



**Clause 23 Request for Further Information: Applicant's Response (Updated 9 August 2022)**

Request: 18 February 2022	Response: 9 August 2022
<p><u>Planning - S32 Analysis</u></p>	
<p>1. Section 22 of the Resource Management Act 1991 (the RMA) states:</p> <p><i>(1) A request made under clause 21 shall be made to the appropriate local authority in writing and shall explain the purpose of, and reasons for, the proposed plan or change to a policy statement or plan and contain an evaluation report prepared in accordance with section 32 for the proposed plan or change. [Emphasis added]</i></p> <p><b>Information request:</b> Can you please include a section in the Plan Change Request that explains the purpose of, and the reasons for the plan change.</p>	<p>The purpose of and reasons for the proposed plan change is included in new Section 1.2 of the S.32 Report.</p>
<p>2. Section 32(6) of the RMA sets out the meaning of 'objective', 'proposal' and 'provisions. It is useful to outline what this means regarding the Plan Change Request. As currently drafted, the Plan Change Request does not state the purpose of the change or what the objective is of the Plan Change Request. The current request compares the current AUP objectives to meeting the current AUP objectives, and states that this meets the purpose of the RMA.</p> <p>This is incorrect, and a purpose or a plan change objective is needed as per the S32(6). The justification using provisions is needed to meet the objective of the plan change.</p> <p><b>Information request:</b> Can you please provide an analysis against S32(6) of the RMA. I am happy to provide examples of where this has been completed in operative plan change requests. If you do not wish to provide this analysis, please explain why.</p>	<p>Reference to Section 32(6) has been included in Section 1.2 of the S.32 and the objectives, proposal and provisions have been updated to reflect the rezoning.</p>
<p>3. The Plan Change Request provides an analysis of the operative AUP (OP) provisions against the purpose of the RMA. The AUP (OP) currently meets the purpose of the RMA, as it has been through a statutory process that confirmed that. Therefore this assessment is unnecessary.</p> <p><b>Information request:</b> Please correct this assessment, if not, why not?</p>	<p>An assessment of the AUP OP against the RMA in Section 5 of the Section 32 Report has been provided to highlight the need for specific Objectives as the most appropriately achieve the purpose of the RMA.</p>
<p>4. Section 3 of Appendix 3 of the Plan Change Request is the options analysis against the Objectives. Sub-sections '3.2 Evaluation of Objectives' and '3.3 Objectives Conclusions' from my understanding are the evaluation against s32(1)(a) of the RMA. It is useful to include headings throughout the evaluation to clearly identify which assessment meets which part(s) of s32 of the RMA.</p> <p><b>Information request:</b> Can you please clearly identify in text, or in sub-headings to set out which parts of s32 of the RMA are being met.</p>	<p>Sub-headings have been included within the Sections of Appendix 3.</p>

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<p>5. Section 4 of Appendix 3, 'Assessment of options – zoning' suggests that the choice of Mixed Housing Urban is the preferred option. Other sections of the evaluation report it is stated that SMAF-1 will be applied to the site.</p> <p><b>Information request:</b> please adjust your options analysis to include all provisions that are being introduced onto the site.</p>	<p>The options analysis has been amended to include all provisions being introduced on the site.</p>
<p>6. In Section 4 of Appendix 3, it is considered that the current AUP provisions are sufficient, and a new precinct is not required. Appendix 12 contains the engagement material supplied. In summary, Appendix 12 outlines the concerns of:</p> <p>(a) Infrastructure delivery</p> <p>(b) Reverse sensitivity effects on the NZDF Whenuapai Airbase.</p> <p><b>Information request:</b> Taking into account the concerns above regarding infrastructure and reverse sensitivity, did you consider including specific controls to manage these effects? If not why not?</p> <p><b>Information request:</b> it is noted that nearby out of sequence plan changes are proposing staging controls or triggers to release land at the appropriate time, can you please clarify why this site does not require these controls. If not, why not?</p>	<p>Specific controls to manage effects of infrastructure delivery would be appropriate, however the AUP OP provisions are relied on as having sufficient coverage to address infrastructure delivery.</p> <p>Specific controls to manage effects of reverse sensitivity on the NZDF Whenuapai Airbase are not considered necessary as the site is subject to the Aircraft Noise Overlay and Airspace Restriction Designation. Any further site/development specific controls are most effective dealt with at resource consent stage as required by the AUP OP.</p> <p><a href="#">Re-information request 6.2: Agree Standard D24.6.1 will address noise concerns.</a></p> <p><a href="#">You have stated:</a></p> <p><a href="#">“Any further site/development specific controls are most effective dealt with at resource consent stage as required by the AUP OP.”</a></p> <p><a href="#">This statement is understood; however the actual and potential effects are currently being understood, and the likely effect of the plan change. This includes what potential assessments might be needed at the resource consent stage.</a></p> <p><a href="#">It should be noted your site falls within the controls of Designation 4311.</a></p>
<p>7. Under Option 3 of Section 4 of Appendix 3 you have quoted an interim decision from the IHP.</p> <p><b>Information request:</b> can you please appropriately reference this document to assist the reader.</p>	<p>Reference to the Interim Guidance document is correct and a copy has been included in the electronic Response folder.</p>
<p>8. Section 5.2 of Appendix 3 states the following:</p> <p><i>“Section 32(2) of the RMA requires that councils assess the efficiency and effectiveness of the policies and methods as the most appropriate way to achieve the objectives of the zone...” [emphasis added].”</i></p> <p>This is considered incorrect and not consistent with s32 of the RMA. Section 32 evaluation report is a requirement of cl22 of Schedule 1 of the RMA, which is prepared by the requestor (the Applicant). It is the evaluation report that makes the assessment. Further, S32(2) relates to the assessment under s32(1)(b)(ii) of which relates to “...the provisions in achieving the objectives;”. Objectives the meaning under S32(6).</p> <p><b>Information request:</b> Can you please correct this, if not, why not?</p>	<p>Updated Section 4.3 of the Section 32 Report has been corrected.</p>
<p>9. Under Section 5.2 of Appendix 3 of the Plan Change Request, I can only see a reference to an assessment of S32(2)(a). It is not clear if subsections 32(2)(a)(i), (a)(ii), (b) and (c) have been assessed. All sections of S32 of the RMA are required by cl22 of Schedule 1 of the RMA.</p>	<p>Assessments under Subsections 32(2)(a)(i), (a)(ii), (b) and (c) have been explicitly referenced.</p>

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<p><b>Information request:</b> Can you please direct me to these assessments or complete these assessments.</p>	
<p>10. Appendix 3 of the Plan Change Request does not contain an assessment of s32(3), s32(4) and s32(4A). All sections of S32 of the RMA are required by cl22 of Schedule 1 of the RMA.</p> <p><b>Information request:</b> Can you please complete the assessment of all section of s32 of the RMA as required by cl22 of Schedule 1 of the RMA.</p>	<p>Assessments under Sections s32(3), s32(4) and s32(4A) have been included under new Section 4.6.</p> <p>Provided as Appendix 12.</p> <p>Further engagement with Mana Whenua has also commenced in relation to the proposed SMP.</p>
<p>11. It is considered that Cl34 of Schedule 12 of the RMA applies to this Plan Change request. Cl34 states:</p> <p><i>(1) This clause applies to any plan change that is proposing or requesting changes to a relevant residential zone or a new residential zone if—</i></p> <p>...</p> <p><i>(c) the MDRS is not already being incorporated through any proposed rules. (emphasis added)</i></p> <p>Comment: it is presented in the documentation that the proposed plan change has incorporated the amendments required by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021, namely the Medium Density Residential Standards (MDRS). As the MDRS has yet to be incorporated into the Mixed Housing Urban zone and the plan change request does not include the MDRS in a precinct, cl34 is not met.</p> <p>Information request: please incorporate the MDRS provisions into the plan change request, if not, why not?</p>	<p>The MDRS provisions will be included in the proposed underlying MHU zoning through the Council PC process to be notified in August 2022. The proposed PPC does not conflict or undermine the inclusion of the MDRS standards.</p>
<p>12. Section 8.6 of the Assessment of Environmental Effects addresses the Auckland Unitary Plan Regional Policy Statement (RPS). This covers Chapter B2 Urban Growth and form, B3 Infrastructure, transport and energy and B10 Environmental risk. This assessment does not mention any specific objectives or policies under the RPS.</p> <p><b>Information request:</b> Can you please include in your assessment the specific objectives and policies under the RPS assessment. If not, why not?</p> <p><b>Information request:</b> Can you please include in your assessment how the objective of the plan change meets the relevant objectives and policies of the RPS. If not, why not?</p>	<p>Specific objectives and policies under the RPS have now been included in Section 8.6 of the AEE.</p> <p><a href="#">Provided no AIR</a></p> <p><a href="#">Comment: I would expect Policy B2.4.2(7) to be raised in submissions, as not all reverse sensitivity matters are addressed by the Plan Change.</a></p>
<p><u>Planning - Assessment of Environmental Effects</u></p>	
<p>13. Section 6.2 of the Plan Change Request covers s31 Functions of territorial authorities under this Act (RMA). It is stated in this section:</p> <p><i>“The use and development of the land for the purposes outlined in this request is clearly within the scope of the Council’s functions under s31 and integration of effects of the activities <u>with infrastructure and other nearby activities is a key issue addressed by the plan change.</u>”</i></p>	<p>The proposed rezoning addresses the infrastructure constraints of the development anticipated under the MHU rezoning.</p> <p>The zone provisions limit development ahead of the provision of infrastructure and therefore no infrastructure funding agreement is considered necessary.</p> <p>Provided no AIR.</p>

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<p>It is unclear how the Plan Change Request addresses infrastructure, whilst not providing reference to specific Local Government documents that outline funding, financing and staging.</p> <p><b>Information request:</b> Can you please clarify the purpose of including s31 in your assessment and how the Plan Change Request will fund and finance infrastructure within the Plan Change area, the mechanism that will be used to trigger the funding and also the funding that your client will make to the infrastructure upgrades required in the surrounding area(s) / wider networks. This is likely to include funding agreements with Auckland Transport and Watercare. If not, why not?</p>	<p>Comment: the Council is likely to make a submission on funding of infrastructure. It is noted that this plan change for 200 – 300 dwellings, however, it does contribute to the wider funding issue.</p>
<p>14. Section 7 is the Assessment of Environment Effects as required by cl22(2) of Schedule 1 of the RMA. You have quoted s7 of Schedule 4 of the RMA, but it is not clear if you have considered s6 of Schedule 4.</p> <p><b>Information request:</b> can you please direct me to where s6 of Schedule 4 of the RMA has been included in this AEE. If not, why not.</p>	<p>Reference to s6 of Schedule 4 has been specifically referenced in Section 7 of the AEE.</p>
<p>15. Section 7.4 addresses Transport Effects and is supported by Appendix 5, an Integrated Transport Assessment prepared by Traffic Planning Consultants. The first bullet point makes reference to an upgrade to the intersections with Mamari Road and Brigham Creek Road. Apart from this, it is not clear from the Plan Change Request what the transport effects will be on the wider network. It is also not clear if modelling to support the plan change considered future scenarios in the area to understand the greater effects, and what infrastructure upgrades in the may needed.</p> <p><b>Information request:</b> Can you please clarify what the effects will be on the greater transport network? If not, why not.</p>	<p>TPC – We do not consider that wider effects need to be considered as part of this plan change proposal. This is partially addressed in Section 5.2 of the ITA where the following is stated:</p> <p><i>“..... under the Mixed Housing Urban zone, resource consent is required for any land use or subdivision that accommodates more than 100 lots, or if there is a change in land use greater than 3 dwellings. Assessment of any effects on the road network, including the effects of the location and design of any intersections on the safe and efficient operation of the adjacent transport network, will be required.</i></p> <p><i>Thus, the AUP requires the effects on the efficient operation of the transport network to be considered for any redevelopment on the subject site. It is thus expected that the effects of motor vehicle traffic generated by any future development on the road network, will be assessed and addressed at the resource consent stage by the AUP controls relating to development.”</i></p>
<p>16. Section 7.5 addresses infrastructure effects and states there is an Infrastructure report that is not included in the documents attached to the application. The application has summarized what water infrastructure requirements are needed to support the site, but there are no references on who will deliver these upgrades, who will own these services or any documents that reference the 2024 timeframes. Further there are no references to your summary, but it is stated:</p> <p><i>“The AUP OP provisions contained within E38 and H5 provide sufficient coverage of development on the site that site specific provision for infrastructure and servicing of the site are not required.”</i></p> <p><b>Information request:</b> What specific provisions under E38 and H5 will manage the wider infrastructure costs.</p> <p><b>Information request:</b> Plan Change 5 and Plan Change 59 all contain site specific provisions to provide for with infrastructure delivery, and provisions that require developers to provide their proportionate share of infrastructure costs. Please provide details of the equivalent provisions that will be included in this plan change.</p>	<p>The developer will form the fixed intersections for the development to Brigham Creek Road and Mamari Road. Sufficient space has been allowed for along the frontage of the site for the formation of any required footpath, cycle path, lighting, etc. The AUP OP provisions specifically refer to the provision of safe and efficient operation of the current and future transport network which will require that infrastructure to be provided as part of the resource consent.</p>
<p>17. Section 7.6 addresses Stormwater Management, this section states the existing provisions contained in the AUP (OP). This section does not reference any Stormwater Management Plans. The Whenuapai Structure Plan, Auckland Plan and other Council documents establish that the Upper-Waitematā Harbour is a sensitive catchment. Further, there are</p>	<p>A Stormwater Management Plan has been prepared and supplied to Healthy Waters.</p>

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	<p>specific stormwater requirements in Proposed Plan Change 5 that are designed to deter birdlife to minimize bird strike at the Whenuapai Airbase.</p> <p><b>Information request:</b> Please provide the technical documents and references to support your approach, if not, why not?</p> <p><b>Information request:</b> How will the site provisions manage the effects of bird strike?</p>	<p>Deterring birdlife to minimise bird strike is not a matter in the AUP OP.</p> <p>Further direction is requested from Auckland Council to the reference to minimising bird strike in PC5.</p> <p>SMP point noted.</p> <p>The request for bird strike may be too specific, reverse sensitivity in general is a matter being raised.</p> <p>To close this off, are any dry or wet detention ponds being used to manage storm water?</p>
<p>18.</p>	<p>There are multiple statements in the Plan Change Request stating the Auckland has a housing shortage and this plan change will help reduce this shortage. You have not referenced any documents outlining the shortage or how much of the shortage will be reduced.</p> <p><b>Information request:</b> Please provide the documents that you have gathered information on Auckland's housing shortage and how this plan change will lower this shortage.</p> <p><b>Information request:</b> Do you consider that an economic assessment is required to support your application to identify the shortage the plan change is addressing? If not, why not?</p>	<p>Reference to the housing shortage has been removed. The proposed rezoning of the site will increase housing supply by 230 dwellings, where currently, only 1 dwelling on the site is provided. This is a reasonable increase in housing supply to the local area and Region.</p> <p>An economic assessment is not considered necessary in this instance.</p>
<p><u>Urban Design Assessment</u></p> <p>Ms Jennifer Estermen from the Urban Design Unit, Plans &amp; Places, Auckland Council has addressed Urban Design issues on behalf of the Council. The following requests are from Ms Estermen:</p>		
<p>19.</p>	<p>Urban Design Assessment - Please provide an addendum to the urban design assessment. It is considered the current assessment provided assesses what would be included in a future land use consent application, not the plan change. Further detail is required to understand the rationale for the block patterns, roading structure and connections back into the Whenuapai neighbourhood. This addendum should include the following:</p> <p>a. Context:</p> <p>i. A robust assessment of the immediate context as well as the wider context. Reliance on the Whenuapai Structure Plan is not considered adequate for a plan change of this scale. Please consider aspects such as walking / cycling connections to key amenities such as schools, local reserves, playgrounds, shops, public transport stops (and other key everyday facilities). Please provide details of how safe and direct access can be provided across Brigham Creek Road</p> <p>ii. Further justification is required in terms of proposed zoning ie. why is Mixed Housing Urban zone proposed. The justification appears to be this zoning is in line the Whenuapai Structure Plan. Please provide a robust analysis detailing how the proposed zoning is in line with the relevant parts of the Regional Policy Statement of the AUP and National Policy Statement on Urban Development.</p> <p>iii. Please provide further assessment in terms of the zoning proposed in relation to the interface with adjoining sites. Given development of this area is not anticipated for some time, due to infrastructure funding timeframes, what is the reason that no transition is proposed between the site and adjoining FUZ zoned sites?</p>	<p>Memo dated 3 June provide supplementary to the UDA.</p> <p><b>6 July 2022 ARFI</b></p> <p>The response provided does not adequately address all the matters raised. As acknowledged by Mr Knott at the start of his memo "the original report was prepared in light of the intention to concurrently submit both a PPC request and a resource consent for the residential development." It is my opinion that the PPC needs to be assessed in its own right opposed to relying on the resource consent application. The resource consent application may not be approved or may require significant changes before it is approved. It is my understanding the current resource consent application is on hold.</p> <p>Further, the resource consent has not been submitted as part of the plan change request and therefore:</p> <ol style="list-style-type: none"> <li>1. Cannot be assessed through the plan change process</li> <li>2. Out of scope of a decision maker</li> <li>3. Can not be submitted on if the plan change is notified.</li> </ol> <p>a Context</p>

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<p>b. Block Structure:</p> <p>i. Please provide rationale for the block depths proposed. The blocks appear to be too deep to provide good frontages to the street without the reliance on additional lanes.</p> <p>ii. Please provide rationale for the placement of the local roading connections. I note fixed intersections are shown, what has defined these 'fixed locations'?</p> <p>iii. Please provide details of what alternative block structures have been considered. This information is required to understand if the most efficient urban block structure is being proposed for the subject site. If additional internal roads (such as Jointly Owner Access Lots) are to be relied upon, please provide assessment in terms of the benefits and costs of such mechanisms (ie. the long term costs on future residents to maintain the surface, lighting, any landscaping, establishing legal mechanisms such as residents societies to oversee the long term maintenance of such spaces)</p> <p>iv. Please detail how the proposed block structure responds to the constraints of flood prone land on the north east corner and also the overland flow path.</p> <p>c. Roading Connections:</p> <p>i. Rationale for the pedestrian throughfare proposed. If this east-west link is an important connection, please detail why a pedestrian only link is proposed rather than a road connection.</p>	<p>The numbering below relates to the numbering of my Further Information Requests (FIR) and are an additional information requests to these RFI.</p> <p>AIR: (i) Thank you for detailing what walking/cycling connections exist and are required. Please detail which of these this plan change request will require and provide. Please show this detail on a plan.</p> <p>AIR: (ii) The justification provided by Mr Knott is that the zone is in line with the Whenuapai Structure Plan and matches zoning across the road. An assessment is provided around the NPS:UD and MDRS. Please provide further analysis in terms of the subject site itself and the unique characteristics to inform why this zone is the most appropriate. For example,</p> <ul style="list-style-type: none"> <li>• what mix of housing typologies are envisioned?</li> <li>• how will the design work around any opportunities or constraints within the site?</li> <li>• how will the design be place specific?</li> </ul> <p>AIR: (iii) The reason provided for no transition area to adjoining FUZ zoned land is it could compromise the development capacity of the subject site. Please provide further detail on the interface anticipated between the subject site and adjoining sites in the short-medium term.</p> <p><i>Comment - b Block Structure</i></p> <p>It is understood that rear lanes are proposed to reduce the number of vehicle crossings and reduce garage dominance from the street while enabling a terrace typology. Although rear lanes can be beneficial in some situations, there is also an ongoing long-term cost in terms of maintenance. I also note the length of rear lanes needs to be carefully considered to ensure a permeable, safe pedestrian movement. Other solutions can also resolve this same matter. It would be useful if you specified if other block depths/ other block layouts have been considered to reduce the extent and length of lanes proposed. Please also provide the rationale for the block layout proposed.</p> <p><i>Comment - ii. It would be useful if you clearly outline what the advice for the fixed intersection was and what technical specialist provided it. Please also specify who stated that these fixed locations are "not an impediment to achieving good design across the site"?</i></p> <p>AIR: iii. Please specify what 'others' you are referring to and provide a copy of what the advice provided was or please provide a reference in your report?</p> <p>AIR: iv. Thank you for specifying that this matter is addressed by the stormwater expert. Please provide an extract of the relevant advice provided and your urban design response to this, please provide a reference in your report.</p> <p><i>c. Roading connections</i></p> <p>It is understood this has now been changed to a public road connection opposed to a pedestrian only link.</p> <p><b>11 July 2022 Response</b></p> <p>a. Context</p>



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AIR: (i)

The AUP OP (E38) provisions require that the development of the site provides for connectivity through the development between Mamari Road and Brigham Creek Road. The plan identifies the proposed block structure/street layout across the land.

The walking and cycling connections will be provided on/within streets, in locations where there will be good passive surveillance of users.

Chapter E27 for Transport infrastructure requires consideration of the effects of the proposal on the future ability to construct the road corridors and connections shown in Plan i.e. the road connections shown on the plan are seen as a baseline for the consideration of the proposed linkages and it can be expected that the level of connectivity provided by the plan will be seen as a minimum for proposed walking and cycling connections across the site.

AIR (ii).

H5.1 Zone Description for the AUP(OP) Mixed Housing Urban Zone (MHUZ) states that:

*'Over time, the appearance of neighbourhoods within this zone will change, with development typically up to three storeys in a variety of sizes and forms, including detached dwellings, terrace housing and low-rise apartments.'*

The MHUZ land already developed to the north of Brigham Creek road reflects this expectation, with a range of terraced, semi-detached and detached one and two level dwellings. My experience is that this is typical of other newly developed MHUZ land.

It is anticipated that similar forms of development will be seen across the site.

AIR (iii)

This boundary runs at an angle relative to the north-south roads shown on the plan. It is expected that dwelling frontages will be developed parallel to the proposed streets. It is therefore likely that dwellings along this boundary will not be parallel to the boundary and will be separated from it by triangular shaped yard areas. It is anticipated that there will be fences along this boundary. The shape of these yard areas would allow areas of planting to be established within each lot to assist with softening the appearance of the development when viewed from the FUZ land in the short to medium term. In the longer term, when the adjacent land is developed, it is likely that the boundary will not be clearly viewed, with potential changes in dwelling form and design either side of the boundary being more obvious indications of the former existence of the boundary.

b. Block Structure:

Comment ii The advice for the fixed intersection was based on project team discussions during development of the initial concept including relying on traffic engineering advice. The comment that these fixed locations are "not an impediment to achieving good design across the site" was made by myself.

AIR iii. The advice was based on project team discussions during development of the initial concept including relying on civil engineering and traffic engineering discussions/advice.

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	<p>AIR iv. As above – the civil engineer (Maven) has recommended the block layout based on the natural hazards constraints during the development of the initial concept design.</p> <p><i>Other</i></p> <p>The development which has already taken place on the MHUZ land to the north of Brigham Creek Road has already begun to form the sense of place and form of the newly urbanised area. This land is subject to the Whenuapai 1 and Whenuapai 2 Precincts. These Precincts also broadly rely upon the MHUZ provisions. Given this, I consider the approach of relying upon the MHUZ provisions to be appropriate, as providing specific alternative provisions within the Precinct Plan would potentially lead to the land having a different character to the existing larger already developed areas to the north.</p>
<p><u>Transport report</u></p> <p>Ms Chloe Davison from Harrison Grierson has addressed the transport/traffic issues on behalf of council. The following requests are from Ms Davison and have been included in this letter for convenience.</p> <p><i>Modelling and trip generation assessment</i></p>	
<p>20. Information request: Please provide details, year, assumptions and methodology of the base model provided in the ITA.</p>	<p>TPC – The base flow for the traffic modelling has been based on peak 2019 flows. This being last year prior to flows on the network being influenced by Covid 19. No adjustments have been made for growth between 2019 and 2021 (year of the report) as there has not been any growth during peak times with many people working from home.</p> <p>All models have adopted the factory settings and assumption within the SIDRA software.</p> <p>Response accepted.</p> <p>No further response required.</p>
<p>21. Information request: The modelling is based on 260 medium density dwellings. However, the mixed housing urban zone allows for low-rise apartment buildings (up to three storeys). Please confirm the maximum number of dwellings that could be established on the site as part of the mixed housing urban zone as well as changes relating to the National Policy Statement for Urban Development and the medium density residential standards (MDRS). A sensitivity analysis should be undertaken using the highest density of dwellings that can be established as a result of the plan change. Please provide sensitivity testing of the maximum yield.</p>	<p>TPC – The assumption of 260 dwellings is consistent with the resource consent application where 239 dwellings have been proposed. This is considered a realistic yield and typology for the site with allowances for a mixture of roads and private lanes to provide access to the site.</p> <p>Notwithstanding and as set out under Item 15 above, the Mixed Housing Urban zone, resource consent is required for any land use or subdivision that accommodates more than 100 lots, or if there is a change in land use greater than 3 dwellings. Assessment of any effects on the road network, including the effects of the location and design of any intersections on the safe and efficient operation of the adjacent transport network, will be required.</p>
<p>22. Information request: The ITA does not consider the interim effects of the development prior to the public transport upgrades. Please provide a sensitivity test of the interim effects and prior to the public transport, pedestrian and cycling upgrades. Refer to Research Report 453 in Table 7.4 , the peak hour trips associated with a Suburban Dwelling is 1.2 trips per unit and an outer suburban dwelling is 0.9 trips per unit. Table 8.10 of RR453 shows that medium density residential developments have an associated peak hour trip rate of 0.8 per dwelling.</p>	<p>Section 3.3 of the ITA clearly sets out the assumptions around mode share and vehicle trip generation used in the assessment. It references the trip generation assumptions from the ITA for the Whenuapai Structure Plan and adopted the mode share and vehicle trip generation from 2016. This clearly pre-dates any future upgrades to public transport and any pedestrian and cycling upgrades even though there has been new buses services, footpaths and cycle paths established on Brigham Creek Road since 2016. The assessment with the ITA can therefore be considered a conservative assessment.</p>



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A trip rate of 0.65 is considered to be low based on the existing bus services for the area and low pedestrian connectivity and fragmented cycle infrastructure. Hence the commentary around peak hour trip rates for suburban dwellings and medium density housing in the information request.

Please provide a sensitivity test using the higher trip rate.

We do not believe that sensitivity tests are required.

As set out in the response dated 20 April 2022, the mode splits and trip generation rates are taken directly from the ITA that was prepared for the Whenuapai Structure Plan. The trip generation rate of 0.65 is an actual measurement of vehicle use in Whenuapai in 2016. Since then, there has been updates to the pedestrian and cycling facilities on Brigham Creek Road and changes to bus services that are likely to have reduced this rate. Nevertheless, our ITA adopted the 2016 rates and consider this to be conservative.

Furthermore, any proposed overall increase in dwellings above those assessed in the ITA are classified as a Restricted Discretionary activity and would require a updated transport assessment.

HG has reviewed the Flow ITA and technical note. The 2016 data is not based on actual surveys and is based on the ITE and RTA Guides. Census data is referred to, to determine mode split, but no actual data is used to determine trip rates. Furthermore, the ITA offers further considerations and interpretation of the data and appropriate trip rates. Relevant sections are pasted below for ease of reference:

#### Flow ITA

The mode share (Table 5 of the ITA) for 2016 was based on Census data for 2013 in the Upper Harbour area. It is stated that:

*It is noted that the above estimated mode shares represent averages across the Whenuapai Structure Plan area. Variations are expected based on:*

- ♦ *Geography – higher public transport mode shares would be expected to and from areas close to RTN stations, and lower mode shares to and from more isolated areas*
- ♦ *Trip type – higher active mode shares are expected to and from schools, particularly primary schools which have a small, local enrolment zone*
- ♦ *Time of day – lower private car mode shares are expected during the commuter peak periods when general traffic congestion and increased public transport frequencies combine to encourage modes other than private car travel; during the day, and particularly to business areas, a greater portion of trips will be work related and by private car (or truck).*

*It is noted that the above estimated mode shares represent averages across the Whenuapai Structure Plan area. Variations are expected based on:*

- ♦ *Geography – higher public transport mode shares would be expected to and from areas close to RTN stations, and lower mode shares to and from more isolated areas*
- ♦ *Trip type – higher active mode shares are expected to and from schools, particularly primary schools which have a small, local enrolment zone*
- ♦ *Time of day – lower private car mode shares are expected during the commuter peak periods when general traffic congestion and increased public transport frequencies combine to encourage modes other than private car travel; during the day, and particularly to business areas, a greater portion of trips will be work related and by private car (or truck).*

Section 6.8.4. specifically states that the rates are based on the RTA Guide and not on actual data.

It is assumed that vehicle trip generation rates at the lower end of the spectrum will be applicable to residential developments that are within a reasonable walking distance from RTN stations and FTN/Connector bus stops, and that rates at the higher end would apply to more isolated residential areas. In the short term however, it is acknowledged that residential development will occur prior to the RTN being completed and in this case, higher vehicle trip rates would apply irrespective of location.

The ITE and RTA guides recommend the following vehicle trip generation rates for residential dwellings:

Table 10: Vehicle Trip Rates from ITE and RTA (vehicle trips per peak hour)

Residential Land Use	Morning Peak Hour		Evening Peak Hour	
	ITE	RTA	ITE	RTA
Single Family Detached/Low Density	0.75	0.95	1.01	0.99
Townhouse/Medium Density	0.44	0.4 to 0.65	0.52	0.4 to 0.65
Apartment/Higher Density	0.55	n/a <sup>1</sup>	0.67	n/a

Acknowledging that higher density residential development will generally be enabled close to public transport services and close to centres, and also that higher density dwellings also tend to generate fewer vehicle trips than low density dwellings, and with the anticipated provision of RTN along SH16 and SH18, the following vehicle trip generation rates have been applied to the assessment.

Table 11: Applied Vehicle Trip Rates for Whenuapai Structure Plan Traffic Model (vehicle trips per peak hour)

Land Use	Morning Peak Hour		Evening Peak Hour	
	2021 and 2026	2036 and 2046	2021 and 2026	2036 and 2046
Single Family Detached/Low Density	0.85	0.85	1.0	0.8
Townhouse/Medium Density	0.68	0.50	0.68	0.50
Apartment/Higher Density	0.55	0.45	0.55	0.50
Apartment/Higher Density within approx. 800 m of RTN/FTN stop	0.45	0.40	0.55	0.50
Whenuapai Structure Plan average	0.68	0.53	0.75	0.61

[Flow Technical Note](#)

Similarly as the Flow ITA, the rates used are derived from the RTA and ITE guides.

Whenuapai Plan Change  
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Table 3: Applied Vehicle Trip Rates for Whenuapai Plan Change Traffic Model (vehicle trips per peak hour)

Land Use	Morning Peak Hour		Evening Peak Hour	
	2021 and 2026	2036 and 2046	2021 and 2026	2036 and 2046
For isolated developments without access to RTN Stations or FTN/Connector stops				
All Types of Residential Developments	0.85		1.0	
For developments in vicinity of RTN Stations or FTN/Connector stops				
Single Family Detached/Low Density	0.85		1.00	
Townhouse/Medium Density	0.65		0.65	
Apartment/Higher Density	0.55		0.55	
Apartment/Higher Density within approx. 800 m of RTN/FTN stop	0.45		0.55	

The above vehicle trip rates are based on the residential trip rates suggested by the Institute of Traffic Engineering (ITE) Guide and the Guide to Traffic Generating Developments<sup>1</sup> (RTA), as detailed in the Whenuapai Structure Plan ITA. These are summarised in [Table 4](#) below:

Table 4: Vehicle Trip Rates from ITE and RTA (vehicle trips per peak hour)

Residential Land Use	Morning Peak Hour		Evening Peak Hour	
	ITE	RTA	ITE	RTA
Single Family Detached/Low Density	0.75	0.95	1.01	0.99
Townhouse/Medium Density	0.44	0.4 to 0.65	0.52	0.4 to 0.65
Apartment/Higher Density	0.55	n/a <sup>1</sup>	0.67	n/a

In regards to the specific query, the reasoning behind not providing the sensitivity testing is not accepted. Nevertheless, this should not hold up notification and our assessment will consider the impact of the proposed trip rates and the wider factor that effect this, such as proximity to public transport, cycle and pedestrian facilities.

23. Comment: The modelling shows that the Joseph McDonald Drive intersection is likely to operate adequately based on the flows provided, except for right and through turning vehicles on the minor roads. Whilst the number of vehicles experiencing the delay is low, in some instances drivers would be required to wait for 182 seconds (over three minutes) and this increases driver frustration and risky driver behaviour. What is more likely to occur if there are significant delays, is drivers would detour to the Mamari Road intersection.

For safety reasons, cross priority control intersections are not the preferred intersection type and as we stated in our initial comments, we will not support this arrangement. Particularly given that as the area is developed and when Brigham Creek Road is ungraded, this intersection is unlikely to be suitable for the associated increase in traffic.

TPC - This item does not actually request any further information.

Nevertheless, it should be noted that although the modelling does indicate a crossroad intersection, the plan change does not seek an intersection on Brigham Creek Road.

The ITA highlights that as Brigham Creek Road is an arterial road, and any access or intersection on Brigham Creek Road under E27 would be subject to a Vehicle Access Restriction as a Restricted Discretionary Activity. Any future proposal for subdivision or land use will therefore require an assessment of effects on the current and future transport environment.

That is correct, this item was identified as a comment and not an information request to advice the applicant of our concern regarding the modelling assessment of the give-way arrangement.

	Request: 18 February 2022	Response: 9 August 2022
<p>24. At pre-application stage of the project, we provided the following comments:</p> <p><i>It is stated in Section 3.1 of the ITA that the concept layout of the site is an example of the type of development the plan change will enable. It is stated that this is not the final detailed form of development but represents the likely development for the site. From a transport perspective, the design shows a cross intersection on Brigham Creek Road with Joseph McDonald Drive. It is further stated in the ITA that 'traffic modelling and assessment will be necessary to verify the intended layout of the intersections and their suitability to accommodate the anticipated traffic flows as land use occurs'. We agree with this assessment. A give-way controlled cross intersection is unlikely to be supported by AT and we consider that either a signalised intersection or a left in-left out configuration would provide the safest arrangement whilst also providing good outcomes for operation. Noting right turns could be accommodated via controlled movements from the signalised intersection at Brigham Creek Road/Mamari Road. We agree that the design of the intersection will be assessed at resource consent stage, however, consideration as to the effects of these upgrades should be considered as part of the proposed plan change.</i></p> <p>Information request: As requested at pre-lodgement, please provide an indicative intersection arrangement for both Brigham Creek Road and Mamari Road to demonstrate that the proposed plan change can be accommodated and integrated into the existing roading network and future roading network once the surrounding land becomes live zoned. This plan should indicate any land-take requirements with associated dimensions.</p>	<p>TPC – Please refer to the response to Item 23 above with regards to any assessment of an intersection on Brigham Creek Road.</p> <p>Concept layouts of intersection on both Brigham Creek Road and Mamari Road have been provided in the Resource Consent application along with assessment of effects for both intersections and amount of land required.</p> <p>Please identify specifically where this is located. The Figure 5 'Proposed Site Plan' does not contain any measurements or land take requirements and is for a priority cross intersection that as noted numerous times is not supported.</p> <p>We have reviewed the Maven plans and we have been unable to locate a concept layout that would be acceptable for the development or that includes dimensions for land take requirements.</p> <p>Please provide a dedicated plan for each intersection showing the land take requirements with dimensions and associated appropriate intersection treatment.</p> <p>We understand that these plans have now been provided by Maven.</p> <p>Plans have been provided and therefore the s92 query has been addressed. It is noted that we have safety concerns regarding the proposed layout, these issues can be addressed at a later stage in the process.</p>	
<p>25. Comment: As noted in the ITA 'in terms of intersection design, crossroads on streets where traffic volumes are higher have been shown to have poorer crash records. In general, where traffic volumes are higher than 1,000 vehicles per day consideration should be given to controlling conflict at cross roads'. As per table 1 of the ITA, in 2019, Brigham Creek Road accommodated approximately 14,413 weekday daily trips and therefore we agree that a give-way/stop controlled cross intersection is not appropriate at this location.</p>	<p>TPC - This item does not actually request any further information.</p> <p>As above, the effects of any intersection on Brigham Creek Road can be addressed at time of land use.</p> <p>As above</p> <p>We understand that these plans have now been provided by Maven.</p> <p>Plans have been provided and therefore the s92 query has been answered. It is noted that we have safety concerns regarding the proposed layout but these issues can be addressed at a later stage in the process.</p>	
<p><u>Footpath/Cycleway on Brigham Creek Road</u></p>		
<p>26. Figure 6 of the ITA details the pedestrian connectivity and also notes the deficiencies in the supporting text. Section 2.11 of the ITA states 'The future proposals in the area to the surrounding road environment look to provide walking and cycling routes on both sides of Brigham Creek Road and Mamari Road, which will provide direct links for future residents. These are intended to be provide in the form of segregated footways and cycleways'. Information request: It is not clear whether the 'future proposals' will be provided as part of the proposed plan change. If yes, in principle, we support this proposal, however, no details have been provided pertaining to location within the road reserve and any land-take requirements. Please clarify. It is noted that on the road frontage of 35 Brigham Creek Road, there is insufficient space to provide a footpath within the road reserve and therefore future connectivity should be considered. This also impacts on the site connectivity to activities to the north, including the Primary School, Café</p>	<p>TPC – Further details on the pedestrian connectivity is set out in the resource consent application. It sets out how dwellings within the site can connect to other activities including the school, public transport and local centre.</p> <p>Connections are proposed via Mamari Road and the signalised intersection with Brigham Creek Road and an indication of a cross facility on Brigham Creek Road near the site frontage.</p> <p>The resource consent application that is being referred to has not been approved and no documentation pertaining to the resource consent application has been provided with the plan change documentation. We are therefore unable to assess the details that are being referred to.</p> <p>Please provide the further details.</p>	

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<p>and park. In addition, as part of the plan change, consideration of the upgrade of cycle facilities on Brigham Creek Road, along the site frontage should also be undertaken to match the northern side of the road.</p> <p>We note the proposal for the footpath on the southern side of Brigham Creek Road as part of the proposed development, under the plan change application however, there is insufficient width outside 45 Brigham Creek Road. Please provide details of how the footpath can be implemented to ensure safe pedestrian connectivity.</p> <p>Comment: If the 'future proposals' are to be undertaken by others, we consider that the plan change would not adequately provide for the demand generated by pedestrian and cyclists within the proposed plan change area and could result in safety issues.</p>	<p>We understand that these plans have now been provided by Maven.</p> <p>Plans have been provided and therefore the s92 query has been answered. It is noted that we have safety concerns regarding the proposed layout but these issues can be addressed at a later stage in the process.</p>
<p>27. Figure 5 of the ITA shows 400 metre Walking Contour from the Site but notes that no footpath directly connects to the road frontage of the plan change site and therefore pedestrians would be required to cross either Brigham Creek Road or Mamari Road to reach a footpath and walking connection.</p> <p>Information request: please provide details on how the residents of the plan change will be able to cross Brigham Creek Road to access the wider development and footpath network noting that local area facilities are on the northern side, including cafes, park and Primary School</p>	<p>The resource consent application that is being referred to has not been approved and no documentation pertaining to the resource consent application has been provided with the plan change documentation. We are therefore unable to assess the details that are being referred to.</p>
<p><u>Auckland Transport</u></p>	
<p>28. Mr Rory Powers on behalf of Auckland Transport has provided the following information requests below. Please provide a response to each request:</p> <p><b>Information request:</b> Can you please identify the objectives, policies and rules in the AUP (OP) that support Appendix 2 Proposed Precinct Plan, and how the existing controls will manage the effects of future road widening of Brigham Creek Road and Marmari Road. If not why not?</p> <p><b>Information request:</b> Can you please identify the current provisions that will manage the location of the intersections on Marmari Road? If not why not?</p> <p><b>Information request:</b> Appendix 2 – Plan Change Plans contains a number of features, being the 'local road', 'proposed intersections', as these form as part of the proposal, how will these features be integrated into the AUP (OP) provided you have not supplied a precinct? Please note that these maps form part of the plan change and may be in scope of submissions.</p> <p><b>Information request:</b> Appendix 2 – Plan Change Plans identifies a pedestrian throughfare, can you please identify what this throughfare connects to? Can you also please confirm if it connects to public or private land and why the throughfare is required provided Brigham Creek Road is only a short distance to the north?</p>	<p>TPC – Each of these matters have been illustrated through the plans and proposals in the resource consent application.</p> <p>As with all mixed housing urban zones, resource consent is required for any land use or subdivision that accommodates more than 100 lots, or if there is a change in land use greater than 3 dwellings. Assessment of any effects on the road network, including the effects of the location and design of any intersections on the safe and efficient operation of the adjacent transport network, will be required for both the existing and future networks.</p> <p>The objectives and policies set out in E38 and E27 deal with transport matters. Furthermore, Auckland Transport's TDM set out the expectations for roading design and transport infrastructure that will need to be followed to enable vesting of any future roads and intersections.</p>
<p><u>Engineering and Infrastructure aspects</u></p> <p>Stormwater – Healthy Waters team</p>	

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29.	A memo dated 23 December 2021 is attached (Attachment 1) from Ms Lydia Smith of Jacobs on behalf of Healthy Waters Department of Auckland Council, which refers to the lodged documents. Please provide a response to the matters raised in this memo.	Please refer to the updated memo submitted which includes Maven Comments and refers to the updated SMP for Plan Change.  SMP Revision E.
<p><u>Water and wastewater – Watercare Services Limited</u></p> <p>Ms Katja Huls on behalf of Watercare Services Limited has provided the below further information request. Please provide a response to Watercare requests below:</p>		
30.	<p><b>Comment:</b> Overall Watercare considers the Evaluation report and Assessment of Environmental Effects does not adequately establish that the site can be serviced by water and wastewater.</p>	<p>WW - Meetings have previously been held with Watercare to review the pumpstation proposal. Watercare have confirmed the 2024 Brigham Creek pumpstation will have capacity to service the development and that an interim solution will not be required. Watercare have also accepted ownership of the development pumpstation that will discharge to the 2024 pumpstation.</p> <p>WS – Watercare only require the existing 315 PE pipe to be extended across the front of the site to ensure the existing network has capacity to service the development. This request will be implemented at RC stage.</p> <p>The internal development WS network will be according to Watercare design requirements.</p> <p>Provided in the Response schedule from Maven (response comments in blue). (Attached separately.)</p>
31.	<p>It is stated “the proposed wastewater network has been designed to have capacity for peak wet weather discharge. This will ensure that wastewater discharge into the public system will be kept at pre-development levels and as such, the proposed wastewater design will ensure that effects on downstream networks will be less than minor.”</p> <p><b>Information request:</b> Can you please clarify the meaning of this statement. If not, why not?</p>	<p>The statement regarding mitigating wastewater discharge to pre-development levels is incorrect. As per Maven’s Plan Change Infrastructure Report (Rev B) – the wastewater will be designed to peak wet weather change and other standard requirements.</p> <p>Mitigation to pre-development levels is not applicable to wastewater flows.</p>
32.	<p>Prior to lodgement the Applicant was advised they will need to apply to Watercare for a capacity assessment for both water supply and wastewater supply. This is assessment will not be undertaken as part of this review of documentation provided to support the Council for its pre-lodgement information request. This a chargeable service and the applicant must apply directly to Watercare.</p> <p><b>Information request:</b> Has a water and wastewater capacity analysis been requested from Watercare? If not why not?</p>	A Watercare capacity assessment has been applied for and will be shortly submitted separately.
<p><u>Ecology and Biodiversity</u></p> <p>Mr Mark Lowe of Morphum Consultants addressed the ecology issues on behalf of council. Please address the points below raised in that correspondence:</p>		
33.	The Ecological Effects Assessment concludes that the potential wetland at the base of the eastern gully is a ‘pond’ and not a wetland. In the report this is based upon a soil core showing no evidence of hydric soils. Hydric soils can take many years to establish and therefore the absence of hydric soils alone is not sufficient evidence to determine the site is not	See our response in letter dated 15 March 2022.



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<p>a wetland (as is may have recently formed). During the site visit pooling water and a dominance of Ranunculus and Persicaria was observed in this area. The Ecological Effects Assessment also refers to the area as being 'seasonally wet' which would seem to indicate a wetland hydrology in excess of the thresholds outlined in the hydrology tool. If the applicant is to maintain that this area is not a wetland, further evidence including the use of the vegetation and hydrology tools would be required.</p> <p><a href="https://environment.govt.nz/publications/wetland-delineation-hydrology-tool-for-aotearoa-new-zealand/">https://environment.govt.nz/publications/wetland-delineation-hydrology-tool-for-aotearoa-new-zealand/</a></p> <p><a href="https://environment.govt.nz/publications/wetland-delineation-hydrology-tool-for-aotearoa-new-zealand/">https://environment.govt.nz/publications/wetland-delineation-hydrology-tool-for-aotearoa-new-zealand/</a></p> <p>I would also draw attention to the recent guidance from the Ministry for the Environment concerning induced wetlands: <a href="https://environment.govt.nz/assets/publications/Defining-natural-wetlands-and-natural-inland-wetlands.pdf">https://environment.govt.nz/assets/publications/Defining-natural-wetlands-and-natural-inland-wetlands.pdf</a></p>	<p>Letter dated 15 March 2022 and updated Plan Change ecology report dated 15 March 2022.</p>
<p>34. The Ecological Effects Assessment notes a potential natural wetland to the south of the subject site. From the site visit there would also appear to be an equally similar area approximately 30 metres to the west of the identified potential wetland.</p> <p><b>Information request:</b> Please comment and update assessment as necessary.</p>	<p>See our response in letter dated 15 March 2022.</p> <p>Letter dated 15 March 2022 and updated Plan Change ecology report dated 15 March 2022.</p>
<p>35. The Ecological Effects Assessment includes a copy of drawing C461 (Rev A) showing a Q100 discharge in the vicinity of the identified potential wetland to the south of the subject site of 0.45 m<sup>3</sup>/s. However, the Stormwater Management Plan includes the same drawing (same revision) with a Q100 of 0.3 m<sup>3</sup>/s.</p> <p><b>Information request:</b> Please clarify.</p>	<p>See our response in letter dated 15 March 2022.</p> <p>Note that the potential wetland to the south of the site is not a wetland under the NPS-FM or RMA.</p> <p>The correct statistic is 0.30m<sup>3</sup>/s flow as per the updated maven plan.</p> <p>Letter dated 15 March 2022 and updated Plan Change ecology report dated 15 March 2022.</p>
<p>36. With regard to the effects on the potential wetland to the south, the Ecological Effects Assessment notes that there will not be a significant change to the pre-catchment areas following development.</p> <p><b>Information request:</b> Can the applicant please confirm the existing and post development drainage catchment areas contributing to the potential wetlands to the south of the site. Please also confirm the percentage of imperviousness in the pre and post development scenarios. In preparing this response also consider that there is a proposed public stormwater line collecting flows intercepting the southern boundary and conveying flows to a proposed public stormwater line to the south east of the site (drawing C450).</p>	<p>We understand that the public stormwater line was part of a previous application to Council which has now been superseded to show individual discharges to the south via multiple points. This revised stormwater plan aims to deliver the same overland flows to the southern catchments compared to pre-development and therefore will not affect the southern non-wetland area or the western RMA wetland area.</p>
<p>37. The Ecological Effects Assessment also notes there will be little change to flow rates into the southern or eastern catchments and that the rates post-development will be slightly increased.</p> <p><b>Information request:</b> Noting the discrepancy in the Q100 flow from drawing C461, can the applicant please confirm the pre and post development flow rates contributing to these potential wetland areas across a range of rainfall events. Also please comment on the potential effects of increased imperviousness on the potential wetland hydrology, including both surface water and shallow groundwater.</p>	<p>See updated plans from Maven.</p> <p>There is slight decrease in the 10-yr post development flows and an increase in the 100-yr. Overall, the development ensures sustained flows to the downstream site which would help retain existing catchment hydrology features.</p> <p>The increased imperviousness is likely to result in less infiltration to ground in the upper catchment of the RMA-qualifying wetland. The wetland is likely sustained by a combination of shallow groundwater seep and overland flows. The loss of impervious surface resulting from the development may have some adverse effect on the wetland however it does not constitute all of the catchment and is unlikely to result in complete drainage of the wetland. Substantial</p>



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	<p>changes to the wetland are more likely if stock grazing a changed in the paddock where the wetland is located (outside of the development site), as pasture grasses are likely to very quickly become dominant.</p> <p>See our letter dated 15 March 2022 for updated Maven plans.</p>
<p>38. While drawing C461 referred to in the Ecological Effects Assessment shows the Q100 stormwater overland flows, drawing C450 in the infrastructure report shows the Q10 Stormwater Catchment Plan. C450 shows a proposed public stormwater line collecting flows intercepting the southern boundary and conveying flows to a proposed public stormwater line to the south east of the site.</p> <p><b>Information request:</b> Please assess the effects of this stormwater infrastructure on the potential wetlands to the south of the sites – in particular how this is in accordance with the assertion that there will be little change to flow rates into the southern or eastern catchments.</p>	<p>We understand that the public stormwater line was part of a previous application to Council which has now been superseded to show individual discharges to the south via multiple points. This revised stormwater plan aims to deliver the same overland flows to the southern catchments compared to pre-development and therefore will not affect the southern non-wetland area or the western RMA wetland area</p>

10 August 2022  
Sent by Email

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Dear Natasha

## 41-43 Bringham Creek Road - Private Plan Change: removal of precinct provisions

### *Introduction*

1. 41-43 Bringham Creek Road JV (“**BCRJV**”) has made a private plan change request to rezone land at 41-43 Bringham Creek Road (“**PPC**” and “**Site**”). The request seeks that the land be rezoned from Future Urban Zone to Residential – Mixed Housing Urban Zone under the Auckland Unitary Plan (Operative in Part) (“**MHUZ**” and “**AUP**”).
2. The PPC has been subject of a number of requests for information, and was due to be considered by the Council’s Planning Committee at its 4 August 2022 meeting, however, its consideration has been deferred. The decision that is required of the Council is whether, pursuant to clause 25 of Schedule 1 of the Resource Management Act 1991 (“**RMA**”) the PPC should be accepted, adopted or rejected. If accepted or adopted by the Council, the PPC will be publicly notified for submissions, and proceed through the Schedule 1 submissions and hearing process.

### *Legal issue – precinct provisions*

3. As lodged, the PPC did not request that a “precinct” be applied to the Site in addition to the MHUZ. The application of a precinct was assessed as an alternative, reasonably practicable option within the section 32 assessment in support of the PPC. However, the section 32 analysis undertaken by BCRJV concluded that application of the MHUZ without any site-specific precinct provisions was the most appropriate approach.
4. Notwithstanding that conclusion, we understand that a simple set of site-specific precinct provisions were offered by BCRJV in response to a request for further information by the Council. The precinct provisions were intended to provide certainty about the timing and delivery of certain infrastructure upgrades necessary for substantive urban development of the site. BCRJV’s position remained that such issues were capable of resolution at the consent stage without the need for any site-specific precinct provisions. However, we understand the approach was adopted as a pragmatic means to address Council officers’ preference for greater detail and/or certainty to be provided at the plan change stage.
5. Subsequently, we have become aware of the Council’s position is that the application of precinct provisions in any form would comprise an “amendment” to the underlying MHUZ, for the purposes

of clause 35 of Schedule 12 of the RMA. Clause 35 was inserted by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. It provides as follows:

**35 Some private plan change requests may rely on IPI to incorporate MDRS**

- (1) *This clause applies to any plan change request to change a district plan—*
- (a) *that is made to a specified territorial authority under clause 21 of Schedule 1 before the territorial authority has notified its IPI in accordance with section 80F; and*
  - (b) *to which clause 34 does not apply; and*
  - (c) *that requests the creation of a new residential zone that proposes to adopt all the zone provisions of a relevant residential zone but does not amend the provisions in the relevant residential zone.*
- (2) *Despite clause 25(4A) of Schedule 1, a specified territorial authority may accept or adopt the request and incorporate the MDRS for the new residential zone through the IPI.*
- (3) *A specified territorial authority may decline the request under clause 25(4) of Schedule 1 or apply the rest of clause 25 of that schedule, as the case requires.*

6. The PPC has been made prior to the Council notifying its “Intensification Planning Instrument” plan change (“IPI”), which we understand will shortly be notified on 18 August 2022. Clause 34 does not apply to the PPC, and as originally lodged requested the application of the MHUZ (a relevant residential zone) without amendment.

7. In offering precinct provisions in response to the Council’s request for information, BCRJV was of the opinion that those provisions were in addition to and would not “amend” the provisions of the MHUZ which would otherwise apply in their entirety to any future application to redevelop the Site. However, the Council has now confirmed its contrary opinion, as noted above. This is of crucial importance, as the PPC would otherwise be subject to clause 25(4A) of Schedule 1 of the RMA, which provides as follows:

*A specified territorial authority must not accept or adopt a request if it does not incorporate the MDRS as required by section 77G(1).*

8. Accordingly, while as lodged the Council would have a discretion pursuant to clause 35 of Schedule 12 to accept or adopt the PPC, if the PPC amends the MHUZ then Council **must** reject it.

**Requests for information**

9. As noted above, BCRJV offered precinct provisions to satisfy Council officers’ requests for additional information in relation to the PPC. Further information requests in relation to private plan changes are provided for in clause 23 of Schedule 1 of the RMA, and includes requests for information:

*... necessary to enable the local authority to better understand—*

- (a) *The nature of the request in respect of the effect it will have on the environment, including taking into account the provisions of Schedule 4; or*
- (b) *The ways in which any adverse effects may be mitigated; or*
- (c) *The benefits and costs, the efficiency and effectiveness, and any possible alternatives to the request; or*
- (d) *The nature of any consultation undertaken or required to be undertaken—*

*if such information is appropriate to the scale and significance of the actual or potential environmental effects anticipated from the implementation of the change or plan.*

10. The applicant for private plan change (in this case BCRJV) is entitled to decline to provide further information requested by the Council. However, if it does so, then pursuant to clause 25(6) the Council may reject the request or decide not to approve the plan change requested "*if it considers that it has insufficient information to enable it to consider or approve the request*". Importantly, clause 25(6) is a procedural and not a substantive clause. The Council is not required to be satisfied of the substantive appropriateness of the PPC, and may in fact oppose it. What is required is that Council has the appropriate level of information for it to understand the PPC and in particular those matters set out in clause 23(1)(a)-(d) (quoted above). Note: we are not suggesting that BCRJV "refuse" the information request – see below.
11. We are aware that in the context of several other private plan change applications in Auckland, the Council has addressed uncertainty as to funding and timing of infrastructure upgrades by lodging a submission and participating in the hearing process, with a separate team of consultants to those assisting the Council in its regulatory capacity. Presumably, that approach would also be available to the Council in the present case.

**Way forward – retraction of response to further information request**

12. In light of the above, we recommend that BCRJV:
  - (a) Retract its response to the Council's further information request, insofar as it proposes the application of precinct provisions to the Site as part of the PPC;
  - (b) Substitute an alternative response to that further information request, which sets out in the absence of precinct provisions, how adverse effects of the PPC may be mitigated. As we understand it, in addition to MHUZ, SMAF1 and Auckland-wide provisions of the Unitary Plan, Watercare and AT have sufficient authority to refuse connections and/or EPA approvals where infrastructure matters have not been appropriately resolved. Any remaining concerns can be resolved through the submissions and hearings process as necessary; and
  - (c) In the event that the Council has "modified" the request for the PPC to include the precinct provisions, ask that the Council modify the request under clause 24 of Schedule 1, to delete the request for application of precinct provisions.
13. In our opinion, if BCRJV proceeds on the basis set out above, it is clear that the Council will have sufficient information pursuant to clause 23, to make its decision to accept, adopt or reject the PPC pursuant to clause 25 of Schedule 1. We are not aware of any basis for the Council to assert that any of the grounds in clause 25(4) of Schedule 1 would apply. Accordingly, the Council should at a minimum accept the PPC for notification. As noted above, any outstanding concerns it may have can be addressed in the usual manner, through the Schedule 1 submissions and hearing process. The Council can participate in that process fully both in its capacity as regulator and, if necessary, as a submitter.

Yours faithfully  
**ELLIS GOULD**



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1 November 2021

Jignesh Patel  
Maven Associates  
5 Owens Road, Epsom  
1023

Dear Jignesh

**Re: Water and Wastewater Capacity Check to allow for residential development at 41-43 Brigham Creek Road, Whenuapai**

**Watercare application number CON 97416**

We have completed an assessment of the water and wastewater capacity for the proposed development as stated in the above application, at 41-43 Brigham Creek Road, Whenuapai.

For the wastewater servicing as previously stated in the email from Ilze Gotelli:

- There are currently no wastewater services available for this site.
- The site will in the future be serviced by the future Brigham Creek pumping station, currently scheduled for completion in 2024. With the current Covid 19 restrictions this may be extended.
- A public pumping station will need to be constructed to convey the combined flows from the entire catchment that could reasonably gravitate to this pumping station, to the future Brigham Creek pumping station. From initial investigations this is likely to include all of 41-43 Brigham Creek Road, all of 45 Brigham Creek Road and approximately 1.6ha of the north-western corner of 131-137 Brigham Creek Road.
- A plan showing the entire catchment area of the proposed public pumping station should be included as part of a resource consent application.

For the water supply servicing:

- The design should include the extension of the 315 PE watermain along the entire development frontage on Brigham Creek Road (as per CoP) with connections as shown in the sketch below.
- With the assumption of a connection from Brigham Creek Road watermains only in the early stages the design needs to ensure resilience considerations and sizing for firefighting requirements.
- With the development also fronting Mamari Road, future watermains will need to be installed along the frontage for future network extensions (sizing of the watermain would be 200mm ID) as per long term strategy allowing later commissioning.





Please note that the timing of development is critical, and we will need to assess future upgrade requirements in more detail when you apply for resource consent. You will need to include the following information in the infrastructure report when you lodge your resource consent application:

- A completed water and wastewater planning assessment form (available on the Watercare website)
- A plan showing the proposed location and size of the water and wastewater connections
- Design flows in accordance with the Watercare Code of Practice for Development. For the public wastewater pumping station to be constructed as part of this development, the calculations shall consider the entire wastewater catchment that may drain to this pumping station.
- Contributing catchment analysis showing calculations
- Hydrant flow test results

If applicable the following requirements may also need to be included in the infrastructure report:

- Confirmation of development scale and any changes
- Acknowledgement of additional development in the contributing catchment which may affect water and wastewater network capacity
- Acknowledgement of any catchment network changes as a result of upgrades or any additional information that was not taken into consideration as part of this assessment
- Watercare would like to accept gravity option only no private pumps will be accepted. There is no cost sharing option available

Please note, as part of the water reticulation design, the infrastructure report should consider boost pumping to upper levels of buildings of more than two storeys. Once consented, it is the responsibility of the building owner to conduct a periodic review of sprinkler design flow and pressure against available pressure and flow from the Watercare network.

Yours faithfully,



**Lars Fog**  
**Development Engineer,**  
**Watercare Services Limited**