

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



## Proposal

Proposed Plan Change 57 (Private) is a private plan change to rezone:

- a 44.8617 hectares site (57 Grange Road) from Residential - Single House zone to Open Space – Sport and Active Recreation zone; and
- three sites of 34.6180 hectares (Grange Road), 0.4366 hectares (2 Grange Road) and 1.0310 hectares (69A Omana Road), from Residential - Terrace Housing and Apartment Building zone and Residential - Mixed Housing Urban zone to Open Space – Sport and Active Recreation zone.

This plan modification is GRANTED. The reasons are set out below.

<b>Plan subject to change</b>	Auckland Unitary Plan (2016) (Operative in Part)
<b>Number and name of change</b>	Proposed (Private) Plan Change 57 – Royal Auckland and Grange Golf Club
<b>Type of change</b>	Private Plan Change
<b>Applicant</b>	Royal Auckland and Grange Golf Club
<b>Status of Plan</b>	Operative in part
<b>Date publicly notified</b>	19 November 2020
<b>Date submissions closed</b>	17 December 2020
<b>Date Further Submissions closed</b>	26 March 2021
<b>Submissions Received</b>	18
<b>Further Submissions received</b>	Two further submissions
<b>Hearing commenced:</b>	Wednesday 14 July 2020, 9.30am
<b>Commissioners:</b>	Janine Bell (Chair) Trevor Mackie
<b>Appearances:</b>	<p><u>For the Applicant</u> Mr Richard Brabant (Club member and legal advisor) Ms Rachael Russ (Women's Captain, Royal Auckland and Grange Golf Club) Ms Tania Richmond (Planning Consultant)</p> <p><u>For the Submitters:</u> No appearances</p>

<sup>1</sup> Excludes two submissions withdrawn prior to the hearing

	<p><u>For Council:</u>  Celia Davison (Planning Manager, Central-South Planning)  Roger Eccles (Reporting Planner)  Ezra Barwell (Senior Policy Advisor)</p> <p>Laura Ager, Senior Hearings Advisor</p>
<b>Tabled Evidence</b>	<p><u>For the Applicant</u>  Mr Mark Hooker (Director of Agronomy, Royal Auckland and Grange Golf Club)  Mr Jon Styles (Acoustic Consultant)</p> <p><u>For the Submitters:</u>  Transpower New Zealand Limited;  Michael Horton</p>
<b>Hearing adjourned</b>	14 July 2021
<b>Commissioners' site visits</b>	6 July 2021
<b>Hearing closed:</b>	26 July 2021

## INTRODUCTION

1. This decision is made on behalf of the Auckland Council (“the Council”) by Independent Hearing Commissioners Janine Bell (Chair) and Trevor Mackie appointed and acting under delegated authority under section 34 of the Resource Management Act 1991 (“the RMA”).
2. The Commissioners have been given delegated authority by the Council to make a decision on Private Plan Change 57 (“**PPC 57**”) to the Auckland Council Unitary Plan Operative in Part (“the Auckland Unitary Plan”) after considering all the submissions, the section 32 evaluation, the reports prepared by the officers for the hearing and information presented during and after the hearing of submissions.

## SUMMARY OF PLAN CHANGE

3. The Royal Auckland and Grange Golf Club (“**RAGGC**” or “**the applicant**” or “**the Club**”) has lodged a private plan change application to re-zone land, owned by the Royal Auckland and Grange Golf Course as a golf course, from residential to open space in the Auckland Unitary Plan. The land subject to the private plan change request is as follows:
  - (i) 57 Grange Road rezone from Residential – Single House zone to Open Space – Sport and Active Recreation zone.
  - (ii) Grange Road rezone from Residential – Terrace Housing and Apartment Building zone and Residential Mixed House Urban zone to Open Space – Sport and Active Recreation zone.

- (iii) 2 Grange Road rezone from Residential - Mixed House Urban zone to Open Space – Sport and Active Recreation zone.
- (iv) 69A Omana Road rezone from Residential - Mixed House Urban zone to Open Space – Sport and Active Recreation zone.

## **BACKGROUND**

4. PPC 57 requests the rezoning of 80.9 hectares of land that is owned by the RAGGC that borders the suburbs of Papatoetoe, Ōtāhuhu and Mangere (shown in Figure 1). The applicant's Section 32 Evaluation Report<sup>2</sup> details the history of the site, its ownership and development for golfing purposes. In short, the land has been developed and used as golfing purposes since the early part of last century.
5. In 1907, the Auckland Golf Club purchased 58 hectares of land on the north side of Tāmaki Estuary, Middlemore and opened the first course in 1910. Likewise, in 1931, the Grange Golf Club (formerly the Ōtāhuhu Golf Club) leased and then later purchased 33 hectares of land on the southern side of the Tāmaki Estuary, Papatoetoe. In the intervening period both clubs further developed and enhanced the areas with planting and the development of golfing facilities including clubhouses.
6. In 2015, the Royal Auckland Golf Club and the Grange Golf Club amalgamated and subsequently changed its name to Royal Auckland and Grange Golf Club (RAGGC). The amalgamation was designed to provide for the long-term future of the premier golf club and golfing facility with the objective of creating a world class 27-hole golf course.
7. To provide long-term financial stability, RAGGC sold some land around the periphery. This included 1.5 hectares adjoining King's College and 9.3 hectares off Grange Road. The land adjoining King's College, which included a former clubhouse, has since been re-zoned under Private Plan Change 8 from Single House Zone to Special Purpose School Zone. Land off Grange Road has also been subdivided and infrastructure works undertaken for a terrace house development.

## **THE SITE**

8. Royal Auckland and Grange Golf Club Incorporated is the owner of the land subject to PPC 57. The site, border by Papatoetoe, Otahuhu and Mangere, is developed and used as a golf course with its main access on Grange Road. Under the provisions of the Auckland Unitary Plan (AUP(OP)), a range of residential zones has been applied to the site. The area to the north of the Tāmaki Estuary in Middlemore being zoned Residential Single House zone and the land to the south of the Tāmaki Estuary in Papatoetoe being zoned Residential Mixed Housing Urban with the exception of the land fronting Grange Road which is zoned Residential Terrace Housing and Apartment

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<sup>2</sup> Request for private plan change Royal Auckland and Grange Golf Club, Rezoning land from residential to open space, Section 32 Evaluation Report and Planning Assessment, Richmond Planning Limited, August 2020

Building zone. Parts of the site either side of the Tāmaki Estuary are also included in the Coastal – General Coastal Marine Zone. These areas are not included in PPC 57.

9. The following Auckland Unitary Plan overlays, controls and designations also apply to the PPC 57 area:

- Natural Resources: Significant Ecological Areas Overlay – SEA-M2- 2908DD, D D Marine 2
- Natural Resources: Significant Ecological Areas Overlay – SEA \_T\_4345 Terrestrial
- Infrastructure: National Grid Corridor Overlay - National Grid Yard Uncompromised
- Infrastructure: National Grid Corridor Overlay - National Grid Subdivision Corridor
- Control: Coastal Inundation 1 per cent AEP Plus 1 m Control 1 m sea level rise
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- Control: Macroinvertebrate Community Index – Exotic
- Control: Macroinvertebrate Community Index – Native
- Control: Macroinvertebrate Community Index – Urban
- Designations: Airspace Restriction Designations - ID 1102, Protection of aeronautical functions - obstacle limitation surfaces, Auckland International Airport Ltd.

## **SUBMISSIONS**

10. Twenty submissions were received to PPC 57. Prior to the hearing two were withdrawn. Of the 18 submissions received, 2 were in support, 15 were opposed and 1 (Transpower NZ Ltd) was neutral.
11. A number of submissions raised issues that are outside the scope of the proposed request for a change of zoning and related to the council's land rating and the select nature of the membership of the golf club.
12. Two further submissions were received.

## **SUMMARY OF EVIDENCE HEARD**

13. The hearing evidence in this case includes the plan change, the accompanying s32 report and supporting documentation, the Council officer's s42A report, the submissions received, and the statements of evidence prepared by the lay and expert

witnesses appearing on behalf of the applicant and the tabled evidence by Transpower New Zealand Limited and Michael Horton. This information is all part of the public record and is not repeated. The pre-circulated reports and statements of evidence were taken as read, with the witnesses provided with the opportunity to highlight the main points raised in their expert evidence and to respond to questions from the Commissioners. The following is a summary of the evidence presented at the hearing.

### **Applicant (Royal Auckland and Grange Golf Club)**

14. **Mr Richard Brabant** outlined that the basis of the private plan change request was to change the zoning for the private golf course owned by the Club, so that the zoning of the land aligns with the existing and intended foreseeable future use of the land for active recreation.
15. It was his submission “that the requested Open Space – Sport and Active Recreation zoning (OS – SAR) would better recognise, protect and enhance the natural and physical values identified by the Overlays relating to Natural Resources, would best recognise and respond to coastal inundation and the Macro invertebrate Community Index, and best ensure the protection of Transpower’s National Grid corridor”<sup>3</sup>.
16. Mr Brabant submitted that zoning land was a planning tool dating back to Town and Country Planning times, a method that gave effect to objectives and policies in a Plan. “As a general proposition, the way that land is zoned should reflect how it is used and what sort of activities happen there. The future environment should be considered, but not in some artificial way which ignores established land-use and evidence as to the likelihood of that use continuing into the foreseeable future – at least for the life of the (here) AUP”<sup>4</sup>.
17. Mr Brabant referred the Panel to Table 3 of the s32 report that outlined the historical methods of recognising golf activity while retaining underlying zonings. That the Transitional (Legacy) District Plans of the local authorities in the Auckland Region included in the main applied Recreation or Open Space zonings, marking a transition from the former [Town and Country Planning Act] approach of using a “Identified Use” or a “Scheduled Use” notation.
18. He submitted that the RAGGC was in the minority of golf courses in the Auckland Urban Area that has not been recognised in the Auckland Unitary Plan with an Open Space Zoning. That the zoning of these golf courses fails “to reflect the existing and foreseeable future land use activity [and] are a true anomaly by reference to appropriate zoning methodologies”<sup>5</sup>. He also highlighted that the Council had recognised at least 1 of those anomalies by including a proposal to rezone the Whangaparaoa golf course as OS – SAR in the Council-initiated PC 60.

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<sup>3</sup> Richard Brabant, Submissions on behalf of the Royal Auckland and Grange Golf Club, page 1, paragraph [2]

<sup>4</sup> Ibid, page 2, paragraph [6]

<sup>5</sup> Ibid, page 3, paragraph [8]

19. Based on this background, Mr Brabant found the recommendation of the council planning staff in the s42A Hearing Report to decline the zoning request as inexplicable. He submitted that the report placed a heavy emphasis on the NPS-UD in making a recommendation to refuse the plan change.
20. Mr Brabant assessed the merit of the zoning change against relevant open space objectives and policies of the RPS and the AUP. He highlighted that a key consideration when determining the plan change would be that “recreational activities, the facilitates which support them, and essential activities or works involved in maintaining and improving the golf course facility<sup>6</sup>” would be permitted activities on this land.
21. He submitted that the Council’s s42A Report contained an inadequate and unbalanced assessment of the relevant plan provisions, “seriously flawed assessment of effects on the environment of the requested Open Space zoning, and makes a recommendation founded on planning dogma, the adoption of which could not possibly achieve intensive residential development on the club’s land”<sup>7</sup>
22. That the land, subject of the plan change, is not available for residential development and use. That zoning is enabling, so giving effect to its development opportunities is optional and not obligatory. That the land is not available for that purpose.
23. In conclusion, he submitted that approving the plan change request would result in zone provisions that best match and recognise existing recreational use. That applying the OS-SAR zoning to the Golf Club land achieves that outcome in all respects and that the zoning would be appropriate into the foreseeable future.
24. **Ms Rachel Russ**, women’s captain and member of the Committee of the Club at the RAGGC, spoke to her written statement of evidence which described the background of the club, the golf course and its facilities, and the reason for the plan change application. She advised that, on behalf of the club, she had instructed the preparation and lodgement of private plan change request to rezone the golf club land.
25. She explained “the RAGGC facility is a private golf course, that the land is owned by the Club and has been developed and is maintained by the Club for the use of its member and visitors. That the Club currently has 1,872 members, with a waiting list for people to join, who come from across the Auckland region. She also explains that there are current restrictions on the number of rounds members can play. These restrictions arising from the “grow-in period of the grass” and there has been a significant increase in the average number of rounds per member. That there is an upper limit on the number of rounds that can be played.

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<sup>6</sup> Ibid, page 3, paragraph [22]

<sup>7</sup> Ibid, page 16, paragraph [57]

26. Ms Russ also advised that the Club has a close relationship with the neighbouring Kings College and runs a Golf Academy attracting 36 junior golfers. The Club also runs school holiday programmes.
27. She advised that the RAGGC was an amalgamated club and outlined the history of its formation and incorporation in 2015. Prior to the amalgamation, the clubs had either satisfactory and less than satisfactory financial or development positions. As a result, members from each club voted to “sell 17.5ha of land best suited to residential development and for school purposes (additional land acquired by King’s College) and establish a 27-hole course on the remainder of the land”<sup>8</sup> The amalgamation had “enabled a redevelopment of both properties with a completely new golf course, club course, clubhouse, maintenance depot, new drainage and irrigation and other infrastructure and first class practice facilities”<sup>9</sup>
28. Ms Russ attached to her evidence an extract from the Club’s rules and that all Objects of the Club “focus on provision of a golf course, clubhouse and associated facilities for the purpose of playing the game of golf”<sup>10</sup> In her opinion the course provides a significant “green space” within an urbanised and built up part of Auckland and in addition to “providing a high quality golf facility within the Auckland Region, the open space aspect of the facility provides significant environmental, biodiversity, and amenity values for the environment”<sup>11</sup>.
29. In conclusion, Ms Russ asserted that the zone change “reflects the current and intended future use for golf”<sup>12</sup> without relying on the existing use rights under the Auckland Unitary Plan.
30. **Ms Tania Richmond**, consultant planner, spoke to her written statement of evidence which described the Plan Change request, the purpose of the plan change, the background, existing and planned environment and statutory analysis. She also responded to matters raised in Auckland Council’s s42A report.
31. Ms Richmond advised that the RAGGC is seeking to rezone 80.94 hectares of land Open Space – Sport and Active Recreation (OS – SAR) from Residential – Single House, Residential Mixed Housing Urban (MHU) and Residential – Terrace Housing and Apartment Building (THAB). The purpose of the plan change is to apply a zone that reflects current and foreseeable use of the land as a golfing facility. Under the AUP zoning framework, the OS-SAR zone applies to open spaces used for indoor and outdoor organised sports, active recreation, and community activities. Golfing is a permitted activity in the OS-SAR zone.
32. In her view the resource management issue to be addressed is that the residential zoning does not reflect the longstanding, current and future use of the land for golf

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<sup>8</sup> Evidence of Rachael Russ, page 3 at [12]

<sup>9</sup> Ibid, page 4 at paragraph [14]

<sup>10</sup> Ibid, page 5 at paragraph [16]

<sup>11</sup> Ibid, page 5 at paragraph [20]

<sup>12</sup> Ibid, page 6 at paragraph [22]

which is a recognised form of active recreation. That under the current zoning, the recreational activity of golf is a non-complying activity and any new buildings or additions to a building designed to accommodate activities associated with the golf activity were also a non-complying activity. This means the RAGGC must rely on existing use rights and/or obtain resource consents for its activity.

33. Ms Richmond considered the OS – SAR is the appropriate zone to apply to this site because it:

- Reflects the current and foreseeable use of the land as a golfing facility.
- Is the most appropriate way to achieve the objectives and policies of the Auckland Unitary Plan and the Act, when compared with the option of retaining the operative residential zones.
- provides for the efficient and effective use of an activity that has a long association with the land and will continue in the foreseeable future.
- provides for golf as a permitted activity rather than the RAGGC operation and development relying on existing use rights and/or non-complying activity resource consents.

34. She did not support the submissions that sought to retain the existing residential zoning used for high intensity housing as the land will not be used for this purpose in the foreseeable future.

35. Ms Richmond considered the primary statutory document to be considered is the Auckland Unitary Plan. Also relevant is the Auckland Plan and the relevant National Policy Statements and Standards.

*National Policy Statement on Freshwater Management 2020*

36. Since the application was lodged the National Policy Statement on Freshwater Management 2020 had been approved (August 2020) and National Environmental Standards for Freshwater came into force (3 September 2020). Ms Richmond agreed with Mr Eccles “that rezoning of the subject site to OS-SAR would not result in disturbance of Otaki Creek, at the south-western most end of the site”<sup>13</sup> and that “the adverse effects of the plan change on the freshwaters will be less than minor”<sup>14</sup>. She however asserted that the OS – SAR zoning had a greater potential for positive effects than residential zones as the policy and rule framework of the OS-SAR placed greater emphasis on maintaining trees and had a lower building coverage and impervious surface standards than the residential zones.

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<sup>13</sup> Evidence of Tania Richmond, page 13 at [41]

<sup>14</sup> Ibid, page 13 at [41]



*National Policy Statement on Urban Development 2020*

37. The NPS-UD had also come into effect since the application was lodged replacing the NPS on Urban Development Capacity. Based on legal advice, she advised that the NPS-UD had no application to this private plan change. She disagreed with Mr Eccles' approach of assessing the private plan change against various objectives and policies of the NPS-UD.
38. In the event the Hearing Panel did consider the private change request against the NPS-UD, Ms Richmond provided an assessment against Objectives 2, 5 and 7, and Policies 1 and 6.

*New Zealand Coastal Policy Statement*

39. Ms Richmond acknowledged that the site is "intrinsically linked to the coast as it shares boundaries with the Tāmaki tidal inlet"<sup>15</sup>. She considered that the OS-SAR zoning of the "land is not contrary to any of the NZCPS provisions"<sup>16</sup>. With continued provision of golfing activity, she considers the private change is consistent with Policies 13, 14, 21 and 22.
40. In response to s42A report assertion that the rezoning does not align with Objective 4 of the NZCP and the inlet would be better served as an esplanade reserve once subdivided for residential use, she advised that in her opinion public access provision to the inlet was unrealistic due to "physical, environmental, and financial constraints."<sup>17</sup>.

*Auckland Regional Policy Statement (ARPS)*

41. While Ms Richmond concurred with Mr Eccles that the THAB and MHU zone more appropriately aligns with the ARPS, particularly relating to urban growth and form (B2.2.2(5)), she considered that redevelopment of the golf course arising from the various consents in the last five years had 'locked' in the open space use on the site. She therefore considered it more "appropriate to apply a zone that reflects the existing and future use of the land"<sup>18</sup>
42. She did not consider that urban growth would be constrained and emphasised how the plan change gave appropriate effect to objectives and policies in B2.7 – Open space and recreation.

*District Plan – residential zoning*

43. Ms Richmond emphasised how recreational activities and associated new buildings and additions are non-complying activities on all residential zones which have increased uncertainty of outcome. Contrary to the opinion of Mr Eccles, Ms Richmond

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<sup>15</sup> Ibid, page 16 at [52]

<sup>16</sup> Ibid, page 16 at [53]

<sup>17</sup> Ibid, page 16 at [55]

<sup>18</sup> Ibid, page 19 at [64]

considers it inappropriate for a long-standing activity to have to rely on existing use rights due to the uncertainty and constraints this places on the use and future activities for golfing purposes.

44. Existing use rights would not apply to new buildings or additions to a building. Any buildings associated with golf are a non-complying activity and this increased uncertainty of outcome, particularly as the use is not anticipated in the zone.

*District Plan – open space zoning*

45. Ms Richmond highlighted that the Auckland Unitary Plan recognised that while most open space zoned land is vested in the Council or is owned by the Crown, some areas are privately owned and may restrict public use and access.
46. From her assessment the OS-SAR zone which provided for golf and supporting uses as permitted activities was the appropriate zone for the RAGGC. This zone was more efficient than the current residential zoning which required a non-complying activity application for these uses. She considered the magnitude of any adverse effects on the nearby residents; communities and the surrounding areas remains unchanged by the rezoning as it simply reflects the current use of the land.
47. Ms Richmond provided a list of the existing golf courses within the Auckland Urban Area that showed only 4 of the 18 golf courses were zoned Residential. In her opinion the “plan change brings RAGGC zoning in line with the AUP zoning that provides for golf courses (OS-SAR) as a permitted activity. This includes those on land owned or administered by the Council, or on privately owned land.”<sup>19</sup>. She also highlighted that as part of the Council Initiated Proposed Plan Change 60, the privately owned Whangaparaoa Golf Club was being rezoned from Residential SH zone to OS-SAR zone. The stated purpose being to better reflect the purpose of the use of the land as a golf course.
48. Ms Richmond considered the magnitude of adverse effects from other activities permitted in the OS-SAR zone on this site. In her opinion the anticipated effects from more intensive active recreational activities provided for in the zone could be managed by the various standards.

*Auckland Plan*

49. Ms Richmond agreed with Mr Eccles that the Auckland Plan was a strategy document that the Council needed to have regard when assessing PPC 57 and that if the land were available for residential development it would be suitable for high intensity residential development and achieving a compact form within urban Auckland. The site, however, is unavailable to achieve that purpose of the Auckland Plan, as the

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<sup>19</sup> Ibid, page 24 at[83]

existing land use and zoning “will not contribute to the housing and business development capacity within the urban area”<sup>20</sup>.

*Part 2 of the Act*

50. Ms Richmond considers that Mr Eccles’ assessment that retaining the residential zoning will achieve the purpose of Part 2 of the RMA is incorrect. On the contrary, Ms Richmond considers that the plan change achieves the purpose and principles of the Act (s5, s6(a), s6(c), s7(b), s7(c) and s7(i)).
51. Ms Richmond considered a s32AA evaluation was not required, as the RAGGC propose no changes to the plan change request as publicly notified. She remained of the opinion that the existing s32 analysis, assesses the efficiency and effectiveness of the plan change to achieve the purpose of the RMA.
52. Ms Richmond acknowledges that Mr Eccles and herself were largely in agreement, concerning the included assessment of the effects on the environment of the plan change. However, she made the following points relating to positive effects, noise, transportation effects and residential zoned land:
  - Positive effects from the plan change would include high visual and environmental amenity for the adjacent residents; biodiversity and water quality improvement; recreational and physical benefits; high levels of pervious surfaces; and offsetting of greenhouse gases.
  - Mr Styles confirms that the noise from the golfing activities generates “*significantly lower noise levels than the maximum noise levels authorised by the OS-SAR noise standard*” (E25.6.17)<sup>21</sup> Furthermore, Mr Styles confirms that the golf course noise is “*considerably less than what he (Mr Styles) expects to be generated if the land was developed for intensive residential use*”<sup>22</sup>
  - Under Chapter 27 of the AUP, transportation provisions of the AUP would manage ‘higher traffic generating activities’ as a discretionary activity.
  - Since there is no foreseeable opportunity for the land to be used for residential activities, the purpose of the zone to enable growth will not be achieved.
53. Ms Richmond also noted the view of the Council’s Senior Policy Advisor, Community and Social Policy that considered that the plan change makes a coherent case, in particular in relation to the Open Space Provision Policy (2016). Although we note that Mr Barwell did not go as far as stating that the land should be acquired for public open space.

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<sup>20</sup> Ibid, page 26 at [90]

<sup>21</sup> Ibid, page 32 at [102]

<sup>22</sup> Ibid, page 32 at [102]

54. In conclusion, Ms Richmond considered that the rezoning of the RAGGC land from residential zones to OS-SAR is most appropriate to achieve the objectives and policies of the Auckland Unitary Plan. With golf as a permitted activity in OS-SAR, Ms Richmond asserted that provisions would reflect an efficient and effective use of land considering the land has been locked in for the foreseeable future. She considered the plan change appropriate since there has been recent redevelopment on site, the rezoning would give effect to the ARPS, and there are significant positive effects and hypothetical potential effects.
55. There were two additional pieces of evidence presented for the Club from Mr Hooker, the Club's sports turf agronomist, and Mr Styles, an acoustic consultant.
56. **Mr Mark Hooker's** statement outlined that post amalgamation he had overseen the extensive redevelopment of the former two courses. He stated, that the RAGGC redevelopment "*committed to completion of a 27-hole golf course to a design by Nicklaus Golf Design*"<sup>23</sup> across the Grange, Tamaki, and Middlemore locations.
57. He set out that the redevelopment retained the existing terrain, gullies, and watercourses. The land sold to King's College and for residential use, was considered to have the easiest gradients for redevelopment.
58. Mr Hooker highlighted the recent redevelopment provided a new clubhouse and maintenance depot, and two new staff houses. With the tree and wetland planting scheme, the RAGGC had established approximately 5,000 new trees, and constructed two new artificial lakes attracting birds and other wildlife. He also outlined that the course uses water from the Papatoetoe stormwater network, performing as a sediment pond.
59. Mr Hooker outlined that, contrary to the advice in the Council's s42A report, the course redevelopment used natural landforms and that land disturbance for day-to-day golf maintenance would exceed 500m<sup>2</sup> provided for in residential zones under AUP Chapter E12.
60. In conclusion, Mr Hooker asserted that the four-year redevelopment had created "a championship quality course suitable for play by club members and visitors, while capable of hosting local, regional, national and even international golf competition"<sup>24</sup>. As long as the club is committed, he emphasised that the RAGGC will continue to provide excellent playing facilities and offer improving environmental values.
61. **Mr Jon Styles** provided an acoustic assessment evaluating the existing and foreseeable noise effects from no new or more intensive activities associated with the RAGGC. He advised that the noise associated with golf activities in the existing environment was typically produced by golfers teeing off and grounds maintenance. Noise from golfing activity was around 40dB L<sub>Aeq</sub> with maintenance activities above

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<sup>23</sup> Evidence of Mark Hooker, page 1 at [4]

<sup>24</sup> Ibid, page 6 at [15]

50dB L<sub>Aeq</sub>. He therefore considered that noise from golfing activities is a very minor contributor and “residential receivers surrounding the golf course would enjoy a relatively good level of acoustic amenity”<sup>25</sup>.

62. Mr Styles concluded that if the rezoning is achieved there is “unlikely to be any change to the noise levels which currently comprise the existing noise environment”<sup>26</sup>. Since OS-SAR has increased permitted noise standards than residential zones during the daytime, Mr Styles therefore anticipates no noise non-compliance from the existing and predicted future noise from the rezoning under E25.6.17.

### **Submitters**

63. No submitters appeared at the hearing, although a letter was received from Transpower New Zealand Limited and a short statement from Michael Horton.

#### **Transpower (Tabled letter)**

64. Ms Eng, Senior Environmental Planner at Transpower advised there were no concerns with the plan change as the National Grid Corridor overlay applied to the site regardless of the zoning.

#### **Michael Horton (Tabled statement)**

65. Mr Horton raised concerns at the omission of any reference to riparian rights which should be available to enable the public to access the coastal waterway. He maintained his opposition to the plan change.

### **Council**

66. Council officers were provided with an opportunity to respond to the material presented to the hearing and clarify any points raised in the s42A report. In response, **Mr Eccles** advised that his recommendation remained unchanged. He considered that retaining the residential zoning within the Auckland Unitary Plan on the golf course accorded with the Council’s policy direction provided in the Regional Policy Statement that seeks a quality compact urban form. The golf course was in close proximity to the Middlemore Rail Station and Great South Road. He also highlighted the significant support from the Local Boards and the submitters for the retention of the zoning.

### **Right of Reply**

67. Mr Brabant provided an oral right of reply in which he re-emphasised that the zoning of land should reflect how it is used and what sort of activities can occur on the land.
68. In response to the Panel’s questions on the appropriateness of the current residential zones applied to the golf course, he outlined that the Residential SH zone applied to the Middlemore section was not based on land use but the result of the rolling over of

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<sup>25</sup> Evidence of John Styles, page 5 at [18]

<sup>26</sup> Ibid, page 8 at [34]

an inappropriate legacy plan zone. While the residential zoning of the former Grange section of the golf course resulted from submissions lodged by the former Grange Golf Club, prior to the amalgamation of the two clubs, when there was uncertainty about the financial situation of that Club.

69. Mr Brabant outlined that the Club was seeking to correct the zoning in the Auckland Unitary Plan. That for a variety of reasons, the Club had not sought to address the zoning at the time the Proposed Auckland Unitary Plan was notified, however it should not be penalised for this lack of action. That since 1991 the law has made provision for private plan change requests and that it was the Panel needed to deal with PPC 57 on its merits.
70. He submitted it was wrong of Mr Eccles to have been influenced by the submissions received that sought to retain the residential zoning of the land so it could contribute to an increase in Auckland's housing supply and/or rates revenue. That his task was to provide a balanced planning judgement that considered the current and foreseeable use of the land.
71. Mr Brabant submitted that contrary to the advice of Mr Eccles, the operation of the RAGGC was not protected by existing use rights under the RMA, rather the Club is operating in a non-complying environment and that this status had implications for the integrity of the zoning in the Auckland Unitary Plan arising from the granting of successive non-complying consent applications.
72. Responding to the issue of the relevance of the NPS UD, he was clear that this document should not influence the outcome of this plan change.
73. In conclusion he set out that the Auckland Unitary Plan put in place a 'tailor-made' zoning for the Club's situation. Rezoning the site OS-SAR was obvious and the sensible zone.

## **PRINCIPAL ISSUE IN CONTENTION**

### **What is the appropriate zoning for the RAGGC golf course?**

74. The main issue of contention related to the appropriateness of the residential zoning applied to the existing golf course.

#### *Introduction*

75. The Auckland Unitary Plan uses zoning as the method to manage activities and development of land within the Auckland region. Privately owned land would generally, only be zoned open space where such zoning is supported by the landowner, to do otherwise would be considered an unreasonable restriction on the use of the land.
76. The RAGGC site is currently zoned Residential Single House, Residential Mixed Housing Urban and Residential Terrace Housing and Apartment Building. All the land subject to this private plan change request is owned by the RAGGC. The Club is

seeking the Council apply a zone that reflects the long-standing and foreseeable use of the land for outdoor recreation.

77. Golf is an activity that falls within the Auckland Unitary Plan definition of 'organised sport and recreation', which is classed as a permitted activity in the OS-SAR zone. There is no provision for organised sport and recreation activities in the current residential zones applying to the site. The current golf course and ancillary activities are, therefore, reliant on the existing use right provisions of the RMA, with any new or intensification of these activities on the site classed as non-complying activities.
78. Following the amalgamation of the two golf clubs, the membership embarked on plans for the development of a world class 27-hole golf course. These plans have included undertaking a land rationalisation exercise to identify those parts of the site surplus to the requirements of its golfing purposes. These areas have been rezoned and disposed of for residential redevelopment and school purposes. The Club has also gained resource consents and undertaken development of the new club house, carpark, two staff houses, maintenance buildings, access bridge along with tree and wetland planting schemes, involving the planting of approximately 5,000 new trees, and construction of two new artificial lakes.

*New Zealand Coastal Policy Statement*

79. The New Zealand Coastal Policy Statement (NZCPS) is relevant to the assessment of the plan change request as the site adjoins the upper reaches of the Tamaki Estuary and incorporates General Coastal Marine zones and is impacted by two significant ecological area overlays both marine and terrestrial. Both planners acknowledged that the rezoning of the land to OS-SAR zone would be in keeping with certain of the NZCPS objectives.
80. The principal disagreement related to Objective 4 dealing with maintaining and enhancing the public open space qualities and recreation opportunities of the coastal environment. In Mr Eccles opinion rezoning the land OS-SAR did not align with this objective. He felt the objective would more likely be achieved through development under the existing residential zoning which would be required to provide an esplanade reserve when the land was subdivided, when land is reclaimed, or when land is developed. While acknowledging residential development and construction may place more stress on the estuary and tidal environment, he felt this could be mitigated through the use of consent conditions.
81. Ms Richmond disagreed with Mr Eccles in her opinion public access provision to the inlet was unrealistic due to "physical, environmental, and financial constraints". She however provided no detailed assessment to support this position.
82. While we do not accept Ms Richmond's opinion as fact, we do acknowledge that some parts of the golf course are within 20 metres of the coast and tidal inlet and clearly accessible to club members, for example at the two reclaimed areas forming artificial

lakes. We therefore consider changing the zoning of the land to open space is not contrary to NZCPS.

*National Policy Statement – Urban Development*

83. We have not allowed the NPS-UD to influence our decision on the appropriate zoning for the site, as the Council has yet to implement the NPS through plan changes. It may, however, have some effect on future decisions about use of the golf course land. It is our understanding that privately-owned open space and recreation land is not a 'qualifying matter' exempting it from the NPS-UD intensification directions.

*Regional Policy Statement*

84. Mr Eccles, the Council's reporting planner recommended the retention of the residential zonings applied to the site as a means of implementing the Council's growth strategy outlined in the Auckland Plan and articulated in the Regional Policy Statement's strategic objectives and policies for urban growth and form and transport. He outlined that a "clear and underlying theme of these objectives and policies is to achieve a quality compact urban form through integrated land use close to existing or planned infrastructure and transport. The aim is to promote urban growth and intensification within the urban area close to public transport, social facilities (including open space) and employment opportunities."<sup>27</sup> He considered retaining the residential zoning was the most appropriate way to give effect to the RPS and achieve the purpose of the RMA as it would achieve economic and efficient sustainable management.
85. Ms Richmond disagreed with Mr Eccles' assessment that retaining the residential zoning will achieve the purpose of Part 2 of the RMA. In her view, and as set out in the accompany S32 report, the rezoning the site to OS-SAR achieved the purpose and principles of the Act.
86. In our assessment, the objectives and policies of the RPS do not provide a strong direction that the land should be zoned either residential or open space. Zoning is a key method to give effect to the objectives and policies of the RPS managing the way in which areas of land are to be used, developed or protected. The objectives and policies of the RPS enable both intensive residential or open space and active recreation activities. We do not accept that an open space zoning achieves those purpose and principles any better than a residential zoning would accompanied by appropriate parks, stormwater management, stream riparian and coastal edge protection provisions. In our view, both open space and residential zonings could achieve the purpose of the RMA.
87. In the case of the residential zonings applied to the RAGGC site, this land is not available for the implementation of the Council's growth strategy, as evidenced by the Club's commitment and ongoing investment in the development and use of the site as a golf course. Such zonings would in fact give the appearance that Auckland had a

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<sup>27</sup> Council Agenda, page 26 paragraph 90.



substantial available capacity for residential development in this area (some 1655 dwellings modelled) when there is a very low, if any, likelihood that this would be achieved in the next 30 years.

88. Therefore, we consider it is appropriate and consistent with the RPS and Auckland Unitary Plan structure to apply a zone that reflects the function carried out and intended to be carried out for the foreseeable future on this privately owned land. Likewise, the objectives and policies of the residential and open space zones are not directive about whether land should be zoned open space or residential rather they outline how activities and development in those zones are to be managed.

### *Findings*

89. In our view, the RAGGC has demonstrated a clear commitment to the site being retained as a golf course for the foreseeable future both in the plan change request application, its submissions at the hearing, and as evidenced by its substantial investment in both the development of the course and its ancillary facilities and activities.
90. The zoning of the site should recognise the landowner's intentions and commitment to the ongoing maintenance and development of the site as a golf course and its ancillary activities. The golf course development of the site should not have to rely on the existing use right provisions of the RMA or require ongoing resource consent approvals to enable the course to operate and undertake its maintenance functions.
91. We agree with Ms Richmond that "There is no impact on residential intensification through AUP enabled capacity as RAGGC has no intention of using the land for any purpose other than what it has been used for in the last 80+ years"<sup>28</sup>.
92. If at some future time the Club decides to reduce the area of its site used for golfing purposes or dispose of the site in its entirety, then the appropriateness of the zoning of these areas can be revisited at that time. The Council would not, in our opinion, be able to sustain an Open Space – Sports and Active Recreation zoning on privately-owned land without the agreement of the landowner, unless the Council proceeded to acquire the land for public recreation purposes.
93. Therefore, we find that the site should be rezoned from Residential to OS-SAR, a zone that anticipates golfing as a permitted activity.

## **RELEVANT STATUTORY PROVISIONS**

94. The RMA sets out the mandatory requirements for the preparation and processing of a proposed plan change. We are satisfied that PPC 57 has been developed in accordance with the relevant statutory and policy matters, including consideration of the submissions received to PPC 57. This assessment is set out in detail in the plan change application. The following section summarises this statutory and policy

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<sup>28</sup> Section 32 Evaluation Report, Richmond Planning Limited, August 2020, paragraph 1.4

framework. The Assessment of Effects accompanying the Plan Change Request (AEE) contains an evaluation of how PPC 57 aligns with each matter. The development of PPC 57 and the analysis of submissions were undertaken in line with this framework.

95. The relevant statutory and regulatory framework for PPC 57 includes:
- The Resource Management Act 1991 (RMA)
  - New Zealand Coastal Policy Statement 2010
  - National Policy Statement on Electricity Transmission 2008
  - National Policy Statement Urban Development 2020
  - National Policy for Freshwater Management
  - Auckland Unitary Plan (Operative in Part)
  - Auckland Plan 2050
96. The AEE (Pages 28-29) identifies the relevant “Issues of Regional Significance” and reviews the proposal against the relevant RPS objectives and policies. We consider that PPC 57 is consistent with the relevant RPS Objectives and Policies dealing with B2.7 Open space and recreation facilities
97. With respect to the RPS B2.7 Open Space and recreation facilities objectives and policies PPC 57 is not contrary to objectives B2.7.1(1) and B2.7.1(3), and policies B2.7.2(1), B2.7.2(3), B2.7.2(7) and B2.7.2(8).
98. We agree that if the land were available for residential development that it would be suitable for high intensity residential development and assist in achieving a compact form within urban Auckland. The site, however, is privately owned and there has been significant investment by the RAGGC in the development of its land since the amalgamation of the two golf clubs particularly in the last four years. We acknowledge the points made by Mr Brabant and Ms Russ that the land surplus to the club’s requirement has been sold either to the adjoining King’s College or to private interests and are being developed for high intensity residential activity.
99. As we noted earlier in this decision, the RMA sets out a range of matters that must be addressed when considering a plan change. We confirm that we have addressed those matters.
100. We also 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. Having reviewed the s32 evaluation undertaken by Richmond Planning Limited, we accept that as sufficient for the notified PPC 57.

101. Section 32AA RMA requires the undertaking of a further evaluation on any changes proposed subsequent to the original s32 evaluation, in such detail as corresponds to the scale and significance of those proposed changes, and sufficient to demonstrate that such has been undertaken as required.
102. There are no amendments suggested to the proposed plan change since the development of the underpinning Section 32 Evaluation Report. There is no demonstrated need for the Commissioners to undertake a Section 32AA Further Evaluation.
103. Having considered the relevant background documents, we are satisfied, overall, that PPC 57 has been developed in accordance with the relevant statutory and planning policy requirements and will assist the Council in its effective administration of the Auckland Unitary Plan.



## CONCLUSIONS

104. The Commissioners have considered the RAGGC's proposed private plan change application including the supporting section 32 analysis report, the Council's section 42A report, the submissions and evidence received. We find that Proposed Private Plan Change 57 – Royal Auckland and Grange Golf Club should be adopted to rezone:
  - a) 57 Grange Road from Residential – Single House zone to Open Space – Sport and Active Recreation zone.
  - b) Grange Road from Residential – Terrace Housing and Apartment Building zone and Residential Mixed House Urban zone to Open Space – Sport and Active Recreation zone.
  - c) 2 Grange Road from Residential - Mixed House Urban zone to Open Space – Sport and Active Recreation zone.
  - d) 69A Omana Road from Residential - Mixed House Urban zone to Open Space – Sport and Active Recreation zone.
105. We are satisfied that PPC 57 will assist the Council in achieving the purpose of the RMA and is consistent with the relevant National Policy Statements and gives effect to the Auckland Regional Policy Statement.

## DECISION

1. The Commissioners have determined, pursuant to Schedule 1 Clause 10 of the Resource Management Act 1991, Proposed Plan Change 57 - Royal Auckland and Grange Golf Club to the Auckland Unitary Plan (Operative in Part) be **APPROVED**, as set out in this decision and in Attachment A.

2. The reasons for the decision are that the approval of Proposed Plan Change 57:
  - a. will assist the council in achieving the purpose of the RMA;
  - b. is consistent with the relevant National Policy Statements;
  - c. gives effect to the Auckland Regional Policy Statement and is consistent with the general provisions of the Auckland Unitary Plan;
  - d. is consistent with the provisions of Part 2 of the RMA;
  - e. is supported by necessary evaluations in accordance with sections 32 RMA; and
  - f. will help with the effective implementation of the Auckland Unitary Plan.
3. Submissions on the plan change are accepted and rejected in accordance with this decision.
4. That the Auckland Unitary Plan (Operative in Part) be amended in accordance with Attachment A, Plan Change 57 - Royal Auckland and Grange Golf Club.

	
<b>Janine A. Bell (Chair)</b>  <b>Independent Hearing Commissioner</b>	<b>Trevor Mackie</b>  <b>Independent Hearing Commissioner</b>

**17 August 2021**

# ATTACHMENT A: AMENDMENTS TO THE AUCKLAND UNITARY PLAN – MAPS

## ZONES

