

Decision following the hearing of a Private Plan Change under the Resource Management Act 1991 –



Proposed Private Plan Change 51 – to the Auckland Unitary Plan

Proposal - in summary.

Karaka and Drury Limited (**KDL**); the Applicant, seeks to rezone 33.65 hectares of Future Urban zoned land in Drury West (located on Burberry Road and State Highway 22/Karaka Road, Drury) within the Drury-Opāheke Structure Plan (**DOSP**) area; and apply the Drury 2 Precinct provisions to enable the development of Town Centre (Business: Town Centre (**BTC**) zone of 15.29ha) and residential (Residential: Terrace Housing and Apartment Buildings (**THAB**) zone of 13.75ha; and Residential: Mixed Housing Urban (**MHU**) zone of 4.61ha) zoned land.

This private plan change is **APPROVED** with modifications to that notified. An Executive Summary and the full reasons for **APPROVING** the plan change are set out below.

Private Plan Change number:	51
Site addresses:	5 – 25 Burberry Road & SH22 / Karaka Road
Applicant:	Karaka and Drury Limited (KDL)
Hearing	4, 5, 8 & 9 November and 2 December 2021 (all on-line by Teams)
Hearing panel:	Greg Hill (Chairperson); Karyn Kurzeja; and Mark Farnsworth MNZM
Appearances:	<u>Applicant:</u> Karaka and Drury Limited represented by: Mr Simon Berry / Ms Helen Andrews, Legal; Mr Gary Noland, KDL Corporate; Mr James Kitchen, Three Waters; Mr Leo Hills, Traffic Engineering; Dr Graham Ussher, Ecology; Mr Rob Pryor, Landscape; Mr Shane Lander, Geotechnical (on call); Dr Lee Beattie, Town centres and Urban Planning; Mr Michael Cullen, Economics and Urban Planning; Mr Ian Munro, Urban Design; and Mr Mark Tollemache, Planning;

	<p><u>Franklin Local Board</u> Mr Andy Baker, Chairperson</p> <p><u>Papakura Local Board</u> Mr Brent Catchpole, Chairperson</p> <p><u>Submitters:</u> <i>Auckland Council (Submitter) and Auckland Transport</i> Mr Matthew Allan / Mr Rowan Ashton, Legal; Mr Chris Freke, AT Corporate; Ms Brigid Duffield, Infrastructure Funding; Mr Gert Kloppers, Corporate Infrastructure; Mr Peter Gudsell, Finance; Mr Ezra Barwell, Open Space; Mr Andrew Prosser, Transport; Ms Claire Drewery, Acoustics and Vibration; Ms Karyn Sinclair and Ms Lydia Smith, (AT) Planning; and Mr Christopher Turbott (AC), Planning.</p> <p><i>Drury South Limited</i> Mr Daniel Minhinnick / Kirsty Dibley, Legal; Mr Joseph Phillips, Transport; and Mr Greg Osborne, Planning.</p> <p><i>Watercare</i> Mr Andre Stuart; and Ms Ilze Gotelli</p> <p><i>Yu (David) Wang</i> Mr Don McKenzie, Transport; and Ms Jessica Esquilant, Planning.</p> <p><i>Waka Kotahi</i> Mr Mathew Gribben, Legal; Mr Brendan Clarke, Corporate; Mr Geoffrey Prince, Transport; Dr Stephen Chiles, Noise and Vibration; and Ms Sukhi Singh, Planning</p> <p><i>Kāinga Ora (KO) and Ministry of Housing and Development (MHUD)</i> Mr Bal Matheson, Legal; Mr Ernst Zollner, Corporate (MHUD); Mr Brendon Liggett, Corporate (KO); Mr Nick Rae, Urban Design (KO); Mr Kobus Mentz, Urban Design (MHUD); and Mr Michael Campbell, Planning (KO).</p> <p><u>For the Council (regulator):</u> Mr Craig Cairncross, Team Leader; Ms Emily Buckingham, Consultant Planner (section 42A report author); Mr Mat Collins/Mr Terry Church, Traffic Engineer;</p>
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	<p>Ms Rebecca Skidmore, Urban Design; Mr Tim Heath, Economics; Mr Carl Tutt, Terrestrial Ecology; Mr Connor Whiteley, Freshwater; Mr Trent Sunich, Stormwater; Ms Robin Rawson, Parks; Mr James Beaumont, Geotechnical (on call); Mr Robert Brassey, Heritage/Archaeology (on call); and Mr Andrew Kalbarczyk, Contaminated Land (on call)</p> <p>Hearing Administrator Mr Sam Otter, Senior Hearings Advisor</p>
Tabled Statements from Submitters	Catholic Diocese – Mr Matthew Feary

EXECUTIVE SUMMARY

1. We have set out in this Executive Summary a ‘very high level’ summary of our key findings to provide ‘context’ when reading the substantive part of the decision. Other matters are also addressed that are not included in the Executive Summary.
 - We have approved the Plan Change.
 - The Plan Change will give effect to the National Policy Statement on Urban Development (**NPS-UD**). It also gives effect to the Regional Policy Statement (**RPS**) in terms of B2 – Urban Growth and Form and B3 – Infrastructure, transport and energy. This is on the basis of the “Transport Infrastructure Requirements” and the other associated precinct provisions which are appropriate and workable and will achieve the necessary transport infrastructure related upgrades either before or at the same time as any subdivision and/or development.
 - The transportation infrastructure upgrades (those addressed by the Transport Infrastructure Requirements) are those necessary to avoid or mitigate the adverse effects that would arise from the PC 51 subdivision and development.
 - The Plan Change gives effect to the RPS in terms of B6 – Mana Whenua.
 - We have approved the Town Centre zoning as proposed by the Applicant. We did not support those parties seeking a Local Centre (as opposed to the Town Centre zoning) or no centre, essentially on the basis of a town centre being located adjacent to a possible train station further west than the indicative train station shown in the Drury-Opāheke Structure Plan (**DOSP**).

- We have imposed a consent trigger at 29,000m² Gross Floor Area (**GFA**) for commercial development in the Town centre vis-à-vis the SH22 intersection as requested by Waka Kotahi;
- We have included acoustic attenuation controls for indoor habitable spaces in the Residential - Terrace House and Apartment Buildings Zone (THAB) zone adjacent to SH22.
- We have included additional building controls to address the interface of development within the THAB zone and SH22.

INTRODUCTION

2. The private plan change request by Karaka Drury Limited was made under Clause 21 of Schedule 1 to the RMA on the 19 May 2020, and was accepted by the Council, under clause 25(2)(b) of Schedule 1 to the RMA on 12 August 2020.
3. A report in accordance with section 32 and 32AA (in relation to the changes sought) of the RMA was prepared¹ in support of the proposed plan change for the purpose of considering the appropriateness of the proposed plan change and its precinct provisions.
4. This decision is made on behalf of the Auckland Council (**“the Council”**) by Independent Hearing Commissioners Greg Hill (Chair), Karyn Kurzeja and Mark Farnsworth appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (**RMA**).
5. The Hearing Panel has been delegated the authority by the Council to make a decision on Plan Change 51 (**PC 51**) to the Auckland Council Unitary Plan Operative in Part (**AUP OP**). In making our decision we have considered all of the material put before us, including: the application, all of the submissions, the section 32 and 32AA evaluations, the Section 42A report (report prepared by Ms Buckingham, Consultant Planner), the Joint Witness Statements of Experts², legal submissions, expert and lay evidence, tabled material and closing Reply evidence and legal submissions.
6. The Applicant’s Opening Legal Submissions records:

“Plan Change 51 (“PC 51”) to the partly operative Auckland Unitary Plan (“AUP”). PC 51 will provide the policy and planning framework for the third stage of the Auranga development, “Auranga B2”, that is being planned and developed by the MADE Group (“MADE”) and Karaka and Drury Consultants Limited (“KDCL”) in Drury West. Karaka and Drury Limited (“KDL”), the applicant for PC 51, is a related company to, and under the management control of, MADE.”

¹ Auranga B2 Private Plan Change Request – Planning Assessment – Renee Fraser-Smith & Mark Tollemache, Tollemache Consultants Limited May 2020 (Planning Assessment 2020)

² Eight Joint Witness Statements of experts were pre-circulated: Economics 9 August 2021; Planning 2 July & 26 August 2021; Stormwater 16 August 2021; Transport and Planning 2 July & 10 August & 19 August 2021; and Urban Design.

EXISTING PLAN PROVISIONS

7. The subject site is zoned FUZ in the AUP(OP). The FUZ is a transitional zone applying to greenfield land that has been identified as suitable for urbanisation. In the interim, land in the FUZ may be used for a range of general rural activities, with urban activities either enabled by a plan change that rezones the land for urban purposes, or which are authorised by resource consent.
8. The land to the west and south of the PC 51 area is zoned FUZ. The land to the north is already 'live' zoned and part of the Auranga development. To the east is SH22/Karaka Road and an Open Space – Conservation zone over the Ngākorora Reserve.
9. The plan change land is subject to the following AUP overlays and controls:
 - High-Use Stream Management Area overlay;
 - Coastal Inundation 1 per cent AEP plus 1m control; and
 - Macroinvertebrate Community Index – Rural
10. A terrestrial ecology SEA applies to the Ngākorora Stream adjacent to the plan change area (SEA_T_530b). The Ngākorora Stream discharges into Drury Creek, which in turn discharges into the Pahurehure Inlet, within the eastern Manukau harbour. The upper reaches of the Drury Creek, into which the Ngākorora Stream discharges, is classified as a Significant Ecological Area (**SEA**) – Marine 1 under the AUP (SEA-M1-29b).
11. A statutory acknowledgement (Ngāti Tamaoho) applies to the majority of the PC 51 area, excepting the northern portion of the site. This was established under the Ngāti Tamaoho Claims Settlement Act 2018. Specifically, this statutory acknowledgement relates to the Ngākorora Stream and its tributaries.

SUMMARY OF PLAN CHANGE AS NOTIFIED AND AS AMENDED BY THE APPLICANT DURING THE COURSE OF THE HEARING

12. The proposed Plan Change is described in detail in the Applicant's Planning Assessment³ and in the Council's section 42A hearing report⁴. The site, which comprises 33.65 hectares (**ha**), carries the identification *Auranga B2* and is currently zoned Future Urban Development (**FUZ**) under the AUP-OP. The Applicant proposes to rezone the land for urban activities specifically:
 - 15.29 ha to be zoned Business - Town Centre Zone (**BTCZ**);
 - 4.61 ha to be rezoned as Residential - Mixed Housing Urban zone (**MHU**); and

³ Applicant's Planning Assessment at [1]

⁴ Section 42A at [1.1]

- 13.75 ha to be rezoned as Residential - Terraced Housing and Apartment zone **(THAB)**.
13. The Applicant's Section 32A Assessment Report⁵ sets out why a private plan change was necessary. The Report notes:
- "This PPC is required because the Auranga B2 land is currently zoned Future Urban ("FUZ") under the AUP, meaning it cannot be developed for urban activities without a further structure planning and plan change process."*
- "Karaka and Drury Limited wishes to extend the extent of urban zoning in Drury West within Auranga B2, to accord with the Drury-Opāheke Structure Plan 2019 (DOSP), and being the next stage of its development, creating the Drury [2] Precinct."*
14. The Applicant records⁶:
- "The area has been carefully identified to achieve a balance between a logical expansion of the operative Drury 1 Precinct ("Auranga A" established by Plan Variation 15 and "Auranga B1" established by Private Plan Change 6, advancing supply for housing (adjoining a growing community at Auranga) increasing facilities to serve the Auranga and Drury West community and the Council's timeframe to enable development in Drury West."*
15. The subject site is identified for urban development in the policy documents on future urban growth in Auckland. The Future Urban Land Supply Strategy 2017 ('FULSS') identifies the land at Drury West, north of State Highway 1 as 'Stage 1' which is earmarked for rezoning in 2018 – 2022; 'Development Ready' by 2022. The applicant noted⁷ that this timeframe is imminent given the time that it takes to advance a Private Plan Change **(PC)**.
16. Section 3 of the *Planning Assessment* the applicant provides a detailed background underpinning the PC. It is noted⁸:
- "The purpose of this application is to enable urban residential development to be undertaken within approximately 33.65 hectares of land."*
17. The applicant explains⁹ the proposal is anchored by a 15.29ha town centre zone which includes the amenity feature of the lake, which is intended to serve as a community focal point and a significant amenity feature for the Town Centre and surrounding community. PC 51 seeks to maximise the utility of the BTCZ land, the proximity of the lake and future rail station connections, by including a 27m building height overlay. This would allow employment and residential potential to be maximised.

⁵ Applicant's Planning Assessment at [1.1.2 & 1.1.5]

⁶ *ibid* at [1.0.4]

⁷ Applicant's Planning Assessment at [1.1.4]

⁸ *ibid* at [3.3.1]

⁹ *Ibid* at [3.2.7 – 3.2.8]

18. The Applicant's Opening Legal Submissions noted¹⁰ that a number of minor revisions and amendments have been made to the proposed Precinct Plan and provisions, following expert witness conferencing, the additional traffic modelling undertaken by Applicant's Transport Expert Mr Hills as detailed in his evidence and the preparation of evidence.
19. Further changes resulted from the hearing, the Applicant's Planner Mr Tollemache in his rebuttal evidence¹¹ noted that he had adopted (with amendments) a number of changes to the PC 51 text recommended by the submitters' planners including:
- An update to Policy IX.3(5)(a)(ii) to alter the imperative – i.e. insert the word "require";
 - An update to Policy IX.3(5)(d) to reflect the JWS Planning dated 26 August to include the gas transmission line;
 - A new Policy IX.3(5)(f) to address the implementation of the roading requirements in Appendix 1.
 - Reinsertion of the blank activity table rows for A1, A6, A7 and A8 (Table IX.4.1);
 - New standard IX.6.1(3) relating to compliance with Appendix 1 Road function and required design elements;
 - An update to standard IX.6.1(1) as the standard does not apply to earthworks and site preparation activities (this text formerly within the brackets);
 - An update to standard IX.8.2(1)(b) as Appendix 1 is now proposed to be referenced first within a standard. The matters of assessment therefore relate to design rather than compliance as compliance is addressed by new standard IX.6.1(3).

THE SITE AND SURROUNDING ENVIRONMENT

20. The Plan Change area is approximately 33.65 hectares and the properties subject to it comprise 10 lots:
- 5 Burberry Road Lot 13, 2.4665 ha;
 - 6 Burberry Road Lot 1, 13.3795 ha;
 - 14 Burberry Road Lot 3, 1.0 ha;
 - 15 Burberry Road Lot 12, 4.415 ha;
 - 16 Burberry Road Lot 5, 9.079 ha;
 - 16A Burberry Road Lot 4, 1.062 ha;

¹⁰ Mr Berry's Opening Legal Submission at [19.22]

¹¹ Mr Tollemache's Rebuttal Evidence at [10.5]

- 18 Burberry Road Lot 4, 7.130 ha;
 - 20 Burberry Road Lot 1, 1.089 ha;
 - 24 Burberry Road Lot 5, 4.0005 ha; and
 - 25 Burberry Road Lot 11, 4.61 ha.
21. Both the Planning Assessment¹² and the Section 42A Report¹³ provide descriptions of the Plan Change area. In summary the land is characterised by flat to gently rolling pastoral landform dropping off to the estuarine riparian edge of Drury Creek to the east and an unnamed tributary stream of Ngakoroa Stream, immediately adjacent to SH22, to the south east. The central and northern parts of the Plan Change area are predominantly flat. There is a significant rise adjacent to SH22 where the gradient is, generally, 5% with some steeper gradients, of 10%.
22. The Land Parcels consist mainly of lifestyle-blocks with small scale grazed pastoral land, expansive mowed lawn areas and amenity plantings around the approximately 10 dwellings. A 1.3 ha ornamental pond is the main freshwater feature within the area. Also present on the site are several permanent, intermittent and ephemeral streams. The ultimate receiving environment that the streams discharge into is the Drury Creek, which is a SEA.
23. The Plan Change area directly adjoins the Auranga B1 area (Drury 1 Precinct) to the north, Drury Creek to the east, FUZ land to the west and Karaka Road/SH22 to the south and south east. SH22 intersects with Great South Road and then at McPherson Road to the south of the Plan Change area. Burberry Road provides access to the site, bisecting the Plan Change area from the south-east to the north, terminating in the Drury 1 Precinct.

NOTIFICATION PROCESS AND SUBMISSIONS

24. PC 51 was publicly notified on 27 August 2020; on the closing date, 22 October 2020, for submissions, 43 primary submissions had been received (and one was received late)¹⁴. A summary of submissions was publicly notified on 11 December 2020; on the closing date, 29 January 2021, for further submissions, 14 further submissions had been received.
25. The Section 42A Report records¹⁵:
- Ngāti Tamaoho Trust's submission¹⁶ was late, and a waiver of time limit was granted by Council to accept the submission on 29 October 2021; and
 - Kāinga Ora¹⁷ withdrew a submission point in part on 11 June 2021.

¹² Section 42A Report at [2.4.1]

¹³ Section 42A Report at [1.3]

¹⁴ Section 42A Report at Section 9

¹⁵ *ibid* at [9.1]

¹⁶ Submitter No 44 Ngāti Tamaoho Trust

26. The Section 42A Report provided comprehensive tabulations¹⁸ of the issues raised by the submitters in their submissions and further submissions; and the relief sought. In summary, submissions addressed:

- Opposition to PC 51;
- Supporting PC 51 with no amendments;
- Supporting PC 51 with amendments;
- Traffic and transport matters;
- Staging, timing and funding issues;
- Infrastructure and servicing;
- Zoning;
- Urban design matters;
- Freshwater and terrestrial ecology;
- Stormwater matters;
- Open space;
- Landscape matters;
- Cultural matters;
- Heritage matters;
- Reverse sensitivity matters (noise and vibration); and
- Other matters.

27. We address the submitters concerns in some detail below. Of particular significance to this decision are our findings in relation to the submissions of Auckland Transport (**AT**) and Auckland Council as a submitter (**ACS**), who, as their primary position, opposed the grant of PC 51 (noting also that AT and ACS oppose PCs 48 – 50 and 61 largely on the same basis).

SECTION 42A –OFFICERS RECOMMENDATION

28. In preparing the Section 42A Report Ms Buckingham was assisted by the following ‘technical inputs’ from the following experts:

Matter	Reviewing specialist
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¹⁷ Submitter No 43 Kāinga Ora – Submission Point 43.1

¹⁸ Section 42A Report at [10]

Urban Design, Landscape and Visual	Rebecca Skidmore
Freshwater Ecology	Connor Whiteley
Terrestrial Ecology	Carl Tutt
Transportation	Mat Collins and Terry Church
Economics	Tim Heath
Heritage/archaeology	Robert Brassey
Stormwater and Flooding	Trent Sunich
Parks /Open Space	Robin Rawson
Contamination	Andrew Kalbarczyk
Geotechnical	James Beaumont

29. Ms Buckingham recommended ¹⁹approval of the Plan Change, but contingent on adopting her suggested modifications as set out in the Section 42A report. However, the main changes she recommended included:

- The replacement of the proposed BTC zoning with either a smaller BLC zone and supporting THAB and MHU zones, or just THAB and MHU zones (ie not Business zone).
- The introduction of acoustic attenuation provisions for habitable spaces in the THAB zone to mitigate the health and amenity of people living in those dwellings.

LOCAL BOARD COMMENTS

30. The section 42A Report provides²⁰ a full summary of both the Franklin and Papakura Local Board comments. Both the Franklin Local Board and the Papakura Local Board presented at the hearing.

31. Mr Baker, the Chair of the Franklin Local Board reinforced the points made in the Board's submission:

- The majority of public submissions support this plan change;
- Acknowledged public concerns around the funding and timing of infrastructure upgrades required to support urbanisation of these sites, particularly transport and noted that these concerns reflect concerns consistently raised by

¹⁹ Section 42A Report at [11]

²⁰ Section 42A Report at [5.2]

communities within the Franklin Local Board area regarding greenfield development;

- Fit for purpose roading design (in particular the provision of parking), integrated public transport options and active transport options will be critical to successful development and community well-being; and
- Acknowledge that Ngāti Te Ata Waiohū and Ngāti Tamaoho submitted on PC 51 and both oppose the plan change on the basis that there has been no meaningful engagement with Mana Whenua, and suggested that the applicant work with mana whenua to develop bespoke cultural assessments as a condition of this plan change²¹.

32. Mr Catchpole, the Chair of Papakura Local Board spoke to a Power Point presentation noting:

“The land should be released for development in line with Auckland Council’s Future Urban Land Supply Strategy to ensure council can manage the costs associated with the development of infrastructure to support growth. The local board has an advocacy point in the Local Board Plan 2020 regarding infrastructure to be in place before development happens.”

33. His comments also addressed:

- Holistic well-planned approach (good community outcomes);
- Impact on Papakura;
- Green Space and ‘play space’;
- Paths and connectivity;
- Parking and road widths; and
- Stormwater.

34. To the extent we are able, and in the context of submissions to PC 51, we have had regard to the views of the two Boards.

EXPERT CONFERENCING

35. Following the close of the submission period, we directed that expert conferencing be facilitated. This occurred as follows:

- 9 August 2021 for Economics²²;
- 16 August 2021 for Stormwater²³;

²¹ Mr Catchpole was advised by the Hearing Panel that Ngāti Te Ata Waiohū had revised its position and no longer opposed the Plan Change. Mr Catchpole, who was not aware this, acknowledged that Ngāti Te Ata Waiohū now no longer opposed the plan change.

²² Joint Witness Statement (“JWS”) dated 9 August 2021

- 2 July 2021, 10 August 2021 and 19 August 2021 for Transport²⁴;
 - 5 August 2021 for Urban Design²⁵; and
 - 2 July 2021 and 26 August 2021 for Planning²⁶.
36. Following the second Transport conferencing on 10 August 2021, the experts agreed that conferencing be reconvened on 19 August 2021 after KDL's primary expert evidence was filed. The further agreement reached in that reconvened expert conferencing was reflected in Mr Hills' rebuttal evidence.
37. We have found that the process of expert conferencing was extremely constructive in both narrowing and resolving issues, most notably in relation to transport issues. We have, to a large extent, relied on the outcome of those JWS's to address a range of issues raised in submissions and establish the precinct provisions that we have adopted. We thank all of the participants who took part in the expert conferencing, which in our view made the hearing process and Plan Change outcome much more efficient and effective.

HEARING AND HEARING PROCESS

38. Due to COVID 19 restrictions, the hearing was held by Remote Access (Teams). The hearing was held on the 4, 5, 8 and 9 November 2021. The hearing was adjourned on 9 November having heard from the Applicant, the Submitters, Local Board and the Council. The Applicant's legal reply statement, two reply statements of evidence (from Mr Munro and Mr Tollemache) and a set of 'marked up' precinct provisions was presented on the 2 December 2021.

STATUTORY AND POLICY FRAMEWORK

39. 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 Section 42A Report²⁷.
40. The Applicant in their Request for Plan Change dated May 2020, provided an evaluation pursuant to section 32, and the additional information (Clause 23) requested by the Council.
41. We do not need to repeat contents of the Plan Change Request and Section 32 Assessment Report in any detail. We accept the appropriate requirements for the formulation of a plan change has been comprehensively addressed in the material before us. However, in its evidence and at the hearing, we note that the Applicant proposed changes to the plan change in response to concerns raised by the Council and Submitters.

²³ JWS dated 16 August 2021

²⁴ JWS dated 2 July 2021, JWS dated 10 August 2021, and JWS dated 19 August 2021

²⁵ JWS dated 5 August 2021

²⁶ JWS dated 2 July 2021, and JWS dated 26 August 2021

²⁷ Section 42A Report at Section 3

42. We also note that Section 32 Assessment Report 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 proposal. Having considered the application and the evidence, we are satisfied that PC 51 has been developed in accordance with the relevant statutory requirements.
43. Clause 10 of Schedule 1 requires that this decision must include the reasons for accepting or rejecting submissions, while clause 29 (4) requires us to consider the plan change and to give reasons for (in this case) approving it. This decision gives effect to those clauses of the RMA. The decision must also include a further evaluation, in accordance with section 32AA of the RMA, of any proposed changes to the Plan Change. We address these matters below, as well as setting out our reasons for accepting, accepting in part, or rejecting submissions.

National Policy Statement on Urban Development and the Regional Policy Statement

44. The National Policy Statement on Urban Development (**NPS-UD**) was gazetted on the 23 July 2020, and came into force on the 20 August 2020. It applies to all local authorities that have all or part of an urban environment within their District. Auckland City is listed as a “Tier 1” local authority.
45. In summary its purpose is to:
- Have well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future; and
 - Provide sufficient development capacity to meet the different needs of people and communities.
46. We address the NPS UD in more detail later in this decision, particularly in light of the recent Environment Court decision²⁸, and the legal submissions addressing those provisions which did or did not apply.
47. The purpose of the Regional Policy Statement (**RPS**) is to achieve the purpose of the RMA by providing: an overview of the resource management issues of the region; and policies and methods to achieve integrated management of the natural and physical resources of the whole region.
48. Pursuant to section 75(3) of the RMA, this Plan Change must “give effect” to the NPS UD and the RPS. We address this matter later in this decision.

STRATEGIC CONTEXT

49. The Section 42A Report sets out²⁹ a detailed strategic context to the plan change request and provided a discussion on ‘non-statutory’ documents including the

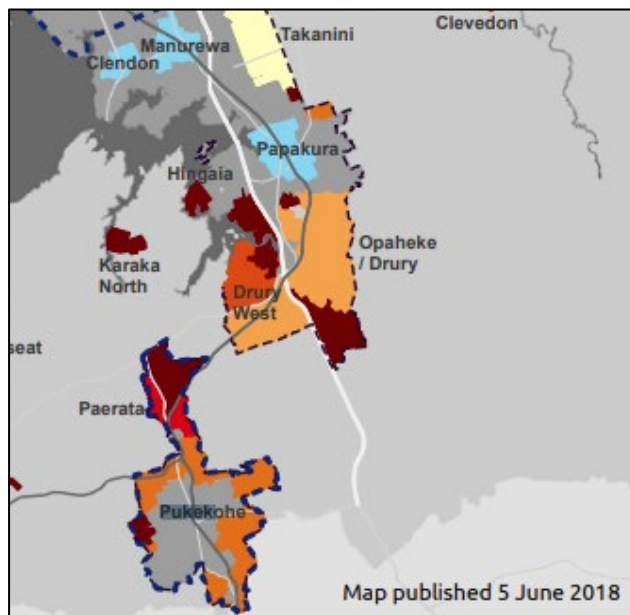
²⁸ *Eden-Epsom Residential Protection Society Inc v Auckland Council [2021] NZEnvC 082*

Auckland Plan, the Future Urban Land Supply Strategy (**FULSS**) and the Drury-Opāheke Structure Plan (**DOSP**). We briefly address these below as they set the strategic context in which this plan change needs to be considered vis-à-vis the statutory planning documents.

50. The section 42A report also discussed the relevant Notices of Requirement and infrastructure projects that had been proposed. Again, these are briefly addressed below.

Auckland Plan 2050

51. The Auckland Plan 2050 takes a quality compact approach to growth and development. It defines quality as:
- most development occurs in areas that are easily accessible by public transport, walking and cycling;
 - most development is within reasonable walking distance of services and facilities including centres, community facilities, employment opportunities and open space;
 - future development maximises efficient use of land; and
 - delivery of necessary infrastructure is coordinated to support growth in the right place at the right time.



²⁹ Section 42A Report at [2.]

Future Urban Land Supply Strategy

53. The FULSS sequences the release of future urban land with the supply of infrastructure over 30 years for the entire Auckland region. The FULSS has a regional focus and attempts to provide a sustainable path for greenfield expansion to the north, west and south of the Auckland urban area.
54. The intended staging for growth in Drury-Opāheke is set out in the FULSS as:
- Drury west of SH1 and north of SH22 is to be development ready from 2022 (including the PC 51 area); and
 - The remainder of the Drury-Opāheke Structure Plan area is to be development ready by between 2028 and 2032.
55. This plan change request would result in development occurring in line with the 'from 2022' timing set out in the FULSS.

Drury-Opāheke Structure Plan (DOSP)

56. The Council's DOSP was adopted in August 2019, and sets out a pattern of land use and a network of infrastructure for the FUZ land at Drury and Opāheke (1,921ha). As set out in the section 42A report:

*"The structure plan is intended to be the foundation to inform future plan changes to rezone the land and is a requirement under the AUP before Future Urban zoned areas can be urbanised and 'live' zoned"*³⁰.

57. We agree with the above statement.
58. Over the 30-year time frame envisaged by the DOSP, it is estimated to provide capacity for about 22,000 houses and 12,000 jobs, with a total population of about 60,000. The DOSP area is ultimately anticipated to have a population similar in size to Napier or Rotorua³¹.
59. The DOSP land use map indicates a substantial centre at Drury East³², a smaller (but still large) centre at Drury West³³ and large areas of housing to the east and west of SH 1. With respect to the Drury West centre the DOSP states³⁴:

"A large centre is also needed in West Drury, to the west of SH 1. This is shown in the plan west of SH 1 located on State Highway 22 (SH 22) near Jesmond Road. It will primarily serve the western part of the Drury – Opāheke structure plan area."

³⁰ Section 42A report at [47]

³¹ DOSP at Section 3.2

³² The proposed Business - Metropolitan Centre zone proposed in PC 48

³³ The proposed Business – Town Centre zone proposed in PC 51

³⁴ DOSP at Section 3.3 – Centres, page 12

60. PC 51 seeks to zone just over 15 hectares of land as Business - Town Centre Zone; generally consistent with that shown in the DOSP.
61. The Section 42A notes³⁵ the land use zonings proposed in PC 51 are largely consistent with the land use pattern set out in the structure plan (see the Structure Plan Map below). However, Ms Buckingham, and some submitters³⁶, suggested that the western train station location indicated in the DOSP is not the most preferred location; that the location may change, and on this basis the centre at Drury West should not be zoned BTCZ but BLCZ, with any BTCZ being located adjacent to the train station in the more western location.
62. The matter of the BTC zone was one of the more 'contentious' issues before us, and we address this in some detail later in this decision; but address the location of the western "centre" in the DOSP below for context for our later findings in relation to the BTCZ.
63. The DOSP also explains some of the reasoning behind the centre's layout in Drury West. In *section 4.3.7.2* it states that the centres are depicted as generalised locations, recognising that more detailed work will need to be undertaken at the plan change stage to determine their exact location, extent and zoning. This provides flexibility to adjust their provision in accordance with increased knowledge from the outcomes of plan change investigations and further infrastructure and staging investigations.
64. Draft versions of the DOSP had different options for the centre location. These included a more western location than that finally shown in the DOSP and one that spanned SH 22 in a more easterly direction. The DOSP states:³⁷:

"The location for the western centre has been modified a little by shifting it to the north side of SH 22 (Karaka Road). It is now shown located between Jesmond Road and Burberry Road alongside SH 22.

This location recognises the current direction of urban growth from north to south and can service that growth by providing for centre development nearby, and with, in time, access to both a railway station and FTN bus service within walking distance. This location also has good commercial and job creation potential as a result of visibility to traffic on SH 22, and proximity to proposed industrial business areas.

Choice of this western centre locations is preferred over alternative locations to the south of SH 22 recognising that areas to the south of SH 22 are not scheduled for growth soon. Alternative western centre location options further to the west in the structure plan area were also evaluated. However, these alternative locations are also in areas not scheduled for growth soon, require additional infrastructure and would have a poorer commercial and job creation potential." (emphasis added)

³⁵ Section 42a Report at [49]

³⁶ MHUD and KO

³⁷ DOSP at page 78

65. We note that the western train station in the DOSP is marked as “indicative”. Notwithstanding this, while a number of options were considered for the location of the centre, it is shown on the north side of SH 22 (Karaka Road) between Jesmond Road and Burberry Road alongside SH 22. This location has not been revisited since the DOSP was adopted by the Council. It is this area that PC 51 seeks to be zoned as BTCZ, noting that it does not cover all of the area identified in the DOSP³⁸.
66. With respect to the indicative location of the Drury west train station, there was a general consensus among some experts presenting at the hearing that the location of the Drury west train station would shift south-westwards as a result of more detailed work by KiwiRail, with the station to be located west of the rail line. We had no confirmation of this from KiwiRail, and no NOR had been lodged for it. Accordingly, for the reasons we explain later with respect to the BTCZ, we have placed little weight on the evidence seeking either no business zoning in PC 51 or on a BLCZ based on a train station further to the south/west as shown in the DOSP.
67. A necessary corollary before FUZ land can be contemplated to be ‘live zoned’, is the completion of a structure plan, either by the developer, or the Council (i.e. the DOSP)³⁹. The comprehensive nature of, and process used to develop the DOSP (set out below), has, in our view, set a clear expectation that the area covered by the DOSP is to be lived zoned and developed, subject to appropriate (precinct) planning provisions.
68. In summary the DOSP process was initiated in 2017 and developed over a two-year period, which included significant consultation and engagement with stakeholders, the public, mana whenua, and the community. It comprised the following phases:
- The process was initiated with an analysis of opportunities and constraints in 2017;
 - A first phase of consultation on planning issues in September – October 2017;
 - Analysis of land use options and selection of a preliminary option;
 - A second phase of consultation on the Drury Opāheke Draft Land Use Plan in 2018;
 - Preparation of a draft DOSP in 2019;
 - The final phase of consultation on the Draft DOSP was concluded in April 2019; and
 - The DOSP was unanimously adopted by the Council’s Governing Body in August 2019, and, as we understand, has not been revisited.
69. We also record, as set out in the Applicant’s Reply Statement that

³⁸ It does not cover any land at 41 Jesmond Road

³⁹ We address later the structure planning process undertaken by MADE

“Structure planning is not the sole province of the Council; nothing in Appendix 1 of the Auckland RPS limits that function to the Council (nor should it). In the absence of the Council taking any kind of proactive steps, MADE launched into its own structure planning process in 2017⁴⁰.

70. Applicant’s Reply Statement set out at paragraphs 7.3 to 7.18 details of the Applicant’s own structure planning process. We acknowledge that the Applicant had undertaken its own structure planning process (prior to the development of the Council initiated DOSP), with some of the more salient issues addressed including⁴¹:

“The process followed, and its robust nature, are addressed in significant detail in the evidence of Mr Cullen⁴². It is also the subject of comment by Mr Noland⁴³, alongside the other developer-led structure planning in Drury-Opāheke, and MADE’s involvement in the DOSP process.

We will not belabour the point any further here. Our submission is that the MADE process more than met the requirements of Appendix 1 of the Auckland RPS and best practice for structure planning, particularly as regards obtaining as much meaningful public input as possible.

The MADE structure planning process considered a broad range of alternatives for the location of the town centre and the PC 51 land was selected as the preferred option. This was on the basis that there was potential for an employment-based hub south of SH22 and subsequently, the preferred location for the Drury West town centre is now as proposed by PC 51.

That resulted in MADE’s purchase of that land – it is not attempting to ‘shoehorn’ a town centre onto land because it owns it; the suitability of the land identified for the Drury West town centre is why MADE bought the land.

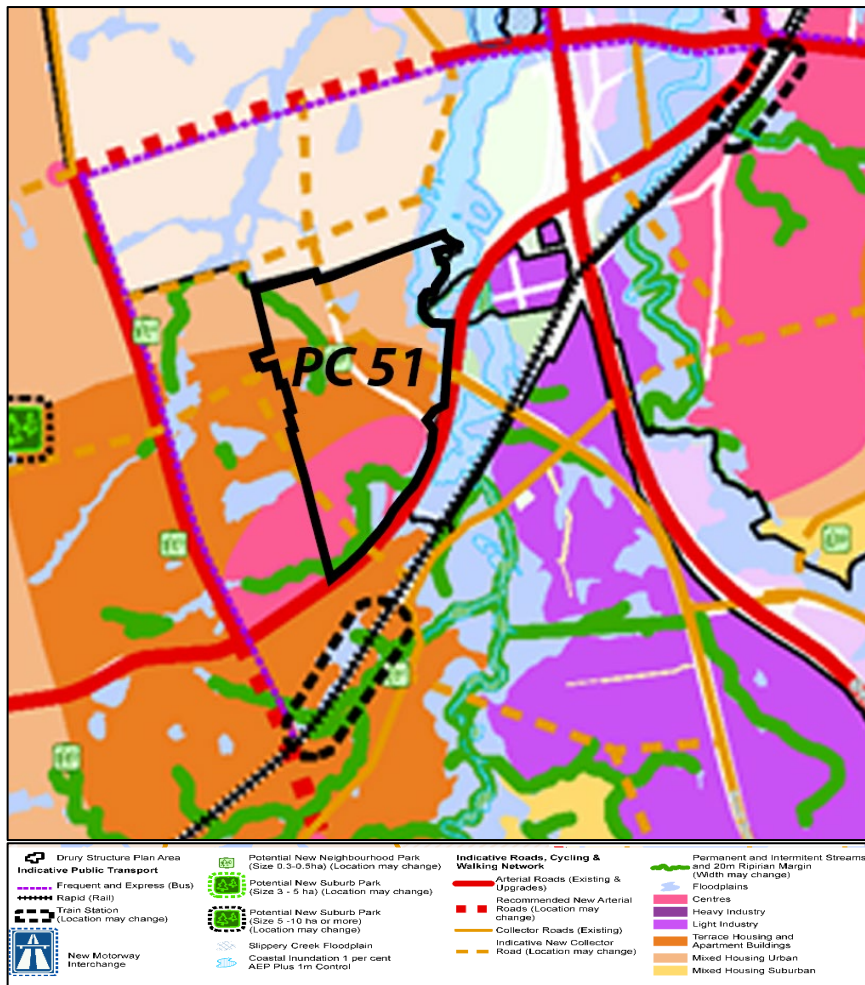
This structure planning exercise represented a sufficiently robust foundation in terms of urban design and planning to form the basis of the first two stages of the Auranga development - the pattern of development that has been approved via two PPC processes. In other words, the robustness of MADE structure planning processes has led to the live zoning of 185ha for residential development directly adjacent to the PC 51 land.”

⁴⁰ Applicant’s Reply Statement at [7.3]

⁴¹ Ibid at [7.4 and 7.12 – 15]

⁴² Mr Cullen’s EIC at Section 3 – “Master Planning Process for Drury West”

⁴³ Mr Noland’s EIC at [5.7 – 5.13]



Drury-Opāheke Structure Plan excerpt

71. We have placed considerable weight on the DOSP. This is due to our view that it was a comprehensive and robust Council process carried out under the LGA 2002 process. This was to address the requirements in the RPS that a structure planning process was necessary prior to 'live zoning' FUZ land. In respect of the above the DOSP is an RMA mandated statutory process designed to achieve the outcomes set out in the RPS with respect to 'live' zoning FUZ land. For the reasons set out, and as we have already said, we have placed considerable weight on the DOSP.

Notices of Requirement

72. The Section 42A Report also records⁴⁴ that Auckland Transport and Waka Kotahi NZ Transport Agency, as requiring authorities under the RMA, issued Notices of Requirements (**NoRs**) in January 2021 for a number of new designations for future strategic transport corridors in the Drury area. The proposed transport corridors need to be protected so that they can be implemented in the future when required. These designations are to support the planned urban growth in the Drury-Opāheke area.

⁴⁴ Section 42A Report at [2.4]

73. Of key relevance to PC 51 is:
- Waka Kotahi's NoR, referred to as Project D1, to alter Designation 6707 to provide for widening the existing State Highway 22 from State Highway 1 (**SH1**) to Oira Creek to a four-lane arterial with active transport facilities; and
 - The Jesmond Road and Bremner Road frequent transit network (**FTN**) upgrades (referred to as D2 and D3). It was confirmed the FTN for Drury West, does not directly adjoin the PC 51 land.
74. A NoR by the Minister of Education was also notified (March 2021) for a Secondary School and Early Childhood Education Centre in Drury West. The secondary school site is on the eastern side of Jesmond Road within Drury 1 precinct, about 500m to the northwest of the PC 51 site⁴⁵.

Resource Management (Enabling Housing Supply and Other Matters) Act

75. The Resource Management (Enabling Housing Supply and Other Matters) Act was given Royal assent on 20 December 2021 and came into force on 21 December 2021. As we understand it, this Act does not affect our decision, notwithstanding that PC 51 has not specifically addressed the Medium Density Residential Standards (**MDRS**) set out in that Act. This is because PC 51 was publicly notified and the hearings completed prior to the Act coming into force.
76. The extent that the PC 51 area will be impacted by MDRS will be addressed by the Council when it notifies its own plan change to give effect to the NPS-UD (intensification planning instrument) and the Resource Management (Enabling Housing Supply and Other Matters) Act. We understand this plan change is scheduled to be publicly notified in August 2022.

FINDINGS AND REASONS FOR APPROVING THE PLAN CHANGE.

77. The following section addresses our overall findings on PC 51 and why we have approved it; having heard and considered all of the material and evidence before us. We then more specifically address the submissions received on PC 51 and the relief sought in those submissions. In this respect, in accordance with Clause 10(2) of the RMA, we have grouped together those submissions under the headings that were used in the Section 42A report for consistency.
78. With respect to further submissions, they can only support or oppose an initial submission. Our decisions on the further submissions reflects our decisions on those initial submissions having regard, of course, to any relevant new material provided in that further submission. For example, if a Further Submission supports 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.

⁴⁵ We understand that the application is currently on hold at the Requiring authority's request.

79. We also note that we 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 section 32AA of the RMA. With regard to that section, the evidence presented by the Applicant, Submitters and Council Officers and this report, including the changes we have made, effectively represents that assessment. All the material needs to be read in conjunction with this decision report where we have determined that changes to PC 51 should be made.

Reasons for the Plan Change Proposal

80. For context, we set out and accept the Applicant's rationale for seeking to change the AUP (OP) and rezoning of the site from FUZ to live urban zonings. This was detailed in the Application⁴⁶, evidence and the legal submissions. For the reasons that follow, it is our view that the provisions of PC 51 (as we have determined them) are more efficient and appropriate in terms of the section 32 and section 32AA of the RMA than those currently in the AUP (OP) – i.e. the FUZ.

Should Plan Change 51 be declined on the basis that it would not give effect to the National Policy Statement on Urban Development and the AUP OP's Regional Policy Statement?

81. The Applicant's position, unsurprisingly, was that the Plan Change be approved as it satisfied the provisions of the statutory planning documents, and the provisions of the RMA – notably sections 32 and 32AA and Part 2 of the RMA.
82. The most significant 'challenge' to PC 51 was from ACS and AT. Those submitters, who presented a joint case, strongly opposed the approval of PC 51 as their primary position⁴⁷. ACS and AT filed extensive legal submissions and evidence (both corporate and expert) to justify their position that PC 51 be declined.
83. ACS' and AT's case was that PC 51 would not give effect to the NPS UD or the RPS because of funding constraints to be able to deliver what they considered were the necessary transport upgrades for the Drury area. Their legal submissions set out⁴⁸:

"The Supreme Court held in King Salmon – in a plan change context – that: "Give effect to" simply means "implement". On the face of it, it is a strong directive, creating a firm obligation on the part of those subject to it. As the Environment Court said in Clevedon Cares Inc v Manukau City Council:

[51] The phrase "give effect to" is a strong direction. This is understandably so for two reasons:

- [a] The hierarchy of plans makes it important that objectives and policies at the regional level are given effect to at the district level; and*
- [b] The Regional Policy Statement, having passed through the [RMA] process, is deemed to give effect to Part 2 matters.*

⁴⁶ Applicant's Planning Assessment at [1.1.4]

⁴⁷ Those submitters did provide alternative relief if the Hearing Panel was not minded to accept its primary relief.

⁴⁸ Allan's Legal Submissions at [3.3- 3.4]

The Supreme Court also noted that a requirement to “give effect to” a policy which is framed in a specific and unqualified way, may in a practical sense be more prescriptive than a requirement to give effect to a policy which is worded at a higher level of abstraction. We address Mr Turbott’s and Ms Sinclair’s / Ms Smith’s evidence and concerns below that PPC 51 will not “give effect to” key provisions in the NPS UD and the RPS.”

84. For the reasons that follow we did not agree with the evidence of Mr Turbott and Ms Sinclair / Ms Smith; that PC 51 would not give effect to the NPS UD and the RPS. We prefer Mr Tollemache’s evidence in this respect.
85. ACS and AT presented an alternative position; - that being, should we not accept their primary position that PC 51 be declined and were of a mind to approve PC 51, it should be approved with staging/triggers requiring significant infrastructure improvements (roading, public transport and walking and cycling) to be undertaken in the immediate and wider Drury area prior to development occurring.
86. The Applicant strongly opposed ACS’ and AT’s position. It was the Applicant’s position that PC 51 gave effect to both the NPS UD and the RPS, and that the infrastructure improvements it proposed (subject to the Transport Infrastructure Requirements) ensured this. The section 42A author, and other submitters including Waka Kotahi, also did not agree with the primary position advanced by ACS and AT.
87. The matters highlighted above are addressed below. We set out why we have accepted the Applicant’s (and other parties) position that PC 51 would give effect to the NPS UD and the RPS, and not that of ACS and AT.
88. The first matter to address is which provisions of the NPS-UD apply. This was a matter of some contention in this Plan Change (and the other Drury Plan changes we heard) as a result of the recent Environment Court’s decision - *Eden-Epsom Residential Protection Society Inc v Auckland Council [2021] NZEnvC 082*. We are required to “give effect” to any National Policy Statement (and the Regional Policy Statement pursuant to section 75 (3) of the RMA.
89. Mr Allan, counsel for ACS and AT, submitted that only the objectives and policies specifically relating to “planning decisions” as referenced in the Court’s decision were relevant. He stated:

“The NPS-UD objectives and policies that specifically refer to “planning decisions”, and therefore those that potentially must be given effect to at this stage, are – as Mr Turbott identifies in his evidence – Objectives 2, 5 and 7 and Policies 1 and 6⁴⁹ & 50”.

90. Mr Allan went on to say⁵¹:

⁴⁹ Mr Allan’s Legal Submissions at [4.3]

⁵⁰ We note that ACS/AT, as part of their evaluative planning evidence, assessed the plan changes against provisions which do not reference “planning decisions” (such as Objective 6 of the NPS-UD)

⁵¹ Mr Allan’s Legal Submissions at [4.21]

“While the Eden-Epsom decision indicates that the provisions of the NPS-UD that must be given effect to by the Panel are limited to those which relate to “planning decisions”, this decision does not ‘change the calculus’ for the Submitters to any great extent, having regard to the relevant RPS provisions which must likewise be “given effect to” (e.g. the same themes as to integration of growth / land use with infrastructure can be found in the RPS).”

91. Mr Berry had a different view to how the *Eden-Epsom* decision should be interpreted and set out the following in his legal submissions⁵².

In its decision, the Court:

- (a) Considered whether the NPSUD applies to “planning decisions” by any local authority affecting an urban environment;*
- (b) Queried whether a decision on the merits of a PPC (on appeal) constitutes a “planning decision”;*
- (c) Held that the definition of “planning decision” in the NPSUD is a decision “on a district plan or proposed district plan”;*
- (d) Concluded that some provisions of the NPSUD may be considered in a planning decision on the merits of a PPC.*

92. He went on to state⁵³:

“The Court accepted that the NPSUD was operative but did not consider it could pre-empt Schedule 1 plan change processes to be undertaken by the Council to implement it. The effect of this decision could be interpreted as meaning that the Panel is only required to give effect to provisions of the NPSUD which require “planning decisions”.

It could therefore possibly be argued that the Eden Epsom decision means that the Panel must only give effect to provisions of the NPSUD which “require planning decisions”, i.e., that only provisions that contain the phrase “planning decision” apply to plan changes.

In our submission, such interpretation would be incorrect. In the context of PC 51, the important point to note is that the NPSUD includes numerous objectives and policies, many of which do not require “planning decisions” but are nevertheless relevant in terms of directing urban planning outcomes. The RMA requires that the NPSUD be given effect to and this should be so regardless of the identity of the initiator of the plan change (i.e., whether it is a public plan change or a PPC). - and

The Court confirmed that these more general, and important, policies apply, and therefore are required to be considered, in the context of decisions on PPC:

“From that clause, it may be found that some provisions of the national instrument may be considered in a “planning decision” on the merits of a requested plan change including on appeal to the Environment Court.”

⁵² Mr Berry’s Legal Submissions at [5.7]

⁵³ Ibid at [5.9 – 5.11 and 5.14]

93. We agree with Mr Berry, and address our findings on the NPS UD further below. However, before we do that, we address Mr Gribben's legal submissions with respect to the applicability of the NPS UD, as we find they are also directly applicable to assessing PC 51. He set out⁵⁴:

"We outlined our view on the application of the National Policy Statement on Urban Development (NPS-UD) and the Southern Cross decision in legal submissions for Plan Change 48⁵⁵. In summary, a number of themes from the NPS are relevant to the plan changes throughout Drury including:

- (a) Achieving a well-functioning urban environment;⁵⁶*
- (b) Ensuring people can live near centres and areas well served by public transport;⁵⁷ and*
- (c) Integration of land use with infrastructure planning and funding⁵⁸."*

94. We also agree with Mr Gribben. Given we are required to give effect to the NPS UD, we need to consider its wider 'themes' and not to do so is somewhat artificial as, in our view, the NPS UD needs to be read as whole. For example, it is not possible in our view to "give effect" to Policy 1 which contains the words "planning decision" without consideration of Objective 1 (also set out below), which as Mr Allan points out does not contain the words "planning decision". They are:

Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:

95. One of the major issues in contention between the Applicant and ACS and AT related to Objective 6(a) of the NPS UD, that any decisions on urban development are to be "integrated with infrastructure planning and funding decisions".

- Objective 6(a), working in conjunction with the other two elements of Objective 6, requires planning decisions to be integrated, strategic and responsive.
- Objective 6(b) has a focus on ensuring decisions are strategic in the medium term (3 – 10 years) and long term (10 – 30 years);
- While Objective 6(c) emphasises the need for decisions to be responsive, particularly in relation to proposals that would supply significant development capacity. This objective is also reflected in Policy 8 of the NPS-UD:-

⁵⁴ Mr Gribben's Legal Submissions at [3.2]

⁵⁵ Legal submissions on behalf of Waka Kotahi for Plan Change 48, 22 July 2021, section 9. In relation to the Southern Cross in summary decision makers can, and should, have regard to the overall themes and outcomes that the NPS-UD seeks to achieve, while bearing in mind future planning processes that are still to come

⁵⁶ Objective 1 and Policy 1

⁵⁷ Objective 3

⁵⁸ Objective 6

“Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments.”

96. We accept that the NPS UD does not provide support for development at any cost. We also accept that a key consideration in assessing whether a plan change would add significantly to development capacity and contribute to a well-functioning urban environment is the ‘infrastructure-readiness’ of the project. We need to be satisfied that PC 51 can provide the infrastructure needed to support it in a timely manner.
97. The timing and funding of the provision of infrastructure is the major difference between the Applicant and ACS and AT; the Applicant’s position being it will provide the infrastructure needed to mitigate its direct adverse effects (discussed in more detail later), while the ACS and AT position is that PC 51 does not have committed funding in place to provide the infrastructure needed. As we set out later ACS and AT’s position is that there are no funding or financing solutions in the next 10-years, and potentially beyond that, for it to provide the necessary upgrades to ensure a well-functioning urban environment (as detailed in the Drury Infrastructure Funding and Financing programme (**DIFF**) report). Also, there was no funding confirmed to upgrade SH22.
98. ACS’ and AT’s position in relation to the RPS was the same as that for the NPS UD; i.e. PC 51 did not give effect to it. Mr Allan, in terms of legal submissions, and Mr Turbott and Ms Sinclair/Ms Smith in terms of planning evidence, told us that the RPS had similar provisions to the NPS-UD – namely provisions requiring integration of infrastructure with land use⁵⁹. These were set out in sections B2 – Urban Growth and Form and B3 – Infrastructure, Transport and Energy, which involve the strategic integration of infrastructure with land use through objectives, policies and methods. As already stated, section 75 of the RMA required us to be satisfied that PC 51 will “give effect to” or implement the RPS provisions.
99. Conversely, Mr Berry’s legal submissions were that Mr Tollemache’s planning evidence was⁶⁰:
- (a) To the extent that the NPS UD applies to PC 51, PC 51 is consistent with the objectives and policies of the NPS UD.
 - (b) PC 51 will assist the Council to fulfil its functions and responsibilities to provide for sufficient growth.
 - (c) As regards Policy 8, referring specifically to plan changes; PC 51 fits squarely within this provision
 - (i) PC 51 will add significantly to development capacity and contribute to a well-functioning urban environment;

⁵⁹ As required by section 30 (1)(g) - the strategic integration of infrastructure with land use through objectives, policies, and methods.

⁶⁰ Mr Tollemache’s EiC at [7.4 – 7.18] has specific discussion on the objectives and policies of the NPSUD

- (ii) Development of this land is anticipated by RMA planning documents by being zoned FUZ in the AUP OP, and scheduled for release in the FULSS; and
- (iii) The timing of PC 51 will enable development of this land within the anticipated timing of the planned land release for Drury West.

100. We agree with Mr Berry's submissions and Mr Tollemache's evidence.

101. Overall, we find that PC 51, based on the Applicant's (and Waka Kotahi's) legal submissions and the evidence of KDL's planner and urban designers, that PC 51 will actively contribute to achieving the relevant objectives and policies from the NPS UD, particularly to the extent that PC 51:

- Will facilitate a variety of housing to be constructed, utilising both THAB and MHU zoning to enable varied housing density and intensity;
- Provides good accessibility between the proposed housing and jobs and community spaces in the proposed town centre, as well as open space and natural space, in accordance with Policy 1;
- Is consistent with the FULSS and the DOSP and therefore consistent with the planned development for the area in terms of density, intensity and the proposed land use; and
- Is supported by planned and key infrastructure and funding decisions, on the basis that all infrastructure required has been identified with funding committed to it in accordance with Objective 6.

102. Notwithstanding the extent to which the NPS UD applies (especially as submitted by Mr Allan), the parties agreed that many of the NPS UD provisions were 'mirrored' in the RPS. We agree with this. We have set out our position in relation to the applicability of the NPS UD (i.e. those provisions that apply) and acknowledge this is different to the position of ACS/AT. However, we have not solely relied on the NPS UD for our findings set out above, but those of the RPS as well which as we say, to a large extent, mirror those of the NPS UD.

103. There are several RPS objectives and policies in sections B2 – Urban Growth and Form and B3 – Infrastructure, transport and energy that have particular relevance to this Plan Change, and were addressed by a number of the witnesses and include:

B2 – Urban Growth and Form

Objective B2.2.1(1)(c):

A quality compact urban form that enables all of the following:

- (c) *better use of existing infrastructure and efficient provision of new infrastructure;*
- (d) *improved and more effective public transport;*

Objective B2.2.1(5):

The development of land within the Rural Urban Boundary, towns, and rural and coastal towns and villages is integrated with the provision of appropriate infrastructure.

Policy B2.2.2(7)(c):

Enable rezoning of land within the Rural Urban Boundary or other land zoned future urban to accommodate urban growth in ways that do all of the following: ...

(c) integrate with the provision of infrastructure; and ...

Policy B2.4.2(6):

Ensure development is adequately serviced by existing infrastructure or is provided with infrastructure prior to or at the same time as residential intensification. (emphasis added)

B3 – Infrastructure, transport and energy

Objective B3.2.1 (5) Infrastructure planning and land use planning are integrated to service growth efficiently:

Objective B3.3.1(1)(b):

(1) Effective, efficient and safe transport that:

(b) integrates with and supports a quality compact urban form; ...

Policy B3.3.2(5):

Improve the integration of land use and transport by:

- *ensuring transport infrastructure is planned, funded and staged to integrate with urban growth;*
- *encouraging land use development and patterns that reduce the rate of growth in demand for private vehicle trips, especially during peak periods...*

104. Furthermore, the explanatory text at B3.5 – Explanation and principal reasons for adoption of the RPS, confirms the intention that:

“Without the connections enabled by transport networks (land, sea and air), piped networks (water, wastewater and stormwater reticulation), energy generation, transmission and distribution networks (electricity, gas and liquid fuels), and telecommunication networks (wired and wireless), few other forms of activity and development could occur. This means that development, especially that associated with growth in greenfield areas, must be integrated

and co-ordinated with the provision of infrastructure and the extension of networks”.

105. As addressed above, it is the Applicant’s position that the necessary infrastructure upgrades relevant to PC 51 had been planned and are subject to the Transport Infrastructure Requirements in the precinct provisions to ensure the necessary upgrades are undertaken and funded by KDL. On this basis, it is the Applicant’s position that PC 51 would give effect to the NPS UD and the RPS (and in particular those provisions quoted above), and would be consistent with the Auckland Plan 2050, the FULSS and the DOSP. We accept, and agree, with the applicant’s position.
106. ACS’ and AT’s case, in summary, was set out at paragraphs 1.4 – 1.8 of Mr Allan’s legal submissions. Paragraphs 1.4 and 1.5 were:

“As the Panel is aware, PPC 51 is one of several proposed plan changes within the Drury-Opāheke Structure Plan area. The Structure Plan area is ultimately anticipated to have a population similar in size to Napier or Rotorua. While the live zoning of this land is anticipated in the sense that it has been strategically identified as an area that is appropriate for future urban zoning, the live zoning of such a large area of land, all at the same time, presents significant difficulties in terms of ensuring:

- (a) that core resource management principles and policies are given effect to; and*
- (b) that the urban development enabled is well-functioning in a manner that alleviates, rather than exacerbates, the challenge that Auckland currently faces in providing adequate infrastructure to support its growing population.*

In this latter respect, the amount of infrastructure required to support the proposed plan changes in Drury is on an unprecedented scale. Current identified sources of funding do not come close to the amount needed to finance and fund the infrastructure needed to support the live zoning of the land. Therein lies the crux of the Submitters’ concerns⁶¹”. (Underlining is our emphasis).

107. In relation to transport and infrastructure financing and funding issues, ACS and AT provided detailed corporate evidence from Ms Duffield, Mr Kloppers and Mr Gudsell. In summary their evidence was:
- An overview of the work undertaken since the completion of the DOSP namely through the *Drury Transport Investment Programme (DTIP)* and the *Drury Infrastructure Funding and Financing Programme (DIFF)*, to identify the infrastructure (particularly transport infrastructure) that would be required to enable the development of Drury over the full build-out period of 30 years to ensure a sustainable well-functioning urban environment.
 - The limited extent of funding available to support growth in Drury. Mr Gudsell identified that \$243 million in funding would be available in the last four years of

⁶¹ We discuss the issue of funding in more detail later in this decision

this decade for transport improvements to support the *New Zealand Upgrade Programme (NZUP)*, however that funding is limited, and a significant infrastructure funding shortfall remains. He also outlined the various competing demands confronting Council – rapid growth, changing needs, transport demands, maintaining existing assets and services, responding to climate changes, and the impacts of COVID-19.

- The financing and funding shortfall in relation to that infrastructure, with a focus on the next 10 years (being both the LTP/RLTP period and the ‘time horizon’ for district plan provisions). Ms Duffield explained in her evidence the immediate problem facing the Council in this regard, which is that there is currently no solution to finance and fund the infrastructure for Drury in the next 10 years (nor, she notes, is there a defined solution over the longer term).
- A key issue identified by these witnesses was that the Council had insufficient borrowing capacity to forward finance the required additional infrastructure in Drury in the short to medium term.

108. Ms Duffield, in her summary evidence statement provided us an overview (gap analysis) of the funding required and the various funding tools available and their limitations. Her analysis emphasised that there was no infrastructure financing and funding solution for the identified funding gap over the next 10-year period. She stated⁶²:

There currently is no solution to finance and fund the infrastructure for Drury in the next 10 years and there is no defined solution over the long term. In my view, it is inappropriate to assume that if land is “live zoned”, the infrastructure will follow. Assuming that the infrastructure financing and funding will be provided later, including through Infrastructure Funding Agreements, is a presumptive assumption. Where the sums of money are small this may be possible. Where the sums of money are large and where there are large elements of “cumulative” infrastructure needed, as is the case in Drury, I consider it is difficult to prudently assume that a financing and funding solution can be achieved in the short to medium term, i.e. for at least the next 10 year period.

109. It was also her view that it was highly unlikely that the current infrastructure financing and funding tools could solve the funding gap in the next 10-year period, given that⁶³:
- (a) *The NZUP and LTP/RLTP (incorporating ATAP) investment does not provide adequate infrastructure funding to service the PPC areas.*
 - (b) *Auckland Council has insufficient borrowing capacity to finance the required additional infrastructure investment in the short to medium term (or necessarily the ability to fund this financing).*
 - (c) *This lack of financing capacity (and funding issues) is likely to persist and there is currently no alternative process to address the Drury investment gap and to develop other funding and financing solutions within 10 years.*
 - (d) *The IFF Act could address a modest part of the infrastructure financing and funding gap. It is unlikely to bridge most of the gap, and requires*

⁶² Ms Duffield’s Summary Statement at [4]

⁶³ Ibid at [12]

certainty about the remaining infrastructure financing and funding solution before it can be implemented.

- (e) *There is no overall infrastructure financing and funding solution including the elements that would normally be covered by Waka Kotahi.*

110. Ms Duffield, responding to Mr Noland's Rebuttal evidence addressed the Council's draft Development Contributions Policy. She recorded⁶⁴:

Mr Nolan refers to the draft Development Contributions Policy as a way to resolve the infrastructure funding gap for PPC 51 (and the other Drury Plan Changes). This is not the case because:

- i. The draft Contributions Policy 2021 that is currently being consulted on by Auckland Council will not have a final decision made on it until late in 2021. If it is decided to progress with this policy, the Auckland Council infrastructure included in this policy will not commence to be planned or progressed until 2032. At the earliest the projects would be available in mid-2030s. The projects within the policy are phased from 2032 over a 20-year period. For example, of the projects that Andrew Prosser has identified as being required in the first 10 years to support PPC 51, the earliest any of these are included in the draft Contributions Policy 2021 is planning commencement in 2032. Many are not included to commence planning until 2034 or 2037. Construction would be several years beyond these dates.*

111. For the purpose of this decision, we simply note that Ms Duffield does not consider that the proposed revised Development Contributions Policy or any other funding/financing tools/mechanisms are available to solve the funding and finance issues identified by the ACS/AT witnesses. It is the Applicant's view, and that of Waka Kotahi, that there is sufficient funding and/or a commitment to a number of key infrastructure upgrades to enable PC 51 to be approved as any adverse effects can and will be mitigated – including through upgrades the Applicant has committed to undertake.
112. In terms of the transport implications, Mr Prosser set out the implications of allowing urbanisation to proceed without the required infrastructure being in place, including the critical need for the SH22 upgrade works. We address this matter in some detail below.
113. The ACS and AT planning witnesses, relying on Mr Prosser's evidence, opined that live zonings for PC 51 were premature and that it should be declined at this time due to the necessary transport upgrades not being able to be undertaken due to the Council's lack of ability to fund them.
114. As a result of this, Ms Sinclair/Ms Smith and Mr Turbott did not consider that PC 51 (and the other Drury Plan Changes) gave effect to the objectives and policies in the NPS UD and the RPS relating to the strategic integration of infrastructure, and the planning and funding of such infrastructure, with land use. While this was the

⁶⁴ Ms Duffield's Summary Statement at [16]

position held by those witnesses, they advised that if funding was not an issue, they would not be opposing the approval of the Plan Change at a strategic level.

115. It was Mr Allan's submission to us that⁶⁵:

"However, for PPC 51, the funding and financing solutions required to support the live zoning of the land – including in relation to key unfunded SH22 upgrades that are the responsibility of Waka Kotahi – are not in place [we address this issue further below]. Nor is there any certainty at present that the funding and financing solutions will be achieved within the timeframes needed to support live zoning, if the plan change is approved at this time. It is not responsible and sustainable, nor does it give effect to the RPS and NPS-UD, to live zone land without ensuring that an adequate financing and funding solution is in place to deliver the infrastructure required in the next 10 years. The notion that such issues can be resolved following live zoning is effectively putting the cart before the horse. Without certainty as to the financing and funding of necessary infrastructure to support live zoning, the Submitters regrettably cannot support PPC 51 at this time.

Accordingly, in relation to the Submitters' transport / infrastructure concerns, the primary relief sought by the Submitters is that PPC 51 be declined at this time, with the land retaining its Future Urban zoning for the time being."

116. As noted above, the thrust of ACS and AT's case is that all Drury plan changes should be declined because there is a lack of available funding to enable the provision of infrastructure; the inability to provide such infrastructure means that a plan change will not give effect to the key objectives and policies in the NPS UD and the RPS that require land use and urban development to be integrated with infrastructure; and, on that basis, it is premature to live zone the PC 51 land at this time.

117. Not surprisingly the Applicant had a contrary view to that of ACS/AT. With respect to funding for roading upgrades, Mr Berry set out in the Reply Submissions⁶⁶

Contrary to Mr Allan's assertions, KDL has in no way misunderstood the case advanced for AC (as submitter) and AT with respect to infrastructure funding and financing issues⁶⁷. It is very clearly understood that those submitters' concerns relate to funding certainty for both, the short and longer term, roading projects required in order to support development of the PC 51 land. That is why KDL's submissions and evidence addressed the funding situation for the transport upgrades required for PC 51 over the next ten years, as well as AC/AT's position regarding the need for and funding of projects that may be required in 15-30 years' time.

More correctly, Mr Allan should therefore have stated that KDL does not accept that there is any significant gap or uncertainty in respect of the funding for the projects required to respond to the growth enabled by PC 51 over the next ten years. Certainly, that is the issue that became the focus of AC/AT's case at the

⁶⁵ Mr Allan's Legal Submissions at [1.7 – 1.8]

⁶⁶ Mr Berry's Reply submissions at [4.9 – 4.10]

⁶⁷ Relating to the issue of funding issues over 10 years vs a longer period (20 to 30 years)

hearing (rather than those submitters' concerns with longer-term projects required in 15-30 years). (emphasis added)

118. Mr Hills, in his Rebuttal Evidence⁶⁸, explained that 15 key DIFF network improvements and a further four 'non DIFF' projects identified by Mr Prosser as being required within the first five years to support development of the PC 51 land would be completed, namely⁶⁹:

- (a) *Auranga A or PC 51 will essentially build eight of the projects;*
- (b) *NZUP is already committed to funding six of the projects;*
- (c) *One relates to Drury South (and already has committed funding);*
- (d) *One relates to AT responsibilities (public transport – which Mr Prosser has accepted); and*
- (e) *Three are cumulative growth projects, being:*
 - (i) *Great South Road Improvements (Waihoehoe Road to Drury Interchange) which relate more to Drury East than PC 51;*
 - (ii) *SH22 improvements - west of SH1 interchange to Great South Road, which are a regional state highway project; and*
 - (iii) *The segregated active mode corridor adjacent to the rail line from Drury East Town Centre to Great South Road, which is of limited use to PC 51 and a regional project.*

119. We note that Mr Church (for AC as regulator) supported Mr Hills' position, stating that⁷⁰:

"I am therefore of the view that the effects of the plan change and the transport provisions, including the committed projects nearby will achieve an integrated transport and land use outcome. This view is also set out at paragraph 8.3 of the Transport JWS."

120. In questioning from the Hearing Panel Mr Prosser acknowledged that his main concern regarding funding shortfalls for short term projects related to the required SH22 upgrades, particularly the mid-block widening. He also considered that if there was an assurance that all the identified upgrades to SH22 would be done when required, much of his concerns regarding the need for and funding of short-term projects would be resolved and that the transport effects from PC 51 would largely be internalised. However, ultimately Mr Prosser maintained his view that there was still too much uncertainty regarding the funding for the required SH22 upgrades, contrary to Waka Kotahi's position, which we address below.

⁶⁸ Mr Hills' Rebuttal Evidence at [5.8 – 5.9]

⁶⁹ We have inserted Mr Hills' Table 1: Summary of AT / DIFF key projects as an Appendix to this decision

⁷⁰ Mr Church's Note 7, page 4

121. Waka Kotahi generally supported the approval of Plan Change 51 provided that the effects of the development, especially related to State Highway 22, were adequately addressed through the amendments it sought to the PC 51 provisions.

122. Mr Gribben set out that Waka Kotahi considers⁷¹:

- (a) *The development is generally consistent with the Drury-Opaheke Structure Plan and the Future Urban Land Supply Strategy;*
- (b) *Additional information about the potential traffic effects have been provided by the Applicant and discussed through expert conferencing;*
- (c) *A series of triggers have been agreed and included within PC 51 that provide a mechanism to address the short and medium-term transport effects. In particular, a resource consent will be required for the construction of the intersection of Main Street and State Highway 22 and this intersection must be constructed and operational before any development will occur (or at least at the same time as the initial stage of development). This resource consent application will require a full assessment of all traffic effects, including on the safe and efficient operation of State Highway 22, westwards to the intersection with Jesmond Road and eastwards to the intersection with Great South Road and the State Highway 1 interchange, based on installing. ~~Installing~~ [sic] the Main Street intersection is likely to result in the need to upgrade the approaches to the intersection from 2 to 4 lanes.*
- (d) *With the exception of one outstanding issue, there are adequate and appropriate plan provisions (including triggers) to manage the transport effects on SH22 from the initial stages of development;*
- (e) *There is considerable investment and new infrastructure signalled for Drury West, including the Drury West Train Station and new roading upgrades;*
- (f) *Although there is some uncertainty about funding or exact timing of new infrastructure, that is not sufficient to decline this particular plan change in light of the other factors. There are a number of triggers that require further assessment of traffic effects and the installation of new intersections and appropriate connections before development can occur in the PC 51 land; and*
- (g) *Overall, there is sufficient integration between land use and infrastructure to allow this plan change to be approved, with appropriate triggers.*

*Waka Kotahi therefore supports Plan Change 51 subject to the inclusion of the additional trigger provisions to adequately address effects including related to the safe and efficient operation of SH22 (in the short and long term) and the management of road traffic noise and vibration on sensitive receivers.
(emphasis added)*

⁷¹ Mr Gribben's Legal Submissions at [1.7 – 1.8]

123. Mr Clarke's evidence for Waka Kotahi was also clear – noting the following paragraph in his evidence:⁷²

State Highway 22 currently has no construction funding however there is currently a Notice of Requirement lodged for route protection and there are a number of plans by private and public sector parties to upgrade major intersections along this corridor. There is also confirmed funding for the Drury West Station and Drury Interchange upgrade. The precinct provisions agreed through the expert conferencing for this Plan Change also require a new intersection to be constructed prior to any development occurring onsite (although no agreement as to funding has been discussed or agreed with the applicant). These elements give confidence that sufficient state highway and rail infrastructure will be in place to service the early stages of the development. (emphasis added)

124. In light of the above, we find Mr Prosser's evidence is overstated; neither Mr Hills nor Mr Church, agree with him. We accept that there are solutions available for the issues Mr Prosser has identified. As was set out in KDL's evidence⁷³, the transport upgrades required to service PC 51 have been identified and agreed upon between KDL, Waka Kotahi and AT and there is both approved funding for and a commitment to deliver all of the required transport upgrades that would be required to service the PC 51 land (some of which have already been completed as part of Auranga A and B1).
125. In the context of the previous paragraph, the following is noted in terms of works to be undertaken:
- PC61 would have built the Oira roundabout and widened SH22 to four lanes (as required) in the vicinity had PC61 been approved (but this is not critical to PC 51).
 - The Government (via NZUP) will build the access to the Drury West rail station, upgrade the Jesmond Road/SH22 intersection and widen SH22 to four lanes in the vicinity.
 - KDL will build the Main Street signalised intersection with SH22 and widen SH22 to four lanes (as required) in the vicinity.
 - Drury South Limited will build the Great South Road signalised intersection with SH22 and widen SH22 to 4 lanes in the vicinity.
 - The Government (via NZUP) will widen SH22 to four lanes between west of the SH1 interchange and Great South Road.
126. Moreover, we accept the established case law that it is not the Applicant's obligation to resolve infrastructure problems beyond local effects (noting the Applicant's position that it has mitigated any transport related effects from the development proposed by PC 51). ACS, AT (and Waka Kotahi) do not have the ability to require PC 51 to

⁷² Mr Clarke's Hearing Summary at [3.2]

⁷³ Mr Noland's Rebuttal Evidence at [2.6 – 3.9] and Hills' Rebuttal Evidence at [5.3 – 5.13]

resolve the existing and wider transport effects in Drury, but there is the requirement for PC 51 to address/mitigate its direct adverse (transport) effects.

127. Mr Gribben addressed the leading authorities on this matter - *Landco Mt Wellington v Auckland City Council* and *Laidlaw College Inc v Auckland Council*⁷⁴. The principles to be taken from these authorities are that:
- It is not the responsibility of a single developer to resolve existing transport issues across a wide area.
 - In *Laidlaw* the Court clarified that it is the responsibility of a developer to address the direct effects of its proposal and not significantly contribute to the existing problems.
128. Based on these decisions, we accept in the context of this Plan Change, the Applicant needs to address any immediate localised traffic effects that arise in respect of the development enabled by the Plan Change and must not contribute significantly to wider infrastructure problems. A key issue before us is that the ACS and AT position is that in the absence of the upgrades being undertaken as set out by Mr Prosser, there would be significant adverse effects on the wider transport/ infrastructure network if PC 51 was approved.
129. Mr Berry's submission was that the upgrades the Applicant had offered (Transport Infrastructure Requirements), and that additional capacity that they would provide, was consistent with giving wider consideration to the impact on the network, and was sufficient in the context of the development enabled by PC 51. This was addressed in Mr Hills' evidence which we have addressed earlier, but also address below.
130. Mr Hills confirmed that upgrades to the wider Drury transport network will eventually be required (over a 30-year timeframe) but highlighted that of the projects that Mr Prosser identified as needing upgrades in the next 10 years, there is a high degree of funding already committed (as set out in Mr Hills' Table in Appendix 1).
131. In terms of cumulative traffic effects outside the local area, PC 51 represents a small contributing portion of the expected development in the Drury area. From the DIFF Report, Drury East and West are anticipated to add an additional 17,000 houses and 198,000 sqm of business area. From the Drury – Opāheke Structure Plan a total of 22,000 houses will be created in the area. As such PC 51 represents a very small percentage⁷⁵ of the total houses anticipated, but a larger percentage of business land in the wider Drury area.
132. With respect to SH 22/Karaka Road, we have already set out Waka Kotahi's position. Given that position we are satisfied that any adverse effects in relation to SH22 can be mitigated, we have, as already set out, placed little weight on Mr Prosser's

⁷⁴ *Landco Mt Wellington v Auckland City Council* [2009] NZRMA 132; and *Laidlaw College Inc v Auckland Council* [2011] NZEnvC 248

⁷⁵ In the order of 4 %

evidence, and his concerns about the transport implications of PC 51 as they relate to SH22.

133. Given our finding above, we do not support the extensive “*Development Triggers*”⁷⁶ proposed by Ms Sinclair and Ms Smith in their joint evidence-in-chief. Had they been adopted it would have meant little or no development could occur for more than a decade or more. They are attached in Appendix 2 of this decision.
134. Overall, the Hearing Panel acknowledges the ACS and AT funding and finance position. However, we are satisfied on the evidence before us that PC 51 is able to mitigate its own local traffic effects; and that any contribution to effects on the wider network will be low (that is – not significant as set out in the Laidlaw College case referenced earlier), and reasonable given the level of upgrades that have been proposed. Also, a number of the wider transport upgrades needed over time (the short and longer term) have already been funded as set out in Mr Hills’ table.
135. In summary, we do not accept ACS’ and AT’s proposition that all of the infrastructure for the wider area should have committed funding/be provided prior to zoning of the land. This, in our view, is clearly inefficient and does not satisfy the section 32 evaluation ‘test’ in the RMA. Moreover, without live zoning there is unlikely to be confidence that investment in infrastructure is worthwhile. That is - without a live zoning, there is no rationale to spend money on infrastructure, especially if that infrastructure won’t be used for some time.
136. Overall, on the basis of the analysis and evidence referred to above, there is no sound basis for declining PC 51 as sought by ACS and AT. On the contrary we find clear resource management/planning reasons for approving PC 51 (e.g. it will give effect to the relevant provisions of the NPS-UD and RPS), subject to appropriate precinct provisions (as set out in Appendix 3 to this decision).

Mana Whenua

137. The Applicant’s Plan Change Request addressed⁷⁷ Mana Whenua values noting that there had been extensive consultation in respect of Plan Variation 15 and PC 6 which related to the Drury 1 Precinct with Ngāti Tamaoho, Ngāti Te Ata and Te Ākitai Waiohū. At that time their Cultural Impact Assessments (CIAs) noted that there was no significant historical occupation of the area.
138. The Section 42A records⁷⁸ that rather than undertaking further separate consultation on this plan change or commissioning any CIA, the requestor has sought to rely on information from the consultation already undertaken by Council and themselves and reviewing Iwi Management Plans.

⁷⁶ Attached as Appendix 2 of this decision

⁷⁷ Plan Change Request at [6.4.8 - 6.4.14]

⁷⁸ Section 42A Report at [95]

139. The Section 42A also noted - Ngāti Tamaoho, Ngāti Te Ata and Te Ākitai Waiohū had undertaken a site visit to the plan change area with KDL representatives in March 2019 and attended subsequent hui with KDL to discuss the plan change content. However, no written feedback or CIAs were provided for this plan change application. The three iwi had previously provided CIAs for the neighbouring Drury 1 precinct (plan variation 15 and plan change 6).
140. Both Ngāti Te Ata Waiohū⁷⁹ and Ngāti Tamaoho⁸⁰ submitted on PC 51, opposing the plan change on the basis that there has been no meaningful engagement with Mana Whenua, and they had not had the opportunity to provide input into the design and detail of the proposal to ensure that their values are reflected.
141. Mr Noland in his evidence-in-chief noted that the Applicant had had regular and on-going consultation with iwi groups⁸¹.
142. Ngaati Te Ata withdrew its opposition to PC 51⁸². In the letter addressed to the chair of the Hearing Panel, it stated, among other things⁸³:

Ngāti Te Ata withdraws its opposition to Plan Change 51.

Ngāti Te Ata is a submitter on PC 51 and raised concerns with Charles Ma (of Karaka and Drury Ltd) as to the extent of iwi consultation on PC 51. These matters are currently being resolved through ongoing discussions with Charles.

We support Charles' vision of providing significant employment for the residents of Drury West locally, and having this new community underpinned by an intensive Town Centre. We support Charles in his leadership on these matters, along with the environmental and stormwater approaches we have agreed through Auranga A and B.

143. The Applicant also agreed to include the Te Aranga Design Principles in the form addressed below. Mr Tollemache, in his hearing "Speaking Notes" set out:⁸⁴:

I do not have a concern with references to Te Aranga Design Principles.

My concern was with the suggested policy:

(a) It repeats the policies regarding mana whenua cultural values contained in E1 and E3 of the AUP, and I do not consider repeating policies relating to specific region-wide matters is necessary or appropriate;

(b) The S42A report did not outline how Te Aranga Design Principles would be applied to a public road or public reserve. Auckland Transport have no guidelines on what is acceptable in terms of how this would change roading design, and the opportunity for conflict between a 'designed' road

⁷⁹ Section 42A Report pp 388 – 391, Submitter No 33

⁸⁰ Section 42A Report pp 505 -507, Submitter No 44

⁸¹ Mr Noland EiC at [8.3]

⁸² Letter dated 31 August 2021 from Mr Flavell Manager Environmental and Heritage (Te Taiao)

⁸³ Paragraphs 1, 2 and 7

⁸⁴ Mr Tollemache's Speaking Notes- paragraph 10.1

and an engineered road is likely to result. Likewise, Council will determine for itself what assets it will take on and maintain associated with reserves; and

- (c) The Te Aranga Design Principles focus on process and the website includes an example of hanging gardens in Commercial Bay relating to buildings. Incorporating Te Aranga Design Principles in buildings, and placing this obligation on a developer, is new uncharted and untested domain. The question is, as policy, how would this relate to the cascade of provisions in the remainder of the Precinct.*

I'm not satisfied that sufficient rigour has been applied to the implications of the proposed policy, nor a clear explanation been provided of what it means. The AUP, as a whole, does not contain these requirements.

Notwithstanding that, I do see clear and obvious design opportunities associated with the publicly accessible spaces associated with the water feature (lake). This is the focal point of the centre, and with ecology enhancements and public access opportunities a significant 'story' linking with the Ngakoroa can be developed. Discretion IX.8.1.(5) can be expanded as follows:

- (a) Location and design (including incorporating Te Aranga Design Principles) of open spaces and a town square and active transport to these, and around the water feature ...*

144. We are satisfied based on the information and evidence before us that PC 51 would give effect to the RPS and Part 2 in relation to Mana Whenua interests and values.

Business - Town Centre Zone

Location

145. We agree with the Applicant's case (submissions and evidence) that the appropriate business zoning for the site is BTCZ, and not BLCZ as suggested by a number of submitters (eg MHUD and KO) and the Section 42A author, or no business zoning at all. We prefer the Applicant's evidence in this regard, for the reasons we set out below.
146. In summary, and as set out in the Applicant's Reply Submissions⁸⁵ there were two camps in relation to the location of the Drury West town centre:
- KDL, AC and AT (as submitters) supported the town centre location per PC 51, based on its consistency with two structure planning processes, reflected in the DOSP⁸⁶.
 - KO and MHUD and the Section 42A author opposed the BTC on the basis that that zone could only be justified if it was spatially proximate to the more

⁸⁵ Mr Berry's Reply Submissions at sections 6, 7 and 8

⁸⁶ We have addressed the DOSP and the commercial centre earlier in this decision

western rail station location than that shown (indicatively) in the DOSP. They sought that the PC 51 site be zoned Business: Local Centre (“**BLC**”)

“so that some imagined BTC can co-locate with a future Drury West Rail station west of the PC 51 location, on the strength of what they say is the ‘decision’ by Kiwirail to locate there”.⁸⁷

147. As we have already set-out we have placed considerable weight on the DOSP, and have set out the basis on which the DOSP determined the location of the (large) commercial centre in Drury West. We accept that much of the Applicant’s evidence in support of the proposed nature/location of the Drury West town centre derives from, and reflects; Appendix 1 of the RPS which requires that any plan change be supported by the structure planning process. The DOSP itself and MADE’s own structure planning process it undertook (which was fully detailed in section 7 of the Applicant’s Reply Statement) meets the RPS’s requirements.

148. We agree with Mr Cullen’s and Mr Munro’s evidence in terms of the rationale for the Drury West town centre size and design⁸⁸. We also accept Mr Cullen’s evidence setting out the basis for locating the Drury West town centre per that sought by the Applicant⁸⁹. Of particular relevance are his points relevant to the relationship between the Drury West town centre and rail station, being

- The rail station location should follow land use, not dictate it - appropriate land use patterns should be established first, with rail stations then being located to support that land use. It is inappropriate (and poor urban/centres design practice) for rail station locations to be set first, which then constrain (and dictate) land use.
- The DOSP does not require the town centre and rail station to be co-located – determining a rail station location requires a site that “responds to” and “supports” economic growth and centres. The approved DOSP has the rail station on a site that delivers on these objectives.
- A rail station does not ‘make’ a TOD – setting out;

“While ideally, the Rail Station should be established in accordance with the DOSP, my view is that the Drury West Town Centre will still develop as a successful TOD, wherever the Rail Station is located. This is because as I have outlined above, there are many reasons for and benefits to locating the Drury West Town Centre as proposed in PC 51, aside from its connection with the Rail Station.”⁹⁰

⁸⁷ Mr Berry’s Reply Submissions at [6/1(b)]

⁸⁸ Mr Cullen’s EIC at Section 4

⁸⁹ Ibid at [5.10 - 5.33]

⁹⁰ Ibid at [5.32]

149. With respect to TODs, we acknowledge Dr Beattie's evidence. However, while we understand why the Applicant called this evidence, we do not find that the issue of TOD (and Dr Beattie's evidence) is determinative to our findings in relation to the appropriateness or otherwise of the location of the Business zone.
150. We also accept Mr Munro's evidence in relation to the town centre location arising from an urban design perspective. His key conclusions in terms of the location for the town centre were⁹¹:

For all of the above reasons, my conclusions are that:

- (a) A town centre should be provided in Drury West and the PC 51 site is the most appropriate location for that, even accounting for Kiwirail's indicative decision to position the Drury West train station away from that and existing or potential employment land. I have reached that conclusion over several years of evaluation and after several different detailed spatial options have been tested.*
- (b) It would be my preference for Kiwirail to locate the Drury West station in the location identified on the DOSP, and be delivered on a short timeframe, but this cannot be controlled by the Council or the Panel, and does not in any event change the overall reasons why a town centre should locate as proposed in PC 51...*
- (c) In my opinion, although TOD is not the subject of the AUP: OP policy framework, it is compatible with it. The overlapping confluence of a logical employment node, an underlying movement pattern, a logical town centre location, and a logical train station location signalled in the DOSP did lend themselves, together, as a TOD. Kiwirail's indicative decision to not be part of a TOD and instead support a residential commuter/park-and-ride model is unfortunate as a lost opportunity. But crucially in that scenario, the PC 51 town centre would still enjoy better passenger transport access than most of Auckland's existing town centre zones do. I cannot agree that a town centre zone with demonstrably better accessibility to the passenger transport system than most of its equivalents can be said to be unacceptable because it is not as good as the s.42A authors feel it could or should be.*
- (d) I am in this respect also satisfied, having undertaken the analysis, that there is no better alternative town centre location closer to the Kiwirail indicative train station than PC 51 noting that it remains possible for additional centre land or other specific activities sought by the Council to be close to that station location to be enabled on the land at 41 Jesmond Road. In my opinion, the s.42A authors' belief that there is such a superior solution waiting to be found lacks foundation.*

⁹¹ Mr Munro's EiC at [10.1]

(e) *Based on my analysis, and also because the s.42A staff have not been able to identify a credible option either, I am confident that if the Panel were persuaded to agree with the s.42A authors and not enable a town centre in the PC 51 land then it is most likely that Drury West would simply not ever get a town centre.*

151. In presenting the KO/MHUD case, Mr Matheson indicated that if the eventual location of the Drury West rail station was relevant to the location of the Drury West town centre, then the KO/MHUD evidence in relation to the likely location of the railway station needed to be considered. He urged us to consider the “*best available information*” with respect to KiwiRail’s latest thinking about its preferred rail station location.
152. Mr Berry addressed “best available information” in some detail in his Reply Submissions⁹². While we found this helpful, it is our view that the term used in the context of this hearing (by Mr Zollner and Ms Buckingham) referred to what they considered was the latest information from KiwiRail about its preferred rail station location.
153. It was the evidence of Mr Zollner that the “best information available” was the “Drury West Rail Stations – Implementation Business Case” (Business Case) dated September 2021 submitted by Mr Matheson following the end of the hearing. He also referenced a KiwiRail consultation document on the location of the Drury West train station. Ms Buckingham appeared to use the term “best information available” in the same way as Mr Zollner.
154. MHUD and KO presented detailed evidence on why the BTC zone was inappropriate, and that any BTC zone should be located further west adjacent to the ‘preferred rail station’, as opined by its witnesses: Mr Mentz, Mr Zollner and Mr Liggett⁹³. Ms Skidmore and Ms Buckingham (Council’s section 42A team) held the same view with their opinions also based on KiwiRail’s ‘preferred’ Drury West train station’.
155. Mr Zollner’s evidence stated⁹⁴:

Any possible Business – town centre for Drury West should be located adjacent to or in very close proximity to the proposed Drury West Railway Station. The exact form of the centre will be the subject of the future planning process ... the immediate needs of the PC 51 zoned land can be satisfied by a smaller, business – local centre, located in a general area indicated by the DOSP.”

156. Mr Liggett’s evidence was similar. He stated⁹⁵:

Kāinga Ora agrees that a centre is required in Drury West however; a more appropriate location for a future town or substantial local centre in Drury West

⁹² Mr Berry’s Reply Submissions at [6.7 – 6.31]

⁹³ Mr Rae, and urban designer for the submitters recommended that the BTC zoning be either reduced in size or zoned BLC. He did not suggest the relocation of the zone.

⁹⁴ Mr Zollner’s EiC at [1.5]

⁹⁵ Mr Liggett’s EiC at [4.10]

should be near to or in close proximity ... to the proposed Drury West Train Station.”

157. With respect to MHUD/KO’s “best information available”, the Business Case (at Section 3.2.1.2) identifies the three shortlisted location options that were addressed for Drury West, with all three stations shown as “preferred locations”, acknowledging the preference for the more western location. However, in our view stating a preference does not represent a decision on the location of the Drury West train station.
158. Moreover, Kiwirail were not a submitter or party to the Hearing, accordingly we could not ask Kiwirail what they were proposing in relation to the proposed Drury West train station location. Mr Cairncross advised us that he had been in discussions with Kiwirail, and the best advice he could give was that Kiwirail was likely to apply for a NoR in the first quarter of 2022. This is contrasted with the NoRs for Paerata and Drury East train stations which were granted consents, and confirmed the NoRs for both rail stations under the COVID-19 Recovery (Fast-track Consenting) Act 2020 by the Expert Consenting Panel on the 3 February 2022.
159. It is our clear view that the KiwiRail Business Case does not assist us much. While it may be the ‘current thinking’ it would be speculative at best to rely on this information to base any town centre zoning. The implications of doing so are significant and would not satisfy section 32 or 32AA of the RMA.
160. On this basis we do not have any information/confirmation before us that reflects a settled decision by KiwiRail to locate its Drury West rail station where KO/MHUD and Ms Buckingham have assumed will be so. Simply we have no credible evidence that this decision has been made. On this basis, and as we have pointed out previously, we have placed reliance on the DOSP for all of the reasons we have previously set out, and on the Applicant’s evidence.
161. With respect to the DOSP and a more western town centre location, we note that a more western centre location (based on a more western rail station location proposed by Mr Mentz and promoted by KO/MHUD) had been rejected (twice) in the process of formulating and adopting the DOSP. This adds greater weight to our findings that the BTC zone as proposed by the Applicant is more appropriate than an alternative location (that was not before us to consider) or a BLC.
162. While some parties considered that the DOSP needs to be revisited and revised in light of the ‘train station debate’⁹⁶, as far as we are aware there is no commitment or process in place to consider reviewing the DOSP.

Whether some Town Centre zone should be ‘set aside’ for land to the west

163. The DOSP shows the Drury West town centre extending west of the PC 51 land, on to 41 Jesmond Road. We queried what changes might be made to PC 51 in the

⁹⁶ Ms Skidmore and Mr Rae for example

event that we considered that a portion of the potential town centre should be 'set aside' for establishing a town centre on 41 Jesmond Road, as submitted by Mr Matheson for MHUD and KO. This was on the basis that both Mr Cullen and Mr Heath opined that 7 to 8 hectares (net area) was the likely ultimate size of a Town Centre in Drury West, and PC 51 would take all of the land needed' for a Town Centre.

164. While we have placed considerable weight on the DOSP, parts of the map are identified as being "indicative" and subject to detailed design, following further investigation. The Drury West town centre is one of those elements. Specifically, the DOSP states as follows:

"The centres are now depicted as more generalised locations on the maps. This recognises that more detailed work will need to be undertaken at the plan change investigation stage to determine the exact location, extent and zoning of centres. This reflects flexibility to adjust provision for centres in accordance with increased knowledge from plan change preparation investigation and the outcomes of further infrastructure and staging investigations referred to in Section 4.2.13 of the structure plan."

165. We accept that the DOSP recognises that there is difference between showing centres 'indicatively' (in terms of a definitive size and location) on a plan and establishing that centre in reality. And it is clear to us that the exact extent and location of the Drury West town centre would, need to be determined via plan change processes such as PC 51, as set out in the evidence of Mr Cullen, Mr Munro and Mr Tollemache.
166. At our request, Mr Munro prepared a brief further reply statement which set out his view as to the need to 'save' any BTCZ land for use on 41 Jesmond Road. It was his opinion that⁹⁷:

For all of the above reasons and only in urban design terms, changing PC 51 so as to reduce the town centre zone in the hope of seeing a future western town centre extension on 41 Jesmond Road occur is:

- (a) Uncertain and uncontrollable, and not supported by any relevant centre design testing or analysis;*
- (b) Not required to implement the Drury-Opāheke Structure Plan which itself acknowledged that the centre shapes and extents shown were subject to detailed technical plan change validation such as PC 51 has undertaken;*
- (c) Not justified on the basis of any urban design defect or to manage any adverse urban design effects associated with PC 51;*
- (d) Not justified on the basis of achieving any urban design advantage or benefit not otherwise available through PC 51;*

⁹⁷ Mr Munro's Reply Statement (26 November 2021) at [3.1]

(e) At least as likely to undermine or adversely affect the extent of real-world town centre development within Drury West as it is to generally maintain what PC 51 already proposes but in a different spatial configuration; and

(f) Is both less effective and less efficient than PC 51.”

167. Notwithstanding the above, Mr Munro identified that it would be possible to reduce PC 51’s town centre zone in its south-eastern corner by no more than 1 hectare net, and replace that with Business - Mixed Use Zone (27m height limit). This would, he opined:

“..contribute to provision of a useful and generous opportunity for possible town centre zone at 41 Jesmond Road while adversely affecting, but not fatally compromising, the PC 51 town centre.”⁹⁸

168. Having considered this issue, we have not amended the zoning of the BTCZ or zoned part of the BTCZ as Business - Mixed Use. The reasons for this are:

- The evidence demonstrates the appropriateness of the town centre location and scale, as proposed by KDL.
- No-one appearing before us provided any evidence to support the need to leave any BTCZ land ‘in reserve’ to be used on 41 Jesmond Road – noting there is no submission from the owner of 41 Jesmond Road seeking that outcome.
- The submission from KO originally sought that 41 Jesmond Road be included in PC 51 and rezoned BTC, specifically on the basis that this aligns with the identified location of the future centre under the DOSP.

Overall Findings with respect to the Business Zoning

169. Overall, it is our finding that:

- The nature and location of the Drury West town centre per PC 51 is supported by two robust and comprehensive structure planning processes and is consistent with the DOSP;
- There should be a town centre in Drury West and the most appropriate outcome, in section 32 terms, for Drury West is for that town centre to be located and of the size and scale sought by the Applicant;
- The size of the town centre as proposed by PC 51 is appropriate for the catchment area, and it will not detract or adversely affect existing urban centres;
- We do not accept the evidence that a BLCZ would be more appropriate for PC 51;
- The town centre as proposed by PC 51 is presently the only option “on the table”. No other realistic scenario has been put forward by the Council (as

⁹⁸ Mr Munro’s Reply Statement (26 November 2021) at [3.2]

regulator or submitter) or any other submitter that could replace it. On this basis, if PC 51 was not approved as proposed, there is a risk that the community at Drury West will be left without a town centre;

- The Drury West town centre as proposed by PC 51 does not rely on or depend on a rail station and there is nothing in the AUP OP or existing town centres suggesting that there is any resource management need for them to do so;
- The town centre proposed by PC 51 is consistent with the TOD concept and will provide the opportunity to establish a TOD at Drury West, being a vibrant, well connected and walkable urban space with high density employment and high density living, regardless of whether the rail station ultimately ends up in the location further west than is indicated the DOSP;
- As no NoR for the Drury West rail station has been notified, we have placed very little weight on a rail station location further west than is indicated in the DOSP; and
- Even if the rail station ends up being moved from the indicative location in the DOSP to something more in line with what Kiwirail is now proposing, the PC 51 town centre is still the best location for Drury West and will still operate successfully.

GFA⁹⁹ cap on commercial floor space in the Town Centre Zone as a consent trigger

170. Waka Kotahi sought a GFA cap on Commerce Activities within the BTC zone of 29,000m²; beyond which Commerce Activities would be a Restricted Discretionary Activity – requiring an assessment of the effects on the function and operation of SH22. This was based on the 29,000m² being the total area of the commercial activities for the Site assumed within the ITA.
171. The Standard Sought was.

IX.6.7 Gross Floor Area Cap on Commerce Activities in the Town Centre Zone

Purpose: To ensure that the vehicle trip generation from development within the precinct remain within anticipated levels.

(1) The total gross floor area of commerce activities (as set out in Commerce Nesting Table J1.3.1) in the Town Centre Zone must not exceed 29,000m².

Amend Activity Table IX.4.1 to specify that non-compliance of the above standard is a Restricted Discretionary Activity.

Introduction of matters of discretion and assessment criteria being limited to:

- (a) The extent of effects on the function and safe and efficient operation of SH22.*

172. Mr Gribben outlined in his legal submissions that Waka Kotahi generally supported the approval of PC 51 provided that the effects of the development, especially as

⁹⁹ Gross Floor Area

they related to State Highway 22, were adequately addressed through the amendments it sought to the PC51 provisions¹⁰⁰. In this respect the key remaining of concern for Waka Kotahi was the “*direct effect of future unconstrained (and unassessed) development within the PC51 land on the operation of State Highway 22*”.¹⁰¹

173. He went on to say that¹⁰²:

This clearly falls within the Laidlaw College scenario and not LandCo:

(f) *The relevant section of SH22 is in the immediate traffic environment of the Plan Change and will be directly affected by traffic from the PC51 land and other transport interventions directly linked to PC51 (such as the new intersection with the proposed Main Street); and*

(g) *Waka Kotahi is not asking KDL to fix an existing problem on State Highway 22 but undertake an assessment for safety and capacity purposes when it reaches a certain level of development.*

174. It was Mr Prince's evidence that traffic from a town centre had only been assessed up to a certain level of development. He set out that the ITA and subsequent assessment work carried out demonstrated that the proposed intersection of Mainstreet and State Highway 22 would operate at an acceptable Level of Service based on the land use provided. He acknowledged that a sensitivity test was carried out which scaled the development to 120% to simulate a higher trip generation, but that this assessment only focused on the intersection and not on the wider network (both internal to PC51 and external) and potential distribution of that additional traffic.

175. Mr Prince had several concerns about this and stated¹⁰³:

I have several concerns in that no assessment has been carried out on these matters, including on the capacity of State Highway 22 should the development grow to the level shown in the sensitivity test. Development at this higher level could have significant consequences for the efficient operation of the state highway even when SH22 is upgraded to four lanes, and in particular on the throughput on the State Highway. This could impact on the one of the main functions of State highway 22, which is to provide a strategic connection between SH1 and areas to the west and south.

176. Ms Singh in response to Mr Prince's concerns stated in her evidence:¹⁰⁴

“...Therefore, a concern remains that there is a risk that if development beyond the projected land use development assumptions occurs, and that the “excess”

¹⁰⁰ Mr Gribben's legal submissions at [1.7]

¹⁰¹ Mr Gribben's legal submissions at [4.6]

¹⁰² Ibid [4.6]

¹⁰³ Mr Prince's Summary Statement AT [2.2 d]

¹⁰⁴ Ms Singh's EiC at [6.12 – 6.13]

level of development has not been assessed, has the potential to result in adverse effects on SH22, given the strategic importance of this route.

In order to address the above concern, I recommend that the Drury 2 Precinct provisions be amended to provide greater level of certainty that development beyond the projected land use development scenarios (for activities falling within the “Commerce” Nesting Table) will be required to assess the effects on the function and operation of SH22.”

177. Ms Singh provided the precinct provisions that she sought to be included as part of her evidence.
178. KDL did not agree that the standard was necessary. KDL’s position was set out in Mr Berry’s Reply Submissions¹⁰⁵. He noted that Mr Hills had run a +20% sensitivity margin, to ensure that even if development was 20% over what had been modelled the network could sufficiently accommodate that extra capacity. He also said that Mr Tollemache proposed an amendment to the Special Information Requirement to specifically reference sensitivity testing as part of the modelling and design process for the intersection of Mainstreet and SH22.
179. It was Mr Hills’ opinion that:¹⁰⁶

“State Highway 22 current scenario

I generally agree with the matters outlined by Mr Prince in paragraphs 7.1 to 7.3 and 9.4 of his EIC relating to the current SH22 scenario. In particular, I agree that the current section of SH22 between Great South Road and Jesmond Road is a single lane highway and given the volume of traffic which utilises it, any introduction of a signal intersection in its “current form” will potentially result in excessive delay and queuing of vehicles. As a result, any new signalised intersection of SH22 will need to develop two approach lanes in either direction on SH22. Indeed, the concept plans I have developed and included with the additional ITA assessment (Appendix C) have this in place.

Further (and as noted by Mr Prince in paragraph 9.7 of his EIC), I note that the Precinct Provisions include a Special Information Requirement which requires the following to be prepared by a suitably qualified transport engineer, in order to support any resource consent application for development within the Drury 2 Precinct:

- (a) A Transport Assessment Report (including appropriate forecast transport modelling); and*
- (b) An independent Road Safety Audit confirming that the location and (critically) the design of the intersection supports the safe and efficient function of the transport network.*

180. He further set out in his Concluding Comments:¹⁰⁷

¹⁰⁵ Mr Berry’s Reply Submissions at [9.12 – 9.22]

¹⁰⁶ Mr Hills’ Rebuttal Evidence at [4.9 – 4.11]

“I generally agree with Mr Prince and understand the Precinct Provisions now resolve the traffic engineering issues raised by Waka Kotahi. The only outstanding issue relates to the requested cap on commercial development levels, which Mr Tollemache addresses”.

181. It was Mr Tollemache’s view that: ¹⁰⁸

“I do not agree with Ms Singh’s proposed rule titled “Gross Floor Area Cap on Commerce Activities in the Town Centre Zone”. The reasons for this are:

- (a) Town centres are community focal points for retail, services and employment. Caps on these activities reduces the ability to achieve this local opportunity, and therefore greater self-sufficiency and sustainability of that local community.*
- (b) No other town centre zone contains such caps¹⁰⁹.*
- (c) The proposed cap could have the adverse effect of limiting the extent of local retail and services. Residents would therefore have to travel further to locations outside Drury West for those services, with the consequent increase in the length of trip or where the trip could have been made locally using active transport, requiring that trip now to be made in a vehicle. For example, a trip to Pukekohe or Papakura to access service and facilities outside of the cap would increase the distance travelled up to 20-fold, and also likely require that trip to occur predominantly on the state highway/motorway network.*
- (d) The cap does not reflect that the 29,000m² GFA was modelled by Mr Hills for 2048. This is almost three decades away, and in this time there would have been two AUP reviews and five monitoring reports under section 35 of the RMA. These measures are more than adequate to track the performance of any town centre and the consideration of whether further measures are needed decades into the future.*
- (e) Special information requirement IX.9(2) requires the preparation of a transport assessment report and safety audit based on ‘appropriate forecast modelling’ for the design of any intersection with SH22. This is assessed through Rules IX.4(A5), IX.8.1(4)¹¹⁰ and IX.8.2(4)¹¹¹. This forecast modelling could anticipate and design the intersection to accommodate development exceeding 29,000m² GFA, however this would not be supported by the cap.”*

¹⁰⁷ Mr Hills’ Rebuttal Evidence at [6.3]

¹⁰⁸ Mr Tollemache’s Reply Evidence at Section 5

¹⁰⁹ Ms Singh identified two – Sub-precincts A and B in the Kumeu Precinct and St Lukes Precinct. KDL acknowledged this, but, as set out in Mr Berry’s Reply Submissions at [9.16], it was KDL’s view that caps in those two locations were:

“in suburbs of Auckland are contextually distinct from the opportunity presented by PC 51, being precinct-specific gross floor area caps”¹⁰⁹.

¹¹⁰ IX.8.1(4) is now IX.8.1(5)

¹¹¹ IX.8.2(4) is now IX.8.2(5)

182. Furthermore, Mr Tollemache set out in his “speaking notes”¹¹² how the SH22 Intersection Information Requirement would work. As part of that he stated”

The SH22 / main-street intersection (Rule IX.4.(A5) [Subdivision or development with a road intersection with SH22] and IX6.2.(1)) requires restricted discretionary consent. The design of that intersection is subject to information requirement IX.9(2). This requires a TIA with forecast modelling, the ‘latest Precinct land use assumptions’, and a safety audit.

183. We accept a restricted discretionary consent is required for a subdivision or development with a road intersection with SH22. However, it was not clear to us if and how, this rule would apply each time additional GFA was proposed in the town centre (i.e. if no road intersection with SH22 was necessary or proposed) – and therefore if a consent would be required and the Special Information Requirements triggered.

184. We note it was Mr Church’s view (in his section 42A response statement) under the section 8 heading – Commercial Activity Threshold, that:

“An outstanding transport engineering matter of Waka Kotahi relates to adverse effects on the network beyond the 29,000m² GFA commercial activities. The s42a report proposes a local centre zoning, where development will trigger the need for a transport assessment according to AUP E27.6.1 Trip Generation. The applicant however proposed a Town Centre zone which will allow development to go beyond that assessed without the need for further assessment. I agree with Mr Hills, in that, as Transport Planners, we take the advice of economic experts in setting the predicted trip generation of land use developments from which we predict and therefore propose mitigation to manage effects on the environment. Assessing a worst-case scenario or the extent of development which the land use zoning permits doesn’t assist in my view with constructively assessing network effects and framing appropriate and reasonable provisions. Mr Hills has run a +20% sensitivity to help alleviate concerns should further development come online. In terms of requiring a check in point prior to exceeding 29,000m² GFA, the key question I have here are

- The extent to which performance issues on SH22 remain relevant in the future. I understand that the quantum of development isn’t expected to come online until 2048, by which time the Pukekohe Expressway may be in place, such that the quantum of through traffic reduces, but importantly, the form and function of SH22 would be very different*
- The extent to which any additional assessment or ITA would be able to reasonably alter or upgrade the SH22 corridor. The DIFF report and upgrades proposed for intersections focus on safety, connectivity to public transport and active modes. The intersection*

¹¹² Mr Tollemache’s Speaking Notes at Section 7

delivered from the outset will most likely reflect the long-term solution for the corridor. We no longer throw more lanes at roads and intersections than we need to, especially in areas which have or will have significant investment in RTN, FTN and active mode connections, noting also our emphasis on carbon reduction. Based on the above, we could either request sensitivity tests, in consultation with Waka Kotahi (in IX.9(2)) when designing SH22 intersections or include a provision in line with Ms Singh which enables a check in point." (emphasis added)

185. Given our concern about the how the rules function, and whether the Special Information Requirements would apply, we understand Mr Church would support the inclusion of a *"provision in line with Ms Singh which enables a check in point."*
186. The Town Centre zone is reasonably permissive, and means that there are limited restrictions on higher levels of development occurring. Activities within town centre zones are not subject to the standard traffic generating rules and triggers in the AUP OP. Given this, and the evidence of Waka Kotahi experts, we find that the most appropriate way to manage these potential effects and risks is through a cap on commercial development given the important strategic functioning now and in the future of State Highway 22.

Height Variation Control

187. The issue of height variation control remained a point of disagreement between KDL, AC (as regulator) and KO/MHUD as submitters.
188. Height variation controls were addressed on behalf of the applicant by Mr Pryor¹¹³ and more comprehensively by Mr Munro. Mr Pryor's position was that there would be negligible difference between 27m and 21m in the BTC zone, and that on the basis there would be no landscape character or visual amenity effects that would favour 21m over 27m, a 27m height variation control is appropriate for the BTC zone.
189. Mr Munro stated in his evidence that the height variation control exists separately to the centre zone framework, and that employment of a height variation control to maximise development density was a desirable outcome within the BTC zone.
190. In the section 42A report, Ms Buckingham relied on the assessment of Ms Skidmore, who considered that the 27m height variation control was inappropriate for the BTC zone and should be amended to 21m.
191. The evidence of Mr Campbell on behalf of MHUD/KO also reflected the recommendations from the section 42A report:
 - Mr Campbell considers that THAB zone is appropriate for a 19.5m height variation control, with which Mr Tollemache agreed.

¹¹³ Mr Pryor's EiC at [7.2 – 7.4]

- Mr Campbell considered that the proximity of the THAB zone to transport warrants additional height provision, with which Mr Tollemache agreed.
 - Conversely, Mr Campbell considered that the proposed BTC zone was inappropriately located relative to transport, and on that basis supported a local centre zone with a 16m occupiable height limit, with which Mr Tollemache did not agree¹¹⁴.
192. Mr Rae (for KO) supported a 19.5m height standard for the proposed THAB zone and a 27m height standard for the BTC zone (although he considered the business zoning should be BLC zone).
193. We agree with the KDL's position set out in the Reply Submissions that;
- "..to support a 19.5m occupiable height limit for the THAB zone on the basis of its optimal proximity to transport, and to support an alternative 'proposal' of a LTC zone with only a 16m occupiable height limit on the basis of inappropriate proximity to transport, is illogical"*¹¹⁵.
194. It is our findings that:
- There is no disagreement as to the appropriateness of the 19.5m height variation control for the THAB zone; and
 - We are satisfied, based on the Applicant's evidence that 27m is an appropriate height variation control for the BTC zone.

SH22 building interface

195. The issue of the relationship of buildings in the THAB zone adjacent to SH 22 was raised, mainly by Ms Skidmore, from an urban design perspective. The issue was that there was a potential for poor urban design outcomes if buildings did not 'positively' relate to SH22 – given it was a busy road and was on the southern side of PC 51. This could result in THAB development 'turning its back' on SH22, dominated by blank walls.
196. We considered this was a matter that needed to be considered.
197. Mr Tollemache addressed this matter in his Reply Evidence stating¹¹⁶:

"SH22 is a road for the purposes of the AUP. The Business Town Centre Zone and THAB Zone already contain policies (for example H10.3(2) and H6.3.(3)), discretions (Rules H10.8.1(2) and H6.8.1(2)) and assessment criteria (Rule H10.8.2(2) H6.8.2(2)) relating to the manner in which buildings and developments are designed as viewed from roads and other public spaces. All buildings in the Business Town Centre Zone and THAB Zone require restricted

¹¹⁴ Noting we have addressed the appropriate business zoning earlier in this decision

¹¹⁵ Mr Berry's Reply Submissions at [9.38]

¹¹⁶ Mr Tollemache's Reply Evidence at [12.12 – 12.13]

discretionary activity resource consent. I do not consider a gap exists in the AUP that would not allow Council to exercise the relevant discretions in respect to resource consent applications for buildings adjoining SH22. (emphasis added)

If the Panel sought additional discretions beyond those in the two zones, then I would suggest the following:

Matter of discretion

Building and landscape design adjoining SH22

Assessment Criteria

Whether the design of buildings and landscape adjoining SH22 avoids blank walls, supports passive surveillance of the road, and provides an attractive streetscape.”

198. We thank Mr Tollemache for addressing this matter. While we accept the AUP OP has some existing provisions (as outlined above by Mr Tollemache) we do not think they adequately address the interface issues we are discussing. On this basis we have largely adopted Mr Tollemache’s suggested provisions. However, given the significance of this issue (in our view) we have, in addition to the Matter of Discretion and Assessment Criteria, included a policy to help guide the assessment of any proposed development.

Open Space

Civic Square

199. With respect to the proposed civic square, disagreement remained between KDL and the Council (as regulator) as to whether the exact location of the civic square should be notated as indicative on the precinct plan. In summary, KDL maintained its position that the civic square should not be indicatively notated; and AC’s position is that it should be, while ACS sought it be identified at the time of the first consent application. We agree with KDL for the reasons set out below.
200. We acknowledge that it is not contested that there will be a civic square. The issue is what mechanism should be employed and when it should come into play. Mr Turbott, in his evidence-in-chief recommended that an additional development control be inserted requiring that the first subdivision or bundled consent application for the relevant part of the BTC zone to identify the location of a civic space/town square. He maintained this position at the hearing; that this was an appropriate planning mechanism, in addition to the proposed matter of discretion.
201. Ms Skidmore stated that her concern was that if it is not identified at a suitable location and the land is developed sequentially over time, the opportunity to locate it appropriately could be lost.

202. It was Mr Tollemache's opinion that a new standard requiring the first resource consent to identify a future town square is unnecessary on the basis that:
- (a) No detailed design work has been completed to ascertain the optimal town centre location; and that
 - (b) Attempting to identify a location now would be completely ineffective¹¹⁷.
203. Moreover, Mr Tollemache confirmed at the hearing that the first subdivision consent application for the town centre zone will be the mainstreet – so to introduce the civic space location at this stage would be impractical.
204. It is our view that:
- An indicative location for the civic square does not need to be shown on the Precinct Plan, as it cannot be identified until detailed design work has been completed; and
 - An appropriate matter of discretion is provided in the precinct provisions requiring the appropriate location and design of the civic square to be considered in each resource consent as it arises.

Notation of the neighbourhood park

205. We accepted it would be inappropriate to show an indicative location for a neighbourhood park on the Precinct Plan. Notwithstanding that position, we requested that KDL advise where the park may best be located, should we accept that it should be shown on the Precinct Plan.
206. As set out in the Applicant Reply Statement¹¹⁸
- “Messrs Munro and Tollemache have advised that it is simply not possible (or practical) to determine even an indicative location for the neighbourhood park at this stage. There would also be little practical purpose in doing so, as it would only be noted as being “indicative” and therefore subject to change. Further (and rather frustratingly), there is of course a difference of opinion between AC (as submitter) and AC (as regulator) as to whether a neighbourhood park is indeed required within the PC 51 land or the area will be sufficiently serviced by existing and proposed parks just outside the boundary of the PC 51 area.”*
207. As Mr Barwell noted, any reserves acquisition must be done in compliance with AC's Parks and Open Space Acquisition Policy 2013 and the requirements of the Local Government Act 2002.

¹¹⁷ Mr Tollemache's Rebuttal Evidence at [6.1 – 6.3]

¹¹⁸ Mr Berry's Reply Statement at [9.69]

208. We accept that the need for, and appropriate location of, the neighbourhood park can be adequately addressed via this process, without the need for it to be shown on the Precinct Plan.

Acoustic Attenuation

209. A key issue outstanding between the Applicant (and Kāinga Ora) and ACS/AT and Waka Kotahi is the matter of noise attenuation to mitigate the effects of noise from SH22. There, remained disagreement as to whether there needs to be precinct provisions to mitigate road noise in the THAB zone. The Applicant's position was that the Auckland-wide rules were sufficient to address this and the matter should otherwise be addressed via a region-wide plan change. Notwithstanding this position, KDL did offer a set of noise provisions in their Reply Statement and Reply Evidence (Mr Tollemache) should the Hearing Panel consider these necessary.
210. We have included acoustic attenuation controls on habitable spaces within the THAB zone adjacent to SH22 to address adverse health and amenity effects. We were not persuaded that the noise and vibration created would lead to reverse sensitivity effects. We have not included acoustic attenuation in relation to outdoor areas or for vibration. Our reasons for this are addressed below.
211. In summary Waka Kotahi sought the inclusions of noise and vibration controls and ACS/AT sought the inclusions of noise controls. The Applicant¹¹⁹ and KO/MHUD opposed any controls; saying if noise and vibration was an issue it should be dealt with regionally, and if found necessary to impose controls having undertaken a comprehensive section 32 evaluation, promote a change to the AUP to ensure a consistent approach across the region.
212. We strongly agree, and would have preferred a region-wide evaluation and potential change to the AUP OP for the reasons expressed by the Applicant and KO/MHUD. Given the scale of intensification likely to occur in Auckland over the next few decades (as envisaged by the NPS UD and AUP OP), with a reasonable proportion likely to occur adjacent to arterial roads and state highways, a comprehensive evaluation and region-wide consistent plan provisions would in our view be appropriate and better 'aligned' with section 32 of the RMA. This would assist in ensuring the intensified residential areas are functional and liveable as sought by the NPS UD and the RPS.
213. However, we were informed that no region-wide evaluation or plan change on this matter was contemplated. We think this needs to be re-considered, given the Council is developing a plan change to give effect to the NPS UD¹²⁰. However, in the absence of a region-wide plan change, the extent to which intensive residential development is sought by PC 51 (and by PC 48 – 50 and 61 that this Hearing Panel

¹¹⁹ The Applicant maintained this view, but 'offered' noise control provisions should we decide, they will be imposed; we have adopted those controls

¹²⁰ We were advised this plan change was likely to be notified later in 2022

has also sat on), and based on the evidence before us we have found that it is more appropriate than not (in section 32 terms) to include the controls we have.

214. We have extensive legal submissions and evidence from both Waka Kotahi and ACS and AT addressing this matter. Both parties outlined the range of measures they were taking to reduce noise and vibration at source as part of their upgrades to SH22 and other arterial roads, but acknowledged there was only so much that can practicably be done within a corridor itself to address noise and vibration issues in delivering good design outcomes in a new urban environment. They accepted it was a shared responsibility of road controlling authorities and landowners to manage effects from road traffic noise and vibration. On this basis the submitters sought controls in PC 51.
215. We received expert acoustics and vibration evidence from Dr Chiles (Waka Kotahi) and Ms Drewery (ACS/AT) which demonstrated that there were potential adverse health and amenity effects from road noise (and vibration). Section 6 of Ms Drewery's evidence established, by reference to relevant literature (NZS 6806, World Health Organisation guidelines, and enHealth research), the link between road noise and potential amenity and health effects. Dr Chiles' evidence for Waka Kotahi similarly confirmed the link between health and amenity issues and the location of noise sensitive activities next to roads. Their evidence was uncontested from any other expert acoustics and vibration specialists from submitters or in relation to the section 42A report.
216. In response to Dr Chiles' and Ms Drewery's evidence, the planning witnesses for Waka Kotahi (Ms Singh) and ACS and AT (Ms Sinclair and Ms Smith) recommended that noise and vibration controls should be imposed to ensure the health and amenity of people living in the residential properties near SH22 – noting the AUP OP does not include internal noise criteria for residential zones. They also recommended that these rules were also to address reverse sensitivity issues. As said previously we are not persuaded reverse sensitivity effects arise.
217. Based on modelling Ms Drewery assessed that future road traffic noise of up to 65 dB LAeq (24 hour) could be expected at the boundary of PC 51 adjacent to SH22. Applying Waka Kotahi guidance for managing noise sensitive land use near the state highway network, Ms Drewery identified a maximum indoor design noise level of 40 dB LAeq(24hour) to be appropriate for road traffic noise.
218. To address potential health, amenity and reverse sensitivity effects, Ms Drewery and Ms Sinclair / Ms Smith recommended the inclusion of a suite of precinct provisions based on the "noise contour plans" prepared by Ms Drewery¹²¹.
219. Waka Kotahi, like ACS/AT sought to amend PC 51 to include provisions to manage the noise and vibration effects from road traffic. In summary Dr Chiles' and Ms Singh's evidence was that PC 51 should:

¹²¹ Ms Drewery's EiC at [6.12] and Ms Sinclair/Smith's EiC at [11.6]

- Set internal road-traffic noise limits for new and altered buildings containing activities sensitive to noise within an identified overlay area;
- Require mechanical ventilation sufficient to provide reasonable thermal comfort, if windows need to be closed to achieve internal noise limits;
- Set an outdoor road-traffic noise limit unless there is screening from the road;
- Set a road-traffic vibration limit to be achieved in new and altered buildings containing activities sensitive to noise within 40 metres of a state highway; and
- Require submission of a design report prior to construction, demonstrating compliance with the above performance standards.

220. ACS/AT and Waka Kotahi (in particular) provided comprehensive evidence of the costs and benefits of the proposed land use rules to manage these potential effects. There was no opposing evidence of these costs and benefits, and benefits (in terms of health and amenity effects of the provisions were undisputed. The costs of the provisions have been identified as between 0-2% of build costs (in relation to noise, with Dr Chiles suggesting to address vibration the cost could be 10% plus), which Waka Kotahi considered was minimal. Ms Drewey's cost estimates for noise attenuation were the same as that given by Dr Chiles.

221. In terms of deciding if we should include noise controls, section 32AA requires us to undertake further a section 32 evaluation for any changes that have been made to, or are proposed for, the proposal since the original section 32 evaluation was completed. On this basis we agree with Mr Allan's legal submissions where he stated:¹²²

"At the PPC 48 and 49 hearings, Kainga Ora expressed the view that there had been insufficient justification for provisions such as those proposed in section 32 terms. As to that criticism, we offer two observations:

(a) While AT's previous evidence did not explicitly address section 32AA by name, the written (and oral) evidence provided has been directed at the essence of section 32 (such as the potential benefits and costs of the proposed provisions, and the appropriateness of the provisions compared with the alternative of having no such provisions, as well as the pros and cons of alternatives such as fences and noise barriers). When approaching its task under section 32AA, and considering the matters in section 32(1) to (4), the Panel may draw on the submissions and evidence of the parties.

(b) It is also important to recall, as the Environment Court recently held, that sections 32 and 32AA do not override the requirement to give effect to higher order documents: Self Family Trust v Auckland Council. In that regard, Ms Sinclair's and Ms Smith's planning evidence has referenced a number of higher order planning provisions (RPS Objective B3.3.1 (1), Objectives B3.2.1 (2)(d),

¹²² Mr Allan's Legal Submissions at [5.24]

Having noted those matters, the Panel also has the benefit of a section 32AA analysis from Waka Kotahi (refer to Ms Singh's evidence). (And in their evidence for PPC 61, Ms Sinclair and Ms Smith provided a section 32AA assessment of the proposed provisions as further support and justification for the proposed provisions.)"

222. Furthermore, with respect to section 32AA, we also agree with Mr Gribben's legal submissions¹²³, noting the following in particular¹²⁴:

"Waka Kotahi evidence addresses the matters required by section 32 / 32AA and comprehensive section 32 assessment. It assesses costs and benefits and identifies different alternatives to the proposed provisions. In our submission this satisfies the legal requirements for a section 32AA report. The report is attached to the evidence of Ms Singh."

223. We record that Ms Singh had provided a comprehensive section 32AA evaluation.
224. We further note that the section 42 author, Ms Buckingham, agreed with Waka Kotahi and ACS /AT about the need for additional rules in PC 51 to address this effect. She provided a set of controls for our consideration when she presented at the end of the hearing.
225. The Applicant and Kāinga Ora ¹²⁵ opposed the introduction of noise provisions. Legal submissions and planning evidence was presented on this matter by both parties. We address Kāinga Ora's position first, as while the Applicant opposed the introduction, and relied to a degree on Kāinga Ora's submissions, it did 'offer' noise controls in its Reply Statement should the Hearing Panel decide to impose noise controls; which we have.
226. Mr Matheson, legal counsel for Kāinga Ora, at PC 51, and relying on his legal submissions provided at PC 61 (and 48 and 50) set out that¹²⁶:
- "... if the Transport Agencies maintain their position that RMA-regulation of development adjacent to transport corridors is required, then, as discussed further shortly, they should promote a regionwide plan change process. To the extent that the Transport Agencies remain unwilling to promote such a plan change, then their s 32AA assessment identifies five alternative (non-RMA) methods that could be examined and utilised: urban design strategy, bylaws, NZ Standards, Building Code and Waka Kotahi Guidance."*
227. We agree with Mr Matheson, and subsequently with Mr Campbell (planner for Kāinga Ora), that it would be far preferable for a region-wide plan change. We have set out

¹²³ Mr Gribben's Legal Submissions at [5.1 – 5.51]

¹²⁴ Ibid at [5.20]

¹²⁵ As they had in terms of Plan Change 48, 49 and 50

¹²⁶ Mr Matheson's Legal Submissions at [2.9]

our views on this earlier in this decision. So – while we do not disagree with this part of Kāinga Ora’s case, we do ultimately disagree with Mr Campbell that¹²⁷:

There has been insufficient justification under section 32 of the Resource Management Act 1991 (“the Act” or “RMA”) to warrant the inclusion of additional controls for road noise along arterial roads and should not be included in PC 51. My evidence for Plan Changes 48, 49 and 50 has addressed this issue in more detail.

228. With respect to the Applicant’s Opening Legal Submissions we record, among other things¹²⁸:

“We note that KO has also filed evidence and made submissions on this issue, in the context of Plan Changes 48, 49 and 61. MADE supports and adopts the position taken by KO in that regard.

Having regard to Mr Tollemache’s evidence, it is submitted that the provisions sought by Waka Kotahi are neither necessary nor appropriate to manage any reverse sensitivity effects arising from SH22. Put simply, this matter has already been adequately considered and determined in the context of the AUP. If the planning rules in terms of such effects now need updating, that should be done on a “whole of Auckland”, not “precinct by precinct” basis.”

229. While the Applicant maintained its position as set out in its Opening Submissions, the following was set out in its Reply Submissions¹²⁹:

“In respect of acoustic attenuation measures and in reliance on Mr Tollemache’s evidence, it is submitted as follows:

- (a) Similar noise attenuation controls are not required (or used) elsewhere in Auckland;*
- (b) Rule E25.6.3 of the AUP gives effect to the RPS and therefore is an applicable and sufficient measure to manage road noise in residential zones; and*
- (c) Therefore, additional noise attenuation measures, being either a setback of 75m or a contour line to reflect the topography of the land, is unnecessary and not warranted for the purposes of PC 51.*

However, if there were to be a noise attenuation provision imposed, then KDL submits that the appropriate mechanism would be a standard that applies to the first 75m of the THAB Zone from the SH22 boundary rather than a 75m setback. It is unnecessary and inefficient to duplicate existing acoustic attenuation standards applying to habitable rooms in all business zones with a second standard applying to this site. A standard, if pursued by the Panel, simply is about applying appropriate building materials and ventilation to achieve an indoor acoustic level. It is not about reverse sensitivity (there is no suggestion that the state highway would be closed due to neighbours’ complaints) or discretions to relocate buildings elsewhere in the site as sought by the witnesses for AT.

¹²⁷ Mr Campbell’s EiC at [1(e)]

¹²⁸ Mr Berry’s Opening Legal Submissions at [9.16 – 9.17]

¹²⁹ Mr Berry’s Reply Statement at [9.8 – 9.10]

The drafting suggestion by Mr Tollemache is succinct, to the point and is clear as to its purpose.

230. Mr Tollemache provided the following in his Reply Evidence¹³⁰:

“Waka Kotahi and Auckland Transport Acoustic Controls

While I maintain the position that this matter should be addressed on a region-wide basis in order to give effect to the RPS in a consistent manner, if the Panel was of the view to include controls in PC 51 then I prefer the approach of Auckland Transport as being more effective and efficient than Waka Kotahi for the following reasons:

- (a) In the Town Centre Zone, residential units already need to implement Rule E25.6.10.1 that limits noise within the habitable spaces. In addition, Rule E25.6.10.3 requires a minimum specification for ventilation standards.*
- (b) Having two acoustic attenuation standards applying to the Town Centre Zone, as suggested by Waka Kotahi, would be inefficient and ineffective and would result in duplication in dealing with a matter which can be addressed by an existing rule which already applies to all town centres and business zones irrespective of whether they adjoin a state highway, arterial road, or local road.*
- (c) The Auckland Transport Standard recognises this and proposes controls for the Terrace Housing and Apartment Building Zone (“THAB”), which, based on the replies of the Auckland Council acoustic expert, would be based on a specified distance from SH22. This should not be described as a setback but rather an area where the acoustic standard applies.*
- (d) Based on the evidence, vibration effects are unlikely to result.*

The drafting of the provisions proposed by both parties is not in a form that I consider represents best practice plan drafting. In my opinion, the submitters’ proposed provisions are overly complex and do not address the fact that building design can provide the acoustic attenuation. These are not setbacks or discretions which affect the location of buildings but simply areas where a habitable room acoustic attenuation standard could apply. Therefore, the policies and discretions that seek a broader scope are inappropriate where the issue is about the specification of building materials, ventilation, and the like.

I do not accept that reverse sensitivity is a relevant matter. No evidence has been provided that residents would or could curtail the operation of SH22.

In terms of an option of a noise contour or specified dimension that the rules applies within, and on reflection on the questions to the submitters’ witnesses, I consider the matter can be dealt with effectively by a standard dimension as calculated by Ms Drewery. The reason for this is to keep the provisions simple and straight forward. The land area is very small and would be subject to future earthworks and contour change. The exercise of translating a mapped contour,

¹³⁰ Mr Tollemache’s Rebuttal Evidence at [6.1 – 6.5]

which could change plus or minus 10m, into every design provides probably more accuracy than is necessary to reasonably respond to a building design control.

If the Panel was of the view that specific acoustic attenuation measures were required in PC 51 then I suggest draft text as follows [we have included precinct provisions similar to those proposed by Mr Tollemache].”

231. We agree with Mr Tollemache’s evidence, and have, as well as additional controls, imposed the controls he has provided to us. The provisions proposed by Mr Tollemache were not supported by a corresponding policy. Given the significance of this issue, we think greater ‘guidance’ is required to assist in any resource consent application should the Standard not be achieved, and hence the inclusion of the policy.
232. We have also included controls on mechanical ventilation (where this is required to meet the Standard) and a ‘certification’ requirement to ensure that the noise Standards will be met. While we liked the provisions drafted by Ms Singh, we have imposed the standards already set out in the AUP OP (E25 6.10(3) (b)) as recommended by Ms Buckingham. These provisions will ensure that there is at least some consistency across the region.

Stormwater

233. In approving PC 51 we have provided what we consider to be a set of precinct provisions to ensure the appropriate management of stormwater.
234. We acknowledge that the issue of stormwater management (quality and quantity) was essentially agreed between the Applicant and Healthy Waters (Council). As part of that agreement, it was agreed to delete the proposed SMAF1 overlay and that this be replaced with bespoke provisions for hydrology mitigation. We have accepted this. We were also advised that a provisional stormwater management plan had been approved by Healthy Waters under the region wide Network Discharge Consent.
235. However, we were not entirely satisfied with the policy proposed by the Applicant in their Reply. The policy ‘locked in’ “*any approved network discharge consent and supporting stormwater management plan adopted by Council*”. We accept the Council (Healthy Waters) holds a network discharge consent, and that stormwater may be discharged under that consent by other parties with the agreement of Healthy Waters - subject to an agreed stormwater management plan adopted by Healthy Waters. In this way Healthy Waters can ensure any proposed discharge and stormwater management plan is consistent with the network discharge consent it holds.

236. The issue that we have with the proposed policy in PC 51¹³¹ is, as mentioned above, that it 'locks in' the network discharge consent and a stormwater management plan adopted by Healthy Waters. We do not think the policy should be 'tied' to a resource consent and/or an "adopted" stormwater management plan. The policy as drafted, in our view, does not provide a reasonable 'consenting pathway' should a developer not seek to discharge via the network discharge consent, and/or cannot get an agreed (adopted) stormwater management plan from Healthy Waters. In this situation, a developer should be able to seek a discharge consent and have that assessed on its merits. In light of this we have imposed, what we consider to be, a more appropriate stormwater policy.

Wastewater and Water Supply

237. The PC 51 land is not currently serviced by a wastewater network; however, we were advised by the Applicant¹³² that it is actively master-planning the entire Auranga development and has future-proofed the existing wastewater supply network to ensure the PC 51 land can be connected. And that planning had also been undertaken in conjunction with Watercare. Key wastewater infrastructure has been provided for, with some parts already under construction and others already completed.
238. The Auranga A development included an 800m diameter transmission pump and new pump station at Bremner Road, which has been designed to cater for land within the Drury 1 Precinct (Auranga A and B1) and also the PC 51 land. Two additional pump stations are to be connected to the Bremner Road pump station; one has already been constructed (as part of the Drury 1 Precinct area) and a second is to be located adjacent to SH22. The main transmission is scheduled for construction and funded via the Infrastructure Growth Charges.
239. The Applicant advised that the necessary bulk infrastructure had been planned for, and plans are in place for its implementation and funding. On this basis, PC 51 can be adequately serviced in terms of wastewater.
240. With respect to water supply, the Applicant advised that Watercare had confirmed that PC 51 can be serviced from the southern end of a 400OD ring, currently being constructed and anticipated to be vested by late 2021. Accordingly, the water supply infrastructure required to service PC 51 is already underway, and PC 51 can be sufficiently serviced.
241. We note that the section 42A report agreed that servicing was not identified as a constraint on the timing or form of rezoning for the PC 51 area¹³³.
242. Mr Stuart (and Ms Gotelli) presented evidence on behalf of Watercare.

¹³¹ Noting similar issues were raised in PCs 48 – 50 and PC 61 that this Hearing Panel heard

¹³² Mr Noland's EiC at [7.7] and Kitchen's EiC at Sections 6 & 7

¹³³ Section 42A Report at [167]

243. Mr Stuart confirmed that the Plan Change area was not currently serviced by Watercare's water supply or wastewater network. He set out that Watercare had constructed a new Bulk Water Supply Point (BSP) adjacent to Watercare's existing Drury Water Pump Station at Flanagan Road and that the BSP has sufficient flows and pressure to service the Plan Change area. He went on to say that to enable the development of the Drury 1 Precinct, the Applicant had installed a 450mm diameter local network water main from the BSP, and this will provide the main water supply feed to the Plan Change Area.
244. Mr Stuart confirmed that to service the wider Drury West area, new wastewater infrastructure would be required. In particular, this would require the extension off the Drury West Branch Sewer from Bremner Road and Ahunga Road, and the progressive upgrading of the transmission network servicing the Drury Area.
245. All other water and wastewater infrastructure required to serve the development *"would be 'local infrastructure' (i.e. within the Plan Change Area) and would be constructed and funded by the Applicant in order to facilitate connections to Watercare's network".¹³⁴*
246. Overall, we accept that while the area is not currently serviced, plans are in place to enable it to be, and that Watercare and the Applicant accept this. The Applicant clearly accepts that without servicing the land could not be developed in the way envisaged by PC 51.

Road on the Wang property

247. KDL's position was that the road shown on the Wang property (along the western boundary of the PC 51 land) needs to be fixed (rather than being indicative only).
248. Mr Tollemache stated¹³⁵:

"As outlined in my EIC, the road is purposely located on the western boundary of the PC 51 Precinct so as to ensure the maximisation of connectivity between future development in the FUZ to the west of the Precinct and the PC 51 Precinct, including the town centre. The Local Road forms a spine to provide an internal route, particularly for pedestrians and cyclists travelling north to south within the overall block contained by Jesmond and Burberry Roads. I consider that this is an important route and its location on the edge of the Precinct's boundary provides long term opportunities to create significant connectivity and linkages.

Making the road 'indicative' or allowing its location to be altered by up to 50m as proposed by Ms Esquilant would reduce this opportunity for connectivity, and if undertaken in an uncoordinated manner could result in the connection between residential development and the town centre not being achieved. This does not implement Objectives IX.2(2) and (3) and Policies IX.3(2) and (5)(b) of the proposed Drury 2 Precinct."

¹³⁴ Paragraph 3.5 of Stewart's EIC at [3.5]

¹³⁵ Mr Tollemache's Rebuttal Evidence at [9.2 – 9.3]

249. However, Mr Church (for AC as regulator) observed that while shown as a local road, this north-south connection is actually intended to operate more as a collector road, given it will have access restrictions and separated cycle and pedestrian facilities on both sides. On that basis, Mr Church's view was as follows¹³⁶:

"In my view the road is better defined as a collector road, where the function is focussed on active mode connectivity to the Town Centre Local Road (shown in purple on the Precinct Plan). As per Appendix 1 of the provisions, the road includes access restrictions and separated cycle and pedestrian facilities on both sides. I therefore suggest the status of the road is more than 'local' and in my view provides a collector and active mode spine to the area.

On the basis that the local road function is better defined as a collector road with separated active transport provision (noting that I would recommend a change in description of this road), I am of the view that it is reasonable to secure its location. The Drury 1 Precinct for example provides limited flexibility in the placement of the Future Collector Road (New), noting its importance in providing a public transport and active mode spine to the Drury 1 Precinct."

250. Messrs Tollemache and Hills, having reflected on Mr Church's position, agree with him. As outlined in Mr Tollemache's further reply evidence dated 26 November 2021, KDL proposed that this be shown as a "Collector Road with separated active transport provision". We agree with this. While this does not give Mr Wang the outcome he sought, it will assist in clarifying the intended role of the road which traverses his property, and therefore why the location of this road needs to be fixed.

Ecological management

251. Three issues arose in relation to ecological management which related to:
- The use of the term "incorporate" in proposed Policy 6(b) as notified. It related to enhancement planting of riparian margins of and the lake feature – and is now incorporated in Policy 7.
 - The required width for riparian planting; and
 - The need for the two special information requirements relating to ecological matters as recommended by Ms Buckingham.
252. These were all addressed in detail in the evidence of the Applicant, and fully addressed in the Applicant's Reply Statement¹³⁷.
253. It is our findings that:
- Adopting the riparian planting provisions as proposed in the PC 51 provisions attached to Mr Tollemache's reply evidence appropriately addresses potential ecological and biodiversity effects from development within the PC 51 land

¹³⁶ Mr Church's EiC Note 7, page 3

¹³⁷ Mr Berry's Reply Submissions at [9.53 – 9.64]

(having regard to the nature and threat classification of species present in the area), while also allowing for public access and amenity considerations.

- Having regard to the evidence of Dr Ussher and Mr Tollemache, we have concluded that there is no need to include the additional special information requirements proposed by Ms Buckingham. We also do not support the need for a cross-reference to Appendix 16 of the AUP and reference to threatened indigenous fauna. We find this matter is already addressed in the AUP OP, and precinct provisions should only be introduced where the AUP OP has not addressed the issue.

Geotechnical information requirement

254. Ms Buckingham recommended that a special information requirement be included in the PC 51 provisions, requiring that any subdivision or development application relating to land within 100m of the Ngākōroa Stream be accompanied by a detailed geotechnical assessment. This is on the basis that both Messrs Lander and Beaumont agree that such an assessment is required and there is otherwise no other guidance (or basis on which) a processing planner would know that this is the case.
255. As outlined in his Reply Evidence¹³⁸ Mr Tollemache did not support this requirement. This was because, as reflected in our questioning of Ms Buckingham, providing a geotechnical assessment is a basic requirement of any subdivision/earthworks application. Ms Buckingham is in effect suggesting that there is currently a significant gap in the AUP OP provisions regarding geotechnical matters; we do not think this is the case. We agree with Mr Tollemache that consideration of geotechnical matters is adequately covered in chapters E12 and E38 of the AUP OP.

Positive Outcomes

256. We find there will be a number of positive effects from approving PC 51. These include, but are not limited to:
- A town centre serving the large emerging residential and business activity on the western side of SH1, and integrating with the existing Auranga development; and
 - Providing additional housing capacity.
257. We also noted that PC 51 will generate substantial economic activity and employment that could be of some importance as the country deals with the economic impacts of COVID 19.

¹³⁸ Mr Tollemache's Rebuttal Evidence (26 November 2020) at [11.1]

SUBMISSIONS AND FURTHER SUBMISSIONS

258. The following section specifically addresses the submissions received and sets out our decision on those submissions. For efficiency reasons we have adopted the submission tables set out in the Council Officer's section 42A report.
259. Submissions that address the same issues and seek the same relief have generally been grouped together under the following topic headings:
- Submissions supporting PC 51;
 - Submissions on traffic and transport matters;
 - Submissions on staging, timing and funding issues;
 - Submissions on infrastructure and servicing;
 - Submissions on zoning;
 - Submissions on urban design matters;
 - Submissions on freshwater and terrestrial ecology;
 - Submissions on stormwater matters;
 - Submissions on open space;
 - Submissions on landscape matters;
 - Submissions on cultural matters;
 - Submissions on heritage matters;
 - Submissions on noise and vibration matters; and
 - Submissions on other matters.

Decisions

260. We have set out our reasons above why we have approved PC 51 and the amendments we have made to it so it satisfies the purpose of the RMA. For all of those reasons specified we have not declined PC 51.

Decisions on Submissions

Submissions Supporting PC 51

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions¹³⁹
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¹³⁹ Note: In the tables below the further submissions have been abbreviated as follows:

- Support = S
- Support in Part = SIP
- Oppose = O

1.1	Jennifer Catherine Joyce	Approve the plan change.	
5.1	Rachel and Michael Gilmore	Approve the plan change.	
9.1	Adam Yates	Approve the plan change.	<i>FS12 – SIP</i>
12.1	Karaka & Drury Consultant Ltd	Approve the plan change.	<i>FS12 – SIP</i>
13.1	Barfilon Investment Ltd	Approve the plan change.	<i>FS12 – SIP</i>
14.1	DL & WJ Ltd	Approve the plan change.	<i>FS12 – SIP</i>
15.1	Noah Eastern Limited	Approve the plan change.	<i>FS12 – SIP</i>
16.1	Wendy Jao	Approve the plan change.	
17.1	L & W Rising Ltd	Approve the plan change.	<i>FS12 – SIP</i>
18.1	New Elite Investment Ltd	Approve the plan change.	<i>FS12 – SIP</i>
19.1	Wang wensheng	Approve the plan change.	
20.1	Huawei Development Ltd	Approve the plan change.	<i>FS12 – SIP</i>
21.1	Edison Yi	Approve the plan change.	
22.1	Xibiny Chen	Approve the plan change.	
23.1	Jal Glory investment Ltd	Approve the plan change.	<i>FS12 – SIP</i>
24.1	Jia Liu	Approve the plan change.	
25.1	Bremner Estates Development Limited	Approve the plan change.	<i>FS12 – SIP</i>
26.1	Auranga Resident's Association	Approve the plan change.	<i>FS12 – SIP</i>
27.1	Jonxiang Chen	Approve the plan change.	
28.1	Charles Ma	Approve the plan change as notified if the proposed Town Centre is to be supported by a Drury West train station located as shown in the Drury-Opāheke Structure Plan Area.	<i>FS06 – OIP FS12 – SIP</i>
31.1	Marmitmor Limited	Approve the plan change.	<i>FS12 – SIP</i>

Decision on submissions

261. We have set out our reasons above why we have approved PC 51 and the amendments we have made to it so it satisfies the purpose of the RMA. For all of those reasons specified above, we have approved the Plan change and **accept** these submissions.

Submissions on traffic and transport matters

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
2.1	Yu Wang	Reconsider the boundary of the PC 51 precinct so it follows the edge of the boundary rather than separate the property into two.	<i>FS02 – S FS06 – O FS07 – OIP FS14 – O</i>
34.6	Ministry of Housing and Urban Development	That amended detailed traffic and urban design assessments are completed, which include analysis of trip generation from the proposed centre, and assessments of how each proposed access/intersection fits with: <ul style="list-style-type: none"> • the current and future urban arterial form and function of State Highway 22 and; • the bulk and location that would support a well-functioning urban arterial. 	<i>FS07 – SIP FS10 – N FS12 – SIP FS13 – O</i>

- Oppose in Part = OIP
- Neutral = N

34.7	Ministry of Housing and Urban Development	Update all supporting technical documents to consider the current preferred option for the Drury West train station, including that west of Jesmond Road. Update provisions based on updated assessments if required.	FS01 – S FS04 – S FS07 – SIP FS12 – SIP FS13 – O
36.2	New Zealand Transport Agency	Update all supporting technical documents to consider the current preferred option for the Drury West train station, including those west of Jesmond Road. Update provisions based on updated assessments if required.	FS04 – S FS07 – S FS10 – N FS11 – S FS12 – SIP FS13 – O
36.3	New Zealand Transport Agency	Amend the whole Plan Change (including Precinct Plans) to replace references to 'pedestrians and cyclists' with 'active transport' (as defined within the National Policy Statement on Urban Development 2020).	FS07 – SIP FS10 – N FS11 – S FS12 – SIP FS13 – O
36.4	New Zealand Transport Agency	That an amended detailed traffic assessment is completed, which includes an analysis of trip generation from the proposed centre along with an assessment of how each proposed access/intersection fits with the current and future form and function of State Highway 22.	FS07 – S FS10 – N FS11 – S FS12 – SIP FS13 – O
38.2	Counties Power	Retain Policy IX.3(1)(b) to the Precinct provisions.	FS11 – OIP FS12 – SIP
39.7	Auckland Transport	Amend the plan change to include provisions relating to the minimum road reserve widths and key design elements and functional requirements of new roads and existing roads which need to be upgraded to urban standards including but not limited to: <ul style="list-style-type: none"> • Carriageway • Footpaths • Cycleways Public Transport (dedicated lanes, geometry etc) • Ancillary Zone (Parking, Public Transport stops, street trees) • Berm • Frontage • Building Setback • Design Speed. 	FS06 – S FS08 – S with amendments FS10 – N FS11 – S/O FS12 – O FS13 – O
39.8	Auckland Transport	Amend the plan change to incorporate policies and provisions addressing the need for the future road network to provide for future passenger transport routes including a standard that all collector roads and the town centre road providing access to the west, as well as associated intersections, be designed with a geometry that can accommodate passenger transport vehicles.	FS06 – S FS10 – N FS11 – S/O FS12 – SIP FS13 – O
39.9	Auckland Transport	Amend the plan change to incorporate policies, standards and assessment criteria which provide for efficient and effective active mode routes from the Precinct Plan area to future rail stations and FTN routes.	FS06 – S FS10 – N FS11 – S/O FS12 – SIP FS13 – O
39.10	Auckland Transport	Replace the references to cycle and 3m shared paths with a reference to "separated cycle paths on both sides". Apply the requirement to provide separated cycle facilities to the proposed town centre roads and Karaka Road or, as appropriate, to any additional reserve networks arising from submissions.	FS06 – S FS10 – N FS11 – S/O FS12 – O FS13 – O

39.11	Auckland Transport	<p>a) That feasible and optimal future network link alignments to the west be confirmed and integrated with wider network requirements.</p> <p>b) That these be identified within the Precinct Plan or by other means where they continue beyond it.</p> <p>c) That the Precinct Plan provides for a direct link from Jesmond Road to the town centre and north south collector road which is capable of accommodating buses.</p>	<p>FS10 – N</p> <p>FS11 – S/O</p> <p>FS12 – OIP</p> <p>FS13 – O</p>
39.12	Auckland Transport	<p>a) That an assessment of the trip generation impacts from the proposed town centre be undertaken to assess its impact on the operation of Karaka Road and any implications for the design of the proposed collector road intersection with Karaka Road opposite McPherson Road.</p> <p>b) That the Precinct Plan and zoning be amended as required to address any issues arising from this exercise.</p> <p>c) That an assessment of the feasibility of the proposed collector road intersection with Karaka Road opposite McPherson Road be undertaken and that an alternative location be identified within the Precinct Plan in the event that there are unresolved issues associated with it or a better location is identified through the submission process.</p>	<p>FS06 – S</p> <p>FS10 – N</p> <p>FS11 – S/O</p> <p>FS12 – OIP</p> <p>FS13 – O</p>
39.13	Auckland Transport	Amend the Precinct Plan to remove reference to future traffic signals at the intersection of the proposed town centre road and Karaka Road.	<p>FS06 – S</p> <p>FS10 – N</p> <p>FS11 – S/O</p> <p>FS12 – O</p> <p>FS13 – O</p>
39.14	Auckland Transport	Amend the Precinct Plan to remove reference to the provision of future intersection improvements by “others”.	<p>FS10 – N</p> <p>FS11 – S/O</p> <p>FS12 – O</p> <p>FS13 – O</p>
39.15	Auckland Transport	Amend the Precinct Plan and zoning as required to address the issue raised.	<p>FS10 – N</p> <p>FS11- S/O</p> <p>FS12 – OIP</p> <p>FS13 – O</p>
39.17	Auckland Transport	Amend the Precinct Plan to include criteria around the need for new access to State Highway 22 Karaka Road or development alongside it to avoid adverse effects on its operation.	<p>FS06 – S</p> <p>FS10 – N</p> <p>FS11 – S/O</p> <p>FS13 – O</p>
39.18	Auckland Transport	That the western boundary of the Precinct Plan and the north south local road location be assessed as to its appropriateness and the zone boundary and Precinct Plan be amended as required to address any issues.	<p>FS06 – OIP</p> <p>FS10 – N</p> <p>FS11 – S/O</p> <p>FS12 – OIP</p> <p>FS13 – O</p>
40.1	Ministry of Education	<p>Amend Policy IX.3 (2) to the Precinct provision as follows:</p> <p>Incorporate the following elements of the Precinct Plan in the design of any subdivision and development:</p> <p>(a) The pattern, hierarchy and function of roads, including the town centre’s main street and links to the State Highway network, and future rail station <u>and schools</u>;</p> <p>(b) Public open spaces and p Pedestrian and cycle linkages <u>to public open spaces and schools</u>;</p>	<p>FS01 – S</p> <p>FS12 – SIP</p> <p>FS13 – SIP</p>

		...	
40.4	Ministry of Education	Retain Standard IX.6.4 Site Access.	FS07 – S FS13 – SIP
40.5	Ministry of Education	Retain objectives and policies relating to the provision of safe and legible walking and cycling connections through communities.	FS07 – S FS12 – SIP FS13 – SIP
43.3	Kāinga Ora Homes and Communities	Amend Objective 3 to the Precinct provisions as follows: <i>“Integrate transport and land use patterns to achieve a sustainable, liveable community, which provides pedestrian multi-modal linkages through and between the Precinct, adjoining Precincts and to future planned public transport facilities.”</i>	FS06 – S FS11 – S FS13 – N

Decision on submissions

262. We have addressed the traffic and transport matters in the decision above. In approving PC 51 we have provided a set of precinct provisions to ensure the traffic and transport infrastructure is provided prior to or at the same time as development. Accordingly, any adverse effects arising from any traffic and transport matters will be appropriately mitigated.
263. On this basis we **accept** or **accept in part** those submissions which supported or sought changes which we accept, and **reject** those submissions which sought that the Plan Change be declined, or where we have not made the changes sought in the submissions on the basis of traffic and transport matters.

Submissions on staging, timing and funding issues

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
3.1	Fire and Emergency New Zealand	Add new Policy to the Precinct provisions as follows: • Policy xx: Ensure that development in Drury West is <u>coordinated with supporting stormwater, wastewater and water supply infrastructure.</u>	FS08 – S with amendments FS12 – SIP FS14 – S
11.1	Lomai Properties Limited	Accept the plan change, subject to receiving confirmation that potential traffic effects will be acceptable within the surrounding road network, and that the plan change manages its other infrastructure requirements and will not prevent or hinder the development potential envisaged within the remainder of the Drury-Opāheke Structure Plan Area (in particular Stage 1 of the Drury-Opāheke Structure Plan) from being given effect to.	FS06 – S FS07 – OIP FS10 – N FS12 – SIP
32.1	Watercare Services Limited	Amend Policy 5 (Infrastructure) to the Precinct provisions as follows: (5) Require subdivision and development to: (a) Be sequenced to occur concurrently with (and not precede) required infrastructure provision, including <u>water, wastewater and</u> transport upgrades; (b) Implement the transport network connections and elements as shown on the Precinct Plan, including by providing new roads and upgrades of existing roads and	FS06 – S FS08 – S with amendments FS11- S/O FS12 – SIP

		<p>intersections;</p> <p>(c) Be managed so that it does not adversely affect the safe and efficient operation or capacity of the <u>existing or planned</u> transport, <u>water or wastewater</u> networks; and</p> <p>(d) Promote and develop connections to the future planned public transport facilities.</p>	
34.8	Ministry of Housing and Urban Development	<p>Amend IX.2 Policy 5(a) to the Precinct provisions as follows:</p> <p>"Be sequenced to occur concurrently with (and not precede) required infrastructure provision, including transport upgrades within <u>Standard IX.6.2 necessary to support development within the precinct;</u>".</p>	<p>FS06 - SIP FS07 - OIP FS10 - N FS12 - SIP FS13 - O</p>
34.9	Ministry of Housing and Urban Development	<p>Amend IX.2 Policy 5(b) to the Precinct provisions as follows:</p> <p>"Implement the transport network connections and elements as shown on the Precinct Plan, including by providing new roads and upgrades of existing roads and intersections."</p>	<p>FS06 - SIP FS07 - O FS12 - SIP FS13 - N</p>
35.1	Auckland Council	<p>Decline the plan change in its entirety until there is a fully funded and appropriately staged solution for the integration of land use, infrastructure and development for the Precinct and Sub Region.</p>	<p>FS01 - S/O FS07 - S FS08 - N FS11 - S/O FS12 - OIP FS13 - O</p>
35.2	Auckland Council	<p>Ensure that the council's concerns about bulk infrastructure: funding deficit, timing and location uncertainty are resolved by the following or other means:</p> <p>a. Evidence is presented at the hearing that a mechanism has been identified with the agreement of the council that unfunded infrastructure (as of October 2020) will be funded.</p> <p>b. Evidence is presented at the hearing that parts of the plan change area are not constrained by infrastructure funding, timing or location uncertainty and can proceed without significant adverse effects.</p> <p>c. Infrastructure development threshold or staging rules can be devised that are enforceable and effective, and supported by robust objective and policy provisions. This could for example include:</p> <ul style="list-style-type: none"> • Threshold rules are not used for infrastructure works to be supplied by third party, e.g. Auckland Transport or NZTA, if these agencies do not have funds allocated for the works. • Threshold rules are not used for infrastructure works which are scheduled beyond the lifetime of the plan (2026). • Threshold rules are not used for works to be funded privately but there is no funding agreement in place. • Threshold rules are not used for works which would require a funding contribution from multiple landowners or developers and there is no agreement to apportion costs and benefits in place. • Threshold rules do not use gross floor area as a metric (the council may not be able to track this with current data systems). • Use of prohibited activity status for infringement could be considered. <p>d. Notices of requirement have been lodged for the relevant infrastructure by the time of the hearing.</p>	<p>FS07 - S FS10 - N FS11 - S/O FS12 - OIP FS13 - O FS14 - S</p>
39.1	Auckland Transport	<p>Decline plan change unless submitter's concerns are addressed including about the funding, financing and</p>	<p>FS10 - N FS11 - S/O</p>

		delivery of required transport infrastructure and network improvements and services to support the 'out of sequence' development proposed.	<i>FS12 - OIP</i> <i>FS13 - O</i>
36.11	New Zealand Transport Agency	Retain IX.3 Policy 5 to the Precinct provisions.	<i>FS07 - S</i> <i>FS08 - S</i> <i>FS10 - N</i> <i>FS11 - S</i> <i>FS12 - SIP</i> <i>FS13 – SIP/OIP</i>
37.1	Elly S Pan	That the Plan be amended by: (i) A provision limiting development until required infrastructure upgrades and linkages are in place and not limited to upgrades of SH 1 and SH 2, water, wastewater, stormwater and other methods of transport. (ii) That Burberry Road not be stopped until an alternative route is in place. (iii) That the alternative access to Burberry Road be of a standard not less than that currently exists.	<i>FS10 - N</i> <i>FS12 - SIP</i>
37.2	Elly S Pan	That any objectives, policies or explanatory passages on which the rules identified above are reliant or based are deleted or amended to the extent necessary in order for Council to appropriately make the amendments sought above.	<i>FS10 - N</i> <i>FS12 - SIP</i>
38.1	Counties Power Limited	Retain Objective IX.2(4) to the Precinct provisions.	<i>FS11 - OIP</i> <i>FS12 - SIP</i>
38.3	Counties Power Limited	Retain Policy IX.3(5)(a).	<i>FS11 - OIP</i> <i>FS12 - SIP</i>
39.2	Auckland Transport	Decline plan change, or amend the plan change to incorporate provisions and / or identify appropriate mechanisms to provide for the upgrade of Karaka Road and Burberry Road to an urban standard and to ensure that development does not adversely affect the ability to undertake any necessary upgrades to enable Karaka Road to become a future Urban Arterial.	<i>FS06 - SIP</i> <i>FS10 - N</i> <i>FS11 – S/O</i> <i>FS12 - OIP</i> <i>FS13 - O</i>
39.4	Auckland Transport	Amend the plan change to incorporate provisions and / or mechanisms which address the following in relation to the upgrade of Karaka Road and Burberry Road: • Vesting and formation of frontage, drainage and carriageway upgrades • Timing of upgrade requirements • Funding and delivery of the above work.	<i>FS06 - S</i> <i>FS10 - N</i> <i>FS11 - S/O</i> <i>FS12 - OIP</i> <i>FS13 - O</i>
39.5	Auckland Transport	Amend the plan change to incorporate provisions enabling the interim effects of development proceeding ahead of the ultimate planned network to be assessed and addressed, including appropriate additional staging requirements relating to: • Early provision of proposed north south connector and traffic signals on Karaka Road coupled with the closing of Burberry Road (if confirmed) or work to prevent through traffic using it; • Early active mode access to the proposed new train station; • Any interim improvements to Karaka Road; • Introduction of passenger transport services to the Precinct Plan area • Updating the proposed staging provisions to reflect the fact	<i>FS09 - S</i> <i>FS10 - N</i> <i>FS11 - S/O</i> <i>FS12 - OIP</i> <i>FS13 - O</i>

		that interim works at the intersection of Jesmond Road and Karaka Road have been undertaken. • Any other transport improvements identified as being required to support proposed development.	
39.6	Auckland Transport	Amend the plan change to incorporate provisions allowing the staging of subdivision and any associated mitigation related works to be a matter for discretion accompanied by appropriate assessment criteria.	FS06 - SIP FS10 - N FS11 - S/O FS12 - OIP FS13 - O
40.3	Ministry of Education	Retain Standard IX.6.2 Staging of Development with Transport Upgrades.	FS12 - SIP FS13 - SIP
40.6	Ministry of Education	Confirm ongoing engagement with Auckland Council and Karaka and Drury Ltd with housing typologies, staging and timing for the project.	FS13 - SIP
42.1	Drury South Limited	Amend Table IX.6.2.1 to the Precinct provisions to include the following additional upgrades: (a) The intersection of the new collector road with SH22 opposite Great South Road must be upgraded by a fully signalised intersection. (b) Such further other orders, relief or other consequential or other amendments as considered appropriate and necessary to address the concerns set out above.	FS06 - OIP FS07 - SIP FS11 - S FS12 - OIP FS13 - O
43.5	Kāinga Ora Homes and Communities	Amend Policy 5(a) to the Precinct provisions as follows: “Be sequenced to occur concurrently with (and not precede) required infrastructure provision, <u>including transport upgrades within Standard IX.6.2 necessary to support development within the precinct;</u> ”	FS06 - SIP FS07 - OIP FS11 - S FS13 - O
43.6	Kāinga Ora Homes and Communities	Retain Policy 5(b) to the Precinct provisions subject to the following amendment: “Implement the transport network connections and elements as shown on the Precinct Plan, including by providing new roads and upgrades of existing roads and intersections; ”	FS06 - SIP FS07 - O FS11 - S FS13 - O
43.7	Kāinga Ora Homes and Communities	Retain IX.6.2 (1) Transport infrastructure Requirements provision to the Precinct provisions subject to clarification and/or amendment sought that the phrase “...OR must not precede the upgrades outlined in Table IX.6.2.1” be deleted.	FS06 - SIP FS07 - O FS11 - S FS13 - O

Decision on submissions

264. We have fully addressed the staging, timing and funding issues in the decision above. In approving PC 51 we have provided a set of precinct provisions to ensure staging and timing of infrastructure such that it is provided prior to or at the same time as development. Accordingly, any adverse effects arising from staging, timing of development and infrastructure will be appropriately mitigated.
265. We have also fully addressed the issue of funding (or a lack of funding for transport infrastructure as set by ACS and AT). Our findings are those set out above, but we do not find that funding issue are a reason to decline the Plan Change.
266. On this basis we **accept** or **accept in part** those submissions which supported or sought changes which we have accepted, and **reject** those submissions which sought that the Plan Change be declined, or where we have not made the changes sought in the submissions in relation to matters of staging, timing and funding.

Submissions on other infrastructure and servicing

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
4.1	God Save The Flag Ltd	Approve the plan change conditional on existing access rights to 228 Flanagan Road being maintained and access being provided to services and utilities to develop the property in future (note: property is outside PC area).	FS14 - O
7.1	First Gas Limited	Enable the Gas Transmission Network to be safely, effectively and efficiently operated, maintained, replaced, upgraded, removed and developed (i.e. recognised and provided for) through an enabling activity status.	FS12 - O FS13 - O
7.2	First Gas Limited	Recognise the Gas Transmission Network as having functional and operational requirements and constraints, including in respect of its location.	FS12 - O FS13 - O
7.3	First Gas Limited	That the adverse effects of third-party development or activities in close proximity to the Gas Transmission Network are managed to the extent that adverse effects on the network are avoided or appropriately mitigated;	FS12 - O FS13 - O
7.4	First Gas Limited	Identify Firstgas as an affected party in the event resource consent is required in respect of potential effects on assets owned and operated by Firstgas especially land use changes and subdivision, or alternatively the matters of discretion or assessment criteria include technical advice from Firstgas.	FS12 - O FS13 - O
7.5	First Gas Limited	Identify the Gas Transmission Network on the District Plan Maps to ensure visibility of the network for plan users.	FS07 - SIP FS08 - S FS12 - O FS13 - O
7.6	First Gas Limited	Add new Objective to the Precinct provisions as follows: <u>The Drury 2 Precinct recognises the importance of the existing pipeline infrastructure as assets which are regionally and nationally significant and will ensure that they are protected and enabled.</u>	FS12 - O FS13 - O
7.7	First Gas Limited	Add new Policy to the Precinct provisions as follows: <u>The Drury 2 Precinct is planned, designed and constructed so that adverse effects on existing infrastructure are avoided or mitigated'.</u>	FS06 - S FS12 - O FS13 - O
7.8	First Gas Limited	Add new Provision to IX.4-6 Activity Table, Notification and Standards requiring the following; • Any subdivision of land containing a Gas Transmission Pipeline shall require the written authorisation from the infrastructure asset owner; and • Any activity within 20 metres of existing Gas Transmission Pipeline shall require the written authorisation from the infrastructure asset owner.	FS07 - O FS08 - S FS12 - O FS13 - O
10.1	Spark NZ Trading Ltd	Consult Spark and the other telecommunication network providers throughout the plan change process and any resource consents to enable development including infrastructure to ensure that telecommunications are recognised as essential infrastructure and additional infrastructure under the NPSUD.	FS08 - S with amendments FS12 - SIP
10.2	Spark NZ Trading Ltd	Consult Spark and the other telecommunication network providers to ensure that there is adequate infrastructure to support the demand for telecommunication services generated by the development proposed.	FS08 - S with amendments FS12 - SIP
10.3	Spark NZ Trading Ltd	Consult Spark and the other telecommunication network providers to ensure staging of infrastructure is appropriate and underground ducting, above ground mobile	FS08 - S with amendments FS12 - SIP

		sites/facilities are provided for and designed into the development.	
10.4	Spark NZ Trading Ltd	Consult with Spark and the other telecommunication network providers to ensure funding is available through the infrastructure funding agreements.	<i>FS08 - S with amendments</i>
10.5	Spark NZ Trading Ltd	Include telecommunications infrastructure within the triggers for the staged release of development.	<i>FS12 - OIP</i>
30.1	Soco Homes Limited	Proper consideration should be given to the wider context of the Drury Structure Plan area, including transport grid links and servicing infrastructure connections.	<i>FS06 - SIP FS07 - S FS10 - N FS12 - SIP</i>
35.21	Auckland Council	<p>Include an indicative protection corridor or road or linear park over the First Gas transmission line in the precinct plan. Also provide a risk assessment that addresses whether any additional physical pipeline protection or upgrade work is necessary for an intensive urban environment risk level.</p> <p>The following assessment is sought as well as any consequential amendments to the Precinct plan:</p> <ol style="list-style-type: none"> 1. Why the approach adopted within the adjoining urban area in respect of the gas transmission line has not been applied within the plan change area and/or what alternative approach is proposed; 2. The impacts of the gas transmission line on the proposed network and associated development patterns; 3. The identification of a local network design that can practically accommodate the gas transmission line; and 4. Any consequential changes to the proposed network and Precinct Plan that may be required to better integrate it with the gas transmission line. 	<i>FS07 - SIP FS11- S/O FS12 - OIP FS13 - O</i>
38.4	Counties Power Limited	<p>Add new policy IX.3.(5)(e) to the Precinct provisions as follows:</p> <p>Require subdivision and development to:</p> <p>...</p> <p><u>(e) Enable the reduction of CO2 emissions by promoting the use of renewable energy.</u></p>	<i>FS11 - OIP FS12 - SIP</i>
38.5	Counties Power Limited	<p>Add new policy IX.3(5)(f) to the Precinct provisions as follows:</p> <p>Require subdivision and development to: ...</p> <p><u>(f) Provide for the inclusion of vehicle recharging areas within parking areas and for the ability to upgrade additional spaces for increased demand when required.</u></p>	<i>FS07 - SIP FS11 - OIP FS12 - SIP</i>
39.16	Auckland Transport	<p>The following assessment is sought along with any consequential changes to the proposed network and Precinct Plan that may be required to better integrate it with the gas transmission line.</p> <ol style="list-style-type: none"> a) Why the approach adopted for the adjoining urban area in respect of the gas transmission line has not been applied within the plan change area and/or what alternative approach is proposed. b) The impacts of the gas transmission line on the proposed network and associated development patterns. c) The identification of a local road and reserve network design that can practically accommodate the gas transmission line. 	<i>FS10 - Neutral FS11 - S/O FS12 - O FS13 - O</i>

Decision on submissions

267. In approving PC 51 we have provided a set of precinct provisions to ensure other infrastructure and servicing is provided prior to or at the same time as development, or is protected.
268. On this basis we **accept** or **accept in part** those submissions which supported or sought changes which we have accepted, and **reject** those submissions which sought that the Plan Change be declined, or where we have not made the changes sought in the submissions in relation to matters of other infrastructure and servicing.

Submissions on zoning

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
6.1	Britmat Holdings Ltd	Include the property at 1A East Street Drury, currently zoned Future Urban Zone, in the plan change with a zoning of Business - Local Centre Zone to match that of the land adjoining at 200 - 212 Great South Road.	FS07 - O FS12 - SIP FS13 - O FS14 - O
8.2	The Catholic Diocese of Auckland	Amend the plan change so that the Town Centre is reduced in scale and activity to a Local or Neighbourhood Centre.	FS03 - OIP FS04 - S FS07 - OIP FS12 - O FS13 - O
8.3	The Catholic Diocese of Auckland	Amend to the scale and location of the Terraced Housing and Apartment Zone to the extent that development can properly support, and be supported by, a Local or neighbourhood Centre without compromising a subregional Local Centre / Town Centre hierarchy that places the Town Centre westwards of Jesmond Road and aligned with Rail Station Option 'A'.	FS03 - OIP FS06 - SIP FS07 - OIP FS12 - OIP FS13 - O
28.2	Charles Ma	If the Drury West train station is to be located west of the location shown in the Drury-Opāheke Structure Plan (particularly west of Oira Road), support any amendments to the change that may be sought by the applicant to address that change. This would include (but is not limited to) rezoning all of the plan change area for residential purposes, by removing the proposed Town Centre zone and decreasing the density of some of the proposed residential zones.	FS01 - S FS03 - OIP FS06 - SIP FS07 - OIP FS12 - OIP
34.1	Ministry of Housing and Urban Development	Replace Business – Town Centre Zone with Business – Local Centre Zone, and reduce extent of zone to align with Drury-Opāheke Structure Plan.	FS01 - S FS03 - OIP FS04 - S FS07 - OIP FS12 - SIP FS13 - O
34.2	Ministry of Housing and Urban Development	Replace all references to “Town Centre” with ‘Local Centre’. Replace all references to Business – Town Centre Zone with Business – Local Centre Zone.	FS01 - S FS03 - OIP FS04 - S FS07 - OIP FS12 - SIP FS13 - O
35.18	Auckland Council	Extend the operative urban zoning to adjoin the eastern edge of Jesmond Road. This should be comprised of Terrace Housing and Apartment Buildings Zone. Make any consequential amendments to the precinct plan including any necessary to give effect to other points in this submission.	FS01 - S FS06 - OIP FS07 - SIP FS11 – S/O FS12 - SIP FS13 - O

		Other supporting technical documents may need to be updated to include this change.	
36.1	New Zealand Transport Agency	Replace Business – Town Centre Zone with Business – Local Centre Zone, and reduce extent of zone to align with Drury - Opaheke Structure Plan.	FS01 - S FS03 - OIP FS04 - S FS07 - OIP FS10 - N FS11 - S FS12 - OIP FS13 - O
36.5	New Zealand Transport Agency	Replace all references within this precinct description from “Town Centre” to ‘Local Centre’.	FS01 - S FS04 - S FS07 - OIP FS10 - N FS11 - S FS12 - O FS13 - O
36.12	New Zealand Transport Agency	Replace reference to Business – Town Centre Zone with Business – Local Centre Zone in the precinct rules.	FS01 - S FS04 - S FS07 - OIP FS10 - N FS11 - S FS12 - OIP FS13 - O
39.3	Auckland Transport	Approve the plan (refers to zoning and land use pattern)	FS01 - O FS10 - N FS11 - S FS12 - SIP FS13 - S
43.1	Kāinga Ora Homes and Communities	Approve the plan change, subject to: <ul style="list-style-type: none"> • The zoning of 41 Jesmond Road, Drury as Business – Town Centres Zone. This aligns with the identified location of the future centre under the Drury-Opāheke Structure Plan 2019; • The zoning of 85 Jesmond Road, Drury (owned by Kāinga Ora – Homes and Communities) as Terrace Housing and Apartment Buildings Zone; and • The zoning of the balance of land north of 85 Jesmond Road on the eastern side of Jesmond Road as Terrace Housing and Apartment Buildings Zone. [strikethrough part withdrawn on 11 June 2021] 	FS03 - SIP FS04 - O FS05 - O FS06 - OIP FS07 - OIP FS10 - N FS11 - S FS13 - O FS14 - O

Decision on submissions

269. We have fully addressed the issues of zoning in the decision above, particularly in relation to the Business – Town Centre zone. We have approved the zoning pattern as proposed in PC 51, including retaining the Business – Town Centre zone and not zoned that area Business – Local Centre zone or not provided any business zoning at all.
270. On this basis we **accept** or **accept in part** those submissions which supported the zoning, and **reject** those submissions which sought that the zoning be changed as set out in the submissions.

Submissions on urban design matters

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
34.3	Ministry of Housing and Urban Development	Reduce the height variation control from 27m to 19.5m.	FS01 - S FS12 - SIP FS13 - O
34.4	Ministry of Housing and Urban Development	Amend IX.3 Policies 1 & 2 to the Precinct provisions as follows: (1)(b) [second (b)] Has well-designed, attractive public streets, that provide the focal point for intensive retail, commercial and civic development, as well as pedestrian activity.	FS01 - S FS12 - SIP FS13 - O
34.5	Ministry of Housing and Urban Development	Add new activity to Table IX.4.1 to the Precinct provisions as follows: (A8) Retail greater than 450m2 gross floor area per tenancy – Discretionary Activity.	FS04 - S FS12 - SIP FS13 - O
35.19	Auckland Council	Add a policy and standard to provide for increased density near RTN stations including: a. Adding a policy to the effect of: <u>Ensure a built form and walkable environment that will provide for a high density of people living, working or visiting within an extended walkable radius of a rapid transit network station.</u> b. Building height standards, enabling at least the metro centre equivalent 22-23 storey building height within a short walkable radius of the RTN train station, and 7-8 storey building height within about an extended walkable radius of the RTN station. c. In areas of more than 7-8 storeys, providing tower dimension and spacing, wind, and building set back at upper floors standards if they do not exist in the underlying zone; d. Any alterations to other building standards to respond to increased building height. e. An information standard for subdivision, building and road resource consents requiring information to demonstrate how the development will contribute to implementing the above density policy and provide for a safe and attractive walkable environment.	FS01 - S FS06 - SIP FS07 - SIP FS11 - S/O FS12 - SIP FS13 - SIP and OIP
35.20	Auckland Council	Amend the key retail frontage and general commercial frontage provisions to allow them to float with the indicative roads which may be located differently on development.	FS11 - S/O FS12 - SIP FS13 - N
36.9	New Zealand Transport Agency	Amend IX.3 Policy 2 to the Precinct provisions as follows: (2)(b) Has well-designed, attractive public streets, that provide the focal point for intensive retail, commercial and civic development, as well as pedestrian activity.	FS10 - N FS11 - S FS13 - O
36.10	New Zealand Transport Agency	Retain IX.3 Policies 3 & 4 to the Precinct provisions.	FS10 - N FS11 - S FS12 - SIP FS13 - SIP and OIP
36.13	New Zealand Transport Agency	Add a new Activity to Table IX.4.1 to the Precinct provisions as follows: <u>(A8) Retail greater than 450m2 gross floor area per tenancy – Discretionary Activity.</u>	FS04 - S FS10 - N FS11 - S FS12 - SIP FS13 - O

43.2	Kāinga Ora Homes and Communities	Approve the plan change, subject to: • the inclusion and application of a 19.5m Height Variation Control in the proposed zoning area; • retaining the spatial extent of the precinct boundaries.	FS03 - OIP FS11 - S FS12 - O FS14 - O
43.4	Kāinga Ora Homes and Communities	Amend Policy 4(h) to the Precinct provisions as follows: “Be designed according to <u>incorporate</u> perimeter block principles where car parking is provided behind buildings except for kerbside parking.”	FS11 - S FS13 - N

Decision on submissions

271. In approving PC 51 we have provided a set of precinct provisions to ensure appropriate urban design outcomes. Accordingly, we are satisfied that good urban design will result due to any commercial and residential development including from the height, scale, design and layout of buildings, including as they relate to the water feature, and to SH 22 in terms of residential development in the THAB zone.
272. On this basis we **accept** or **accept in part** those submissions which supported or sought changes to the urban design aspects of the Plan Change which we have accepted, and **reject** those submissions which sought urban design related changes which we have not incorporated into the precinct provisions.

Submissions on freshwater and terrestrial ecology

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
33.6	Ngāti Te Ata Waiohua	Apply a minimum of 20-meter riparian margin for all waterways especially those to contain walkways / cycleways.	FS09 - S FS07 - SIP FS11 – S/O FS12 - OIP
35.3	Auckland Council	Include more policies and rules to give full effect to the direction the NPS-FM, including but not limited to Te mana o te wai.	FS11 - S/O FS12 - SIP FS13 - N
35.7	Auckland Council	Amend policy IX.3 (6)(b) to the Precinct provisions as follows: Incorporate <u>biodiversity</u> enhancement planting of riparian margins of streams (including the Ngākoroa Stream) and the lake feature.	FS11 - S/O FS12 – OIP FS13 - N
35.12	Auckland Council	Include indicative permanent and intermittent streams and wetlands on the precinct plan.	FS07 - SIP FS11 - S/O FS12 - OIP FS13 - O
35.14	Auckland Council	Retain and amend IX.6.3 (2) to the Precinct provisions by including a cross reference to the matters in Appendix 15.6(3)(b-f) and (4) of the Auckland Unitary Plan.	FS11 – S/O FS12 – SIP FS13 - O
43.8	Kāinga Ora Homes and Communities	Amended the IX.6.3 (2) Riparian Planting provision to the Precinct provisions as follows: “(2) The riparian planting plan (to give effect to compliance with Standard IX.6.3(1)) Any development or subdivision of land that contains a stream must: (a) include a plan identifying the location, species, planting bag size and density of the plants; [...].”	FS11 - S FS13 - O

44.6	Ngāti Tamaoho	Apply a minimum of 20-meter riparian margin for all waterways especially those to contain walkways / cycleways.	FS07 - SIP FS09 - S FS11 - S/O FS12 - O
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Decision on submissions

273. We have addressed the freshwater and terrestrial ecology issues raised in submissions. In approving PC 51 we have provided a set of precinct provisions to ensure freshwater and terrestrial ecology unique to PC 51 are appropriately protected and managed. However, in a number of cases we have found that the provisions in the AUP OP already address freshwater and terrestrial ecology matters. Moreover, the issue of stormwater quality (and quantity) was agreed between the Applicant and Healthy Waters.
274. We are satisfied that, based on the issues and evidence before us, matters of freshwater and terrestrial ecology have been appropriately addressed. On this basis we **accept** or **accept in part** those submissions which supported or sought changes which we have accepted to address freshwater and terrestrial ecology, and **reject** those submissions which sought changes to the freshwater and terrestrial ecology provisions which we have not made.

Submissions on stormwater matters

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
33.7	Ngāti Te Ata Waiohū	Apply a minimum of a two-treatment train approach for all stormwater prior to discharge to a waterway.	FS11 - S/O FS12 - OIP
33.8	Ngāti Te Ata Waiohū	Require roof capture for reuse and groundwater recharge.	FS11-S/O FS12 - OIP
35.4	Auckland Council	Amend Objective IX.2(5) to read: Include appropriate stormwater management and ecological enhancement measures when developing within the Precinct, to <u>avoid or otherwise</u> mitigate adverse effects of development on the receiving environments and enhance the existing stream network and lake feature.	FS11 - S/O FS12 - OIP FS13 - N
35.5	Auckland Council	1. Retain application of SMAF 1 to the entire plan change area, or 2. Retain SMAF 1 but allow additional precinct provisions that exempt parts of the southern sub-catchment where the discharge is to the Ngākoroa Stream estuary, or 3. Mark on the precinct plan where the SMAF 1 control applies, or 4. Remove SMAF 1 and have a rule framework for determining hydrology mitigation, similar to that in the Drury 1 precinct.	FS07 - SIP FS11 - S/O FS12 - OIP FS13 - N
35.8	Auckland Council	Amend precinct to include additional policies and rules to manage the effects of stormwater as described in an approved SMP.	FS07 - SIP FS11 - S/O FS12 - OIP FS13 - N
35.9	Auckland	Add new policies to the Precinct provisions as follows:	FS07 - SIP

	Council	<p><u>Ensure that all impervious services are treated through a treatment train approach to enhance water quality and protect the health of stream and marine environments.</u></p> <p><u>Require on-site management, or for higher density development private communal management of stormwater runoff from impervious areas.</u></p> <p><u>Reduce contaminants at source through the use of inert building materials and treatment at source where possible.</u></p> <p><u>Provide hydrology mitigation through retention, near source or communal detention to manage effects on streams.</u></p> <p><u>Ensure the effective operation of private at source devices over time by providing for their management such as through consent notices on titles.</u></p> <p><u>Ensure adequate infrastructure downstream of the precinct to convey runoff from additional impervious area and to manage flood effects.</u></p>	<p><i>FS11 - S/O</i> <i>FS12 - OIP</i> <i>FS13 - N</i></p>
35.10	Auckland Council	Add a new standard to provide for stormwater quality treatment.	<p><i>FS07 - SIP</i> <i>FS11 - S/O</i> <i>FS12 - OIP</i> <i>FS13 - N</i></p>
35.11	Auckland Council	<p>Add a new standard to the Precinct provisions as follows:</p> <p><u>Buildings cannot have exterior materials with exposed surfaces that are made from contaminants of concern to water quality including zinc, copper and lead.</u></p>	<p><i>FS11 - S/O</i> <i>FS12 - OIP</i> <i>FS13 - N</i></p>
44.7	Ngāti Tamaoho	Apply a minimum of a two-treatment train approach for all stormwater prior to discharge to a waterway.	<p><i>FS11 - S/O</i> <i>FS12 - OIP</i></p>
44.8	Ngāti Tamaoho	Require roof capture for reuse and groundwater recharge.	<p><i>FS11 - S/O</i> <i>FS12 - OIP</i></p>

Decision on submissions

275. We have addressed the issues relating to stormwater earlier in this decision.
276. We are satisfied that, based on the issues and evidence before us, matters of stormwater have been appropriately addressed. On this basis we **accept** or **accept in part** those submissions which supported or sought changes which we have accepted to address stormwater, and **reject** those submissions which sought provisions or changes to the stormwater provisions which we have not made.

Submissions on open space

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
33.9	Ngāti Te Ata Waiohū	Confirm park edge design adjacent to all waterways.	<p><i>FS08 – S</i> <i>FS11 – S/O</i> <i>FS12 – OIP</i></p>
35.13	Auckland Council	Include the indicative blue-green corridor within the precinct plan based on the urban concept in the Urban Design Assessment.	<p><i>FS11 - S/O</i> <i>FS12 – OIP</i> <i>FS13 - O</i></p>

35.15	Auckland Council	Amend the precinct plan "Future esplanade reserve" to read " <u>Indicative</u> future esplanade reserve".	FS11 - S/O FS12 – OIP FS13 – N
35.16	Auckland Council	Include indicative open spaces in the precinct plan as shown in Attachment 1 to this submission.	FS09 - S FS11- S/O FS12 - SIP FS13 - O
40.2	Ministry of Education	Amend plan change to ensure there is provision of appropriate public open space to support the surrounding community.	FS12 - SIP FS13 - SIP
44.9	Ngāti Tamaoho	Confirm park edge design adjacent to all waterways.	FS11 – S/O FS12 – OIP

Decision on submissions

277. In approving PC 51 we have provided a set of precinct provisions to ensure the appropriate provisions for Open Space. We have also addressed a range of matters relating to Open Space in this decision (Civic Square and Notation of the Neighbourhood Park).

278. We are satisfied that, based on the issues and evidence before us, the matters relating to Open Space have been appropriately addressed. On this basis we **accept** or **accept in part** those submissions which supported or sought changes which we have accepted to address Open Space, and **reject** those submissions which sought changes to the Open Space provisions which we have not made.

Submissions on landscape matters

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
33.5	Ngāti Te Ata Waiohū	Account for natural and cultural landscaping in the project design.	FS11 – S/O
33.10	Ngāti Te Ata Waiohū	Use native trees and plants only within the precinct.	FS08 – S FS11 – S/O FS12 – OIP
33.11	Ngāti Te Ata Waiohū	Protect ridgelines, hilltops and wetlands.	FS11 – S/O FS12 – OIP
44.5	Ngāti Tamaoho	Account for natural and cultural landscaping in the project design.	FS11 – S/O FS12 – OIP
44.10	Ngāti Tamaoho	Use native trees and plants only within the precinct.	FS11 – S/O FS12 – SIP
44.11	Ngāti Tamaoho	Protect ridgelines hilltops and wetlands.	FS11 – S/O FS12 – OIP

Decision on submissions

279. The landscape matters raised by Ngāti Te Ata Waiohū and Ngāti Tamaoho are in relation to their key interests to ensure the protection, preservation and appropriate management of natural and cultural resources in a manner that recognises and provides for Mana Whenua interests and values and enables positive environmental, social and economic outcomes.

280. Riparian plantings are likely to be native. We have determined that riparian planting plans will be consistent with AUP OP Appendix 16 - Native revegetation plantings.

281. There is one identified wetland within the precinct. Wetland protection is implemented through the AUP OP and NES-FM, and no precinct-specific provisions are considered to be required. No ridgelines or hilltops have been identified as requiring protection.
282. We **accept in part** the submissions to the extent that sufficient provisions are in place that protects wetlands, promote native planting in riparian margins and account for existing natural landscape elements.

Submissions on cultural matters

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
33.1	Ngāti Te Ata Waiohū	Confirm ongoing iwi participation, consultation and engagement in the project.	FS11 – S/O FS12 – SIP
33.2	Ngāti Te Ata Waiohū	Acknowledge within the project design the history of Mana Whenua in the PC 51 area.	FS09 – S FS11 – S/O FS12 – OIP
33.3	Ngāti Te Ata Waiohū	Incorporate Te Aranga Principles in design concepts.	FS09 – S FS11 – S/O FS12 – OIP
33.4	Ngāti Te Ata Waiohū	Confirm iwi monitoring of the project.	FS11 – S/O
35.22	Auckland Council	Include provisions that require mana whenua culture and traditions to be explicitly incorporated into the new development.	FS09 – S FS11 – S/O FS13 – O FS12 – OIP
35.24	Auckland Council	Enable and provide for accessible and affordable social housing for Māori.	FS11 – S/O FS12 – O FS13 – O
41.3	HNZPT	Include appropriate provisions within the precinct plan to address any Māori cultural heritage values identified.	FS11 – S/O FS12 – SIP FS13 – O
44.1	Ngāti Tamaoho	Confirm ongoing iwi participation, consultation and engagement in the project.	FS11 – S/O FS12 – SIP
44.2	Ngāti Tamaoho	Acknowledge within the project design the history of Mana Whenua in the PC 51 area.	FS09 – S FS11 – S/O FS12 – OIP
44.3	Ngāti Tamaoho	Incorporate Te Aranga Principles in design concepts.	FS09 – S FS11 – S/O FS12 – OIP
44.4	Ngāti Tamaoho	Confirm iwi monitoring of the project.	FS11 – S/O

Decision on submissions

283. We have addressed cultural matters in this decision, including those set out under the hearing of Mana Whenua. In approving PC 51 we have provided a set of precinct provisions (in addition to those already in the AUP OP) to ensure appropriate provisions relating to cultural matters for Open Space.
284. We are satisfied that, based on the issues and evidence before us, cultural matters have been appropriately addressed. On this basis we **accept** or **accept in part** those submissions relating to cultural matters.

Submissions on heritage matters

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
35.23	Auckland Council	Provide a notable tree assessment and scheduling of any notable trees identified in that assessment. This could include but is not limited to actively working with mana whenua on relevant and appropriate design principles and options.	FS09 - S FS08 - S with amendments FS11 – S/O FS13 - O
41.1	Heritage New Zealand Pouhere Taonga	Include provisions within the precinct plan to require archaeological assessment of the area are undertaken by a suitably qualified professional including an evaluation, by a suitably qualified heritage consultant of the wider heritage landscape through the resource consenting process.	FS11 - S FS12 - OIP FS13 - O
41.2	Heritage New Zealand Pouhere Taonga	Amend the provisions requiring the riparian margins of permanent or intermittent streams to be planted to a minimum width of 10 metres to ensure exclusion of impacts on archaeological site extents, as assessed by a professionally qualified archaeologist.	FS11 - S FS12 - OIP FS13 - O
41.4	Heritage New Zealand Pouhere Taonga	Explore the potential of commissioning a heritage interpretation plan for the wider Drury area subject to the four jointly notified plan changes.	FS11 - S FS13 - O

Decision on submissions

285. With respect to the issue of the notable trees, we agree with Mr Tollemache's evidence. He opined that¹⁴⁰:

The Notable Tree Surveys is seeking to relitigate matters in the AUP. It goes further than an information requirement, and rather seeks that trees are nominated and protected from development irrespective of their lack of scheduling in the AUP or the permitted activity rules of E15. This is arbitrary. There is no clear process how differences of opinion are to be resolved. There is no first schedule of the RMA process. I have never encountered such a rule before.

286. We also agree with Tollemache's opinion that archaeological assessments are a standard part of (earthworks) resource consents and that the AUP OP already addresses these issues and the consenting of these matters also require an archaeological authority from Pouhere Taonga. Mr Tollemache advised us that the Applicant Auranga has sought archaeological authorities for accidental discovery for each stage of its works.
287. We do not consider commissioning a heritage interpretation plan for the wider Drury area to be within the scope of the plan change.
288. We are satisfied that, based on the issues and evidence before us, that the combined provisions of the AUP OP and the Drury 2 precinct provisions appropriately address the issue relating to notable trees and archaeology without giving effect to these submissions. On this basis we have **rejected** those submissions.

¹⁴⁰ Mr Tollemache's speaking notes [Paragraph 11.5]

Submissions on Noise and Vibration

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
36.6	New Zealand Transport Agency	Add a new Objective to the Precinct provisions as follows: <u>Protect sensitive activities from potential health and amenity effects that may arise from noise and vibration associated the operation of the transport network.</u>	FS10 - N FS12 - O FS13 - O
36.8	New Zealand Transport Agency	Insert new Policies to the Precinct provisions as follows; <u>Policy X</u> <u>Locate and design new and altered buildings, and activities sensitive to noise to minimise potential effects of the transport network</u> <u>Policy XX</u> <u>Manage the location of sensitive activities (including subdivision) through set-backs, physical barriers and design controls.</u>	FS10 - N FS11 - S FS12 - O FS13 - O
36.16	New Zealand Transport Agency	Insert activity controls as per attachment 1 below	FS10 - N FS11 - S FS12 - O FS13 - O
36.17	New Zealand Transport Agency	Insert matter of discretion and assessment criteria as per attachment 1 below to the submission.	FS10 - N FS11 - S FS12 - O FS13 - O
39.20	Auckland Transport	Add a new Policy to the Precinct provisions as follows: <u>Ensure that new activities sensitive to noise adjacent to arterial roads are located, designed and constructed to mitigate adverse effects of road noise on occupants.</u>	FS10 - N FS11- S/O FS12 - O FS13 - O
39.21	Auckland Transport	Add a new standard to require that the assessed incident noise level to the façade of any building facing an arterial road that accommodates a noise-sensitive space is limited to a given level (Auckland Transport to confirm appropriate level). As a consequential amendment, add a new rule as follows: <u>(X) Development that does not comply with IX.6.X Noise Mitigation.</u>	FS06 - SIP FS10 - N FS11 - S/O FS12 - O FS13 - O
39.22	Auckland Transport	Add a new assessment criterion to the Precinct provision as follows: <u>The extent to which noise sensitive activities in proximity to arterial roads are managed.</u>	FS10 - N FS11- S/O FS12 - O FS13 - O

Decision on submissions

289. We have addressed matters relating to noise and vibration earlier in this decision. In summary we have included noise attenuation controls in the THAB zone where buildings are adjacent to SH 22. These relate to internal habitable spaces. We have not included any controls on outdoor space or vibration.
290. We are satisfied that, based on the issues and evidence before us, the matters relating to noise and vibration have been appropriately addressed and controls imposed. On this basis we **accept** or **accept in part** those submissions which supported or sought changes which we have accepted to address noise, and **reject**

those submissions which sought the introduction of noise and vibration provisions which we have not made.

Submissions on other matters

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions
8.1	The Catholic Diocese of Auckland	In its current form decline the plan change in its entirety.	FS12 - O FS13 - O
28.3	Charles Ma	Does not support any changes being made to the plan change as notified, except where those changes are agreed to and supported by the applicant.	FS12 – OIP
29.1	Andrew Daken	Would like to highlight the below key feedback points along with being able to be involved as the plan change develops. <ul style="list-style-type: none"> • Should be a Council led plan change for consistency, infrastructural changes including roading loadings as existing infrastructure has only just been improved and will very quickly be outdated. Currently the motorway system is not able to cope with the existing loading. • Future urban zone change is expected from Council within 2 years, so why push this through now as a Private Change? • PC6 work doesn't appear to have started, so seems odd that another PC is being started • Need to be involved with the PC 51 as plan changes will directly impact our property in the future from decisions being made now. • With the increase in the number of new houses and therefore more water usage, water storage tanks should be considered to minimise water supply issues for Auckland as already seen in 2020. 	FS13 - OIP
33.12	Ngāti Te Ata Waiohū	Reflect sustainable development in the design and outcomes.	FS11 - S/O FS12 - OIP
35.6	Auckland Council	Retain policy IX.3(6)(a) and amend IX.6.1 Compliance with Drury X Precinct Plan to read: (1) Activities and subdivision must comply with the Drury X Precinct Plan.	FS11 - S/O FS12 - SIP FS13 - N
35.17	Auckland Council	Ensure that the consent categories in IX.4.1 Activity table, matters of discretion in IX.8.1, and assessment criteria in IX.8.2 are the most appropriate to give effect to: matters raised in this submission, the objectives and policies of the precinct, the RPS and any national policy statement.	FS06 - S FS11 - S/O FS12 - SIP FS13 - OIP
36.7	New Zealand Transport Agency	Retain other IX.2 objectives.	FS10 - N FS11 - S FS12 - SIP FS13 - SIP and OIP
39.19	Auckland Transport	Make necessary amendments to the plan change as required to achieve a consistency in approach, including in relation to objectives, policies, rules, methods and maps, across the private plan changes within the Drury growth area.	FS10 - N FS11 - S/O FS12 - OIP FS13 - O
44.12	Ngāti Tamaoho	Reflect sustainable development in the design and outcomes.	FS11 - S/O FS12 - OIP

Decision on submissions

291. We have addressed the range of other matters set out in the submissions above. In approving PC 51 we have provided a set of precinct provisions which we find to be appropriate to manage the subdivision, use and development of the PC 51 area.
292. On this basis we **accept** or **accept in part** those submissions which supported or sought changes which we have accepted, and **reject** those submissions which sought changes to PC 51 to address their concerns, where we have not accepted the changes requested.

SECTION 32AA EVALUATION

293. Section 32AA of the RMA requires a further evaluation for any changes that are proposed to the notified plan change after the section 32 evaluation was carried out.¹⁴¹ This further evaluation must be undertaken at a level of detail that corresponds to the scale and significance of the changes.¹⁴²
294. In our view this decision report, which among other things, addresses the modifications we have made to the provisions of PC 51, satisfies our section 32AA obligations.

PART 2 OF THE RMA

295. Section 32(1)(a) of the RMA requires assessment of whether the objectives of a plan change are the most appropriate way for achieving the purpose of the RMA in Part 2. Section 72 of the Act 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, section 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 who is approving the private plan change, which will change the AUP OP.
296. For all of the reasons set out in this decision, we are satisfied the matters set out in sections 6, 7 and 8 of the RMA have been addressed. PC 51 and its provisions, as we have modified them, have respectively recognised and provided for, have had particular regard to and taken into account those relevant section 6, 7 and 8 matters.
297. Finally, in terms of section 5 of the RMA, it is our finding that the provisions of PC 51 are consistent with, and are the most appropriate way, to achieve the purpose of the Act. PC 51 will enable the efficient development of the site for business and residential activities while also protecting the identified values (cultural, archaeological, geological and ecological), as well as avoiding, remedying, or mitigating any adverse effects on the environment.

¹⁴¹ RMA, section 32AA(1)(a)

¹⁴² RMA, section 32AA(1)(c)

DECISION

298. That pursuant to Schedule 1, Clauses 10 and 29 of the Resource Management Act 1991, that Proposed Plan Change 51 to the Auckland Unitary Plan (Operative in Part) be **approved**, subject to the modifications as set out in this decision.
299. Submissions on the plan change are accepted, accepted in part or refused in accordance with this decision.
300. In addition to the reasons set out above, the overall reasons for the decision are that PC 51:
- is supported by necessary evaluation in accordance with section 32 and s32AA;
 - gives effect to the National Policy Statement on Urban Development;
 - gives effect to the National Policy Statement for Freshwater Management
 - gives effect to the Auckland Regional Policy Statement; and
 - satisfies Part 2 of the RMA.



Greg Hill - Chairperson

- for Commissioners Karyn Kurzeja and Mark Farnsworth

9 February 2022

APPENDICES

Appendix 1

Table 1: Summary of AT / DIFF key projects from Mr Hills' Rebuttal Evidence

Appendix 2

Table IX.6.2.1 Transport Network Infrastructure Improvements (From Ms Sinclair's and Ms Smith's evidence)

Appendix 3

Amended Precinct Provisions

The amended Drury 2 precinct provisions (Marked up version (colour coding) so all parties can more easily follow the changes that have been made)

Appendix 1 - Table 1: Summary of AT / DIFF key projects (From Mr Hills' Evidence)

NO.	PROJECT	COMMENT
1	Great South Road improvements(Waihoehoe Road to Drury Interchange) DIFF No 1a/1b	From a review of the DIFF report, this project is listed as "Cumulative Drury" in the staging table (Table 5-2); however, in the main assessment table (Table 5-1) this is listed under "Drury East" improvements (likely due to it being to the east of the Drury interchange). I consider this upgrade to be required due to cumulative effects of development, however the majority of effect comes from Drury East Plan changes and not PC 51. Considered a cumulative regional project, specifically relating to Drury East projects.
2	Great South Road / SH22 (Karaka Road) intersection upgrade DIFF No 3	I note there is already a trigger requirement to upgrade this intersection as part of Drury South and as noted by Mr Prosser " <i>This intersection is currently being designed by Waka Kotahi as a consequence of Drury South private plan change conditions of consent</i> ". The "additional lanes" noted by Mr Prosser as being required from PC 51 relate to the left in / left out from PC 51 which is already covered by the proposed Precinct Provisions (requires a full assessment and safety audit). Already part of Drury South (PC 51 does not change the initial design).
3	Drury Central Rail Station DIFF No 5	I agree with Mr Prosser that " <i>This is a NZUP project that provides a wider benefit for all of Drury</i> ". I note that the Drury West train station is significantly closer to PC 51 than this Drury Central station. Thus, the majority of those using and visiting the PC 51 land will ultimately use the Drury West station, not Drury Central. Already funded by NZUP.
4	Drury Central Rail Station connection DIFF No 6	Related to the Drury Central rail station (i.e. the station needs connections). Already funded by NZUP.
5	Great South Road / Waihoehoe Road / Norrie Road intersection upgrade DIFF No 9a	I agree with Mr Prosser that " <i>The need for this project has also been accelerated with NZUP's deferral of Mill Road and Drury South Interchange</i> ". This intersection is on the other side of the Drury Interchange some 2km from the PC 51 Main Street intersection with SH22 and as such I consider the effect on this intersection from PC 51 to be minimal. Already funded by NZUP.
6	Interim walking, cycling and bus connections to Drury Centre (includes Bremner / Norrie / Firth intersection upgrades, active mode on Norrie) DIFF No 12	I note that Auranga A has already upgraded some of this network especially the footpaths through Drury and will be funding (as per Drury 1 Precinct) a separate active mode bridge across SH1 on Bremner Road (this has been deferred in discussion with AT / Waka Kotahi until the motorway upgrade is completed). As per the DIFF report, this is a cumulative project for east and west Drury. Auranga has already partly funded this project, which is considered to be required to address

		cumulative effects.
7	2-Lane bridge over Bremner /Waihoehoe Road DIFF No 16a	As noted in Table 5-2 of the DIFF report this is "fundedthrough NZUP". Already funded by NZUP.
8*	Old Bremner Road upgrade from Jesmond Road to Auranga Precinctincluding Jesmond/Old Bremner Road intersection	This is a new project added by Mr Prosser. Of note as part ofthe Auranga A project, this project is currently being designed (I am directly involved) and the resource consent have been lodged with the Council (in July 2021 known as Stage 7 Auranga A) which includes provision of the upgrade of Old Bremer Road and Jesmond Road / Old Bremner Road
9	SH22 / Jesmond Road intersectionDIFF No 43a	This project is now related to the Drury West rail station (i.e.station needs connections), as note by Mr Prosser "A NZUP related project (being part of the required works for the new Drury West Rail Station) with new signalised intersection". Already funded by NZUP.
10	SH22 / Burberry Road intersectionclosure DIFF No 43	As note by Mr Prosser "This work is proposed as part of PPC 51." Timing of closure would depend on staging of PC 51. Already part of PC 51.
11	SH22 widening (Great South Road toJesmond Road) DIFF No 43	The revised location of PC 51's Main Street / SH22 intersection including SH22 widening (including it beingrequired to gain access for PC 51) will mean the majority of this upgrade will now be associated with / funded by PC 51. The timing of the Jesmond / SH22 intersection (No 9) and Great South Road / SH22 intersection (No 2) will dictate the exact extent of this upgrade (tie into these two intersections). Already part of PC 51.
12	SH22 / McPherson Road intersectionimprovements DIFF No 52	When the DIFF report was produced it was without the knowledge of the latest PC 51 Precinct Plan, which has movedthe main access away from McPherson Road. There is still however a left in / left out intersection proposed near McPherson Road intersection. The Precinct Provisions have the requirements for traffic report and safety assessment forany new intersection with SH22 (including this one). Already part of PC 51.
13	New intersection east of Jesmond Rd (Auranga B1 main street) DIFF No 53	This is now the PC 51 Mainstreet collector road intersectionwith SH22 which is included in the provisions. Already part of PC 51.
14	Drury West Rail Station and accessfrom SH22 DIFF No 57	As noted by Mr Prosser "A NZUP project with interdependency on the construction of signalised treatment at SH22 / Jesmond Road and widening of SH 22". Already funded by NZUP.

15	SH22 improvements - west of SH1 interchange to GSR DIFF No 66	From a review of the DIFF report this is listed as "Waipupuke, + Auranga + Drury West FUZ + Cumulative south/west" in the staging table (Table 5-2) and in the main assessment table (Table 5-1) this is listed under "Drury East-West". I consider to be a cumulative effect as noted in the DIFF but given it is a strategic connection (SH22 midblock) also relates to wider growth / FUZ in Pukekohe and Paerata. Considered a cumulative regional project.
16*	SH22 / Mainstreet Road intersection	While Mr Prosser has added this new project, in my opinion it is already listed as No 13 (DIFF No 53). Regardless this is now the PC 51 Mainstreet collector road intersection with SH22 which is included in the PC 51 provisions. Already part of PC 51.
17	Active mode corridor from Drury East Town Centre to Great South Road DIFF No 67	From a review of the DIFF report this is listed as "Cumulative Drury + Cumulative south/west" in the staging table (Table 5-2). This project is essentially a segregated active mode corridor along the rail corridor from Great South Road to Drury <u>East</u> Town centre / station. In this regard I cannot see why separated active mode link from Great South Road to the north-east Drury East town centre would greatly benefit PC 51, without the associated Diff project No 68 (Great South Road to Drury Central station active mode link) which the DIFF notes as only being needed in 2031. In any event I consider a segregated active mode link between rail stations should not be the responsibility of a single plan change / developer. Considered a cumulative regional project.
18*	Burberry Road upgrade (SH22 to PPC 51 northern boundary)	This upgrade is shown within the Precinct Plan as a collector road and thus I agree it is the responsibility of PC 51. This will be undertaken depending on PC 51 staging. Already part of PC 51.
19*	New Public Bus Services across Drury	I agree with the provision of public transport linking the site to wider area including the proposed rail stations. Public transport is the responsibility of AT. As per existing Auranga development as development occurs and demand increases, public transport expands. AT responsibility.

Appendix 2

Table IX.6.2.1 Transport Network Infrastructure Improvements (From Ms Sinclair's and Ms Smith's evidence)

<u>Development Trigger</u>	<u>Transport Network Infrastructure Upgrades</u>
Prior to any activity, development and/or subdivision in the precinct	Great South Road Improvements (Waihoehoe Road to Drury Interchange) This includes additional traffic lanes with new walking and cycling connections.
Prior to any activity, development and/or subdivision in the precinct	Great South Road / SH22 (Karaka Road) Intersection Upgrade This includes the installation of traffic signals controls, fourth leg including providing 'left turn entry and left turn exit movements only), additional lanes on SH22.
Prior to any activity, development and/or subdivision in the precinct	Old Bremner Road Upgrade from Jesmond Road to Auranga Precinct. This includes new traffic signals and/or roundabout at this intersection.
Prior to any activity, development and/or subdivision in the precinct	SH22 Widening (Great South Road to Jesmond Road) Widening SH22 between this section includes 4 traffic lanes and new separated active mode improvements along the northern boundary, lowering the speed limit from 100km to 50km/hr.
Prior to any activity, development and/or subdivision in the precinct	SH22 / McPherson Road Intersection Improvements This includes improvements to McPherson Road because of the 4-lane widening on SH22 including the potential closure of McPherson Road to enable future widening of the adjacent rail tracks by KiwiRail. The closure of McPherson Road is interdependent on the construction of the new Main Street / SH22 intersection and closure at Burberry Road.
Prior to or in conjunction with resource consent being granted for any activity, development and/or subdivision for the Business – Town Centre zone	Drury Central Rail Station
Prior to or in conjunction with resource consent being granted for any activity, development and/or subdivision for the Business – Town Centre zone	Drury Central Rail Station Connection This includes the establishment of a new access road from the station to Waihoehoe Road and the inclusion of a new park & ride. This is interdependent on the rail station being constructed first.

<p><u>Prior to or in conjunction with resource consent being granted for any activity, development and/or subdivision for the Business</u> <u>– Town Centre zone</u></p>	<p><u>Interim walking, cycling and bus connections to Drury Centre (includes Bremner / Norrie / Firth intersection upgrades, active mode on Norrie)</u></p> <p><u>This includes separated active mode improvements and public transport service connections to and from Drury Centre.</u></p>
<p><u>Prior to or in conjunction with resource consent being granted for any activity, development and/or subdivision for the Business</u> <u>– Town Centre zone</u></p>	<p><u>2-Lane bridge over Bremner/Waihoehoe Road</u></p> <p><u>This includes 2 lane urban standard road with separated active modes on both sides.</u></p>
<p><u>Prior to or in conjunction with resource consent being granted for any activity, development and/or subdivision for the Business</u> <u>– Town Centre zone</u></p>	<p><u>SH22 / Burberry Road Intersection Closure</u></p>
<p><u>Prior to or in conjunction with resource consent being granted for any activity, development and/or subdivision for the Business</u> <u>– Town Centre zone</u></p>	<p><u>New intersection east of Jesmond Rd (Auranga B1 main street).</u></p>
<p><u>Prior to or in conjunction with resource consent being granted for any activity, development and/or subdivision for the Business</u> <u>– Town Centre zone</u></p>	<p><u>SH22 improvements - west of SH1 interchange to Great South Road.</u></p> <p><u>This includes the construction of 4 lane to an urban standard with separated active modes on both sides.</u></p>
<p><u>Prior to or in conjunction with resource consent being granted for any activity, development and/or subdivision for the Business</u> <u>– Town Centre zone</u></p>	<p><u>SH22 / Mainstreet Road Intersection</u></p> <p><u>This includes new signalised intersection, increased lane capacity and new bus route between town centre and Drury West rail station, separated active modes.</u></p> <p><u>This is interdependent on the SH22 widening works being completed in parallel.</u></p>
<p><u>Prior to or in conjunction with resource consent being granted for any activity, development and/or subdivision for the Business</u> <u>– Town Centre zone</u></p>	<p><u>Burberry Road Upgrade (SH22 to precinct area northern boundary)</u></p> <p><u>This includes the construction to an urban standard including separated active modes.</u></p>
<p><u>Prior to or in conjunction with resource consent being granted for any activity or development and/or the issue of s224(c) for any lot within the Residential - Terrace Housing and Apartment Buildings zone</u></p>	<p><u>SH22 / Jesmond Road Intersection</u></p> <p><u>This includes new signalised intersection and separated active mode connections to and from Drury West Rail Station.</u></p>

<p><u>Prior to or in conjunction with resource consent being granted for any activity or development and/or the issue of s224(c) for any lot within the Residential – Terrace Housing and Apartment Buildings zone</u></p>	<p><u>Active mode corridor from Drury East Town Centre to Great South Road.</u></p> <p><u>This includes separated active modes alongside the rail corridor with active mode connectivity and permeability of east-west in Drury</u></p>
<p><u>Prior to or in conjunction with resource consent being granted for any activity or development and/or the issue of s224(c) for any lot within the Residential - Terrace Housing and Apartment Buildings zone</u></p>	<p><u>Great South Road / Waihoehoe Road / Norrie Road Intersection Upgrade</u></p> <p><u>This includes the intersection upgrades with new traffic signs and traffic lanes.</u></p> <p><u>This is interdependent on the Drury Central Rail Station and improvements made to Waihoehoe Road.</u></p>
<p><u>Prior to or in conjunction with resource consent being granted for any activity or development and/or the issue of s224(c) for any lot within the Residential - Terrace Housing and Apartment Buildings zone</u></p>	<p><u>Drury West Rail Station and Access from SH22</u></p> <p><u>This is interdependent on the construction of signalised treatment at SH22 / Jesmond Road and widening of SH 22 (Jesmond Road to Great South Road).</u></p>

Appendix 3 – the Drury 2 Precinct Provisions

To be Inserted