

**BEFORE A PANEL OF INDEPENDENT HEARING COMMISSIONERS
AT AUCKLAND**

I MUA NGĀ KAIKŌMIHANA MOTUHEKE O TĀMAKI MAKĀURAU

UNDER the Resource Management Act 1991 (**RMA**)

IN THE MATTER of the Conference on Auckland Council's request to pause
PC 78: Intensification to the Auckland Unitary Plan Operative
in Part (**AUP**)

**MEMORANDUM OF COUNSEL FOR KĀINGA ORA – HOMES AND
COMMUNITIES (SUBMITTER 873; FURTHER SUBMITTER 287)**

1 May 2023

BUDDLE FINDLAY

Barristers and Solicitors
Auckland

Solicitor Acting: **Jennifer Caldwell / Natalie Summerfield**
Email: jennifer.caldwell@buddlefindlay.com / natalie.summerfield@buddlefindlay.com
Tel 64 9 358 2555 Fax 64 9 358 2055 PO Box 1433 DX CP24024 Auckland 1010

MAY IT PLEASE THE COMMISSIONERS

1. We act for Kāinga Ora – Homes and Communities in relation to Proposed Plan Change 78 to the AUP (**PC78**).
2. Counsel refers to the Hearing Panel directions dated 26 April 2023 and the request for views from submitters on whether:
 - (a) all hearing topics for PC78 should be paused; and
 - (b) there are any PC78 topics that are discrete enough to be considered at this time.

Neutral position on 12-month extension

3. Kāinga Ora wishes to record that its position is neutral in respect of the 12-month extension that has been granted for the Council's decision making on PC78 insofar as it relates to natural hazards, flooding and the Auckland Light Rail Corridor.¹

Some PC78 topics should continue to be heard

4. Kāinga Ora is of the view that there are a number of PC78 topics that are independent and sufficiently discrete from the natural hazards, flooding and Auckland Light Rail corridor topics and these should continue to be heard without delay.
5. Kāinga Ora anticipates that the Council's response to the further investigations it is carrying out in relation to natural hazards and flooding will primarily relate to the spatial extent of the relevant overlays within the AUP and the associated chapter provisions. While it is accepted that the Council's planning response to these matters may overlap with some PC78 topics, Kāinga Ora does not consider this to be a valid reason to pause *all* PC78 hearing topics as the majority of underlying zone provisions can still be progressed and considered independently.
6. Counsel, on behalf of Kāinga Ora, has carried out a review of all PC78 topics and considers it is appropriate for some hearing topics to be paused pending Council's final position on natural hazards and flooding.

¹ Minute from the Hearing Panel dated 24 April 2023.

This is due to the direct influence that the further investigations may have on these topics.²

7. However, Kāinga Ora considers that the remainder of the PC78 topics should proceed as the outcomes of the further investigations should not have a direct impact on these provisions.
8. Kāinga Ora is concerned that there are a large number of submissions to work through and if the timetable for PC78 is stalled this will only put additional pressure on all parties, including the Panel, at a later date.
9. One of the Council's main concerns is that continuing to consider all PC78 topics would lead to duplication of time, costs and resources. To the contrary we submit that the 12-month extension to the hearing programme will allow submitters, Council and respective experts more time to appropriately consider the proposed changes and give the Panel more time to examine the key issues.

Reordering of topics within existing hearing timetable

10. Notwithstanding the position outlined above, if the Panel is minded to revisit the timetable for PC78 in light of the Council's request, Counsel respectfully requests that consideration is given to separating out the hearings on the residential mapping provisions or reordering some of hearing topics so they are heard in a more efficient order.³ Based on Counsel's experience with other ISPP hearing processes across New Zealand, this would assist to avoid duplication of mapping processes given the influence each topic has on others.

² Counsel considers it is appropriate to pause and reschedule the following topics:

1. Topic 009B Qualifying Matters A-I – Wetland Management
2. Topic 009F Qualifying Matters A-I – Waitakere Ranges Heritage Area
3. Topic 009J Qualifying Matters A-I – Significant Natural Hazards
4. Topic 009M Qualifying Matters A-I – Strategic Transport Corridors
5. Topic 009N Qualifying Matters A-I – Emergency Management Area – Hazardous facilities and infrastructure: Wiri Terminal and Wiri LPG Depot
6. Topic 010C Qualifying Matters – (Other) Natural Hazards (less significant)
7. Topic 012A Qualifying Matters – (Infrastructure) – Appropriateness of QMs
8. Topic 012B Qualifying Matters – (Infrastructure) – Areas with long-term infrastructure constraints
9. Topic 012C Qualifying Matters – (Infrastructure) – Combined wastewater network
10. Topic 012D Qualifying Matters – (Infrastructure) – Stormwater disposal constraint
11. Topic 012E Qualifying Matters – (Infrastructure) – Water and wastewater constraints
12. Topic 012F Qualifying Matters – (Infrastructure) – Beachlands transport infrastructure constraint
13. Topic 015A Residential - Low Density Residential Zone. This may need to be paused due to the influence that Qualifying Matters may have on this zoning extent.
14. Topic 017D Walkable Catchments – City Centre Extent
15. Topic 017F Walkable Catchments – Metropolitan Centres Extent
16. Topic 017H Walkable Catchments – Rapid Transit Network Extent
17. Topic 021B Other Zones – Strategic Transport Zone
18. Topic 046 Outside of Plan Change Area Light Rail Corridor

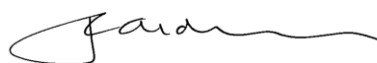
³ To what is currently proposed in the Schedule of Hearings dated 16 March 2023 ([npsud-schedule-of-hearings-2023-03-17.pdf](#))

11. In particular, Counsel recommends that the residential mapping is considered separately to the residential chapter provisions because of the influence that Centre Zones and walkable catchment boundaries could have on the extent of residential zoning.⁴ One option could be to separate the zone provisions from the maps within the existing hearing timetable. Alternatively, the hearings could be reordered so that the Centres Policy 3D approach is scheduled ahead of the hearings relating to walkable catchments and residential zone provisions as follows:
- (a) Topic 019A – Centres Policy 3D approach;
 - (b) Topics 017A, 017B, 017C, 017E, 017G – Walkable Catchments – General and Methodology; and
 - (c) Topic 015 Residential Zones.

Directions Sought

12. Kāinga Ora respectfully requests that the Council be required to provide a clear timeframe for delivering information on the flood modelling and natural hazard investigations, and provide target dates for notification of any flood and hazards as well as the Auckland Light Rail Corridor variations. Kāinga Ora would welcome the opportunity to input into these work streams as these are developed by Council.
13. Counsel wishes to be heard in respect of the matters raised in this memorandum at the conference on Wednesday 3 May 2023.

Dated 1 May 2023



Jennifer Caldwell
Counsel for Kāinga Ora – Homes and
Communities

⁴ For example, as has been done for Topic 017A – 017H (Walkable Catchments) where the timetable allows for separate hearings on the walkable catchment methodology and extent.