

Decision following the hearing of a Plan Change to the Auckland Unitary Plan under the Resource Management Act 1991



Proposal

The proposal is a plan change to the Auckland Unitary Plan (Operative in Part) to re-zone approximately 27 hectares of land at 50 Pukekohe East Road and 47 Golding Road, Pukekohe, from Future Urban Zone to Residential - Mixed Housing Urban Zone with a precinct plan and precinct provisions.

This plan change is **APPROVED**. The reasons are set out below.

Private Plan Change:	Private Plan Change 98
Applicant:	OMAC Limited and Next Generation Properties Limited
Hearing commenced:	9:30am, 30 October 2024
Hearing Panel:	Richard Blakey Bridget Gilbert Vaughan Smith
Appearances:	<u>For the Applicant:</u> OMAC Limited and Next Generation Properties Limited represented by: Andrew Braggins, Legal Counsel Ian Munro, Urban Design Balaji Karnan, Civil Engineering Todd Langwell, Transport Duncan Ross, Planning <u>For the Submitters:</u> Rhoda Anne Fowler and Lynette Burton Lin Mei (for Nihuan Lin) Watercare Services Limited, represented by: Sian Kilgour, Counsel <u>For the Council:</u> Craig Cairncross, Team Leader Peter Reaburn, Planner (consultant) Martin Peake, Traffic Engineer (consultant) Chayla Walker, Hearings Advisor
Commissioners' site visit	21 October 2024
Hearing adjourned	30 October 2024
Hearing Closed:	16 December 2024

INTRODUCTION

1. This decision is made on behalf of the Auckland Council (**the Council**) by Independent Hearing Commissioners Richard Blakey, Bridget Gilbert and Vaughan Smith (**the Panel**), appointed and acting under delegated authority under s.34A of the Resource Management Act 1991 (**RMA**).
2. The Commissioners have been given delegated authority by the Council to make a decision on Plan Change 98 (**PC98**) to the Auckland Unitary Plan (Operative in Part) (**AUP**) after considering all the submissions, the s.32 evaluation, the reports prepared by the Council and evidence presented by the Applicant and submitters.
3. PC98 is a private plan change that has been prepared following the standard RMA Schedule 1 process (that is, the plan change is not the result of an alternative, 'streamlined' or 'collaborative' process as enabled under the RMA).

THE SITE AND EXISTING PLAN PROVISIONS

4. The site subject to the plan change request is comprised of two lots located on the eastern side of Pukekohe and has frontage to both the southern side of Pukekohe East Road and the eastern side of Golding Road. Golding Road is a collector / arterial road that will provide access to developing urban land to the west, including that now enabled by Plan Change 76 (**PC76**), now known as the Pukekohe East-Central Precinct.
5. The subject land is described in the Council's Agenda report (prepared in accordance with s.42A of the RMA) as having an undulating contour punctuated by multiple watercourses including two permanent streams, with associated wetlands, running through to both the western and eastern boundaries. One dwelling is located within the southwestern part of the land and there are scattered farm buildings in other locations, with the land generally otherwise being used for pastoral grazing of livestock including cattle. There are shelterbelts and a combination of riparian vegetation, groups and individual large exotic and native trees spread throughout the site.
6. Pukekohe East Road is classified as an arterial route under the AUP and forms part of an east - west link between the centre of Pukekohe and State Highway 1 Southern Motorway, at the Mill Road interchange. Pukekohe East Road is subject to a 70km/hr speed limit before it then transitions to East Street (to the west) which passes through the urban area of Pukekohe and is subject to a 50km/hr speed limit. There is a roundabout at the intersection of East Street / Pukekohe East Road and Golding Road. This roading network is currently subject to a notice of requirement process, with both adjacent roads proposed to be widened and upgraded in the future.¹
7. The land is currently zoned Future Urban Zone (**FUZ**), as is surrounding land to the south and east, and the adjacent smaller lots fronting Pukekohe East Road and Golding Road intersection (but which does not form part of the plan change). The land to the west, on the opposite side of Golding Road, for which the Mixed Housing Urban Zone (**MHUZ**) was applied

¹ Auckland Transport's decision on NoR 5 (Pukekohe South-East Arterial) was notified on 24 October 2024.

via Plan Change 76 (**PC76**), is currently subject to earthworks as part of the development of the broader development of the Pukekohe East-Central Precinct. A further plan change – Plan Change 95 (**PC95**) - proposes to rezone part of the PC76 land on Golding Road immediately opposite the PC98 land as Business - Neighbourhood Centre Zone. PC95 was heard in August 2024 and is now fully operative, with the AUP having been updated on 24 January 2025.

SUMMARY OF PLAN CHANGE

8. The proposed plan change, as sought by OMAC Limited and Next Generation Properties Limited (together, the **Applicant**) is described in detail in the application materials and the Council's Agenda report prepared by Peter Reaburn (Consultant Planner to the Council). In summary, PC98 seeks to rezone approximately 27.15 hectares of land at Pukekohe from FUZ to the MHU Zone. The rezoned area was initially anticipated to provide for up to about 580 dwellings.
9. The plan change request was lodged on 22 August 2022. A cl.23 request for further information was issued by the Council on 19 September 2022, and further information was progressively provided by the Applicant subsequent to that date (and up to 24 October 2023, including an updated AEE and s.32 analysis).
10. As well as areas for residential development, the request identifies areas with recognised natural values for protection and management, and recreational use. A 'Concept Masterplan' (not part of the formal plan change) indicates the land would likely be comprised of different areas as follows:
 - Residential Development Area (12.7ha);
 - Natural Streams/10m wide Riparian Areas (5.4ha);
 - Open Space / No Development Areas (2.5ha); and
 - Road Reserve (5.8ha).
11. The Agenda report advised that the Concept Masterplan is intended to demonstrate that the land is capable of delivering well-integrated, well-connected and spatially coherent urban development, while also recognising and providing for protection and enhancement of natural features, including the wetlands and their margins. A shared path is shown through the site running centrally alongside the watercourse and riparian margin from west to east and to the north of an initially proposed Public Open Space Reserve (**POS**) to the east of the area. In addition, the Masterplan is also designed to integrate with the PC76 land to the west, via a road linking Pukekohe East Road, Golding Road, and Birch Road to the south-west. This would provide more direct access from the area via Birch Road to the Pukekohe Rail Station.
12. The Agenda report also notes that a new precinct – "Pukekohe East-Central Precinct 2" - is proposed. The purpose of this is for land use, development and subdivision to be undertaken in a manner that allows the stream and road network to be integrated with residential and open space development within the precinct, to provide for stormwater management needs, and to recognise the relationship of Mana Whenua with the land and its resources. The

associated Precinct Plan shows key movement connections, proposed POS areas adjoining streams and wetlands inclusive of riparian buffers, and a potential future POS area.

13. The Precinct Plan was modified in August 2024 in response to the Panel's Direction 1 issued on 24 July 2024, and that plan has been also used as the basis for assessment by the Council's reporting team. Further changes have been described through the Applicant's evidence and the Council's s.42A Addendum report, and we refer to those changes later in this decision.
14. It is relevant to note here that the Resource Management (Enabling Housing Supply) Amendment Act came into law in December 2021. The Act requires the introduction of new standards – the Medium Density Residential Standards (**MDRS**). This is being done in Auckland through the current Plan Change 78 and associated Intensification Planning Instrument plan change processes. However cl.25(4A) of Schedule 1 provides that the Council must not accept or adopt a private plan change request that does not incorporate the MDRS as required by s.77G(1) of the RMA and, at least as an interim measure, the plan change does incorporate the MDRS, including reference to qualifying matters where the precinct plan shows area that are less enabling of development than the MDRS normally allows.
15. The Applicant originally proposed incorporating the MDRS in an appendix to the Precinct provisions. Subsequently, the Council had carried out significant work in this respect and produced a template that recommends the way in which the MDRS should be incorporated into the body of the provisions. The Applicant has used the template to compile their revised provisions in the Appendix 7 (to the hearing agenda) version. It is noted that the proposed MHUZ is the zone that has the closest alignment with the MDRS.

RELEVANT STATUTORY PROVISIONS CONSIDERED

16. The RMA sets out an extensive set of requirements for the formulation of plans and changes to them. These requirements were set out in the Applicant's Plan Change Request, including an evaluation pursuant to s.32² and in section 2 of the Agenda report.
17. In particular, s.32(1)(a) requires an assessment of whether the objectives of a plan change are the most appropriate way to achieve the purpose of Part 2 of the RMA. Section 72 also states that the purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of the RMA. In addition, s.74(1) provides that a territorial authority must prepare and change its district plan in accordance with the provisions of Part 2. While this is a private plan change, these provisions apply as it is the Council that is approving the private plan change, which will in turn change the AUP.
18. The Panel also notes that s.32 clarifies that analysis of efficiency and effectiveness of the plan change is to be at a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposed re-zoning. Having considered the evidence and relevant

² 'AEE and Section 32 Evaluation Report', prepared by Civix and dated 16 October 2023

background documents, the Panel is satisfied that PC98 has been developed in accordance with the relevant statutory requirements.

19. Clause 10 of Schedule 1 also requires that this decision must include the reasons for accepting or rejecting submissions. The decision must include a further evaluation of any proposed changes to the plan change arising from submissions; with that evaluation to be undertaken in accordance with s.32AA. This further evaluation must be undertaken at a level of detail that corresponds to the scale and significance of the changes.
20. The Panel notes in this regard that the Agenda report highlighted that the Applicants' (then) most recent version of the amended provisions (dated 28 August 2024) did not contain a specific s.32AA analysis, and Mr Reaburn considered that it would be of assistance to the Panel if that were included in the Applicant's evidence. However, in consideration of the Applicant's evidence, Mr Reaburn confirmed at the hearing that he was satisfied that the changes proposed by the Applicant did not warrant a s.32AA analysis. The Panel accepts Mr Reaburn's view in this regard, and noting that no expert evidence suggested otherwise, we have reached a view that the changes do not fundamentally alter or add new aspects such that supplementary assessment under s.32 of the RMA is required by virtue of s.32AA of the RMA.

NOTIFICATION PROCESS AND SUBMISSIONS

21. PC98 was accepted by the Council (under delegated authority) pursuant to cl.25(2)(b) of Schedule 1 of the RMA on 15 February 2024. PC98 was then publicly notified on 28 March 2024, with the submission period closing on 30 April 2024, with 13 submissions received. The further submission period opened on 14 June 2024 and closed on 1 July 2024, and two further submissions were received.
22. The main topics raised by submissions are summarised in the Agenda report,³ and related to infrastructure, transport, amenity, education, property values, zoning, precinct provisions and the inclusion of MDRS.
23. Comments were also received from the Franklin Local Board from its business meeting of 23 July 2024. The Local Board outlined some concerns with respect to the plan change on the topics of water supply and wastewater management, transport and open space. It subsequently advised of its decision to decline the opportunity to speak at the hearing.⁴
24. The Agenda report noted that, subsequent to notification and submissions being received, the Applicant has undertaken further consultation with a number of submitters, including officers from Healthy Waters, Auckland Transport (**AT**) and Watercare Services Ltd (**Watercare**).
25. Direction 1 was issued by the Panel on 24 July 2024 which directed the Applicant to file a memorandum outlining what, if any, changes they recommend to the proposal and outline which changes were in response to which submissions. The Applicant filed an initial

³ Agenda, at section 10 (pp.56-64)

⁴ Advice received on 22 October 2024

memorandum on 5 August 2024 seeking an extension to the timeframe to submit an updated set of provisions by 28 August 2024.

26. Direction 2 (issued on 6 August 2024) agreed to an extension of time in which the Applicant's memorandum (required by Direction 1) could be supplied, to 28 August 2024. This memorandum was subsequently received on that date, and noted the further consultation undertaken with AT, the Council, the Ministry of Education and Watercare, as well as with individual submitters, and provided an overview of the outcome of that consultation and engagement. The memorandum attached amended Precinct provisions, including in response to the Council (where the MDRS were now to be included in the body of the Precinct, rather than as an Appendix, as outlined above). It also noted that the drainage reserve area is shown separately to the POS area, and detention ponds have been removed from the Precinct Plan in response to advice from Healthy Waters that they are not necessary to include.
27. The hearing notification letter which included the evidence exchange timetable was subsequently issued by the Council on 29 August 2024.
28. A memorandum from the Applicant's counsel dated 24 September 2024 advised of the evidence that it intends to call, being in respect of civil engineering, transport and planning, and a brief statement on urban design issues. It noted that:

The Applicant anticipates being able to resolve most, if not all, queries and concerns raised in the s42A report through further discussions with the relevant network utility operators given that infrastructure is the main area of concern raised in the s42A report.

29. Subsequently a memorandum was received from AT dated 14 October 2024 which advised that it did not intend to provide evidence or attend the hearing. It noted that the Applicant has provided evidence that includes rationale for where their amended provisions differ from those recommended in the Agenda report, and that AT is supportive of those amendments.
30. A similar letter was also received on the same day from the Council (in its capacity as a submitter) which advised that it was satisfied with the amendments to the provisions included at Attachment 1 to the evidence of Mr Ross for the Applicant and that it no longer wished to present evidence at the hearing (but would remain available to respond to questions from the Panel if required).

SUMMARY OF EVIDENCE

Section 42A Report

31. Mr Reaburn's Agenda report, prepared in accordance with s.42A of the RMA, was based on the plan change as notified as well as the changes introduced through the Applicant's memorandum of 28 August 2024, and addressed the relevant statutory requirements, the relevant environmental effects and the issues raised by submissions. It was Mr Reaburn's overall recommendation that the plan change could be approved, subject to certain recommended amendments as set out in Appendix 8 to his report (and based on the Applicant's amended version that was included as Appendix 7).

32. Mr Reaburn's assessment incorporated the specialist advice and memoranda that had been received from Martin Peake (transportation), Lisa Mein (urban design), Stephen Brown (landscape), Jason Smith (ecology), Sameer Vinnakota (stormwater engineering) and Lea van Heerden (open space).⁵

Applicant evidence

33. The evidence presented on behalf of the Applicant followed the requirements set out in Direction 2. We set out below the witnesses who provided evidence on behalf of the Applicant and a brief summary of their conclusions.
34. **Andrew Braggins** provided opening legal submissions that incorporated an overview of the Applicant's evidence. He addressed the issues remaining in contention in respect of the interface between the resource consent held by the Council (Healthy Waters) as a network operator and the precinct provisions, restrictions on the use of the proposed collector road, and the Council (Parks) requirements regarding connections to proposed reserves. Mr Braggins' submissions concluded that:⁶

A range of statutory policy and planning instruments and non-statutory documents are required to be assessed in the context of PC98. All are addressed in the evaluation report prepared for PC98, the section 42A report and the Applicants' evidence. The parties in principle agree that PC98 promotes, is consistent with, or is not contrary to any of these documents.

35. Mr Braggins' submissions included a Flood Modelling Report prepared by Civix and dated 21 October 2024, which addressed the 3.8-degree climate change scenario for flooding. He described this report as showing that "*while there is an increase in peak outflow over Golding Road, with proposed mitigation (such as drainage reserve and communal devices), the flows are contained within the site to match pre-development (existing) flows over Golding Road*".⁷
36. We note that Mr Braggins' presentation at the hearing focussed on the three areas of contention noted in Mr Reaburn's Addendum report (discussed below) and proposed a workshop approach to the hearing of witnesses, with the relevant Council specialist commenting in response to the Applicant's experts, and with reference to an updated version of the Precinct Plan (dated 22 October 2024). For present purposes we outline the evidence provided by the witnesses and refer to matters arising during the hearing in our consideration of the matters in contention later in this decision.
37. **Balaji Karnan** provided evidence in respect of civil engineering matters, and in particular on the topics of earthworks, access and flooding. In summary, his evidence advised as follows:
- (a) The proposal requires bulk earthworks and recontouring across the site to meet design and layout requirements, including for roads and building platforms. A 10m buffer will be maintained in respect of natural streams and wetlands as recommended by the

⁵ Agenda, at Appendix 6

⁶ EV01, at [13.1], with reference to sections 5-7 of the agenda report; section 4 of Mr Ross' evidence, and the Council's Addendum Report at page 2 regarding the FDS.

⁷ EV01, at [9.3]

Applicant's ecologist. Mr Karnan advised that the earthworks would be staged, given their extensive area and volume.

- (b) The proposed development will require a new public road network to extend and connect to surrounding existing roads, and this will involve at least one stream crossing. Upgrades to the adjacent road network are also likely to be needed to meet access standards for pedestrian, cyclist and vehicle movements (as addressed by Todd Langwell).
- (c) The hydraulic modelling undertaken found that flood levels downstream could increase during a 1% AEP event if no mitigation is included in the design. To mitigate this, 1% AEP attenuation is provided in the form of basin shape drainage reserve areas and wet ponds surrounding the stream to maintain runoff levels on the site at existing levels. Mr Karnan noted that no buildings are proposed within the 1% AEP flood zone and the floor levels of future dwellings would provide the required freeboard. He advised that further modelling for a 3.8° climate change scenario is still ongoing, but significant changes to the masterplan are not expected due to the site's topography.
- (d) Stormwater runoff would be accommodated through a new gravity pipe network that leads to communal wet ponds that treat and detain stormwater before discharging into the stream, with all pipes sized to meet 10% AEP, and the wet ponds providing for flows beyond pipe capacity. Mr Karnan noted that authorisation under the Council's Healthy Waters -approved regionwide Stormwater Network Discharge Consent (**NDC**) will be sought and a comprehensive Stormwater Management Plan (**SMP**) has been prepared for the PC98 area, as is required to obtain such authorisation. He acknowledged, however, that Healthy Waters had not yet approved the SMP notified as part of PC98.
- (e) Water supply would rely on an extension of the reticulation network proposed for the PC76 development, and Mr Karnan noted Watercare's confirmation that the Pukekohe East Bulk Supply Point would be completed by 2025, which would serve the PC76 development until a new Bulk Supply Point is installed on Ngahere Road near Totara Reserve.
- (f) Wastewater was proposed to be serviced by a new gravity pipe network draining to a proposed pump station in the PC76 area, then pumped to the proposed 800mm diameter transmission pipe at Station Road which will be installed by Watercare. Mr Karnan advised that Watercare had confirmed that the Pukekohe North pump station is planned to be completed in 2028 and the network should have enough capacity for the PC98 development. He noted that consultation with Watercare is ongoing in this regard.
- (g) Provision will be made to ensure electricity and telecommunication services can be provided to the development.

38. Mr Karnan also advised that the 580 dwellings originally envisaged for the land had been reduced to 450 dwellings within a developable area of approximately 12.7ha (approximately 40% of the total plan change area).

39. During the hearing Mr Karnan responded to questions related to the SMP and drainage considerations, the provision of shared-path facilities within drainage reserves, as well as the issues associated with wastewater connections.
40. **Todd Langwell** provided evidence regarding the transportation aspects of the plan change. He summarised the key conclusions of the Integrated Transport Assessment provided in support of the plan change. He advised that PC98 is largely consistent with what has been anticipated in the planning of the Pukekohe-Paerata Structure Plan (**PPSP**) and the Supporting Growth Strategy for the South Auckland sub-region, and that changes have been made to some of the key road locations surrounding the site following discussions with both AT and the Council. He noted that these, and the precinct provisions generally, have been mutually agreed to enhance the accessibility of the site and improve connections to the wider road network.
41. Mr Langwell provided an estimate of likely traffic movements generated by development of the PC98 area, and that this can be accommodated on the surrounding road network while also maintaining acceptable levels of safety and performance. Accessibility would also be enhanced for public transport, walking and cycling modes.
42. Mr Langwell advised that he did not agree with a new policy recommended by Martin Peake, the Council's transport consultant, relating to limitations on the new collector road in respect of heavy vehicles (expressed via proposed Policy 5(a)(ix)). Overall, however, he was satisfied that the set of transport related provisions set out in the evidence of Mr Ross "*are robust, will protect the importance of the strategic road network surrounding PC98 and will provide suitable guidance for development with the proposed precinct*".⁸
43. During the hearing Mr Langwell responded to questions relating to active-mode movements through and beyond the site, and to issues associated with heavy vehicle movements on the collector road, and how the road formation might limit the potential for that use, as well as the availability of bylaw restrictions administered and enforced by AT.
44. **Ian Munro** provided a statement of evidence that summarised the key conclusions of his urban design report prepared in support of the plan change application. He advised that he continued to support PC98, and his evidence went on to comment on open space considerations (with respect to the report by Lea van Heerden for the Council's Parks Department) and to the submissions. He noted some disagreements with the advice of Ms van Heerden (and Mr Reaburn to the extent that he had adopted that advice), particularly in terms of those provisions that seek to mandate public access/stream crossing bridges, and consideration of park-edge roads.
45. In summary, Mr Munro was not supportive of changes proposed by the Council on respect of these matters to the extent that:⁹

(a) *They are not properly costed or technically understood;*

⁸ EV05, at [3.11]

⁹ EV06, at [4.3]

- (b) *Have not been subject to any internal Plan integration that I can ascertain (i.e., park-edge roads vs rear lots, or vs. substantial additional earthworks or landform modifications);*
 - (c) *Lack any s.32AA evaluation that I have been able to grapple with in terms of why the existing Plan provisions I work with regularly would not be sufficient to give the Council whatever control it seeks;*
 - (d) *Are all subject to a combination of future council department preferences including Healthy Waters and Auckland Transport, neither of whom have to my knowledge accepted the burdens that the proposed provisions may place on them as well as just the applicant; and*
 - (e) *Are all subject in any event to whatever final subdivision design comes to be proposed and/or alternatively preferred by the Council's officers.*
46. Mr Munro predicted substantial difficulty at the time of subdivision that can (and should) in his view be avoided. Overall, however, he noted that there was a high level of agreement that PC98 would be appropriate in urban design terms.
47. During the hearing (and having heard questions and discussions relating to shared path structures within the drainage reserves), Mr Munro advised that he was in greater alignment with the Council's position, and was accepting of the policy proposed by the Council, subject to the addition of the words "*where practicable*".
48. **Duncan Ross** provided evidence in respect of planning matters. He provided an analysis of the various statutory documents that require consideration and expressed the view that the planning framework is highly supportive of the proposed re-zoning from FUZ to MHUZ. He noted that the Applicant has accepted many of the amended provisions proposed by Mr Reaburn and commented on those aspects where there were areas of disagreement or which required clarification. These related to the timing of infrastructure provision with respect to the Council's Future Development Strategy (**FDS**); reserves; water supply and wastewater; stormwater; transport and the extension of rezoning (or scope of the plan change). This commentary also addressed matters raised by submitters and resulted in some changes to the Precinct provisions.
49. Overall, Mr Ross concluded that PC98 should be approved because "*it implements the outcomes sought under the PPSP and aligns strongly with the current planning framework*", and that:¹⁰

"The proposed plan change and the precinct plan contains appropriate provisions to ensure that adverse environmental effects are appropriately avoided, remedied or mitigated to achieve the outcomes of the higher order planning documents, and also accords with the sustainable management principles outlined in Part 2 of the Act and

¹⁰ EV07, at [12.1]

satisfies Section 32 of the Act, and there is no reason that Council cannot approve the proposed plan change”.

50. Mr Ross also stated that the proposed sequence and timing of the plan change aligns with the delivery of water and wastewater infrastructure in a manner that would be consistent with the timing of the same under the FDS.
51. Mr Ross’ evidence also included an updated set of Precinct provisions (and Precinct Plan) as well as a copy of the Council’s Planning, Environment and Parks Committee agenda at which PC98 was recommended to be accepted.
52. During the hearing Mr Ross addressed questions relating to the use of the special information requirements, the way in which the impervious area standards of the MHUZ would apply, and the additional criteria relating to infringements of the height in relation to boundary standards.

Council Addendum

53. A s.42A Addendum report was prepared by Mr Reaburn, with associated memoranda from Ms van Heerden (Parks), and Sameer Vinnakota (Consultant Planner) and Lisa Dowson (Consultant Engineer) on behalf of Auckland Council’s Healthy Waters Department. Mr Reaburn’s Addendum report provided a summary of those matters arising from the Applicant’s evidence that were or were not agreed by the Council and were provided in marked-up format in a further version of the Precinct provisions.
54. The agreed changes (marked in green) reflected those aspects from the Agenda report that had been accepted by the Applicant, and included:
 - changes proposed by the Applicant that were accepted by the Council’s reporting team;
 - the abovementioned changes sought by Katja Huls (planner for Watercare) as agreed by both the Applicant and the Council;
 - changes that have been made in respect of the MDRS provisions; and
 - minor numbering, consistency of wording and cross-reference changes (Mr Reaburn noted that these minor changes have been provided to the Applicant and had been agreed).
55. Minor changes to the Precinct Plan were also identified. The more substantive of these related to amending the position of one of the indicative options for a Neighbourhood Park so that it does not straddle a Notice of Requirement boundary.
56. The Addendum report also advised of those aspects that remained as not agreed (marked as red text). These were summarised as relating to the matters referred to below.

Public Open Space Connections

57. The addendum by Ms van Heerden advised that she agreed with some of the views expressed by Mr Munro, but remained of the view that the provisions should retain reference

to the importance of connections to and within areas of POS, including connections across streams. Mr Reaburn advised of his support for Ms van Heerden's views in this regard.

Stormwater Management

58. The addendum from Mr Vinnakota and Ms Dowson expressed concern about the Applicant's proposed amendments to water-related provisions and generally sought that the provisions as recommended in the Agenda report be retained. This primarily related to the fact that a SMP has not yet advanced to the stage of provisional approval. Mr Reaburn advised in this regard that:¹¹

If there was provisional approval then some of the provision wording could be refined, as reliance would not need to be placed on detailed precinct provisions. I further understand that there is a possibility that the required inputs for the SMP could be advanced by the time of the hearing in which case some amendment to the proposed provisions could be possible.

Design of the Collector Road

59. The Addendum report noted that the recommendations of Mr Peake had largely been accepted by the Applicants, but noted the remaining issue related to the potential use of the proposed collector road being used as a possibly preferred route by through-traffic, and particularly heavy vehicles. The report noted Mr Peake's advice to Mr Reaburn that he maintains his views on this matter (as expressed in his transport review).
60. Mr Reaburn noted his reliance of the views expressed by Mr Peake but also noted AT's advice that it is comfortable with the provisions proposed in the Applicant's evidence.

Timing of Development

61. Mr Reaburn noted in conclusion that while he had referred in the Agenda report to his reservations about the timing of live zoning of the land, given the revisions set out in the FDS and associated expected timing of infrastructure provision, those concerns have been addressed through the Applicant's evidence and in particular the responses from AT, the Council and Watercare. He noted that further protections in this regard have been provided by way of additional and re-worded Precinct provisions.

Submitter evidence

62. **Rhoda Anne Fowler** spoke in support of her submission in respect of the use of Anselmi Ridge Road by heavy vehicles and noise and road safety issues within the road and outside her property. She did not support the additional traffic expected to arise from PC98, nor that associated with PC76. She supported the provision of traffic lights at the intersection of Anselmi Ridge Road and Pukekohe East Road, and went on to advise of specific changes

¹¹ Addendum report, at p.2

that she considered were necessary within Anselmi Ridge Road, including the need for construction trucks associated with PC98 to be restricted from this road.

63. **Katja Huls** provided planning evidence that highlighted Watercare’s interest in PC98, and that the effects of PC98 on Watercare’s existing and planned water and wastewater network are appropriately managed. She noted that this had resulted in Watercare seeking a range of amendments to the notified Precinct provisions to ensure subdivision and development does not occur ahead of the provision of sufficient water supply and wastewater infrastructure.
64. Ms Huls referred to the updated provisions attached to Mr Ross’ evidence (Attachment 1), and advised of her agreement with most of the amendments in respect of water and wastewater servicing, and those aspects related to the following:
- Objective 8;
 - I45X.6.4.4 Water and Wastewater standard;
 - I45X.9.4 Water and Wastewater Servicing Plan; and
 - I45X.9.5 Water Supply and Wastewater Infrastructure Capacity Assessment
65. However, Ms Huls recommended some minor amendments to two other aspects of the Precinct provisions, so as to ensure that any potential adverse effects on Watercare’s existing and planned network are appropriately managed. These related to a minor amendment to Policy 11 (for readability reasons), and to Policy 12 to clarify the need for this policy to address capacity issues. The changes were as follows:
- (a) Policy 11: *“Ensure that subdivision and development within the Precinct is appropriately staged and timed to align with the establishment of required local water, wastewater ~~connections~~ and stormwater infrastructure”*.
- (b) Policy 12: *“Avoid subdivision and development that does not align with the timing of the provision of bulk water supply and wastewater infrastructure with sufficient capacity to service the proposed development”*.
66. Subject to the adoption of those amendments, Ms Huls was of the view that *“the provisions are the most appropriate in terms of section 32 of the RMA”*, and she recommended they be accepted by the Panel.¹²
67. For the hearing, Ms Huls provided a supplementary statement of evidence that noted the exclusion of some wording from the updated provisions included in the version included in the Addendum report, relating to Policy 11 (the word “local”) and for special information requirement I45X.9.5 (‘Water Supply and Wastewater Infrastructure Capacity Assessment’), as follows:¹³

¹² EV03, at [4.4]

¹³ EV03a, at [4]

All applications for subdivision or development must be accompanied by a Water Supply and Wastewater Infrastructure Capacity Assessment. The applicant is required to produce a water supply and wastewater infrastructure capacity assessment for the Precinct to demonstrate there is sufficient capacity or planned or proposed provision of infrastructure or infrastructure upgrades in the wider water and wastewater reticulated network to service the proposed development or lots.

68. This supplementary evidence was introduced by Sian Kilgour, counsel on behalf of Watercare. Ms Kilgour also answered questions from the Panel in respect of wastewater issues more generally and whether any additional provisions were required to ensure that dwellings could not be built before the required infrastructure was available.
69. **Lin Mei** (for Nihuan Lin) also took the opportunity to make a brief presentation at the hearing. His comments were primarily questions as to the ability for the property adjacent to the intersection of Golding Road and Pukekohe East Road to be connected to Watercare's upgraded wastewater infrastructure. The Panel noted that this property was outside (albeit adjacent to) the PC98 area, and any such connection would be subject to the same timeframes that the Applicant is subject to in respect of Watercare's upgrading of the network.

Hearing Process

70. As noted above, the Applicant's evidence was referred to in a 'workshop' format, whereby the key matters in contention were addressed by Mr Braggins with reference to the relevant witness(es), with responses provided by Council specialists at the relevant time (rather than in the usual manner towards the end of the hearing). This enabled the various matters at issue to be canvassed in a thorough and contemporaneous manner and for areas of contention to be narrowed or agreement to be reached. We note that representations by submitters were also accommodated through various points during the hearing, and the hearing was completed with the opportunity for a final response from Mr Reaburn on behalf of the Council, and an indication of the matters to be addressed by Mr Braggins in his reply. Because of the further work that had been identified as necessary between the Applicant and Healthy Waters regarding the details of the SMP, he indicated that his reply would not be able to be filed for approximately two weeks.

Applicants' Reply

71. The Applicants' Reply took somewhat longer than the two weeks originally estimated. However, Mr Braggins' provided regular updates to the Panel to advise of areas where progress was being made, including in terms of efforts to reach agreement with the Council and Watercare, or to at least narrow the areas of contention. The Reply was eventually provided to the Panel on 13 December 2024.
72. Following clarification of a minor detail arising from the Reply, the hearing was closed on 16 December 2024.

THE HEARING AND MATTERS RAISED

Introduction

73. As noted above and in the Reply, the matters in contention between the Applicant and the Council had been substantially narrowed or resolved through the evidence and the hearing. The Reply advised that the remaining issues “*have since either been resolved through discussions with the Council team or remain a point of disagreement for the Panel to determine*”,¹⁴ and these were helpfully addressed and presented in a clear manner for our consideration.
74. We note here that as part of the Council’s technical review of a draft version of this decision (5 February 2025), a number of administrative matters arose, which were explained in summary as follows:
1. *A number of changes are recommended to the provisions. The “Explanation Version” explains these, but is not intended to be in the decision. The Decision Version is what is proposed as Attachment 1 to the Decision and shows all changes to the notified version, including those detailed below.*
 2. *Most of the changes are minor – clarification wording and numbering. These are explained in the comments boxes in the Explanation Version.*
 3. *The more substantive matters are:*
 - (a) *The s42A report proposed extra wording in Policy 5(iii) as sought in the Ministry of Education submission. This was inadvertently not shown in the Addendum or Applicant reply versions but should have been there. The Applicant has been contacted and confirms this. So the extra wording has been added to the Decision Version. The Decision itself does not need to change to reflect this (see Table 10.6 which has the additional wording sought accepted).*
 - (b) *The Panel is requested to confirm the correct version of Policy IXXX.3(5)(iv) is included. As noted in the draft Decision report (page 15), this version of the policy is not exactly the same as what is shown marked up in the Decision report. It appears that the Applicant’s Reply had 2 different versions.*
 - (c) *The Standards have been restructured so that all those relating to the MDRS are under the (retitled) Residential Density Standards. This is to align as far as possible with recent iterations of the MDRS template. Note that this has required a number of consequential cross-reference numbering changes throughout the provisions.*
 - (d) *In respect of 6.4.2 Water Quality the Applicant’s Reply has two different versions of amendments of this purpose - both of which it states are agreed [and the Panel is requested to confirm which version it prefers].*
 - (e) *The Precinct Plan is recommended to be amended. None of the amendments are substantive, however they have been provisionally checked with the Applicant who agrees with all the changes. The*

¹⁴ EV10, at [1.4]

Applicant has now amended the precinct plan to reflect the amendments discussed. The revised precinct plan has been inserted into the two sets of precinct provisions attached. For clarity, a separate precinct plan marked up with comments is attached explaining the recommended changes.

75. We note in terms of item 2 above that the name of the precinct has been changed to 'Pukekohe East-Central 2 Precinct', to follow what we understand is the AUP naming convention, whereby precincts with the same name are to have the number after the name but before the word 'precinct'. In addition, the 'I45X' has been changed to 'IXXX' as it was not yet known if 'I45X' would be the number for the Precinct (once the plan change was confirmed by the Council). We have used this new numbering as part of the discussion below (except where the earlier version is referenced in a quotation), so as to align with the Precinct provisions at Attachment 1.
76. The Panel determined that the changes were not substantive and/or were advised to have been discussed and agreed with the Applicant (as set out above), and so we did not direct a further process for further comment by the parties. We have carefully considered these comments as part of the discussion and our findings below.

Matters agreed post-hearing

77. The matters that were resolved are described below.

Park connections

78. Within the Council's reporting, Ms van Heerden had proposed that north-south connections be identified in the Precinct Plan. The Panel had also raised a concern about the lack of connection through to the eastern side of the site and we sought to understand whether more walking and cycling connections were able to be added in that area. The Reply noted that while further investigations were undertaken to determine if a north-south linking road could be provided, this did not appear feasible in engineering terms. However, it was determined by Messrs Karnan and Munro that potential existed for pedestrian/cycle lanes, which addressed the concerns of both the Council and this Panel.
79. The Reply advised of revised wording to be included in the Precinct Description and Policy 5(a)(iv) that had been agreed with the Council team, as follows:

Precinct Description (amendment)

Open space is to be provided in the form of an appropriately sized and located neighbourhood reserve. Land use around open spaces must integrate with the open spaces to provide good urban design outcomes. An interconnected public walking and cycling network will need to be provided within and between areas of open space, including across streams as shown on the Precinct Plan.

Policy 5(a)(iv) (replacement)

(iv) Require a safe pedestrian network that enhances connectivity between public open spaces including a stream crossing as indicatively shown on the Precinct Plan that may be of an appropriate boardwalk design or similar with a practicably achievable height, width and gradient recognising that the connection from the roading network to the stream crossing will require a level change.

80. The revised Precinct Plan included with the Reply includes the proposed north-south pedestrian/cycle lane shown indicatively on the Precinct Plan.

Naturalised stormwater ponds

81. During the hearing the Panel recommended that the Applicants provide additional criteria for the design of stormwater devices to require them to be integrated with its surroundings, so that they are more 'naturalised'. The Panel noted that the assessment criteria contained within Rule IXXX.8.2(4)(h) goes some way to this outcome but was not sufficiently certain in this regard.
82. Following further consultation with the Council officers, the Applicants proposed amendments to this rule as set out within the Reply:

IXXX.8.2. Assessment criteria

The Council will consider the relevant assessment criteria below for restricted discretionary activities, in addition to the assessment criteria specified for the relevant restricted discretionary activities in the overlay, Auckland wide or zone provisions:

(4) Subdivision and Development, the extent to which:

- (h) The design and efficiency of stormwater infrastructure and devices (including communal devices) including the likely effectiveness, lifecycle costs, ease of access and operation and integration with the built and natural environment, and the extent to which their finished form and detailing is sympathetic to the natural character of the area.*

Stormwater

83. The Reply notes that there was initial disagreement at the hearing in terms of the wording of the following provisions in relation to stormwater and flooding:
- Policy 1XXX.3(7);
 - Standard IXXX.6.4.1 Hydrological Mitigation;
 - Standard IXXX.6.4.2 Water Quality; and
 - Standard IXXX.6.4.3 Stormwater.
84. The Reply advises of the preference of the Council and Healthy Waters "was to get provisional approval stage to give them comfort in terms of the precinct provisions

recommended in Mr Duncan Ross' evidence",¹⁵ and that otherwise a more precautionary approach was recommended within these provisions, as recommended in the Addendum report.

85. Post-hearing discussions were described in the Reply as incorporating additional flood modelling that has since been incorporated into the latest version of the SMP. It went on to say:¹⁶

Healthy Waters / Auckland Council have reviewed the additional information and confirmed that they have no outstanding issues for this plan change request and have no issues with the proposed provisions in relation to stormwater shown in Appendix 1. The relevant proposed provisions are based on the version in Mr Duncan Ross' evidence with minor changes. A summary of these changes are found in Appendix 2, Table 2 attached to these submissions as there are a number of provisions addressed.

86. The Panel notes that the Reply incorporated two different versions of the agreed marked-up provisions, with a slight misalignment to the purpose of the standard relating to Water Quality (IXXX.6.4.2), but both being referred to as having been agreed with the Council and Healthy Waters post-hearing. More specifically, however, it advised that Mr Reaburn had confirmed that the Council agreed with the changes set out in Appendix 2 (Table 2).

87. The two versions were stated as follows:

Reply - at Appendix 1

To protect water quality in streams, and the Whangapouri Stream catchment, by avoiding the release of some contaminants from impervious surfaces and limiting the release of other contaminants.

Reply - at Appendix 2

To protect water quality in streams, and the Whangapouri Stream catchment, by limiting the release of contaminants from impervious surfaces as far as practicable ~~by avoiding the release of contaminants from impervious surfaces~~.

88. The Panel considers that the Appendix 2 version (as also noted to have been agreed by Mr Reaburn) better encapsulates the need to limit the discharge of all contaminants, and avoids an uncertain distinction between "some contaminants" and "other contaminants" proposed in the Appendix 1 version.

Summary

89. The Reply advised of the Council's agreement with the above proposed provisions, as conveyed by Mr Reaburn.
90. The Panel also agrees with these amendments and adopts them as part of its decision-version of the Precinct provisions attached to this decision as **Attachment 1**.

¹⁵ Ibid, at [4.2]

¹⁶ Ibid, at [4.4]

MDRS notification provision

91. The Reply also noted that, as raised in the Addendum report, the Applicant understood the Council to suggest that the notification provision at IXXX.5(4)(b) be removed from the Precinct provisions.¹⁷ This clause provides that:

(4) Unless the Council decides that special circumstances exist under section 95A(9) of the Resource Management Act 1991, public and limited notification of an application for a controlled subdivision resource consent is precluded if the subdivision is associated with an application for the construction and use of:

...

(b) four or more dwellings that comply with all the standards listed in Table H5.4.1 (A4).

92. However, the Panel, and Mr Reaburn, indicated during the hearing a preference that this clause be retained. The Reply advised that, on reflection, the Applicants are in agreement with that position but have no particular preference either way.
93. The Panel has determined that the notification clause would be consistent with H5.5(1)(a) for the MHUZ and is appropriate to retain within the Precinct.
94. The Panel has also noted that the wording of IXXX.5.4(b) would be more accurate if it were amended to incorporate the relevant 'special circumstances' clause of s.95B(10) in respect of limited notification. However, because that is not included in the MHUZ, we have left the text in the form for consistency and as described above.

Coastal references

95. While not raised in the Reply, the Panel has determined that it is appropriate to make further minor editorial changes in respect of references to coastal (and "lakeside") considerations in the Precinct. These relate to specific standards (including yards) at IXXX.6 and the assessment criteria at IXXX.8.2(8), relating to buildings that do not comply with one or more of Standards IXXX.6.1.3 to IXXX.6.1.10. This is for the reason that the site plainly has no coastal (or lakeside) context. The amendments are shown below:

IXXX.6 Standards

...

- (1) All relevant overlay, Auckland-wide and zone standards apply to the activities listed in Activity Table IXXX.4.1 except that the following standards do not apply to activities (A1), (A3), (A4), (A9) to (A11):*
- (f) H5.6.8 Yards (except standards in H5.8 6. for riparian, ~~lakeside and coastal protection~~ yards apply in the IXXX Pukekohe East-Central 2 Precinct);*

¹⁷ The notation in the Addendum report was that "[p]lease note the possibility that (b) should be deleted – to confirm".

IXXX.6.1.5 Yards

Purpose:

- *to ensure buildings are adequately set back from ~~lakes, streams and the coastal edge~~ to maintain water quality and provide protection from natural hazards; and*

IXXX.8.2 Assessment criteria

(8) For buildings that do not comply with one or more of Standards IXXX.6.1.3 to IXXX.6.1.10:

(b) for building height:

...

Character and Visual Amenity

(iv) the extent to which the form and design of the building and any additional height responds to the planned form and existing character of the surrounding area, including natural landforms and features, ~~and the coast~~

...

(d) for yards:

(iii) the extent to which buildings set back from water bodies maintain and protect environmental, open space, amenity values of riparian margins of ~~lakes, streams and coastal areas~~ and water quality and provide protection from natural hazards.

Matters in contention

Introduction

96. The issues remaining in contention were described in the Reply as relating to the provision of water and wastewater infrastructure, and provisions relating to potential heavy vehicle use of collector roads. We discuss and set out our findings in respect of these topics below.

Water and wastewater infrastructure

97. It is noted that the issue in respect of wastewater capacity was not initially identified as an area of contention between the Applicants and the Council, with agreement having been reached that Standard IXXX.6.4.4 Water and Wastewater as set out in the Addendum report could be relied upon. However, subsequent concerns in this regard arose in queries from the Panel as to the rigour of the provisions in preventing the potential construction and use of dwellings prior to the availability of, and connection to, wastewater infrastructure in particular.

98. The Panel referred in this regard to examples of publicised developments in Redhills, Hingaia and Warkworth Ridge where a need for the trucking of sewage was required due to a misalignment in timing between development and the availability of infrastructure. We expressed a need for additional provisions to provide sufficient assurance that situations of this nature could not be replicated (e.g., via use of s.224(c) certification requirements). The Applicants advised the Panel that they would discuss the proposed wording of such provisions with Watercare as part of preparing their Reply.
99. The Reply advised of subsequent discussions between representatives for the Applicants and Watercare, but that they had not been able to reach agreement on the wording. As a preamble to outlining the different approaches sought between the parties, the Reply set out what the Applicants consider are the key outcomes that the provisions should seek to achieve:¹⁸
- (a) *Ensuring that no one is living in houses before the houses are connected to water and wastewater infrastructure; and*
 - (b) *Ensuring no one has completed the purchase of a house and is unable to live in their house because the house is not serviced with water and/or wastewater.*
100. The Panel agrees that these should be the objectives to be achieved, and in doing so would address the concerns that the Panel sought to highlight during the hearing. The Reply then went on to set out the amendments that it considered would address these objectives, through the addition of a new clause (c) to IXXX.6.4.4(1) as follows:¹⁹

Purpose: To ensure bulk water supply and wastewater infrastructure with sufficient capacity is available to support subdivision and development within the Precinct.

(1) *Subdivision or development must either:*

- (a) *Be able to be connected to publicly available bulk water and wastewater infrastructure that is completed and commissioned with sufficient capacity to service the subdivision or development; or*
- (b) *Be supported by written confirmation from the infrastructure services provider for the area that planned capital works required to provide bulk water and wastewater infrastructure that would provide connections for water and wastewater are suitably advanced and will have sufficient capacity to service the proposed subdivision or development; and*

(c) *Be accompanied by a proposed condition of consent which requires:*

- (i) *In the case of a subdivision consent application, bulk water and wastewater infrastructure [will] be completed and commissioned before a certificate pursuant to section 224(c) RMA is issued.*

¹⁸ EV10, at [5.3]

¹⁹ Ibid, at [5.7]

- (ii) *In the case of a land use consent construction of dwellings may not commence unless the bulk water and wastewater infrastructure required to service the development will be completed and commissioned by the time construction is completed.*

101. The Panel notes that the key change from its original version is the inclusion of “*by the time construction is completed*”. We also note that clause (c) does not naturally follow the preamble to clause (1) and we consider this would be better expressed as a separate clause (2).

102. Appendix 2 of the Reply set out the wording sought by Watercare in respect of (c)(ii), which was as follows:

- (ii) *In the case of a land use consent, construction of dwellings may not commence until ~~unless~~ the bulk water and wastewater infrastructure required to service the development is ~~will be~~ completed and commissioned ~~by the time construction is completed~~.*

103. The Reply then set out the reasons for Watercare’s position (noting that the Applicants’ counsel agreed to provide these reasons within its Reply to avoid the need for Watercare to file its explanation separately):²⁰

- *Watercare does not support the construction of dwellings before the bulk water and wastewater infrastructure required to service the development is complete and commissioned. This is an approach Watercare takes across the Auckland Isthmus where there are known water and wastewater constraints which require upgrades or new infrastructure to be provided before development can be serviced, as is the case here.*
- *Without the amendments requested by Watercare to (1)(c)(ii), construction of dwellings would be able to commence provided that, at the time consent is granted, it is thought that the bulk water and wastewater infrastructure required to service the development will be completed and commissioned by the time construction of the dwelling is complete. As the Applicant will appreciate, the construction and delivery of large bulk infrastructure projects is complex, and these complexities can cause unintended slippage in the delivery of the project. It can therefore be challenging to predict with certainty the date at which an infrastructure project will be completed and commissioned.*
- *In this regard, the version of (c)(ii) proposed by the Applicant could result in dwellings being constructed and ready to connect before the necessary infrastructure is in place due to the timing of delivery of infrastructure projects.*
- *In comparison, Watercare’s requested amendments to (c)(ii) removes the expectation that applicants will be able to commence construction of a dwelling*

²⁰ Ibid, at [5.5] and Footnote 1.

*prior to the necessary bulk water and wastewater infrastructure being completed and commissioned. However, it does not preclude the construction of dwellings occurring ahead of the infrastructure being complete – it simply means the activity must be assessed as a non-complying activity.*²¹

104. In essence, as explained in the Reply, Watercare wishes to prevent the construction of dwellings commencing until the services have been completed and commissioned. The Reply went on to address Watercare's concerns in this regard as set out below:²²

- (a) *In relation to this particular precinct, the "bulk" wastewater infrastructure is simply a new pipeline along Station Road, running down to the Pukekohe Racetrack. Watercare do not want construction to even commence after construction has been completed and the pipe is in a commissioning phase. Commencing construction even one day prior to commissioning being completed is problematic in terms of the rule.*
- (b) *The issue is not a network capacity constraint, Pukekohe is not identified as being constrained in Watercare's recent press release about network capacity in Auckland. The work required is a simple gravity pipe extension.*
- (c) *Watercare's approach is inefficient in terms of timing because it takes months for a house to be built and Watercare's rule creates an unnecessary and inappropriate delay between completion of the pipeline and completion of the houses.*
- (d) *The relevant developer would then have to sit idle on a large loan because of a requirement to do things sequentially instead sequencing them in close collaboration with Watercare. Families wanting to move into new houses would not be able to, for an unnecessarily long time.*
- (e) *This requirement is inconsistent with the Government's position in supporting new housing growth.*
- (f) *With such a strong policy and rule directive, if the rule is applied properly to resource consents, there would not be the outcome which the Panel was concerned of; Redhills or Hingaia. Watercare's approach therefore is not linked to the Panel's concern; they are wanting an outcome that is more restrictive than the Panel envisaged. The outcome of this approach does not change Watercare's construction timeline, it only allows development to be aligned (and coordinated) with Watercare's timing for the provision of bulk water and wastewater infrastructure, consistent with Objective I45X.2.(8) and Policy I45X.3.(12).*
- (g) *The inefficiency caused by Watercare's rule is inconsistent with the following RPS provisions, which the precinct provisions must give effect to:*

²¹ By reference to Rule IXXX.4.1(A8)

²² EV10, at [5.6]

- (i) *RPS Issues B2.1(1): Growth needs to be provided for in a way that does all of the following:*
 - (A) (3) *optimises the efficient use of the existing urban area;*
 - (B) (5) *enables provision and use of infrastructure in a way that is efficient, effective and timely;*
- (ii) *RPS Objective B3.2.1.(5) Infrastructure planning and land use planning are integrated to service growth efficiently. (Applicants' emphasis)*

105. The Reply then sets out the type of condition that is intended to be required to address Standard IXXX.6.4.4:

Condition X

1. *The consent holder must not commence construction of dwellings until:*
 - (a) *Watercare's programmed date for completing and commissioning the Station Road pipeline is less than 9 months away; and*
 - (b) *The consent holder has provided the Council's Monitoring Officer with a construction programme demonstrating that the consent holder's programmed date for completing construction of dwellings is after Watercare Services Limited's programmed date for completing and commissioning the Station Road pipeline; and*
 - (c) *The Council's Monitoring Officer has certified the construction programme as an accurate representation of Watercare's construction program date for completing and commissioning the Station Road pipeline.*
2. *Prior to s224(c), the Station Road pipeline must be completed and commissioned.*
3. *Prior to occupation of any dwellings, the Station Road pipeline must be completed and commissioned. A land use covenant must be registered on the title recording this on-going obligation prior to construction commencing.*

106. The Reply advised (via Mr Reaburn) that the Council is comfortable with the Applicants' proposed approach to clause (c)(ii), and it went on to say:²³

A condition of this kind directly addresses Watercare's concern about timing – the consent holder would still face a gateway prior to commencing work, but that decision would be made no less than 9 months prior to Watercare's planned completion and commissioning (and in any event after construction had commenced), minimising the risk that houses would be completed in advance of the pipeline becoming operational. In any event, the condition still precludes s224(c) and occupation of dwellings prior to the Pipeline being completed – precluding issues such as have been seen at Redhills and Hingaia from arising.

²³ Ibid, at [5.9]

107. The Reply also highlighted the suite of other regulatory approvals that are required before works can commence on a development, with the Building Act 2004, Building Code and the Local Government Act 2002 also preventing connection to the water or wastewater network without Watercare's permission. The Panel acknowledges that point, but we observe that those provisions were evidently inadequate to prevent the situations that have arisen in Hingaia, Redhills and Warkworth Ridge. Nevertheless, there may have been administrative or process oversights in those situations and the Panel expects that these will have since been rectified, but we heard no evidence to assure us of this.
108. Our focus is therefore to ensure that the Precinct provisions are sufficient to address the concerns that were raised during the hearing, and to satisfy ourselves that the implementation and exercise of PC98 will not in itself exacerbate any potential failings that could arise under the aforementioned regulatory approval framework. We consider that the provisions should fully address the key outcomes set out in paragraph 99 above.
109. In this regard, the Panel finds that the provisions as proposed by the Applicants incorporate the type of safeguards that we envisioned would be necessary to enable both the efficient timing of development relative to infrastructure provision. However, the Panel also considers that they do not totally avoid the potential for new dwellings to be occupied prior to the availability of that infrastructure (i.e., to achieve the second outcome set out in paragraph 91).
110. As indicated above, the Panel considers that proposed provision IXXX.6.4.4(1)(c) (Applicant's version) should be expressed as a separate clause, with an adjustment made to deal specifically with the issue of "occupation". Our decision is that the separate clause (2) within the standard should read as follows (with key wording changes underlined):
- (2) *A resource consent application for development must be accompanied by a proposed condition of consent which requires:*
- (a) *In the case of a subdivision consent application, bulk water and wastewater infrastructure will be completed and commissioned before a certificate pursuant to section 224(c) RMA is issued.*
- (b) *In the case of a land use consent application:*
- (i) *construction of dwellings may not commence unless the bulk water and wastewater infrastructure required to service the development will be completed and commissioned by the time construction is completed; and*
- (ii) *prior to construction commencing, a covenant must be registered on each title recording that, before any dwelling is occupied, the bulk water and wastewater infrastructure required to service the development must be completed.*
111. In this manner we are satisfied that the revised standard will give effect to the wording of Policy IXXX.3(11), to which Watercare confirmed its agreement,²⁴ and is as follows:

²⁴ EV03, at [4.3]

(11) Ensure that subdivision and development within the Precinct is appropriately staged and timed to align with the establishment of required local water, wastewater and stormwater infrastructure.

112. We note that Policy (11) is further reinforced by new Policy (12):²⁵

(12) Avoid subdivision and development that does not align with the timing of the provision of bulk water supply and wastewater infrastructure with sufficient capacity to service the proposed development.

113. In particular, the Panel considers that a reading of Standard IXXX.6.4.4 in full, together with the additional standard at (2), will provide sufficient surety in respect of addressing this issue of concern at the relevant time. A failure to meet any of the terms of the standards, including written confirmation from Watercare as to the programme status of the relevant works (at (b)), along with the provisions related to s.224(c) certification (the new standard), would result in the application being a non-complying activity under IXXX.4.1(A8), and be indicative of a significant inconsistency with Objective IXXX.2(8) and Policies IXXX.3(11) and (12).

114. The Panel notes that while the Applicants' have provided a draft condition that would reflect the matters required to be addressed under Standard IXXX.6.4.4(1)(c) (Applicants' version), this does not form part of PC98. In this regard, we do not necessarily endorse the reference to a nine-month lead-in as proposed in the draft Reply condition, with this timing to be determined at the appropriate time and as part of the Applicants' pre-application consultation with Watercare required by (new) clause (2)(b). However, we would expect that this timing would not be less than six months.

115. Overall, the Panel considers that the additional provision, based on the Applicant's proposed Standard IXXX.6.4.4(1)(c) but re-structured slightly to incorporate a new clause (2), is appropriate and gives effect to the agreed wording of Policies IXXX.3(11) and (12), as well as Objective IXXX.2(8).

Design of Collector Road – Heavy Vehicles

116. The second issue remaining in contention was whether Precinct provisions should be included to address the potential use of the new collector road as a through-route by freight or heavy vehicles, as separate from its expected use by those vehicles that may need to access a residential area, such as buses, fire appliances, rubbish trucks and the like.

117. It was the Council's position, based on the assessment by Mr Peake, that the Precinct provisions should include:

(a) A new Policy IXXX.3(5)(a)(ix) to discourage heavy vehicle traffic.

(b) In Appendix 1, the inclusion of "No" under the "Freight or heavy vehicle route" column for the Internal Collector Road and Note 6: *"The Collector Road shall be designed to discourage through traffic, particularly freight and heavy vehicles"*.

²⁵ EV07, Attachment 1

118. As set out previously, Mr Langwell did not support these provisions, noting the difficulty of distinguishing the road design for bona fide heavy vehicles as opposed to those of a freight-transport nature. He had also noted the remedies available under AT's Traffic Bylaw. Mr Peake had responded to this evidence, noting that the policy intent was to discourage, not prohibit such traffic, and that the AT Traffic Bylaw was rarely enforced.
119. Nevertheless, the Reply advises that following the hearing further discussion between the Applicants and the Council enabled agreement to be reached in respect of the policy to include reference to "*through intersection design*", as reflected in the agreed wording for Policy IXXX.3(5)(a) as follows:

(ix) discouraging the use of the Collector Road for through traffic, heavy vehicles, and freight through intersection design.

120. The Reply advises, however, that agreement was not achieved in terms of Note 6 to Appendix 1. The wording at issue was whether the Council's reference to "*and Golding Road*" should be included, with the full version of Note 6 set out below:²⁶

Note 6: This is to be achieved by intersection design with buses being the largest vehicle that the intersections between the Collector Road and Pukekohe East Road and between the Collector Road and Golding Road should be designed to accommodate, unless Auckland Transport specifies otherwise. This gives effect to Policy 5(a)(ix).

121. This was based on Mr Peake's preference for the provision to have the scope to include both the Pukekohe East Road / Collector Road intersection, as well as the Golding Road intersection. The Reply comments in this regard that:

6.10 ...Trucks and trailers for construction will likely be needed for the development at PC98 and referring to both intersections in that provision would restrict access for construction vehicles (as the Golding access onto the collector will be the main entry point into the Precinct). Mr Langwell and Mr Ross remain of the view that the restriction at the northern end of the site is sufficient. Even the intersection restriction is a highly unusual control.

6.11 The collector roads within the PC98 and PC76 plan change areas also need to be carefully managed – there are cycle and pedestrian lanes, and an important 4-way intersection where they connect to [Golding Road] and a range of issues such as the sight distances and road steepness need to be carefully considered.

6.12 Another reason for concern is that works on land affected by Notice of Requirement NoR 5 of the Pukekohe Transport Network (i.e. Pukekohe East-Central Arterial) will require approval from AT under s178 of the RMA, and the Applicants do not want any inconsistency between the resource consent and the NoR.

²⁶ EV10, at [6.9]

122. In summary, it was the Applicants' position that they did not support the inclusion of "an arbitrary, open ended intersection control at Golding Road" and that "[t]he control at Pukekohe East Road should be enough to deter through traffic".²⁷
123. The Panel does not consider that the Applicants' rationale for exclusion of the Golding Road intersection is sufficiently compelling for this to be excluded from Note 6. The use of the Pukekohe East Road by the types of heavy vehicles of concern would be expected to also result in the use of Golding Road by any vehicle using Pukekohe East Road. In addition, while the implementation of works through NoR 5 will be subject to approval from AT, this designation is applicable to both Golding Road and Pukekohe East Road, and so there is no apparent basis for different approaches in this regard.
124. The Panel therefore finds that any approach undertaken in respect of the Pukekohe East Road to address Policy IXXX.3(5)(a) should equally apply to Golding Road. We have amended Note 6 accordingly (including with a more complete reference to the aforementioned policy), and consistent with the wording sought by the Council, i.e.:

Note 6: This is to be achieved by intersection design with buses being the largest vehicle that the intersections between the Collector Road and Pukekohe East Road and between the Collector Road and Golding Road should be designed to accommodate, unless Auckland Transport specifies otherwise. This gives effect to Policy IXXX.3(5)(a)(ix).

OVERALL FINDINGS AND REASONS FOR APPROVING THE PLAN CHANGE

125. The changes referred to in the preceding part of this decision are incorporated into the revised version of the Precinct at **Attachment 1**, which includes the Precinct plan.
126. Overall, and based on those amendments, we accept Mr Reaburn's overall recommendation set out in the Agenda report that PC98 should be approved, and that the plan change and associated change in the zoning of the land will:
- assist the Council in achieving the purpose of the RMA;
 - give effect to the NPS-UD;
 - be consistent with the RPS; and
 - be consistent with the Auckland Plan.

DECISIONS ON SUBMISSIONS

127. It is also necessary for us to set out our decisions with respect to the submissions received on the plan change. We have set out our decision on the submissions, and the relief sought in those submissions, at **Attachment 2** and these are based on the recommendations provided in the assessment by Mr Reaburn in his Agenda and Addendum reports, and our overall decision to approve the plan change.

²⁷ Ibid, at [6.12]

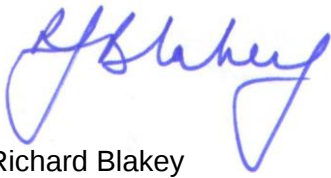
128. We also highlight in this regard that further submissions can only support or oppose an initial submission. Our decisions on the two further submissions received reflect our decisions on those primary submissions having regard, of course, to any relevant new material provided in that further submission. For example, if a further submission supported a submission(s) that opposes the plan change and we have recommended that the initial submission(s) be rejected, then it follows that the further submission is also rejected.

FINDINGS WITH RESPECT TO PART 2

129. For all of the reasons set out in this decision, we are also satisfied the matters set out in ss.6, 7 and 8 of the RMA have been addressed. PC98 and its provisions, as amended, have recognised and provided for, have had particular regard to and taken into account those relevant ss.6, 7 and 8 matters.
130. In terms of s.5 of the RMA, it is our finding that the provisions of PC98 are consistent with, and are the most appropriate way, to achieve the purpose of the RMA. PC98 will enable the efficient development of the site for residential activities while also avoiding, remedying, or mitigating any adverse effects on the environment.
131. Having considered all the evidence and relevant background documents, we are satisfied, overall, that PC98 has been developed in accordance with the relevant statutory and policy matters with regard to ss.32 and Part 2 of the RMA. The plan change will clearly assist the Council in its effective administration of the AUP(OP).

DECISION

- I. That pursuant to Schedule 1, clause 10 of the Resource Management Act 1991, that Proposed Plan Change 98 to the Auckland Unitary Plan (Operative in Part) be **approved**, on the basis of the Plan Change 98 provisions as provided with the Applicant's memorandum of 13 December 2024, subject to those amendments that we have described in this decision and as set out in **Attachment 1**.
- II. Submissions on the plan change are accepted and rejected in accordance with **Attachment 2** to this decision. In general, these decisions follow the recommendations set out in the Council's Agenda report.
- III. In addition to the reasons set out above, the overall reasons for the decision are that Plan Change 98:
- (a) will assist the Council in achieving the purpose of the RMA;
 - (b) is consistent with the Auckland Regional Policy Statement;
 - (c) is supported by necessary evaluation in accordance with s.32 of the RMA; and
 - (d) will assist with the effective implementation of the Auckland Unitary Plan.



Richard Blakey

Chairperson



Bridget Gilbert



Vaughan Smith

12 February 2025

ATTACHMENTS

Attachment 1 IXXX Pukekohe East-Central 2 Precinct

Attachment 2 Table of Decisions on Submissions

