

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

AND

IN THE MATTER **Intensification Planning Instruments Plan Change (IPI)— Plan Change 78 - to the Auckland Unitary Plan – Operative in Part (AUP)**

MINUTE FROM THE HEARING PANEL – 2 AUGUST 2024

PLAN CHANGE 78 – RESPONDING TO ST MARYS BAY ASSOCIATION’S LETTER DATED 26 JULY 2024

1. The Panel has received a request from the St Marys Bay Association (SMBA) to issue a direction requiring the Council to consult with SMBA on the Hazards Study that is underway.
2. It is the Panel’s view that the Council is in the best position to manage its own research and consultation processes and it is not the Panel’s place to interfere. If SMBA disagrees with the outcome of the Hazards Study, as it relates to PC78, they will be able to present evidence at the relevant hearings.
3. Any enquiries regarding this Minute, or related matters, should be directed to the Senior Hearings Advisor, Mr Sam Otter by email at npsudhearings@aucklandcouncil.govt.nz



Matthew Casey, KC Chairperson
2 August 2024

26 July 2024

Matthew Casey KC
Chair, Independent Hearings Panel
C/- Sam Otter
AUCKLAND

By email: sam.otter@aucklandcouncil.govt.nz

Dear Mr Casey

INPORTANT PUBLIC CONSULTATION ON HAZARD STUDY FOR PLAN CHANGE 78

I have been retained by the St Marys Bay Association (**Association**) which has provided a comprehensive submission in opposition to Plan Change 78 to the Auckland Unitary Plan. The Association has been active since submissions closed in 2022, making legal submissions and presenting evidence to the Council's Independent Hearings Panel (**IHP**).

The Association has been in consultation with Watercare and Healthy Waters ever since the St Mary/Pt Erin infrastructure tunnel as proposed. Accordingly, the Association is fully informed about the operation of the tunnel and its serious failure during five heavy rainfall events since the tunnel was commissioned in August 2022. The tunnel project was promoted on the Council's commitment to reducing sewage contaminated outfalls to the Waitemata Harbour to within a range of 10-20 contaminated water outfalls per annum. The Association's wastewater/stormwater expert, Dr Ian Wallis from Melbourne, has now recorded that in 2023 the spillage outfalls totalled at least 290 events. The Association considers that this indicates an infrastructure failure of significant public health concern.

The hiatus created in the processing of Plan Change 78 which now has a new deadline set for 31 March 2026 is intended to allow the Council to plan for the Hazards Study that became seriously apparent in the rainfall event of Anniversary weekend 2023 and the subsequent rainfall of Cyclone Gabrielle. The Association maintains an occasional ongoing liaison with a joint committee of Watercare and Healthy Waters. This committee so far has not been involved in the subject detail of the Hazards Study examining and assessing the effects of the excessive rainfall events on the combined wastewater/stormwater infrastructure of St Marys Bay.

It is now apparent that the \$50million tunnel project, which cut off the three emergency outlets into the Waitemata Harbour serving St Marys Bay for 100 years, has a serious design fault. Cutting off the emergency outlets has led to the surcharging of the entire wastewater/stormwater system in St Marys Bay, which results in overflowing street cesspits, blowing manhole covers and flooding the basements or living levels of many houses with overflowing toilet pans and shower basins.

The Association therefore seeks your urgent support by way of a direction to the Council under clause 8AA of the First Schedule Resource Management Act 1991 requiring the Council to consult with the Association on the Hazards Study.

Such a direction will ensure the Association's important local knowledge can be considered in the Hazards Study which is underway. While this request only involves St Marys Bay, there will be many other areas in Auckland where local knowledge needs to be integrated into the Hazard Study outcomes, and the Association certainly has no objection to a more broad-based direction being made.

It is submitted that such a direction is consistent with the Panel's objective to resolve disputes and to narrow the issues so far as possible for determination by the Panel.

The Association looks forward to your support in this matter to ensure that the serious public health risk which the tunnel project has created in St Marys Bay can be remedied expeditiously.

Yours faithfully



Alan Webb

Cc: Association

Cc: His Worship the Mayor