 (b) of the RMA. In which case we are saying that the IHP has no option but to decline all higher residential development in this area where it exceeds or could undermine the 9 metre residential height limit in place for protection of the SRL.