

**From:** [Lowe](#)  
**To:** [npsudhearings](#)  
**Subject:** REcRequest to pause Plan Change 78  
**Date:** Thursday, 27 April 2023 10:20:57 am

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To the IHP ,

Re the request from Council that the Plan Change be paused except for discrete areas. We support the request in the interim , but submit that rather than being paused for a year , Plan Change PC 78 should be withdrawn now , for the following legal reasons .

1. The fast track procedure is not demonstrably justified , in breach of S 5 of BORA. I.e. There is ample housing supply with no urgency or justification for removal of the right of appeal to the Environment Court. It follows therefore, that there is no need for the Plan Change, and given the need to pause it, the correct path legally, is to withdraw it.
2. The Plan Change is seriously flawed because protection of the Sensitive Ridgeline to the east of the Botany Town Centre was disregarded, in breach of S 6 b of the RMA.
3. The Plan Change was imposed by government not proposed by Council, and by unjustifiably refusing the right of appeal to the Environment Court , does not legally observe people and communities right to freedom with a fair power of determination over the future of their city, by way of a normal plan change process with a right of appeal. Hence it does not enable people and communities to provide for their wellbeing in breach of S 5 ( the purpose ) of the RMA. We consider a pause of the Plan Change will just prolong uncertainty over the Plan Change, which is unjustifiable re the above.
4. Government did not give Council sufficient time to consider the likely impact of its Plan Change on local amenities and the environment to ensure the Plan is sustainable, as Council has confirmed. Nor did Council it looked into alternatives to the Plan Change to show that it is the most effective and efficient way to provide housing for the future, for the people 's wellbeing , and for the future of the country. To proceed on this basis is in breach of S 7 (c) and(f) of the RMA , and not proper legal planning under the RMA.

For the above legal reasons , beyond pausing the Plan Change to consider the impact of the recent flooding ,we submit that the Council and IHP ought to withdraw it now.

Yours faithfully,

Victoria and Phillip Lowe  
Submitter to Plan Change 78

Sent from my iPad

**From:** [Lowe](#)  
**To:** [npsudhearings](#)  
**Subject:** Re: REcRequest to pause Plan Change 78  
**Date:** Friday, 28 April 2023 9:15:52 am

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Dear Mr Otter,

Thank you for your reply below. We omitted the following important consideration under the limited timeframe provided to respond. Can you circulate this also please.

5. The Plan Change was given immediate effect prior to it being Heard by the IHP . Pausing the Plan Change for a year would therefore allow any adverse effects found as a result of the Hearing to be potentially compounded under this longer timeframe. This was not , and is not , in accordance with S 5 of the RMA and specifically S 5(c). S 5 (2 “ .....while - (c) Avoiding , remedying , or mitigating any adverse effects of activities on the environment.”

Given this real potential risk and the legal requirement to avoid “any” adverse effects, in our opinion the Plan Change cannot be paused for a year . It must be withdrawn.

Yours faithfully,

Victoria and Phillip Lowe

Sent from my iPad

> On 27/04/2023, at 10:41, npsudhearings <npsudhearings@aucklandcouncil.govt.nz> wrote:  
>  
> Kia ora Victoria and Philip,  
>  
> Thank you. I will circulate that.  
>  
> Ngā mihi  
>  
> Sam Otter  
> (he/him)  
> Kaitohutohu Mataamua Whakawā - Senior Hearings Advisor  
>  
> Ph 09 353 9587 | Mobile 021 196 2582  
> Auckland Council, Hōro ā-Tāone o Tāmaki Makaurau |Town Hall |301-303 Queen Street  
> Visit our website: [www.aucklandcouncil.govt.nz](http://www.aucklandcouncil.govt.nz)  
>  
> Please note: If the matter is urgent and you need an alternative contact, you can email npsudhearings@aucklandcouncil.govt.nz  
>  
> -----Original Message-----  
> From: Lowe <lowe1@xtra.co.nz>  
> Sent: Thursday, 27 April 2023 10:21 am  
> To: npsudhearings <npsudhearings@aucklandcouncil.govt.nz>  
> Subject: REcRequest to pause Plan Change 78  
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