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

Proposal

to amend the activity table for the rural zones so that any activity not specifically listed in the table becomes a non-complying activity and amend the reference to "residential activities" in specific rural policies and zone descriptions to "dwellings".

Proposed Plan Change 20 to the Auckland Unitary Plan (Operative in Part) is **approved in part** and **rejected in part**, subject to the modifications as set out in this decision and in the Plan Change 20 document attached. Submissions are **accepted** and **rejected** in accordance with the decision.

Plan modification number:	PC20
Site address:	Rural Activity Status
Hearing commenced:	Tuesday 19 and Wednesday 20 November 2019, 9.30am
Hearing panel:	Bill Smith (Chairperson) Juliane Chetham Trevor Mackie
Appearances:	<u>For the Council:</u> Peter Vari, Team Leader David Wren, Reporting Officer Paulette Kenihan, Senior Hearings Advisor George Greig, Hearings Advisor <u>For the Submitters:</u> Birch Surveyors Ltd represented by Sir William Birch Beef & Lamb New Zealand represented by Dylan Muggeridge Waiiti Headwaters Ltd represented by Russell Bartlett (counsel) Pipers Limited Partnership represented by Russell Bartlett (counsel) Kumeu Property Ltd represented by Craig Waymouth and Russell Bartlett (counsel) Lindsay McPhun represented by Karen Pegrume (planner) RQ And RX Family Trust represented by Andrew Braggins (counsel) and Michael Foster (planner)

	The Surveying Company represented by Andrew Braggins (counsel) and Dharmesh Chhima (planner) Leigh Shaw represented by Andrew Braggins (counsel) and Dharmesh Chhima (planner) Chanel Hargrave represented by Andrew Braggins (counsel) and Dharmesh Chhima (planner) Jeram and Laxmi Bhana represented by Andrew Braggins (counsel) and Dharmesh Chhima (planner) Q Invest Company Limited represented by Andrew Braggins (counsel) and Jane Douglas (planner) Arnim Pierau represented by Andrew Braggins (counsel) and Burnette O'Connor (planner) Paul Boocock and Moir Hill Forestry represented by Andrew Braggins (counsel) and Burnette O'Connor (planner) John Ramsey represented by Andrew Braggins (counsel) and Burnette O'Connor (planner) BAA Land Holdings Limited represented by Andrew Braggins (counsel) and Burnette O'Connor The Gibbs Foundation represented by Andrew Braggins (counsel) and Mary Wong (planner) The University of Auckland represented by Andrew Braggins (counsel) and Mary Wong (planner) Snowberry New Zealand Limited represented by Andrew Braggins (counsel) and Briar Belgrave (planner) Turners & Growers Global represented by Andrew Braggins (counsel) and Briar Belgrave (planner) Federated Farmers represented by Richard Gardner Kent Baigent represented by Julian Dawson (counsel) Accent Gifts & Prints Ltd represented by Douglas Ross Withers

	Preserve the Swanson Foothills Society represented by Jean Berry Strategic Property Advocacy Network represented by John Newick Thomas James Benedict Hollings Oak Hill Vineyard Ltd represented by Anthony Grant and Tracey Morse (planner) Independent Māori Statutory Board represented by Helen Atkins (counsel), Elizabeth Tauroa (Principal Advisor) and Adrian Low (planning) Glenn Archibald Kirkwood Family Trust represented by Dennis Kirkwood Ngati Tamaoho Trust represented by Dennis Kirkwood <u>Tabled statement</u> H&L Trustee Company Ltd represented by Jethro Joffe, Urban Design Group Limited.
Hearing adjourned	Wednesday 20 November 2019
Commissioners' site visit	Not Applicable
Hearing Closed:	8am on Friday 13 December 2019

INTRODUCTION

1. This decision is made on behalf of the Auckland Council ("the Council") by Independent Hearing Commissioners Bill Smith (Chair), Juliane Chetham and Trevor Mackie appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 ("the RMA").

2. The Commissioners have been given delegated authority by the Council to make a decision on Plan Change 20 ("PC 20 ") to the Auckland Council Unitary Plan Operative in Part ("the Unitary Plan") after considering all the submissions, the section 32 evaluation, the reports prepared by the officers for the hearing and evidence presented during and after the hearing of submissions and the officer's response. The Commissioners will not be making a recommendation to the Council, but will be making a decision directly.

3. PC 20 is a Council-initiated plan change that has been prepared following the standard RMA Schedule 1 process (that is, the plan change is not the result of an alternative, 'streamlined' or 'collaborative' process as enabled under the RMA).

4. In regards to consultation we note the comments in Section 6 of the s42A Report and also the summary of consultation undertaken which was provided in the Section 32 evaluation report. We note that all iwi within the Auckland Region which had rural

zoned land within their rohe were invited to consult on the plan change, with Nga Maunga Whakahii o Kaipara recording their wish to be consulted and that they were generally in support of PC20. Consultation also occurred with the Independent Maori Statutory Board (IMSB) of the Auckland Council who requested that Papakāinga on general rural land be made a discretionary activity. As it transpired the Council did not include specific provision within PC20 for Papakāinga as a discretionary activity.

The Rodney and Franklin Local Boards were also consulted and both Boards indicated that they supported PC20.

5. The plan change was publicly notified on 21 March 2019.

6. The submission period closed on 18 April 2019. A summary of submissions was notified for further submissions on 20 June 2019 with the period for receiving further submissions closing on 4 July 2019. A total of 231 submissions (including late submissions) and 10 further submissions were made on the plan change. The vast majority of submissions were in opposition to the Plan Change.

SUMMARY OF PLAN CHANGE

7. The proposed plan change as advertised was described in detail in the hearing report and was attached as Appendix 1 to the s42A Report. We have attached as Attachment 1 to this decision a copy of PC20 amended as a result of our decisions.

HEARING PROCESS

8. As the majority of submitters to PC 20 wishing to give evidence were experts or represented by expert witnesses, the Commissioners required the pre-circulation of expert evidence.

PROCEDURAL MATTERS AND LATE SUBMISSIONS

Late Submissions

9. Four late submissions were received by the Council and were all received within six days of the closing date and these were accepted by a delegated council officer who waived the original time limit in accordance with s37 of the Act. In addition there was one late further submission in support of six submissions and this was received by council on 17 September 2019. The Reporting Officer dealt with the details of this late submission in paragraphs 47 to 48 of the S42A Report and at the start of the hearing we gave those submitters present and the council the opportunity of addressing us on whether the submission should be received. No one spoke in opposition to accepting the submission and the council officers when asked were in agreement that the submission should be accepted. The Panel agreed pursuant to section 37 of the RMA, to extend the time for receiving submissions in order to accept the late submission from Oak Hill Vineyard Limited (FS11).

RELEVANT STATUTORY PROVISIONS CONSIDERED

10. The RMA sets out an extensive set of requirements for the formulation of plans and changes to them. These requirements set out in Section 5 of the s42A Report and the section 32 assessment that forms part of the hearing report and we do not need to repeat these again in detail.

11. Clause 10 of Schedule 1 requires that this decision must include the reasons for accepting or rejecting submissions. The decision must include a further evaluation of any proposed changes to the plan change arising from submission; with that evaluation to be undertaken in accordance with section 32AA. With regard to Section 32AA, we note that the evidence presented by submitters and Council effectively represents this assessment, and that that material should be read in conjunction with this decision, where we have determined that a change to PC20 should be made.

12. There are a number of provisions of the Unitary Plan that are relevant to PC20 and these were shown in the s32 and s42A Reports.

PLANNING CONTEXT – STATUTORY AND POLICY

13. The RMA requires that unitary authorities consider a number of statutory and policy matters when developing proposed plan changes.

Resource Management Act 1991 (RMA)

14. The Section 32 Evaluation Report set out the relevant provisions of the RMA that were considered relevant to PC20, this has been read and taken into account by us and it is not necessary to repeat this material here. Section 32AA of the RMA, which requires a further evaluation for any changes that are proposed to the notified Plan Change 20 since the Section 32 Evaluation Report was completed, has been complied with in the section 42A report and the evidence presented at the hearing.

15. The Commissioners are satisfied that PC20 has been prepared and submissions considered in accordance with the relevant provisions of the RMA (and in particular Part 2 and section 32), Council's functions under the Act, and any other relevant statutory matters.

National and regional planning context

16. The Section 32 report and s42A Report also outlined the relevant national and regional planning documents that were considered relevant to Plan Change 20 and these are not repeated here. The Commissioners agree that Plan Change 20 is consistent with the relevant statutory requirements.

17. Having considered the evidence and relevant background documents, we are satisfied that PC 20 has been developed in accordance with the relevant statutory and policy matters, and will clearly assist the Council in its effective administration of the Unitary Plan subject to the amendments that we have made.

PC20 – SCOPE AND JURISDICTION

18. As a panel, we must satisfy ourselves that the plan change has been prepared by Council staff "in the manner set out in Schedule 1" to the Act, including that any submission is 'on point' in terms of the plan change. If a submitter seeks changes to the proposed plan, then the submission must set out the specific amendments sought. We must also be satisfied as to the jurisdictional issues - that proposed changes flow from the plan change – and that we can make changes to the plan arising from submissions. Two jurisdictional issues could have arisen as follows:

    a. A submission must be 'on' the plan change; and

    b. Whether there is the ability to make changes to the plan arising from submissions in terms of scope.

19. The scope of PC20 is, in our opinion, very limited and having taken into account the statutory and legal tests in relation to submissions and the actual submissions received we have considered the following issues:

    - whether each submission is <u>on</u> PC 20; and

    - whether any changes are fairly or reasonably within the general scope of PC20 as notified, an original submission, or somewhere in between, bearing in mind whether affected persons may have been denied the right to be heard.

SUMMARY OF EVIDENCE

20. The Council planning officer's (Mr Wren) report was circulated prior to the hearing and taken as read. Expert evidence was pre-circulated.

21. The evidence presented at the hearing responded to the issues and concerns identified in Mr Wren's report, the plan change and the submissions made on the plan change.

22. The hearing commenced with a brief presentation from Mr Wren on the background to the PC20 and the issues arising.

23. The hearing then proceeded on the basis that any expert witness could speak to his or her statement of evidence and any other witness could present evidence, along with any legal submissions for any submitter. Questions and matters for clarification were raised by the Commissioners as the hearing progressed.

24. The hearing was closed at 4pm on Friday 13 December 2019 after the Commissioners had satisfied themselves that they had all the information they required in order to make their decision on PC20.

RELEVANT STATUTORY PROVISIONS CONSIDERED

25. The RMA sets out an extensive set of requirements which must be addressed when considering a plan change. These requirements were set out in the section 42A report and the section 32 assessment and we do not need to repeat these again in detail, noting that section 32 clarifies that analysis of efficiency and effectiveness 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.

26. Clause 10 of Schedule 1 requires that this decision must include the reasons for accepting or rejecting submissions. The decision must include a further evaluation of any proposed changes to the plan change arising from submissions; with that evaluation to be undertaken in accordance with section 32AA. With regard to Section 32AA, we note that the evidence presented by submitters and Council staff or consultants acting for the Council effectively represents this assessment.

SUMMARY OF EVIDENCE

27. Along with the submitters' evidence, the planning officer's report was circulated prior to the hearing and taken as read. The hearing opened with the reporting officer presenting a brief presentation describing the plan change.

28. Mr Wren also tabled a copy of his response (dated 19 November 2019) to issues raised by the hearing panel in regards to additional information concerning:

- The IHP reasons for maintaining the discretionary activity status for 'activities not provide for'.
- How other zones in the Unitary Plan treat 'activities' not provide for.
- How the Unitary Plan categorises Elite and Prime soils and any plan or map that shows these soils.

29. No evidence was presented by the Local Boards who had been consulted on PC20, although the s.32 report states that the Rodney and Franklin Local Boards supported the plan change.

30. The evidence tabled by submitters at the hearing is summarised below:

a. **H&L Trustee Company Limited** – by e-mail from Jethro Joffe, Urban Design Group Limited dated 12 November 2019, for the submitter, noting its support in its entirety of the joint planning statement filed as evidence by a number of submitters and that the submitter's position (opposition to the PC) remains unchanged.

31. The legal submissions made and evidence given at the hearing is summarised below and has (where needed) also been referred to under the heading for each issue:

32. **Birch Surveyors represented by Sir William Birch** – addressed the submission and read copy of evidence which referred to the submitter's major concerns being the decision made by the Independent Hearing Panel (IHP) during the hearing of the Unitary Plan and its decision not to opt for non-complying activity status for non-rural activities in the AUP's rural zones, the view that the s32 analysis appears to take the view that all rural zoned land is prime and/or elite soil and that this is demonstrably untrue, the s32 analysis appearing to take the view that rural towns and villages are not entitled to provide facilities such as retirement complex's to allow residents to retire in their own communities and the firms view that the changes will not lead to better planning decisions with reference (including some photographs/plans) to a proposed lifestyle retirement complex in Kawakawa Bay as an example. Sir William also referred to his firms experience dealing with council staff when applying for a non-complying activity and the view of staff that a non-complying status (by default) was not allowed for in the zone and as such should be notified.

33. Beef + Lamb New Zealand (B+LNZ) represented by Dylan Muggeridge, North Island Environmental Policy Manager who advised that he was not presenting expert evidence but was speaking to Beef + Lambs submission. In general B+LNZ support the purpose of PC20 but oppose the proposal to change all activities that are not provided for in the rural activities table in section H19 of the UP as non-complying activities. Mr Muggeridge said that B+LNZ had concerns regarding farmers being allowed to undertake new activities, that non-complying activities are very difficult to obtain consent for and the risk is that farmers could be locked in to present day and mainstream practices and that it would stifle creativity and innovation to adapt to new circumstances.

34. Mr Muggeridge was of the view that full discretionary activity status does allow the Council to exercise its authority and decision making powers in accordance with the relevant policies, plans and RMA provisions. B+LNZ view was that activities not listed should default to a discretionary activity status and those provisions proposed under PC20 to make such activities non-complying should be deleted. In regards to the change of the words "Residential Buildings" with "Dwellings" B+LNZ had a neutral stance.

35. Kumeu Property Ltd, Waiiti Headwaters Ltd and Pipers Ltd Partnership represented by Mr Russell Bartlett QC, counsel, tabled and read his legal submission. All three clients were in opposition to PC20. Mr Bartlett referred to the rural hierarchy in the UP, the relevant extracts from the Regional Policy Statement also referred to the relitigation of the elite/prime soil issue. Mr Bartlett also tabled a number of Environment Court decision which he did refer to from time to time.

36. Mr Bartlett also referred to the assessment of a discretionary activity, the statutory tests for non-complying and discretionary activity applications and that there were already in place provisions to deal with proposals which had adverse effects or failed to meet the objectives of the Act, the RPS and the District Plan. Mr Bartlett also referred to the significant number of activities already allowed in certain rural zones,

the weakness of the s32 report and the fact that there is no actual evidence to support the s32 evaluation. Mr Bartlett also referred to the IHP report and decisions made on various discretionary activities referred to in either the s32 Report or s42A Report and his submission was that there was no evidence or opinion before us that show that the discretionary activity objectives, policies and rules were inadequate or that the Hearing Commissioners were forced into an unsatisfactory resource consent outcome.

37. Kumeu Property Limited, Statement of evidence from Harrison Burnard which had been pre-circulated and taken as read. It referred to issues raised in the s32 and s42A reports, Rural Amenity and the Protection of elite soils. Mr Burnard also referred to the Kumeu Property Limited application and approval and that the discretionary activity status does require a robust assessment with specialist input before approval is given. Mr Burnard's conclusion was that PC20 should be declined in its entirety.

38. Mr Waymouth, Director of Kumeu Property Limited spoke in support of his firms submission in opposition to PC20 and referred to the application that had been approved and which was supported by everyone accept the Council. He referred to people being able 'to age in place' and live close to their family.

39. Briana and Lindsay McPhun represented by Karen Pegrume of Better Living Landscapes Ltd referred to her written evidence that had been pre-circulated and also read her supplementary evidence in response to information provided to the Panel from Mr Wren. Ms Pegrume's evidence focussed on her clients opposition to PC20, the fact that the current UP provisions have ample opportunity for Council to assess applications on a case to case basis without wholescale changes, that there are already extensive objectives and policies in place to protect elite and prime soils, zone descriptions, changing the activity status to non-complying will lead to council staff requiring more applications to be notified and or will lead to applications not proceeding due to council staffs attitude towards non-complying activities and the processing of them.

40. RQ and RX Family Trust, The Surveying Company, Leigh Shaw, Chanel Hargrave, Jeram and Laxmi Bhana, Q Invest Company Limited, Arnim Pierau, Paul Boocock and Moir Hill Forestry, John Ramsey, BAA Land Holdings Limited, The Gibbs Foundation, The University of Auckland, Snowberry New Zealand Limited and T&G Global represented by Mr Braggins, counsel, Berry Simons. Mr Braggins tabled legal submissions and attachments (16) on behalf his clients and read his submission and referred to (from time to time) some of the 16 attachments. Mr Braggins had also arranged for the various experts representing his clients to prepare a joint statement of evidence. The joint statement was from Michael John Foster, Dharnesh Chhima, Chanel Hargrave, Jane Douglas, Burnette O'Connor, Barry Macdonell, Mary Wong and Briar Belgrave. A list of the client(s) each expert represented was shown on page 1, qualifications and experience was shown in Tab A and Site/Client specific comments shown in Tab B.

41. Mr Braggins submissions summarised the submitters' issues, a brief description of each submitter's property, the expert evidence that had been provided, the cases that have been provided and the scope of his submissions which address the relevant statutory provisions and legal principles, background to the plan change, purpose and scope of PC20, the s32 and s42A Reports and the submitters' principal submission. The Chair thanked (on behalf of the panel) Mr Braggins for co-ordinating the various submitters' and experts' and providing a consolidated expert evidence.

42. Mr Braggins referred to the Environment Court approach to choosing an activity status (less restrictive regime) and the significant burden facing the Council to show that the current AUP provisions cannot be met by the current activity status. He also referred to the use of an activity status as a deterrent and referred to a deposit of $20,000 for a non-complying activity, the use by Council staff (if PC20 is approved) of the non-complying status to be used to justify public notification – as they have done in the past and that this will inflict unnecessary processing costs and delays on applicants. (The Panel notes that the $20,000 deposit is for public notification, irrespective of whether the application is for a non-complying or a discretionary activity).

43. We record at this time that during their evidence a number of the experts for the submitters (some of whom had worked for various local authorities) said that Council staff do view non-complying activities as not being allowed for and that the non-complying activity status is taken into account (incorrectly) when determining whether an application should be publicly notified. They said that this approach was common and that sometimes applications do not proceed because of the applicant's uncertainty with the process.

44. Mr Braggins also referred to the objectives and policies which provide the guidance and the rules give effect to those and that if the Council wished to provide further guidance then it needs to change the objectives and policies and that this approach was not recommended in either the s32 Report and s42A Report.

45. We note, at this stage, that in paragraph 102 of his s42A Report that Mr Wren provided comment on the improvement of the objectives and policies of the Rural zones so that they are stronger about protecting elite and prime soils and conservation values and his view that there was some merit in this argument. However, he considered that it was possibly beyond scope to suggest such changes as it would essentially require a re-evaluation of all the objectives and policies of the Rural Zones.

46. Mr Braggins referred to the sufficiency of the s32 analysis which is inaccurate and the joint expert planning evidence covered this. He provided a Table showing the consents referred to by Council, comments on each consent and the view that there were few consents relevant. He referred to the Regional Policy Statement considerations, the Options that had been assessed, the s32 analysis which is based on a flawed assessment and the Council has not demonstrated that it has sufficient evidence to justify PC20. He also provided submissions on Mr Wren's s42A Report

under the headings Consent outcomes, Cost and time delays, Barrier to innovation, Activities required in rural area, existing activities and stated that some of Mr Wren's analysis was either deficient of flawed.

47. In conclusion Mr Braggins said that PC20 should not be approved as it would:

    1. be inconsistent with the sustainable management purpose of the RMA.

    2. be inconsistent with relevant objectives and policies of the AUP and inconsistent with the policy direction of the RPS.

    3. be a disproportionate response to the purported problems the change seeks to address.

    4. the s32 Report is based on inadequate analysis and as such PC20 is unjustified and unnecessary.

    5. not be the least restrictive regime.

    6. not represent the "most appropriate" way to achieve the objectives of the AUP or the purpose of the RMA.

48. The Joint Statement of evidence from the various planning experts was referred to by those experts present and all confirmed that they supported the evidence as well as the Site/Client specific comments that had also been provided. The joint evidence focussed on an Executive Summary, Plan History – IHP Decision, Existing and Proposed Plan Provisions, Object of the Plan Change – Problem Definition, Statutory and Policy Framework, Analysis of Submissions and Further Submissions, Notification and Submissions – Critique of s32 Analysis and Conclusion. In their conclusion the experts agreed that:

    - PC20 in its entirety is inappropriate and unnecessary.

    - The reasoning for the changes is not justified and does not appear to be particularly relevant to the outcome being sought by Council. The proposed changes will not address the dubious concerns raised in the s32 Report and will result in a default non-complying activity status that is not appropriate for all rural zones.

    - The current objective and policy framework is strong enough to counter the concerns raised by Council as justification for the Plan Change.

    - PC20 should be declined.

49. Mr Foster, Ms Chhima, Ms Hargrave, Ms Douglas, Ms O'Connor and Ms Wong all spoke in support of the relevant submission on behalf of their respective client and the joint statement of evidence that had been provided. They were all of the opinion that PC20 should be rejected and most gave evidence of their involvement with non-

complying activities, the approach of Council Officers' towards non-complying activities and the general view that they are not allowed and should be notified. Some of the experts gave evidence of their own experience working for various Council's and the attitude of Council staff towards non-complying activities, the extra costs incurred as a result of being a non-complying activity and being notified and the time delays for clients. Evidence was also given of applicant's not proceeding with a non-complying activity because of the Council staff approach to the activity status, the time delays, the extra costs and uncertainty.

50. Federated Farmers of New Zealand, represented by Mr Richard Gardner, Senior Policy Advisor. Mr Gardner tabled and read his written evidence which was generally in support of PC20 as recommended in the hearing report and confirmed that Federated Farmers accepts the advice and recommendation in the Hearing report and continues to support PC20.

51. Mr Kent Baigent (submitter 148) represented by Julian Dawson, Counsel. Mr Dawson tabled and read his legal submission and confirmed that his client was opposed to PC20. Mr Dawson's submission referred to the justification for the plan change, reference to the least restrictive regime, reference to the clumsy way to change residential to dwellings and included his opinion that the Council should deal with the particular problems. He also referred to the option of Council making a more refined amendment to the Unitary Plan as such an approach would avoid overly restrictive provisions, and conceivably better address Council's concerns and in his view the existing provisions are not broken and do not need fixing.

52. Accent and Gifts Ltd represented by Mr Douglas Ross Withers spoke in support of the original submission which was in opposition of PC20 and confirmed that he still sought that PC20 be declined as he still had concerns with the plan change, the effect on his existing business, existing use rights and his ability to grow/expand to a reasonable size.

53. Our Preserve the Swanson Foothills Society represented by Jean Berry. Evidence was tabled and read and in conclusion the Society requested that the Waitakere Ranges Foothills (Heritage area) be included in Plan Change 20 although they did acknowledge that the area is protected by the Waitakere Ranges Heritage Act 2008. Their concerns were around the lack of knowledge (by Council staff) of the area and the difficulties that have been encountered over the years trying to protect the Waitakere Ranges from unscrupulous people.

54. Strategic Property Advocacy Network, represented by John Newick, President and Thomas Hollings, Secretary. Both men spoke to the original submission which was opposed to PC20. However, the submission also raised the issue of Council preparing better objectives and policies to guide discretionary activities, in the meantime those non listed activities should remain DA, that only the specified activities on a definitive list would be covered and that the nature and the extent of existing use rights should be defined.

55. Oak Hill Vineyard Limited represented by Mr Anthony Grant (owner and creator of Sculptureum) and Tracey Morse, Planning Consultant, Envivo who both provided evidence on behalf of the submitter. Ms Morse tabled and referred to her written evidence which focused on the opposition to the plan change, her opinion that the existing activity status ensures a rigorous assessment (of any and all potential effects, as well as an assessment against all relevant objectives and policies of the plan) when considering such activities. Ms Morse also referred to the negative bias that she and her colleagues have encountered from Council staff towards non-complying activities, the view that they are outright inappropriate and that some form of notification should be anticipated based on the activity status alone. The effects on her client's property/use and the fact that if approved PC20 in its present form would result in any future consents to expand the facilities requiring consent as a non-complying activity.

56. Mr Grant read his written evidence and outlined some details of the Matakana Sculptureum tourism venture, the environment it sits within, how it is viewed by others, employment figures and his concerns for the future. He said that they were happy to work within the existing planning constraints but view the proposed constraints as deeply disturbing.

57. Independent Maori Statutory Board (IMSB) represented by Ms Atkins, Counsel, Ms Tauroa, Principal Advisor and Mr Low, Planning Consultant. Ms Atkins tabled and read her legal submissions and called Ms Tauroa and Mr Low to give evidence on behalf of the IMSB. The main thrust of the submission was that PC20 limits papakāinga development in rural areas, does not give effect to the ARPS and will make papakāinga development a non-complying activity in the rural zones as it is not provided for in the activity table. The view of the Board is that the non-complying activity status will inhibit Mana Whenua development and growth in Auckland.

58. Ms Atkins referred to Mr Wren's s42A Report which acknowledges that it is appropriate for papakāinga to be provided for as a discretionary activity but that there was still some differences between what Mr Wren has recommended and what Mr Low on behalf of the Board has recommended although both agree that papakāinga development should have a discretionary activity status. Ms Atkins confirmed that the Board endorses Mr Low's approach.

59. Ms Tauroa tabled her evidence and seven attachments. She summarised her evidence giving an overview of the Board's functions, the Maori Plan for Tamaki Makaurau, the Schedule of Issues of Significance to Mana Whenua Groups and Mataawaka, and the Kainga Strategic Action Plan. Ms Tauroa then outlined the importance of Mana Whenua occupying ancestral land, the consequences of the severance of this relationship, the importance of Mana Whenua building on general land, challenges faced in developing papakāinga, including resource consent issues for papakāinga and provided examples of difficulties establishing papakāinga on General Title land. She supported the definition to enable development of whanau

papakāinga submitted by Mr Low and proposed special information requirements to accompany the definition.

60. Mr Low tabled and summarised his evidence which focused on an overview of the IMSB key submission points, where he disagreed with Mr Wren, his recommended changes and why he does not consider the concerns raised in the s32 Report present a barrier to including the provisions. He also provided two attachments which dealt with his strikethrough version of PC20 and his s32AA analysis of his suggested relief. In general Mr Low agreed that some provision should be included for Mana Whenua papakāinga on general title land in rural zones as discretionary activity and provided wording that he considered appropriate. During questioning Mr Low did agree that he was willing to meet with Mr Wren to confer/caucus on the proposed provisions for papakāinga housing and that they could report back (via Mr Wren's response if appropriate) on what they have agreed/ or disagreed.

61. Mr Glenn Archibald spoke to his written submissions and also some evidence tabled at the hearing. This included an e-mail dated 10 October 2019 and an e-mail dated 18 November 2019. Mr Archibald spoke in support of the provision for papakāinga housing and gave background details of his involvement with similar type housing in the Papakura/Karaka area and local Trusts (including the Kirkwood Family Trust) and his work with various Council's in Auckland. He referred to other evidence that he had heard at the hearing and supported the use of discretionary activity status instead of non-complying opining that the RMA was meant to be an enabling legislation and this is what should happen. Mr Archibald stated that the three adjoining pieces of land, subject of his submission, would allow 60 papakāinga dwellings (20 each).

62. Ngāti Tamaoho Trust and the Kirkwood Family Trust, represented by Mr Dennis Kirkwood. Mr Kirkwood spoke in support of the Trusts' submissions which opposed the plan change in its present form and stated that if it was approved it should be amended to allow papakāinga development in line with what the IMSB has suggested. Mr Kirkwood summarised his family's connection with the land, how it was important to maintain this connection and have the ability for papakāinga to be delivered.

63. The council's written response was provided by Mr Wren on Friday 6 December 2019 and was circulated to the other parties for their information. It addressed the following matters:

- a brief introduction about his response and that having heard the submissions and evidence that he considered it appropriate to make some amendments to the papakāinga provisions, but otherwise no further amendments were required and his recommendations in the s42A report remain.

- comments on his discussions with Mr Low (representing The Independent Maori Statutory Board) in regards to how papakāinga could be included within the Rural Zones and the results of those discussions. Attached as Attachment 1 to his

response were his Recommended Changes to Papakāinga Provisions. Mr Wren and Mr Low did not agree on some of the provisions to be included.

- the primacy of Rural Production Activities, the notification of Non-complying Activities and the subject of Existing Activities.

- NPS Highly Productive Land.

- choosing an Activity Status.

PRINCIPAL ISSUES IN CONTENTION

64. Having considered PC20, the s32 Report, the submissions and further submissions received, the hearing report, the evidence presented at the hearing, the Council officers' written response to questions and the legal submission on behalf of the IMSB which was circulated with Mr Wren's response, the following principal issues in contention have been identified:

- Changes to the Rural Activity Table

- Amendment/Replacement of word "residential" to "dwellings" in a number of zone descriptions, objectives and policies

- Possible Changes to Papakāinga Provisions

- Productive soils

Changes to the Rural Activity Table – Activities not provided for Discretionary or Non-complying

Evidence

65. A number of the submitters, planning experts and legal counsel considered that Council planners and consent processing had a view that Non-complying means the activity is not allowed for in the zone, and that such applications should be notified, with consequential higher deposit and processing costs. In some cases that approach had stalled applications or even discouraged their initiation.

66. Evidence was received, from both the Council reporting planner and planning witnesses for the submitters, that the Non-complying activity status is used as a signal or indication that a use is unsuitable within a zone, contrasted with a Discretionary activity which may possibly be suitable within the zone but not necessarily on every site. The s.104D gateway tests mean being contrary to objectives and policies and having effects more than minor would prevent a merits-based assessment of a Non-complying proposal. Evidence and legal submissions based on case law proposed that the 'least restrictive activity status' must be applied to each activity. The Council's reply considered that the 'more appropriate' activity status should apply, with the degree of restriction only one of the matters to be taken into account in determining the most appropriate way to achieve the objectives of the AUP OP.

67. Adequacy of the objectives and policies to manage activities not provided for in the zone, as discretionary activities, was subject of much of the evidence. The submitters generally agreed that the current objectives and policies were capable of managing activities, including non-rural production activities, supporting the discretionary activity classification for activities not otherwise provided for.

68. The Council reporting planner, Mr Wren, considered that the PC20 and submissions did not provide scope to change the objectives and policies further, as that would require a full re-evaluation. Objective and policy amendment was an option rejected by the s.32 consideration of alternatives (Option 3 – Section 32 Evaluation Report). One reason given for rejecting that option was that it is not possible to anticipate every out of zone activity which could wish to establish in rural zones.

69. Submitters, particularly farming-related, were concerned that lawfully established activities would have difficulty changing, innovating or expanding their operations if the activity were classified as non-complying. Such changes or expansions are treated in the same manner as the activity classification of the principal activity. This is beyond the scale or intensity of existing use rights.

Amendment/Replacement of term '*residential*' to '*dwellings*' in a number of zone descriptions, objectives and policies

Evidence

70. Evidence was presented, for the submitters, that the intensity of residential activity in rural zones is controlled by the objectives and policies of the zone, regardless of the dwelling density rules. For a discretionary activity the rural character and amenity can be maintained by design and scale of the development and associated mitigations such as landscape planting, bunding and traffic management. Changing 'residential activities' to 'dwellings' was seen as a policy shift for the rural zones.

71. Some of the submitters suggested that there is a right for elderly people to live in a rural lifestyle location, including in a retirement village, and that rural and coastal towns and villages, and other rural locations, should be able to provide such a choice.

72. Evidence for the Council stated that the dwelling density rules resulted from the objectives and policies limiting residential intensity in rural zones. Higher intensity residential activities such as visitor accommodation and retirement villages were intended to be managed on their effects and the objectives and policies of the individual rural zones and the general rural objectives and policies. The definitions' nesting table J1.3.5 Residential includes the full intensity range, from dwellings to retirement village and visitor accommodation.

73. There was little evidence, from Council reporting planner or on behalf of the submitters, on the number of rural sites used for residentially-focused intensive development such as retirement villages, nor on the relative economic returns of land used for functions venues, retirement villages and rural residential individual

dwellings. A map was provided, at the request of the Commissioners, showing the extent of elite and prime soils.

74. Several of the submitters questioned the primacy given to rural production activities within the rural zones, in the s.32 report. Mr Wren addressed that matter, referring to Policy H19.2.2(1), which applies to all land zoned Rural:

H19.2.2(1) Enable activities based on use of the land resource and recognise them as a primary function of rural areas.

75. Mr Wren considered that it is clear that rural production type activities that rely on use of the land are to be considered as a primary use of the rural areas. The RPS provisions that are enabling of rural production (Objectives B9.2.1 and Policies B.9.2.2) reinforce its primacy in rural areas.

Possible Changes to Papākainga Provisions

76. Mr Wren and Mr Low agreed that a non- complying activity status for papakāinga development in rural zoned areas was an unintended consequence of PC 20. Both drafted provisions to provide for papakāinga as a discretionary activity. Mr Wren and Mr Low sought to provide policy guidance so that any development claiming papakāinga status genuinely aligns with the broader concept of whenua Maori.

77. Both had noted that Papākainga was not a defined term in the AUP and defining it for the purposes of PC20 would result in difficulties and complexities due to differences in meaning amongst mana whenua groupings and potential flow on effects to other parts of the AUP.

78. At our direction, at the adjournment of the hearing we tasked Mr Low and Mr Wren with meeting to further discuss possible policy wording. They were able to agree on a new policy, the proposed additional wording for the activity table and associated special information requirements as follows:

H19.2.2 (8) "Enable papakāinga on land which is not in Maori Title or on Treaty Settlement Land, where there is a clear and demonstrated whakapapa relationship of the applicant whanau/hapu to the subject land."

Activity table addition: *"Papakāinga development on general title land by Mana Whenua which have whakapapa connection to that land comprising a maximum 1 dwelling per 4000m2 and no more than 20 dwellings per site"* as discretionary across all rural zones.

Special information requirement; H.19.X.
(1) An application for a papakāinga development under Rule A56A must be accompanied by documentation which demonstrates the applicant and their whanau who will have beneficial use and enjoyment of the proposed papakāinga are signed-up beneficiaries of an iwi group or entitled to be a beneficiary of an iwi group with whakapapa connection to the land.

79. Where their opinions diverged was chiefly on how scale and cumulative effects of papakāinga development would be managed. For proposed new Policy H19.2.2(9) Mr Wren proposed the following wording:

"Papakāinga, located on land which is not in Maori Title or Treaty Settlement Land, must be small in scale and shall avoid the creation of adverse cumulative effects particularly those resulting from the establishment of multiple papakāinga in close proximity to each other."

80. Mr Low considered the proposed wording for Policy H19.2.2(9) put forward by Mr Wren to be overly directive (ie. requiring avoidance) and a difficult test for papakāinga to satisfy, particularly given the subjective and uncertain nature of the reference to "small in scale" and cumulative effects of concern not being defined. He suggested the Māori Land and Treaty Settlement Land provisions already provide an appropriate framework to utilise for the new rule, which both he and Mr Low had adopted for the activity table, meaning the scale of the development that could be a discretionary activity would comprise a maximum of 1 dwelling per 4,000 m² with no more than 20 dwellings per site. Therefore the additional policy direction on the matter is considered unnecessary. Mr Low's recommended wording states:

"Papakāinga, located on land which is not in Māori Title or Treaty Settlement Land, shall be designed to avoid, remedy or mitigate adverse cumulative effects on rural character and amenity values resulting from the establishment of multiple papakāinga in close proximity to each other."

Productive soils

Evidence

81. A Council and s.32 report reason for the PC20 was to better protect elite and prime soils. Extensive evidence and legal submission was given on behalf of the submitters, that elite and prime soils are adequately protected by the current AUP OP provisions.

FINDINGS ON THE PRINCIPAL ISSUES IN CONTENTION

- Changes to the Rural Activity Table
- Amendment/Replacement of word "residential" to "dwellings" in a number of zone descriptions, objectives and policies
- Possible Changes to Papakāinga Provisions
- Productive soils

Changes to the Rural Activity Table – Activities not provided for Discretionary or Non-complying

82. No evidence was presented on non-complying activity applications being more likely to be notified by the Council, but only anecdotal information on pre-lodgement meetings and a purported Council consent processing culture. We find that the tests for notification are the same for discretionary and non-complying activities in relation

to land zoned Rural. We also find that the Rural zone activity table uses the full range of activity classifications, from Permitted through to Prohibited. This indicates a conscious allocation of the Discretionary and Non-complying status across the various Rural zones, rather than a reliance on a default activity status.

83. The Council considered that the objectives and policies had not proven capable of managing intensive residential and other 'urban' proposals in the rural zone case studies, the decisions on which had been made by Independent Commissioners or the Environment Court. However, the PC20 approach was to classify activities not otherwise provided for as Non-complying, and to clarify the rural zone descriptions. Some activities of the case studies were distractingly already classified as Discretionary activities, such as visitor accommodation and self-storage facilities. Further to this, many of the case studies, being Commissioner or Environment Court decisions and the existing or proposed activities detailed for the submitters' land, included uses which could have been anticipated as seeking rural sites, with many already existing within the rural areas of Auckland. These included retirement villages, concrete tank manufacturing, tourism ventures based on rural activities or site products, wedding and event venues, exercise classes and retreats, cooking schools, art and craft galleries, education facilities, and visitor accommodation and self-storage. Precincts are also used to provide for innovative or non-standard activities.

84. The Resource Management Act presumes the activity status, of activities not otherwise provided for, to be Discretionary. The Independent Hearing Panel, in its recommendations to Auckland Council, was clear that there needed to be a good reason to make the default activity status Non-complying, in order to avoid stifling innovation and change. Protection and enhancement of residential amenity is that reason within the Residential zones. We have not found a similar reason within the Rural zones. Rural character and amenity are part of the Rural zone policy structure. Novel or innovative activities may have effects greater than minor, and would then be prevented by the objectives and policies if the activity status were Non-complying. The case studies did not describe particularly novel or innovative activities.

85. Wedding and function venues within Rural zones was a distinctively unclassified activity. There are a number within Auckland's Rural zones, some relying on the rural or horticultural production character and amenity as part of the appeal of the event setting. They contain elements of bar and restaurant, places of assembly, recreation and community facility (used by the community although as a commercial operation so perhaps commercial services), and visitor accommodation. If defaulting to Non-complying these elements would each have effects and policy issues, but if Discretionary the activity would be able to be considered on the basis of overall effects management. In general these activities use a minor proportion of their site area, with the rural production providing a landscape setting. We find that the more appropriate activity status for this activity would be Discretionary, whether specifically listed or as a default for activities not otherwise provided for.

86. Activities not otherwise provided for, defaulting to discretionary activity status, would allow change and expansion of existing uses to occur, and we find that would be the

more appropriate activity status. There may be more than minor but acceptable effects generated by lawfully established existing uses, or infringement of activity or development standards, which will be part of change and expansion. Even if the activity status were Non-complying, there would be a pathway to consent by demonstrating that the activity is not contrary to the objectives and policies of the plan, or that adverse effects on the environment would be minor.

87. We find that the activity table shall not be changed. Activities not provided for will remain discretionary activities.

Amendment/Replacement of term '*residential*' to '*dwellings*' in a number of zone descriptions, objectives and policies

88. The PC20 has limited scope in changing 'residential activity' to 'dwellings', being confined to the Rural – Countryside Living zone description; Rural – Conservation zone description and Objective 3 and Policy 3; and the Rural – character, amenity and biodiversity Policy (1)(b). It clarifies the appropriate protection of the Rural – Conservation land; general protection for low density rural lifestyle in the Rural – Countryside Living zone; and a policy approach to rural character and amenity accommodating dwellings.

89. There are opportunities for elderly people to live in rural zones, in dwellings, minor dwellings, rural residential sites, small-scale supported care, and retirement villages established as discretionary activities, and within low density rural and coastal settlements. The rural and coastal settlements are classified as residential rather than rural zones and have provision for Integrated Residential Development (which includes retirement villages) as a discretionary activity. There is no presumption of a right to build apartment buildings in rural zones, in order to ensure the full range of residential choice in those locations.

90. A reading of the residential nesting table could lead to an expectation that the full range of residential types can occur within any zone description or policy reference to 'residential'. We find that either the nesting table should be clarified or that more careful use should be made of the term 'residential'. In this case the PC20 is amending 'residential' to 'dwellings' to provide that clarification. Although a number of submitters stated that people wished to retire within the area where they previously lived, there was no evidence provided on the proportion of local residents retiring locally, retiring to other locations closer to family, or for other location choices.

91. The Environment Court decision on Kumeu Property Limited (Kumeu Property Limited v. Auckland Council ENV-2017-AKL-44) was made on the basis of the provisions of the AUP OP and the environmental effects of the proposal, eventually reduced in scale and intensity to ensure consistency with rural character and environment. At that time the residential nesting table included retirement villages, which was taken to mean that retirement villages were contemplated within the Rural – Countryside Living zone as part of the range of housing choice, and the proposal would have been considered a residential activity. This appears to be the basis of the Council's problem definition, with the nesting table grouping providing some policy support for all residential activities.

92. The limited evidence on the number of rural sites used for intensive development, such as retirement villages, has not been provided to support or oppose a change of policy direction on the basis of a proliferation of urban-type development in rural zones. There has not yet been a substantial undermining of the principal purposes of the rural zones, although there are areas where many sites have land uses and development other than rural production and rural dwelling. The case studies, and their associated litigation, have demonstrated a need for clarification of the rural zones' purposes and better alignment with the Regional Policy Statement. Without further objective or policy changes we find that discretionary activity classification for more intensive residential activities would be appropriate. Amending the term 'residential' to 'dwellings' provides better alignment with the RPS objectives and policies in respect of, elite and prime soils, urban growth and form, residential growth and intensification, commercial and industrial growth, rural lifestyle development, rural production and rural character and amenity.

93. Although commercial activities such as function venues and retirement villages may provide significantly greater economic returns than a rural lifestyle dwelling, and make those uses more likely to occur, we received insufficient evidence to come to that conclusion. The case studies referred to individual examples rather than any clusters or strips of those development types. The map provided showing the extent of elite and prime soils had insufficient interpretation to explain the extent of non-rural production uses or any match of Rural – Countryside Living zone with highly productive soils. The Rural – Countryside Living zone appears to have been applied to small rural blocks without much consideration of soil quality.

94. We find that there is a primacy given to rural production activities within the rural zones, within the rural general objectives and policies and within the RPS objectives and policies enabling rural production. That primacy does not appear to apply to the Rural – Countryside Living zone, which has a focus on rural lifestyle living rather than rural production, albeit with some low-level rural productivity. The Rural – Countryside Living zone would be particularly vulnerable to conversion to more intensive residential and commercial land uses, if the zone description and policy structure were not sufficiently clear as to the zone purpose.

Possible Changes to Papakāinga Provisions

95. After considering all the material presented to us on this matter, we concur with the reporting officer, IMSB witnesses, Ngāti Tamaoho and Kirkwood Family Trust that Papakāinga becoming a non-complying activity as a result of PC20 would conflict with Policy B6.4.2(1) and Policy B6.4.2(2) of the RPS.

B6.4.1. Objectives (1) Māori economic, social and cultural well-being is supported. (2) Mana Whenua occupy, develop and use their land within their ancestral rohe.

B6.4.2. Policies (1) Provide for papakāinga, marae, Māori customary activities and commercial activities across urban and rural Auckland to support Māori economic, social and cultural well-being. (2) Enable the integration of mātauranga and tikanga Māori in design and development.

96. Evidence from Ms Beth Tauroa and Dennis Kirkwood was particularly helpful in emphasizing the importance of mana whenua having the ability to reconnect with and establish papakāinga on ancestral land in general title and provided context on the inherent difficulties and complexities involved.

97. Had we decided to amend the activity table for the rural zones so that any activity not specifically listed in the table becomes a non-complying activity, we agree that specific discretionary activity provisions for papakāinga would be required to give effect to the RPS provisions outlined above. Having considered the draft provisions put forward by Mr Wren and Mr Low, we prefer the wording proposed by Mr Low for new Policy H19.2.2(9) and we accept the legal submissions of Ms Atkins in her response dated 6 December 2019 setting out the reasons why Mr Wren's proposed wording unnecessarily restricts the ability for Māori to develop fit for purpose papakāinga.

98. Given our findings in 87 above to reject PC20's proposed amendments to the activity table, we find that at this point in time the status quo will continue to provide for papakāinga development in the Auckland region as envisaged by the RPS. However, after hearing the material presented to us, we question the adequacy of the current AUP OP policy framework to provide clear and consistent direction with regard to development of mana whenua papakāinga on general title land in rural zones going forward. It is apparent that this is an area where more work could be done to provide clear policy direction indicating that papakāinga are contemplated in these zones. The draft provisions put forward by IMSB with some finessing provide a starting point.

99. Special information requirements reference to iwi groups was not consistent with other parts of the plan which refers to whanau, hapu, iwi. The proposal by Mr Wren and Mr Low did not appear capable of managing effects of cumulative, larger settlements. Mr Archibald stated an expectation that the three adjoining properties he was concerned with would have a capacity of 60 dwellings. They are adjacent to property represented by Mr Kirkwood, with each title apparently having a capacity of twenty dwellings. Mr Wren proposed an overly directive policy and Mr Low did not deal with cumulative effects of multiple adjacent sites.

100. Papakāinga will have a different meaning within tikanga of some iwi and hapu, and that is the reason that '*Papakāinga development on general title land by Mana Whenua which have whakapapa connection to that land comprising a maximum 1 dwelling per 4000m^2 and no more than 20 dwellings per site*' has been proposed by Mr Wren and Mr Low. That does not fully address provision for papakāinga, but is merely a starting point allowing for dwellings. In our view, papakāinga enabling policy and provisions should deal with the full range of papakāinga types. For example, this may include associated marae development and employment associated with the settlement.

Productive soils

101. The elite and prime soils are provided with some protection, avoidance of effects and where practicable avoidance of effects respectively. This is within the RPS and the subdivision and Rural zone provisions. This protection is less visible within the

individual Rural zone provisions, but applies within the rural general objectives and policies which apply to all of the Rural zones. The Rural – Countryside Living zone appears to be applied to land blocks of less than economically productive area, regardless of the soil quality. Within the case studies some activities were proposed on parts of the site which had lower quality soils, and allowed for current or future productive uses to be established on the protected elite and prime soil parts of the site. That soil quality distinction would be raised through the resource consent process. There is no guarantee that such productive uses would be established or sustained in the long term, but they could be protected against being built or paved over.

102. Some of the non-rural production case studies were not on elite or prime soils, or were on Rural - Countryside Living zoned land, or involved only a small proportion of their sites, such as wedding venues or visitor accommodation. In area terms they are ancillary uses rather than the primary use of the site, irrespective of whether they provide a greater economic return.

103. In relation to any further change to development and land uses on elite or prime soils, it may be appropriate to await the National Policy Statement – Highly Productive Land for the national direction it is to provide. Private and public plan changes to re-zone Future Urban or Rural zoned land for urban purposes, already have a policy structure in place within the AUP OP, to protect productive soils.

104. We find that the protection of productive soils will be achieved by the amendments proposed to the rural zone descriptions and policies, and will not be lost by activities not otherwise provided for remaining Discretionary.

STATUTORY PROVISIONS

105. The RMA sets out a range of matters that must be addressed when considering a plan change, as identified in the section 32 report accompanying the notified plan change. We note that section 32 clarifies that analysis of efficiency and effectiveness 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.

106. Having considered the evidence and relevant background documents, we are satisfied, overall, that PC20 has been developed in accordance with the relevant statutory and policy matters, including consideration of the submissions received.

DECISION

107. That pursuant to Schedule 1, Clause 10 of the Resource Management Act 1991, that Proposed Plan Change 20 to the Auckland Unitary Plan (Operative in Part) be approved in part and rejected in part, subject to the modifications as set out in this decision and in the Plan Change 20 document attached.

108. Submissions on the plan change are accepted and rejected in accordance with this decision.

109. The reasons for the decision are that Plan Change 20 as amended:

a. will assist the Council in achieving the purpose of the RMA;

b. is in accordance with s31 RMA functions of the Auckland Council;

c. is consistent with the provisions of Part 2 of the RMA;

d. is supported by necessary evaluation in accordance with section 32 and meets the various tests and requirements of s32 RMA;

e. will help with the effective implementation of the plan; and

f. is consistent with the Auckland Regional Policy Statement;

Chair - William (Bill) Smith on behalf of Juliane Chetham and Trevor Mackie – Independent Hearings Commissioners.

Date: 4 February 2020

Attachment 1

Auckland Unitary Plan Operative in Part

PLAN CHANGE 20

Rural Activity Status

Text Amendments

[As amended by Decisions on Submissions]

This is a Council initiated plan change

Plan Change 20 Text Amendments to the Auckland Unitary Plan (Operative in Part) Following Decisions on Submissions

Note:

1. Amendments to the AUP are underlined for new text and ~~strikethrough~~ where existing text is to be deleted.
2. The use of …. Indicates that there is more text, but it is not being changed. These are used when the whole provisions are too long to be included.
3. Some existing text is shown to place the changes in context.

19.2.4 Policies – rural character, amenity and biodiversity values

(1) Manage the effects of rural activities to achieve a character, scale, intensity and location that is in keeping with rural character, amenity and biodiversity values, including recognising the following characteristics:

(a) *a predominantly working rural environment;*

(b) *fewer buildings of an urban scale, nature and design, other than ~~residential buildings~~ dwellings and buildings accessory to farming; and*

(c) *a general absence of infrastructure which is of an urban type and scale…..*

19.6 Rural –** Rural **Conservation Zone

H19.6.1 Zone description

This zone comprises biophysically distinctive areas in rural Auckland. The zone has important natural values requiring maintenance and protection. They are largely in private ownership and are used for a range of purposes including ~~residential~~ dwellings, low-impact recreational activities, conservation and open space….

The purpose of this zone is to adopt a conservative approach to new subdivision, use and development so that the natural values of the zone are maintained and protected while enabling established rural ~~and residential~~ activities and dwellings to continue.

H19.6.2 Objectives

…..

(3) *Existing rural ~~and residential~~ activities and dwellings are provided for but further development in the zone is limited to that which maintains and where appropriate enhances the values of the zone….*

H19.6.3 Policies

…..

(3) *Enable the continued use of established rural ~~and residential~~ activities and dwellings and provide for new activities only where adverse effects are avoided or mitigated….*

H19.7.Rural – Countryside Living

H19.7.1 Zone Description

…. This zone incorporates a range of rural lifestyle developments, characterised as low-density rural lifestyle ~~development~~ dwellings on rural land. These rural lifestyle sites include scattered rural ~~residential~~ dwelling sites, farmlets and horticultural sites, ~~residential~~ bush dwelling sites and papakāinga…..