

Phil Wilson  
Chief Executive  
Auckland Council

1 August 2025

Dear Phil

## **Conduct of the Policy and Planning committee meeting**

Further to the comments raised by Cr Lee at yesterday's meeting of the Governing Body, we are writing to you to express our concerns at the way the Planning & Policy committee meeting of 24 July 2025 managed Agenda Item 9, **Notice of Motion by Cr M Lee**.

On the face of it, for reasons set out below, we consider the process constituted a major breach of standing orders and of natural justice and therefore council's statutory democratic processes under the Local Government Act 2002.

If our concerns prove to be well-founded, the affair calls in to question the advice given to and by the committee chair Richard Hills and to and by the Director of Policy, Planning and Governance, Megan Tyler. Director Tyler is of course the council's senior planning officer, but also as the head of Governance ultimately responsible for the Governance advisory staff who assist committee chairs in managing council meetings.

## **Agenda item 9. Notice of Motion – Cr M Lee – Activity Status of Helipads**

This is described in the meeting agenda's table of contents as follows:

*Purpose: To request Council staff to initiate a plan change to the Auckland Unitary Plan to make private helipads in residential areas a prohibited activity; and to request Council staff apply to the Minister for an exemption to progress the above plan change.*

The question of such a plan change, making helipads a prohibited activity in residential areas, is by no means a new issue for this council. It was first raised by Cr Lee, as an Extraordinary Item at the first meeting of this committee (then called Planning, Environment and Parks) on 8 December 2022.

At the 30 March 2023 meeting of the committee, it was the subject of a successful amendment (PEP/2023/48) requesting staff to *'report back on how a plan change to give effect to Option 4 (prohibited activity status in residential areas) could feasibly be included in the budget for future public and private plan changes for the Hauraki Gulf Island District Plan and the Auckland Unitary Plan.'* The amendment was carried by 14 votes to 6.

On 14 March 2024 a notice of motion requesting a plan change to make helipads a prohibited activity in residential zones, was proposed by Cr Lee and seconded by Cr Leoni. (virtually identical to the NoM that is the subject of this letter but including the Hauraki Gulf). This was lost by 10 votes to 8.

This brings us to 3 July 2025 when the Notice of Motion in question [Agenda item 9], along with a similar but separate Notice of Motion for the Hauraki Gulf District Plan [Agenda Item 10]), signed by Cr Lee as mover and Cr Leoni as seconder were sent to the Chief Executive with an explanatory letter and cc'd to the chair of the committee Cr Hills and the Director Policy, Planning & Governance Megan Tyler.

This was also sent to the Mayor and members of the committee and the elected members of the Waitematā Local Board (and the Waiheke and Aotea / Great Barrier Local Boards). This was 21 days before the meeting.

A response from Director Tyler was sent to Cr Lee later the same day, 3 July, stating '*Kia ora Councillor Lee, thank you for your email. I will work on a response*'. No attempt was made to communicate or consult with Cr Lee about these motions.

[Cr Lee did in the meeting refer to a recent conversation he had had with a senior planner about another matter. Cr Lee did raise the question of helipads and was taken aback at his opposition to the idea of prohibited activity for helipads in residential areas, a view evidently widespread within the planning department.]

On 17 July, in light of the announcement of Minister Chris Bishop regarding plan reviews, a procedural rider (b) was added to the notices of motion requesting staff to seek a ministerial exemption for the proposed plan changes/modification.

This was once again circulated to management and elected members.

It is important to note given subsequent events, the Notice of Motion in question was circulated well before the standing order deadline but was also widely socialised thanks to high media interest. It was strongly supported by the community. On a cold, wet July night, 120 residents turned out to the public meeting in Herne Bay to express their support for the Notice of Motion. In the weeks and days leading up to the Policy and Planning Committee, hundreds of people sent emails to the mayor and councillors urging them to support the Notice of Motion, and in addition 4196 citizens signed a petition sponsored by Quiet Sky Waitematā which was presented at the beginning of the committee meeting.

At the meeting presentations were made in Public Input by representatives of Quiet Sky Waitematā, Quiet Sky Waiheke, the Herne Bay Residents Association, and the chairs of the Aotea / Great Barrier Local Board and the Waiheke Local Board – all firmly in support of the Notice of Motion.

### **The so-called 'amendment by way of replacement'.**

When the meeting moved to Item 9 Cr Lee duly moved and spoke to his motion. After which time council officers Phill Reid, Manager Auckland-wide Planning, Peter Vari, Team Leader Planning and Corina Faesenkloet, Special Counsel – Regulatory, came forward to the table. Mr Reid then began addressing questions, many of them relating to the council's proposed

response to the recent Rawene Avenue consent decision, which was the subject of his report in Agenda Item 11, but essentially irrelevant as the Notice of Motion could have no impact on existing consents and applications.

This officer-led question-and-answer session continued over the next two hours and five minutes. The discourse constantly conflated Cr Lee's Notice of Motion with council's proposed response to the Rawene Avenue decision.

Council planners have held helipads in residential areas to be 'non complying' and as Mr Reid made it clear they are determined to return to what they believed to be the *status quo ante*.

Following this, the committee chair Cr Hills tabled without notice what he and governance advisory staff called an 'amendment by way of replacement'. This, comprising 222 words, included matters relating to the council's response to the Rawene Avenue decision covered in the officers' report for item 11. This, in contrast to the 39 word Notice of Motion, had not been socialised at all.

An amendment is just that, an amendment. The Notice of Motion was not amended, it was simply deleted and substituted with an alternative motion. There is no provision for this in our standing orders.

During the meeting, up to this point and throughout the 21 days preceding the meeting, Cr Hills made no attempt to communicate with Cr Lee about his intentions. It was in effect a procedural ambush. The contrast to the way the Notice of Motion was socialised could not have been greater.

Of even more serious concern is the use of the term 'amendment by way of replacement' which Cr Hills and council governance advisory staff seem to use routinely (the term even appears in the circulated minutes of the meeting). **However, we must reiterate, no such procedure is included in the Standing Orders of the Governing Body of Auckland Council.**

The nearest equivalent is Standing Order 1.5.5 **Substituted Motion**. *Where a motion is subject to an amendment, the meeting may substitute the motion with the amendment, provided the mover and seconder of the original motion agree to its withdrawal.'*

No such agreement was sought nor given. A notice of motion socialised for 21 days was replaced by a motion-without-notice and without the agreement of the mover and seconder of the original motion, required under Standing Order 1.5.5.

The Governing Body's Standing Orders give guidelines to the process for amending motions but nowhere in the Standing Orders is the phrase, 'amendment by way of replacement' to be found. If a member wishes to replace an entire motion with something with different words and form, there is a procedure for that – Standing Order 1.5.5.

Moreover, to add insult to injury, the minutes of the meeting published by the council on 28 July record Cr Lee and Cr Leoni as moving and seconding the substantive motion i.e. Cr Hill's 'amendment by way of replacement.' This is not a true and correct record of the meeting – it is in fact the opposite.

We hope this was a clerical error by staff, if it is not a clerical error, given the unfortunate way proceedings were managed one can only draw the bleakest conclusions.

### **Debate by question and answer - misuse of Standing Order 1.2.8**

In addition to the breach of standing orders and democratic process which we believe illegitimately blocked Councillor Lee's right of reply and the councillors' right to vote on the

Notice of Motion, the officer-led question-and-answer session unfortunately amounted to a proxy debate, with Mr Reid assuming the role council refers to as 'report author', controlling the direction of the discussion with occasional interventions by Cr Hills and Director Tyler. Mr Reid was the author of Item 11 not Item 9. If any person was the 'report author' of item 9 it was Cr Lee.

Cr Lee objected to the conflating of Item 11 with Item 9 in the meeting and also raised it with the Chief Executive at the meeting.

Despite the standard warning by Governance Advisory staff included in all agenda notifications i.e. '**Committee members are encouraged to submit questions to report authors prior to the meeting to use the meeting time efficiently**' in practice these question-and-answer sessions are being increasingly mis-used to become proxy debates, especially on politically contentious issues e.g. the eviction of Speedway from Western Springs and sale of the Downtown Car Park Building. They also effectively by-pass Standing Order 1.4.1 *There is a time limit on speakers*. And Standing Order 1.4.2 *A member may only speak once*.

Of course, council staff are not covered by any speaking time restriction.

## Conclusion

Our concern is that Cr Hill's so-called 'amendment by way of replacement' which blocked Cr Lee's Notice of Motion, by-passed or misinterpreted Standing Order 1.5.5. This, as pointed out requires the consent of the mover and seconder of the original motion to the substitution of the original motion. This did not happen.

Therefore, because Cr Hill's procedural motion appears not to have been legitimate, it follows the decisions therein were not legitimate also. For instance, the council responses to the Environment Court relating to the helipad consent at Rawene Avenue which included an approach to the Environment Court for a declaratory judgement. Of course, had these been dealt with properly, as set out in the agenda, that is in item 11, the decisions would not now be open to questions about their legitimacy.

Cr Lee's Notice of Motion, which was widely socialised and strongly supported by the community and all the elected representatives of the affected area, the Waitematā & Gulf ward, was not processed according to the Standing Orders of the Governing Body of Auckland Council.

Instead, this widely socialised Notice of Motion was replaced we believe illegitimately by a motion which remained undisclosed until the last minute. A notice of motion was replaced by a motion without notice. This is not acceptable nor tenable.

The original Notice of Motion needs to be legitimately processed and therefore must be recommitted to the next agenda of the Policy and Planning Committee.

Also, the minutes of the meeting of 24 July should be corrected to expunge from the record the incorrect reference that Cr Lee and Cr Leoni moved and seconded Cr Hill's illegitimate 'amendment by way of replacement'.

Rectifying this matter could not be more important. Notices of motion are the only means by which councillors outside the council's political power structure are able to get issues of importance to their communities onto an agenda. They are therefore a vital element of democracy in local government. A precedent of sabotaging this procedure should not be allowed to stand.

Cr Hills had no right to effectively cancel Cr Lee's rights in this matter, nor the rights of the committee to vote.

A serious procedural mistake has been made, consequently causing a serious injustice. This injustice needs to be rectified.

Failure to properly deal with this will cause reputational harm to Auckland Council and set a precedent of the most harmful kind.

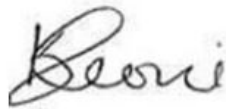
It is well worth reflecting on the slogan used in Governance Advisory staff emails –  
**'Champion good governance and an inclusive democracy for Tāmaki Makaurau.'**

Thank you for your attention to this matter.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Mike Lee'.

**Cr Mike Lee**

A handwritten signature in blue ink, appearing to read 'Kerrin Leoni'.

**Cr Kerrin Leoni**