

Before the Independent Hearings Panel

In the matter of the Resource Management Act 1991 (**RMA**)

And

In the matter of Plan Change 78: Intensification (**PC78**) to the
Auckland Unitary Plan Operative in Part (**AUP**)

**Memorandum of counsel on behalf of Auckland Council regarding
Hearing Topic 016B Business – Metropolitan Centre Zone provisions
and Hearing Topic 020AY Precincts – Sylvia Park Precinct**

Date: 10 September 2024



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MAY IT PLEASE THE PANEL

Introduction

- 1 This memorandum is filed on behalf of Auckland Council (**Council**) following the direction from the Independent Hearing Panel (**Panel**) of 30 August 2024 scheduling hearings for the Business – Metropolitan Centre zone and Sylvia Park precinct on 25 and 26 November 2024.
- 2 The relevant hearing topics have been identified by the Panel as Topic 016B Business – Metropolitan Centre Zone (**Metropolitan Centre Zone**) provisions (**Topic 016B**) and Topic 020AY Precincts – I336 Sylvia Park Precinct (**Topic 020AY**).
- 3 This memorandum draws to the Panel's attention that there may be overlapping submissions concerning the height limits in the Metropolitan Centre Zone in hearing topics other than Topic 016B.
- 4 This memorandum also addresses issues raised by the email correspondence from counsel for Kiwi Property Group Limited (**Kiwi Property**) dated 5 September 2024 regarding the scope of the hearing for Topic 020AY.
- 5 Kiwi Property's view is that the most efficient use of the time allocated for the Topic 020AY hearing would be to address the items of relief the submitter sought that relate to the Sylvia Park Metropolitan Centre and changes to surrounding business zones, including the rezoning of certain sites.
- 6 The approach the Council intends to take (if acceptable to the Panel) is to address submissions specifically relating to the Sylvia Park Precinct provisions, including submissions concerning height but not changes sought to surrounding business zones including rezoning. The reasons for this are set out in this memorandum.

Overlapping height submissions in topics other than Topic 016B

- 7 There are a number of submission points in Topic 016B that concern the standard height limit in the Metropolitan Centre Zone (72.5m) that will need to be addressed in the evidence for Topic 016B.

- 8 We are also advised that there are a number of submission points with overlapping subject matter in other hearing topics that seek relief in relation to the height limits in the Metropolitan Centre Zone. By way of example:
 - 8.1 Submission point 873.22 from Kāinga Ora seeks to amend the Metropolitan Centre Zone to allow unlimited building height except where qualifying matters apply. The submission point has been allocated to Topic 014F Height Metropolitan Centre WC Intensification response; and
 - 8.2 Submission point 2041.148 from Neilston Homes which seeks to amend Standard H9.6.1 Building height to provide for unlimited height within the Metropolitan Centre Zone. The submission point has been allocated to Topic 014A Height Business Height - Policy Principles.

- 9 As a result, the Council considers that there is a risk that all submitters with submission points relating to the Metropolitan Centre provisions may not be alerted to the upcoming hearing. Although there may be the opportunity for such submitters to present evidence in later hearing topics about the Metropolitan Centre Zone provisions, they may prefer to present evidence at the upcoming Topic 016B hearing if given the opportunity.

- 10 The Council therefore respectfully suggests that one option could be for the Panel to advise submitters that if they have submission points seeking relief in relation to Metropolitan Centre Zone

provisions, including height that are allocated to other hearing topics, they have the option of appearing to present and give evidence at the Topic 016B hearing.

Scope of Topic 020AY Sylvia Park Precinct hearing

- 11 Kiwi Property is a key submitter on the Sylvia Park Precinct and has a number of submissions points about the Precinct provisions.
- 12 We understand that the only submission point from Kiwi Property that has been allocated to Topic 020AY is 1087.4, concerning site intensity in the Sylvia Park Precinct.
- 13 The email of 5 September 2024 on behalf of Kiwi Property requests that the scope of the Topic 020AY hearing include the following Kiwi Property submission points:
 - 13.1 1087.1: Delete provisions governing or constraining the height of development on sites in the Sylvia Park Precinct including: relevant parts of Rule I336.4 Activity Table; Rule I336.6.2 Building Height; and Precinct Plan I336.10.1: Height Areas, and their replacement with a maximum height standard across the whole of the Sylvia Park Precinct of 100 metres;
 - 13.2 1087.2: Delete provisions governing or constraining the height of development on sites in the vicinity of the Sylvia Park Precinct and their replacement with the Height Variation Controls specified on the plan attached to the submission;¹

¹ See Kiwi Property map attached as Appendix A to this memorandum. Part of this submission point may relate to the current extent of the Metropolitan Centre Zone and Sylvia Park Precinct.

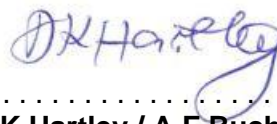
- 13.3 1087.4: Delete provisions governing or constraining site intensity in respect of the Sylvia Park Precinct including: Relevant parts of Rule I336.4 Activity Table; and Rule I336.6.1 Site Intensity; and
- 13.4 1087.6: Rezone Light Industry and Mixed Use zoned land to the east of Sylvia Park Metropolitan Centre to Metropolitan Centre zone as specified on the plan attached to the submission.
- 14 Email correspondence of 9 September from the Panel's Senior Hearing Adviser has subsequently advised counsel for Kiwi Property that as the Panel is not planning on making an early recommendation on Topic 016B and Topic 020AY the Panel will be using the standard procedures allowing submitters to speak to multiple topics at the hearing for those topics. Kiwi Property will therefore be able to address submission points in other hearing topics at the hearing for those topics.
- 15 The Council considers that the scope of the Topic 020AY hearing is more appropriately limited to submission points that specifically relate to the Sylvia Park Precinct provisions. This would include Kiwi Property submission points dealing with site intensity (submission point 1087.4) and building height (submission point 1087.1) and the parts of submission point 1087.2 that concerns building height within the current extent of the Metropolitan Centre zoned Sylvia Park Precinct only.
- 16 The Council acknowledges that submission points 1087.1 and 2 relating to height issues are currently allocated to Topic 020J Precincts General and are additionally allocated to Topic 014B Height - Business height - Strategic Approach. That said, given the interrelationship between the Sylvia Park Precinct site intensity and height limit provisions, the Council considers it is logical and efficient for these matters to be addressed together in evidence at the Topic 020AY hearing.

- 17 If acceptable to the Panel, the Council therefore intends to present evidence at the Topic 020AY hearing about Sylvia Park Precinct site intensity and height provisions.
- 18 However, the Council does not intend to address the Kiwi Property submission points concerning height limits and rezoning requests applying to land outside of the current extent of the Sylvia Park Precinct (parts of submission point 1087.2 and submission point 1087.6²) for the following key reasons:
- 18.1 Zoning matters would typically be a topic dealt with towards the end of the hearing process once a hearing has taken place about the relevant zone provisions;
- 18.2 The submitter's request to rezone Business – Light Industry land to Business – Metropolitan Centre Zone raises strategic issues that should be dealt with on the basis of a comprehensive approach across the region, rather than solely in relation to one area of Business – Light Industry land at Sylvia Park;
- 18.3 Kiwi Property's submission point 1087.6 seeks the rezoning of light industry and mixed use business land to Metropolitan Centre Zone but does not seek the extension of the Sylvia Park Precinct onto the business land, which is the subject of its rezoning request; and
- 18.4 More work would also need to be done for zoning to be addressed so early in the hearing process (and prior to the Panel's consideration of the other business hearing topics, qualifying matters, walkable catchments, and strategic height issues).

² Submission point 1087.6 is allocated to Hearing Topic 008 Urban environment.

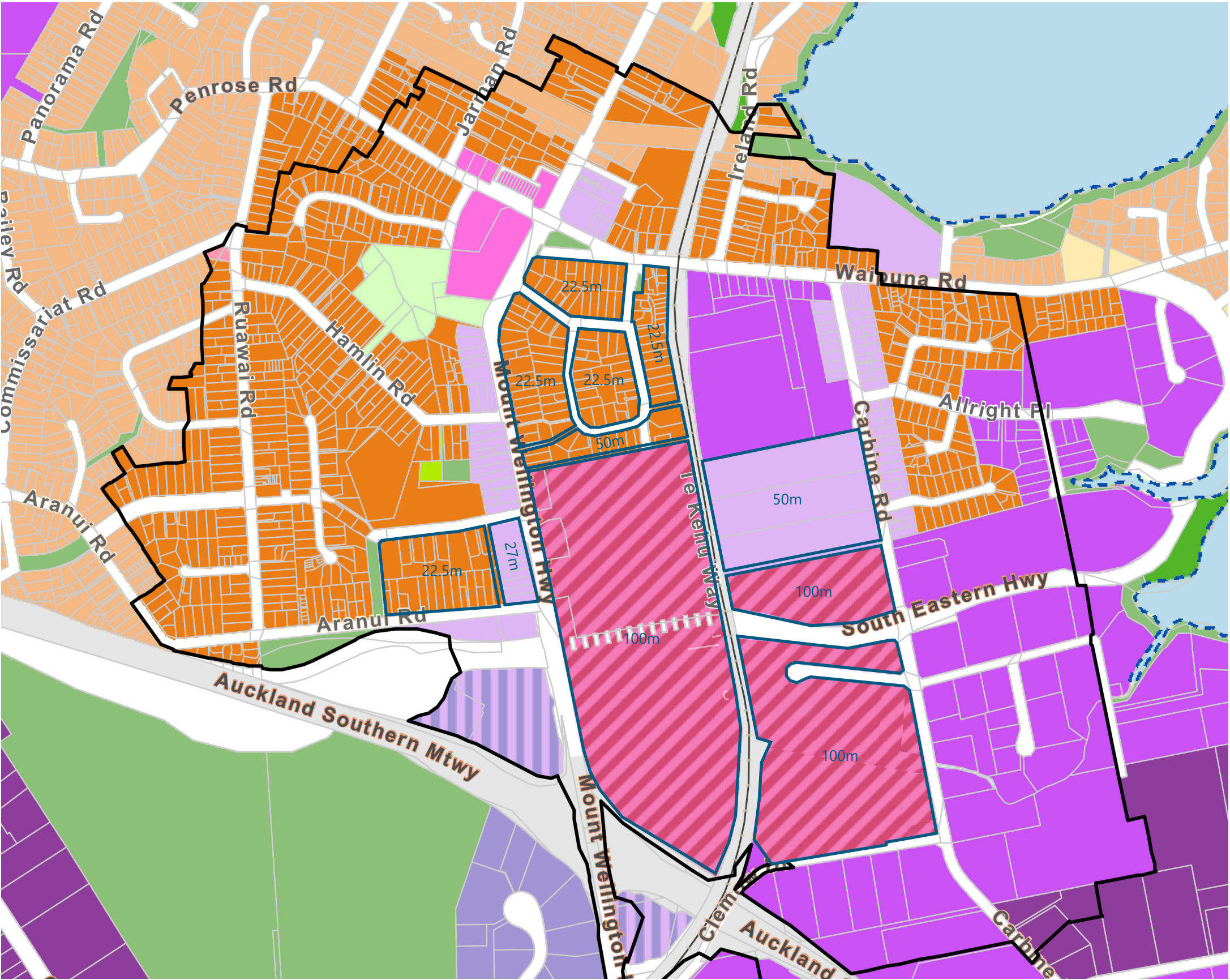
- 19 In addition, the Council is aware that other submitters have also sought relief for land on the periphery of the Sylvia Park Metropolitan Centre which would overlap with the area subject to Kiwi Property's submission points 1087.2 and 1087.6.
- 20 By way of example, Kāinga Ora submission point 873.17 allocated to Topic 014J Height - RTN intensification response seeks amongst other relief height limits of 43m for the areas of Business – Mixed Use and Business - Light Industry land to the east of Sylvia Park Precinct. Kāinga Ora's submission point relates to building heights within walkable catchments of Metropolitan Centre Zones, where the Metropolitan Centre Zone coincides spatially with the location of a rapid transit stop (which is the case at Sylvia Park).
- 21 In conclusion, for these reasons the Council considers that it is appropriate for its evidence for the Topic 020AY hearing about Sylvia Park Precinct to be confined to addressing site intensity and height provisions in relation to the current extent of the Sylvia Park Precinct, and for other aspects of the submitter's relief to be addressed by evidence in later hearing topics.

Date: 10 September 2024



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D K Hartley / A F Buchanan
Counsel for Auckland Council for
PC78

Sylvia Park - PC 78



- Legend
- Proposed Walkable Catchment Boundary
 - Business - Metropolitan Centre Zone
 - Height Variation Control Boundary