

20 December 2024

Oleg Palinich
OP Planning Consultancy Limited
PO Box 64-453
Botany Town Centre

For Apexone Ltd
37 Erima Avenue
Point England
AUCKLAND 1072

Issued via email: op.planning@xtra.co.nz

Dear Oleg,

RE: Clause 23(1) Resource Management Act 1991 Further Information – Private Plan Change request by Apexone Limited – 36A Eaglehurst Road, Ellerslie

Further to your private plan change request under Clause 21 to Schedule 1 of the Resource Management Act 1991, Council has now completed an initial assessment of the information supplied.

Pursuant to Clause 23(1) of Schedule 1 the Resource Management Act 1991, Council requires further information to continue processing the private plan change request and in particular to understand the potential effects of the proposal where such matters are specified below. Other matters are to address the request as a whole and to achieve greater precision/clarity.

I firstly advise of the matters that were raised by email of 4 December 2024 and for completeness repeat those here (points 1 to 6. Note that point 2 has been simplified):

1. *There will need to be a rezoning map. Concerning Appendix F: Eaglehurst Road Precinct Plan, it is noted that 'There are no precinct plans in this precinct' (IXXX.10 Precinct Plans). Therefore it is suggested that this map is renamed 'Eaglehurst Road proposed rezoning and precinct' and that it clearly demarcate the portion that is to have a change of zoning and address this under Legend as follows: "Rezone land from Business - Light Industry Zone to Residential - Mixed Housing Suburban Zone" ('before and after' zoning maps may be used). Also under Legend indicate "Eaglehurst Road Precinct boundary" (red line).*

Response

[The submitted plans have been updated.](#)

2. *We recommend / advise that the precinct apply only to the part of the site proposed to be rezoned. There is no requirement to apply MDRS to land that is not subject to a zone change.*

Response

[Plans have been amended to apply precinct to the re-zoned part of the site.](#)

3. *The Precinct provisions will need to be amended. There is now a November 2024 edition of the template (attached) and we ask that you review this and make any necessary amendments. For example, activity (A2) has been deleted (Four or more dwellings per site). This is so that this activity is addressed only by the underlying MHS zone. If the activity stayed in the precinct the precinct standards would apply rather than the zone standards, which would not be appropriate.*

Response

[Updated precinct provisions have been provided in accordance with the November 2024 edition.](#)

4. *Please consider whether objective H4.2(2) and policy H4.3(2) which refer to two-storeyed development should continue to apply to the rezoned portion with the Precinct in place. They are at odds with the 'three storey' intentions of MDRS and may therefore need to be excepted to avoid any conflict.*

Consideration should be given to any other provisions of the MHS zone which conflict with the MDRS requirements, and statements made to address these (as provided for in the template).

Response

Objective H4.2(2) and H4.3(2) have been excluded from the precinct provisions.

5. There is an overlay and a designation which affect the property and these were identified by Plan Change 78 Intensification as 'qualifying matters'. In this case they are not likely to restrict development as the heights at which they affect the property are well above the enabled heights under MHS/MDRS (52m above ground level and 150m above sea level respectively). It would however be appropriate to refer to these in the Precinct. They are as follows:

- a. Natural Heritage: Regionally Significant Volcanic Viewshafts And Height Sensitive Areas Overlay [rcp/dp] - W26, Mount Wellington, Viewshafts
- b. Designations: Airspace Restriction Designations - ID 1102, Protection of aeronautical functions - obstacle limitation surfaces, Auckland International Airport Ltd

Response

These qualifying matters have been included in the precinct provisions.

6. Mana whenua: At Section 9 of the section 32 report it is stated that "Mana whenua groups have not raised any issues with the proposal". Is this a reference to the resource consent or to the rezoning proposal? What evidence do you have of consultation that relates to the rezoning proposal? If there has not been any this statement should be modified.

Response

No engagement or consultation has been undertaken with mana whenua. The application has been amended to reflect this.

7. Purpose of the plan change: We suggest that there is greater clarity in the purpose expressed at 4.2 as follows: "...is to achieve a consistent residential zoning across the entirety of the site [at 36a Eaglehurst Road, Ellerslie] thereby removing the split zoning of the property." It is also suggested that it would be clearer if the last sentence of this section read as follows: "The evaluation of the Plan Change concludes that ~~these amendments are~~ the proposed rezoning is the most appropriate way to achieve the purpose of the RMA."

Response

Report amended.

8. Options considered: The section 32 only addresses two options at section 8.3: status quo and the rezoning. This means only one zoning alternative has been considered. It would be appropriate to add the option of zoning to Residential - Mixed Housing Urban, to be in line with PC 78. The costs and benefits of this should be addressed. The text "In determining the most appropriate method for achieving the objectives of the Plan Change, consideration has been given to the following other reasonably practicable options:" appears a second time just before 8.4 and should be deleted.

Response

Report amended.

9. Soil contamination: The resource consent application included a Detailed Site Investigation – Contamination that established that various contaminations were present at the property. Please advise whether this report addressed the land to be rezoned and what the recommendations are in respect of this land, by way of specific references to submitted documentation. If it did not, please address the matter of soil contamination of the land to be rezoned (from Business Light Industry) and report on how the potential adverse effects of soil contamination for residential activity will be addressed. Please note that our inhouse specialists have not as yet been able to respond to a request for any 'further information' and further requests may be made.

Response

A Detailed Site Investigation (DSI) was undertaken by Fraser Thomas Limited (dated 22 February 2022), which involved intrusive soil sampling across the subject site. The soil results identified numerous exceedances of

the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) and the discharge criteria of the Auckland Unitary Plan: Operative in Part (AUP(OP)). In particular, lead exceeded the NESCS and AUP(OP) at six sampling locations, and three additional exceedances of the AUP(OP) were noted at different sampling locations. Based on the test results, it is likely that any future subdivision or disturbance of soil on the site will likely require resource consent as a Restricted Discretionary Activity under Regulation 7 of the NESCS and a Remedial Action Plan (RAP) will be required as part of the process.

10. Reverse sensitivity: The rezoning involves having residential zoning (and more intensive use) closer to Business Light Industry zoning. Please address the potential adverse effect of greater reverse sensitivity arising from the proximity of residential uses to the established Light Industry zoning and uses by reference to the nature of the industrial activities that are near the land to be rezoned.

Response

It is acknowledged that rezoning land for residential purposes adjacent to the Business Light Industry zone may lead to potential reverse sensitivity effects, such as noise pollution, visual impact, air quality concerns, and light pollution. Currently, the activities to the rear of the subject site include logistics, manufacturing, storage, and distribution, which typically do not generate significant odour, dust, or noise. The buildings on the adjacent site are set back approximately 30 metres from the site boundary, with a car park providing a buffer between the proposed development area and the existing activities. This buffer is expected to effectively mitigate any adverse effects by attenuating noise, reducing visual interference, and minimising the impact of light pollution, thereby creating a more suitable environment for residential living while allowing industrial operations to continue without significant disruption.

11. Loss of land zoned Business – Light Industry: Please address the potential adverse effect of a loss of Business Light Industry zoning from the locality. This is an effect that needs to be addressed in the section 32 assessment. We note that the land appears to have been used for residential purposes for some time, but this may not always have been the case.

Response

Based on a review of historic aerial photographs, the plan change area has included an existing residential dwelling at the rear of the site, with images indicating that the dwelling has occupied the site since approximately 1996 or earlier. The site does not appear to have been used for industrial purposes historically, as allowed by the underlying zoning. The loss of 600 m² of industrial-zoned land represents a very small fraction of the total available industrial land in Ellerslie and Auckland. This minor reduction is unlikely to significantly affect the overall supply of industrial land. While the rezoning will reduce the potential for zone-enabled industrial activity, rezoning approximately 600 m² of land from industrial to residential is not anticipated to have adverse effects in terms of the overall availability of industrial land.

12. Overland flow path: The resource consent has addressed the overland flow path but the section 32 assessment of the private plan change request has not, other than by reference to it in section 3.1 Site Description. Please address the potential adverse effects for the development of the extended residential zoning of the property arising from the presence of the overland flow path at the western (road) end of the property. Note also that the Healthy Waters Department has not as yet been able to respond to your plan change request and further information requests may be made.

Response

The subject site is at the top of the catchment and Auckland Council's GIS Maps indicates a minor overland flowpath (OLFP) begins in the western section of the site, exits midway along the western boundary and continues down Eaglehurst Road to the north. A flood risk assessment was undertaken by Barry Satchell Consultants Ltd and indicates that the level of effect on the consented development would be less than minor, and the OLFP can be contained in the proposed channel design. As the OLFP does not extend into the plan change area (to the east, it is not anticipated that there will be any potential adverse effects for future development.

Other potential errors of text in the section 32 report:

13. At section 2.2: In the fourth paragraph it states “..in accordance with S321..”. This should be “in accordance with s 32 “?

Response

Amended.

14. Notification, directly affected persons: At section 9 of the section 32 report in the second paragraph, third line is the phrase “which is set out in the report above”. Should this be “which as set out”?

Response

Amended.

15. Just before Figure 5 there is a sentence which ends “and include.” It seems that some explanation was to follow. Please complete this.

Response

Amended. There was a table missing which identified the properties which are considered adjacent to the subject site.

16. At section 5.1.2 is the phrase “this is due to a technicality”. It is not clear what this technicality is and it is suggested this sentence be amended.

Response

Report amended.

17. In section 5.1.2 which addresses Plan Change 78 is the phrase “within walking distance to the Ellerslie town centre”. What is the walking distance? How does it compare with that of PC78 which is 800 metres/10 minutes for this situation (proximity to a town centre)? Further, is it appropriate to say “is in close proximity to the Ellerslie township” in section 5.2.1?

Response

The walking distance is approximately 1 km or a 15 minute walk from the Ellerslie township. However, I have amended the report to state “is in close proximity to the Ellerslie township.

18. Further on in this section is the phrase: “Given the strategic location of the site..”. Could you explain what the ‘strategic location’ is, given that it is not within the PC 78 ‘walking distance’ of 800 metres?

Response

Report amended.

19. Under ‘policy 2’ there is reference to one qualifying matter. It should be noted that there are two qualifying matters, the other being the airport related designation of ‘obstacle limitation surfaces’ referred to in point 5 above.

Response

Report amended.

20. In Section 6.1 is: “The Plan Change is consistent with this policy direction as it provides for higher residential density adjacent to a Local Centre that contributes to a quality compact form.” Please explain how the rezoning is “adjacent to” and change Local Centre to Town Centre.

Response

I have amended the report to state that the site is “in close proximity to a Town Centre”. This is in line with Point 17 above, where the site is approximately 1 km/ 15 minutes from the Ellerslie township.

21. In Section 10 of the report, reference is made to ‘section 9’: Should this be to section 8?

Response

Report amended.

Watercare Services Ltd and Auckland Transport have not made any requests for further information at this time.

If you have any queries regarding this letter, please contact ewen.patience@aucklandcouncil.govt.nz in the first instance.

Kind regards

A handwritten signature in black ink, appearing to read 'C. Davison'. The signature is written in a cursive, flowing style.

Celia Davison

Central South Planning Manager
Planning and Resource Consents Department