

Proposed Plan Change 96 (PC96) Open Space and Other Rezoning Matters (2024)

to the Auckland Unitary Plan (Operative in
part)

SECTION 32 EVALUATION REPORT

Note: This Section 32 report addresses the rezoning of 1023 & 1039 Linwood Road, Papakura. There is a separate Section 32 Report that addresses the other proposed zoning changes in PC96

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List of Attachments

Attachment 1 – 1023 and 1039 Linwood Road, Kingseat Plan Change, Integrated Transport Assessment, – Flow Transportation Specialists, September 2021

Attachment 2 - Kingseat Wider Area Review Transport Assessment, Flow Transportation Specialists, September 2021

Attachment 3 – Iwi consultation maps for Proposed Plan Change 60 (showing the inclusion of 1023 and 1043 Linwood Road, Papakura)

Executive Summary

i. The Objectives of the Plan Change

The objectives of this plan change are to:

- to apply an appropriate zone to 1023 and 1039 Linwood Road, Kingseat, given the land is currently zoned Open Space – Sport and Active Recreation (under the Auckland Unitary Plan), is privately owned and is no longer required as open space by Auckland Council.



ii. Background

The recent zoning history of 1023 and 1039 Linwood Road, Kingseat is as follows:

Auckland Council District Plan – Operative Franklin Section 2000

- zones 1023 & 1039 Linwood Road, Kingseat as ‘Recreation zone’

Kingseat Structure Plan (Plan Change 28) 2011

- publicly notified on 20 January 2011
- made operative on 21 July 2015 following the resolution of three appeals to the Environment Court
- shows a future sports park in the general vicinity of 1023 & 1039 Linwood Road, Kingseat

The Auckland Council District Plan – Franklin Section 2010:

- zones 1023 and 1039 Linwood Road, Kingseat zoned as Open Space

Proposed Auckland Unitary Plan

- publicly notified on 30 September 2013
- 1023 & 1039 Linwood Road, Kingseat zoned Rural Production
- Kingseat sub-precinct B – shows open space in another location

Evidence of Barry Mosely (Auckland Council) 27 January 2016

- recommended incorporation of finalised PC28 content post appeal into the Kingseat precinct provisions
- included changes to underlying zoning to both correct errors and better align activities anticipated to the more appropriate underlying zone
- Precinct Plan 8:Zoning – 1023 & 1039 Linwood Road, Kingseat zoned as Open Space – Sport and Active Recreation

Auckland Unitary Plan Operative in Part 15 November 2016

- zones 1023 & 1039 Linwood Road as Open Space – Sport and Active Recreation

iii. Rationale for a Plan Change

Although privately owned, 1023 and 1039 Linwood Road, Kingseat are currently both zoned Open Space – Sport and Active Recreation under the Auckland Unitary Plan (AUP). This was with the agreement of the landowner – Kingseat Village Limited.

Auckland Council Community and Social Policy (Parks) have subsequently advised that the two lots are no longer required as open space. Auckland Council must therefore provide an alternative zoning. Privately owned land is not typically zoned open space unless the landowner has agreed to it. There are some exceptions to this however (see Caselaw summary in section 4.2.1).

On 29 October 2019, Paul Marriott – Lloyd, Senior Policy Manager, Community and Social Policy confirmed that Auckland Council does not wish to acquire any additional open space land adjoining the existing three hectare suburb park in accordance with the Open Space

Provision Policy. The provision of formal sports fields for current and future residents of the Kingseat Precinct would be catered for at the nearby Karaka Recreation Reserve.

It was also noted that council is likely to be interested in acquiring land for a neighbourhood park at a later stage to the north of Linwood Road.

It was also confirmed that council would initiate a plan change process to remove the open space zoning of the land at Linwood Road and to replace it with an appropriate zoning that will facilitate development in accordance with the Unitary Plan. This would be part of an omnibus plan change (Proposed Plan Change 60) across parts of Auckland. There was also the option for the landowner of a private plan change.

iv. Proposed Plan Change 60

At the 3 December 2020 Planning Committee meeting, the committee resolved:

Resolution number PLA/2020/113

That the Planning Committee:

- a) approve the notification of proposed Open Space Plan Change (2020) and Other Rezoning Matters to the Auckland Unitary Plan (Operative in Part) as outlined in Attachment A of the agenda report*
- b) endorse the section 32 evaluation reports contained as Attachments B and C to the agenda report*
- c) delegate to the Chair and Deputy Chair of the Planning Committee, Franklin ward councillor and a member of the Independent Māori Statutory Board, the authority to decide whether to include, with the most appropriate zone, the privately-owned land on Linwood Road, Kingseat Village (which is currently zoned open space) within the proposed Open Space Plan Change (2020) and to make minor amendments to the proposed plan change prior to public notification.*

1023 and 1039 Linwood Road, Kingseat were therefore originally intended to be part of Proposed Plan Change 60.

However, Auckland Transport recommended that an Integrated Transport Assessment (ITA) be undertaken to support such a plan change proposal.

1023 and 1039 Linwood Road, Kingseat were therefore not included in Proposed Plan Change 60 - Open Space (2020) and Other Rezoning Matters given the time required to prepare the ITA.

v. Transport Effects of Rezoning the Land

Auckland Transport advised that a new Integrated Transport Assessment (ITA) was required assuming the two lots were to be rezoned from open space to a Residential – Single House zone. The development yield was assumed to be up to 90 dwellings.

In addition to the above assessment of the proposed rezoning, the need for a wider review of the transport related aspects of the Kingseat precinct was also identified given that the Kingseat Structure Plan and supporting ITA were more than 10 years old.

The ITA and wider review of the Kingseat precinct provisions would enable the transport effects of the rezoning to be determined. Both 1023 & 1039 Linwood Road, Kingseat are privately owned by Kingseat Village Limited but are currently zoned as Open Space – Sport and Active Recreation, under the Auckland Unitary Plan.

vi. Results of the Integrated Transport Assessment (ITA) and the Wider Review of the Transport Related Aspects of the Kingseat Precinct

Flow Transportation Specialists Ltd (Flow) assessed a potential plan change (assuming a Residential – Single House zoning) against the objectives and policies of the Regional Policy Statement B2.4 Residential Growth and the Kingseat Precinct that were relevant to transport matters. In summary they considered that a plan change was consistent with relevant Objectives and Policies of RPS B2 Tāhuhu whakaruruhau ā-taone - Urban growth and form and I418 Kingseat Precinct.

Flow considered that any transport upgrades for Kingseat Road and/or Linwood required to support the Kingseat Precinct (including the Plan Change sites) were captured by Table I418.4.1 Activity Table 1 (A13) to (A15) and (A63) and (A64). In their view, amendments to the Kingseat Precinct to support the Plan Change were not required.

Overall, Flow considered that additional development provided by a plan change could be accommodated by the local transport network and that the existing Kingseat Precinct provisions were adequate to ensure that any development within the plan change area would provide appropriate improvements to the local transport network to support development.

In terms of the wider review, Flow considered that the currently anticipated land use development will increase the level of morning peak period traffic congestion on both Linwood Road and Hingaia Road, and increase pressure on the Papakura interchange. The effects of this increasing congestion have not previously been fully considered, through for example the Supporting Growth programme of work.

Demands for private car travel on the Linwood Road/Hingaia Road corridor are predicted to exceed capacity in the future, as will demand for travel through the Papakura interchange. This is to be expected through growth anticipated about the wider South Auckland area. Waka Kotahi will continue their role of managing demand on the motorway network through ramp metering, and prioritising high productivity vehicles through T2/truck lanes at Papakura interchange. However there is little ability to increase the capacity of the general traffic network in this area, so residents living in Kingseat and Karaka North will instead need to be given better choices to 'opt out' of peak period congestion.

vii. Elite and Prime Soils & the National Policy Statement for Highly Productive Land (2022)

Kingseat, including 1023 and 1039 Linwood Road, Kingseat is identified as an area of prime soils in the AUP.

The National Policy Statement for Highly Productive Land (2022) came into effect on 17 October 2022.

The objective of the NPS is that *“Highly productive land is protected for its use in land – based primary production, both now and for future generations”*.

Policy 5 of the NPS states that *“the urban rezoning of highly productive land is avoided, except as provided for in this National Policy Statement”*. Policy 7 states *“the subdivision of highly productive land is avoided, except as provided for in this National Policy Statement”*.

Under Section 1.3 Interpretation:

Urban rezoning means changing from a general rural or rural production zone to an urban zone, and

Urban, as a description of a zone, means any of the following zones:

Low density residential, general residential, medium density residential, large lot residential and high density residential

...

Under Section 3.5 – Implementation, of the NPS

(7) Until a regional policy statement containing maps of highly productive land in the region is operative, each relevant territorial authority and consent authority must apply this National Policy Statement as if references to highly productive land were references to land that, at the commencement date:

(a) is (i) zoned general rural or rural production; and

(ii) LUC 1, 2, or 3 land; but

(b) is not: (i) identified for future urban development; or

(ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

As both 1023 and 1039 Linwood Road, Kingseat are currently zoned Open Space (and not a general rural or rural production zone), the NPS does not apply.

viii. Water Supply and Wastewater Infrastructure

Kingseat is not currently serviced by public reticulated water supply and wastewater infrastructure.

In terms of water and wastewater, the Kingseat precinct contains the following policy:

(10) Ensure infrastructure provision for public water supply and one public waste water system in the precinct is in advance of, or concurrent with, any resource consents for subdivision and development, provided that resource consent for the reticulated and treated waste water disposal and any required resource consents for storm water discharge have been granted.

This is implemented via the following precinct standard:

1418.6.12. Wastewater and Water Supply

(1) Any site located within the Kingseat precinct must be connected to a public reticulated wastewater treatment and disposal system.

(2) Any site located within the Kingseat precinct, must be connected to a public reticulated water supply and network.

Subdivision of sites within the Kingseat Precinct that are not connected to a public reticulated water supply or a public reticulated sewage disposal system, and where all necessary resource consents have not been granted for a public reticulated water supply network and a public reticulated sewage disposal system, is a non-complying activity.

Both Watercare and the owner of 1023 and 1039 Linwood Road – Kingseat Village Limited, are currently investigating the provision of water supply and wastewater infrastructure for the Kingseat area.

Kingseat Village Limited has been granted a resource consent (on 1 April 2022) “to take and use a total of 714m³/day and 260,610m³ per year of ground water from the Franklin Te Hihi North Waitemata Aquifer with three proposed bores for a reticulated water supply to service residential, commercial and community uses in the Kingseat Precinct area”.

ix. Analysis of Options

A section 32 analysis of options for the zoning of 1023 & 1039 Linwood Road, Kingseat has been undertaken in accordance with section 32(1)(b) and (2) of the RMA. The three options analysed are:

- Option 1: Do not change the zoning of **1023 and 1039 Linwood Road, Kingseat** (*Status Quo/Do Nothing*)
- Option 2: Change the zoning of **1023 and 1039 Linwood Road, Kingseat** to the Residential – Single House zone (*Change the zone in AUP to residential via a plan change*)
- Option 3: Change the zoning of **1023 and 1039 Linwood Road, Kingseat** to the Rural Production zone (*Change the zone in AUP to rural via a plan change*)

The options were assessed against the national and regional planning context (section 6) and the criteria outlined in section 9. Consultation identified in section 8 influenced the options.

Option 2 is the recommended option.

x. What is the appropriate zoning

Typically, when land is no longer required as open space, the most appropriate alternative zone is the zoning of the adjacent land. 1039 Linwood Road, Kingseat is adjacent to the Residential – Single House zone. 1023 Linwood Road is adjacent to the Rural – Rural Production zone. However, both lots are logically rezoned to Residential – Single House zone so that there is a consistent zone boundary between residential and rural zones.

xi. Matters Outside the Scope of the Plan Change

The zoning of other land (note the zone boundaries around the Kingseat Village centre do not currently follow cadastral boundaries and are schematic) is not within scope of this evaluation.

1.0 Introduction

1. This report is prepared as part of the evaluation required by Section 32 of the Resource Management Act 1991 (**'the Act'**) for proposed Plan Change 96 (**PPC96**) to the Auckland Unitary Plan (Operative in Part) (**AUP**).
2. Plan Change 96 includes a proposed change to rezone 1023 and 1039 Linwood Road, Kingseat from Open Space – Sport and Active Recreation zone to an appropriate alternative zone - Residential – Single House zone.

1.1 Section 32 Evaluation

3. Section 32 of the Act requires that before adopting any objective, policy, rule or other method (including the zoning of land), the Council shall carry out an evaluation to examine:
 - The extent to which each objective is the most appropriate way to achieve the purpose of the Act, and
 - Whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objective.
4. The evaluation must also take into account:
 - The benefits and costs of policies, rules, or other methods; and
 - The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

1.2 The Evaluation Approach

5. This section outlines the evaluation. The remainder of this report will follow the evaluation approach described in the table below. In accordance with section 32(6) of the RMA and for the purposes of this report:
 - I. the 'proposal' means this component of the Plan Change;
 - II. the 'objectives' means the objective of the Plan Change – that is to apply an appropriate zone to 1023 and 1039 Linwood Road, Kingseat, given the land is no longer required as open space; and
 - III. the 'provisions' means the method(s) used to give effect to the above objectives – in this case the zoning of 1023 and 1039 Linwood Road, Kingseat.

| Sections of this report | Evaluation Approach |
|---|--|
| Section 2: The Issue | This part of the report will explain the resource management issue and why there is a need to resolve it. |
| Section 3: Objectives | This part of the report will outline the purpose of the evaluation. |
| Section 4: Matters for Consideration | In accordance with subsections 32(1)(a) and (1)(b)(iii) of the RMA, this part of the report examines the extent to which the objectives of the evaluation are the most appropriate way to achieve the purpose of the RMA. This section outlines the matters for consideration for a plan change. |
| Section 5: Identification of Potential Options | This part of the report identifies potential options for addressing the RMA issue. |
| Section 6: Statutory evaluation | This part of the report evaluates the relevance of the options to Part 2 (sections 5-8) and other relevant parts / sections of the RMA. |
| Section 7: National and local planning context | This part of the report evaluates the relevance of the options against the national and local planning context. |
| Section 8: Consultation | This part of the report outlines the consultation undertaken in preparing options. It includes a summary of all advice received from iwi authorities as required by section 32(4)(a) of the RMA. |
| Section 9: The evaluation of options | In accordance with section 32(1)(b) and (2) of the RMA, this section examines whether the options appropriately achieve the objectives of the AUP and the sustainable management purpose of the RMA. The options are assessed by their efficiency and effectiveness, costs, benefits and risks to resolve the RMA issue. |
| Section 10: Conclusion | This part of the report concludes which option is the most efficient, effective and appropriate means of addressing the resource management issue identified. |

6. This section 32 evaluation report will continue to be refined in response to any consultation feedback provided to the council, and as the proposed plan change progresses through the plan change process. The section 42a hearing report will also form part of the section 32 evaluation.

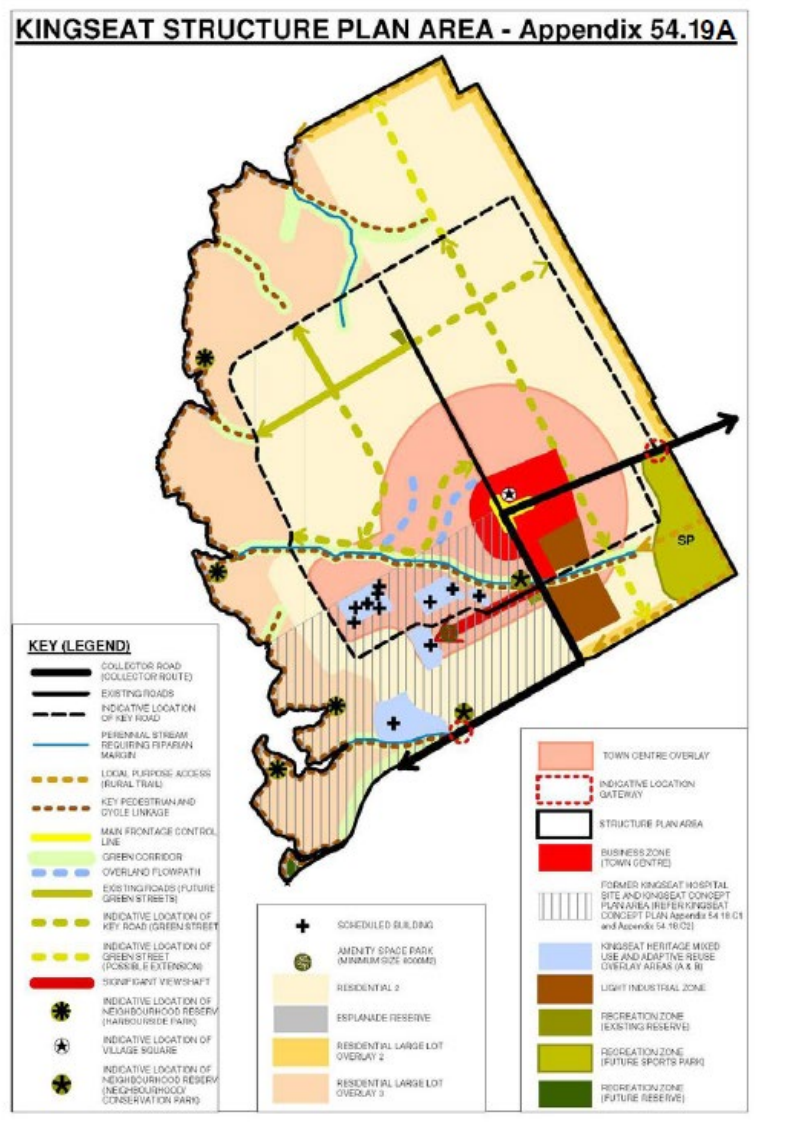
2.0 The Issue

2.1 Background

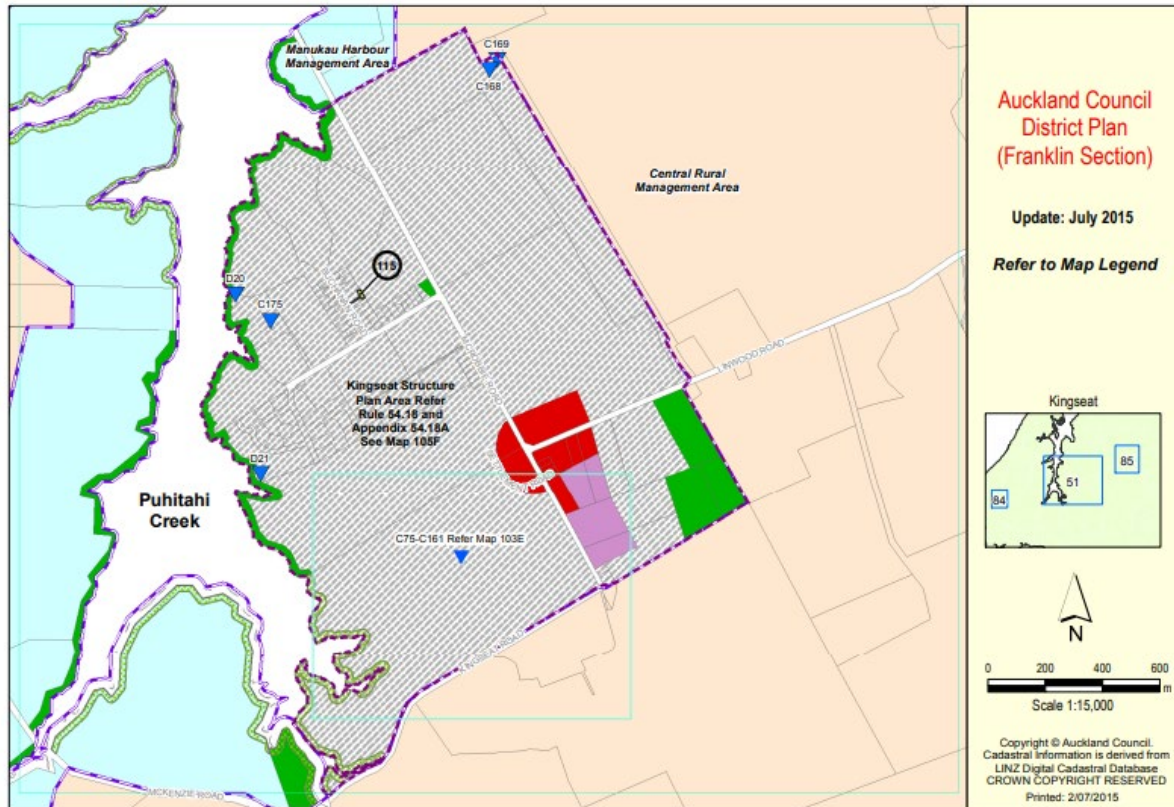
7. The recent history of the zoning of 1023 and 1039 Linwood Road, Kingseat is as follows:

8. The Auckland Council District Plan – Operative Franklin Section 2000:
 - zoned 1023 & 1039 Linwood Road, Kingseat as ‘Recreation zone’

9. The Kingseat Structure Plan (Plan Change 28) 2011:
 - was publicly notified on 20 January 2011
 - was made operative on 21 July 2015 following the resolution of three appeals to the Environment Court
 - shows a future sports park in the general vicinity of 1023 & 1039 Linwood Road, Kingseat



10. The Auckland Council District Plan – Franklin Section:
 - zones 1023 and 1039 Linwood Road, Kingseat zoned as Open Space



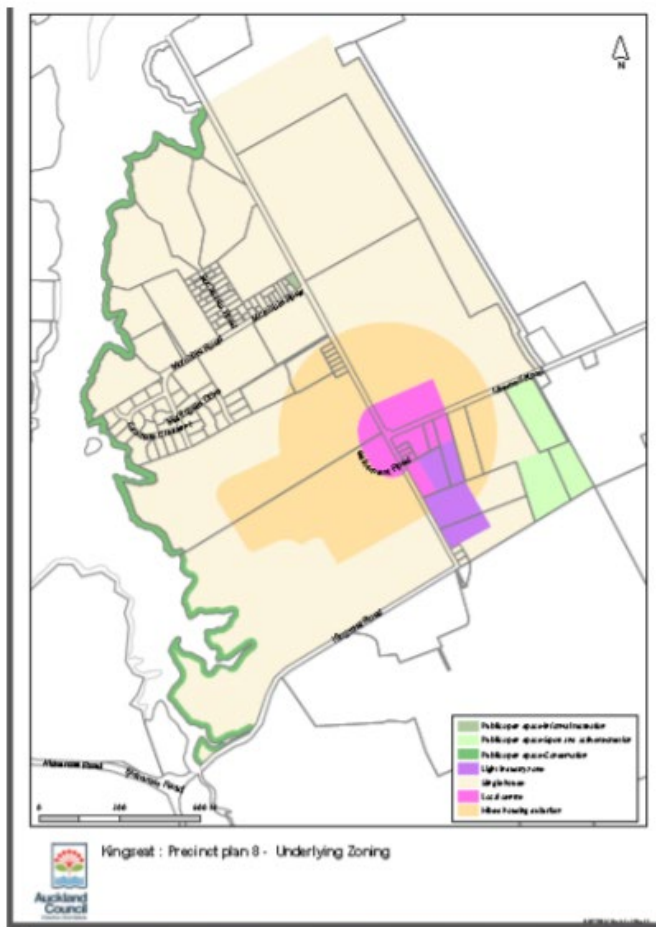
11. The Proposed Auckland Unitary Plan:

- was publicly notified on 30 September 2013
- 1023 & 1039 Linwood Road, Kingseat were zoned Rural Production
- the Kingseat sub-precinct B – shows open space in another location

12. The evidence of Barry Mosely (Auckland Council) 27 January 2016:

- recommended the incorporation of finalised PC28 content post appeal into the Kingseat precinct provisions
- included changes to underlying zoning to both correct errors and better align activities anticipated to the more appropriate underlying zone
- Precinct Plan 8:Zoning – 1023 & 1039 Linwood Road, Kingseat zoned as Open Space – Sport and Active Recreation

ATTACHMENT D: Revised precinct Underlying Zoning



13. The Auckland Unitary Plan Operative in Part 15 November 2016:

- zones 1023 & 1039 Linwood Road, Kingseat Open Space – Sport and Active Recreation

2.2 The Auckland Unitary Plan

14. The open space zones of the legacy Auckland Region District Plans provided the starting point for the AUP's open space zonings.
15. Both 1023 and 1039 Linwood Road, Kingseat were zoned Open Space – Sport and Active Recreation reflecting the zoning under the legacy Franklin District Plan. An adjacent Council owned lot (Sec 2 SO 404282) that is located to the east of the access strip to 1039 Linwood Road is also zoned Open Space – Sport and Active Recreation. This lot is unaffected by the evaluation and is to remain as a council owned reserve.
16. Auckland Council Community and Social Policy (Parks) have subsequently advised that the two rear lots are no longer required as open space. Auckland Council must

therefore provide an alternative zoning. Privately owned land is not typically zoned open space unless the landowner has agreed to it.

2.3 The Issue / Problem Definition

17. The open space zoning of 1023 and 1039 Linwood Road, Kingseat is now inappropriate as Auckland Council no longer needs the additional open space in that location.
18. Sports fields are located at Karaka Sports Park - 372 Blackbridge Road, Karaka and the Drury Sports Complex – 20 Victoria Street, Drury.
19. Typically, when land is no longer required as open space, the most appropriate alternative zone is the zoning of the adjacent land. 1039 Linwood Road, Kingseat is adjacent to the Residential – Single House zone. 1023 Linwood Road, Kingseat is adjacent to the Rural – Rural Production zone. If both lots were rezoned to Residential – Single House zone there would be a consistent zone boundary between residential and rural zones. Nevertheless, the evaluation must consider both residential and rural zones along with the status quo.
20. Auckland Transport have raised the issue of the transport effects of rezoning the land. This is addressed in section 4 of this section 32 report.
21. Kingseat is located in an area of prime soils and is not currently serviced by public reticulated water supply and wastewater infrastructure.

3.0 Objectives

22. This section 32 report involves analysing the most appropriate method to give effect to the Unitary Plan objectives, having regard to the requirements of the Resource Management Act and the National and Regional Planning context.
23. The objectives of this evaluation are therefore to:
 - to determine an appropriate zoning for 1023 and 1039 Linwood Road, Kingseat, given the land is no longer required as open space.

4.0 Matters for Consideration

4.1 Preliminary Options

24. The status quo – i.e. retaining the open space zoning is an option that should be considered.
25. In terms of any plan change, this would involve the rezoning of 1023 and 1039 Linwood Road, Kingseat from Open Space – Sport and Active Recreation zone to an

appropriate alternative zone – either Residential – Single House zone or Rural – Rural Production zone. These two zones reflect the zoning of adjacent land.

4.2 Rationale for any plan change

26. The rationale for a plan change is as follows:

- The open space zoning of 1023 and 1039 Linwood Road, Kingseat is now inappropriate as Auckland Council no longer needs the additional open space in that location
- Privately owned land is not typically zoned “open space” unless it has the approval of the landowner
- The landowner has requested that the land be rezoned, if it is no longer required as open space
- An appropriate alternative zoning must therefore be applied to the land
- The change in zoning requires a plan change

4.2.1 Relevant Case Law

27. Case law on the zoning of private land as open space (or the equivalent) is as follows:

Dilworth Trust Board v Dunholme Lawn Tennis Club & Auckland City (1980) A142/80

28. The Environment Court found that it was unreasonable to apply Recreation D zoning (an Auckland City open space zone) to private land used for recreation purposes, without the consent or acquiescence of the owner of that land. In the case of the present appellants, they oppose that form of zoning for their land. The Court ruled that the appeals must therefore be allowed.

Golf (2012) Ltd v Thames-Coromandel District Council [2019] NZEnvC 112

29. In its Proposed District Plan, Thames-Coromandel District Council (“TCDC”) sought to zone Golf (2012) Limited’s (“the Appellant”) land as Open Space. The land concerned was in Matarangi and was occupied by a golf course. The Appellant opposed the Open Space zoning and sought to have it replaced by Residential zoning. TCDC opposed the appeal along with two resident groups (“the Respondent”).

30. The Court considered whether the plan provisions which zoned private land as open space were unlawful and whether the proposed plan provisions rendered the site incapable of reasonable use and placed an unfair and unreasonable burden on the Appellant under section 85 of the Resource Management Act 1991 (“RMA”). In considering these issues, the Court first looked to the planning history of the land and its relevance to their decision. The Court agreed with the Respondent that the planning history of Matarangi was relevant to the issues, as the land had been zoned residential and open space intermittently over the past 30 years.

31. The Court then considered the case law as put by the parties. Counsel for the Appellant referred to **Capital Coast Health Ltd v Wellington City Council** which held that private landowners would be unable to make reasonable use of land zoned for

open space and therefore such zoning was inappropriate for private use which was capable of other uses. However, the Respondent referred to various cases which found that legislation regulating the use of natural resources can modify the principle put forward in *Capital Coast*. **Hastings v Auckland City Council** observed that the RMA modifies the general principle that a landowners right to use land in its natural state should not be taken away without compensation and that section 85 allows a person with an interest in land to challenge the provision in a submission on the plan or apply for a change to the plan. Hastings concluded that:

“[85]...the test to be inferred from section 85 is not whether the proposed zoning is unreasonable to the owner (a question of the owner’s private rights), but whether it serves the statutory purpose of promoting sustainable management of natural and physical resources (a question of public interest).”

32. The Court then considered whether the proposed plan provisions were unlawful and found that there was no general legal principle that private land should not be zoned for open space purposes unless agreed to by the owner or the land is unsuitable for development.
33. The Court then turned to the question of the appropriateness of the provisions under section 85. The Court stated, as above in Hastings, that the test “must be based on all the evidence and assessed on the merits with a focus on the public interest”. The Court stated that under the proposed plan, residential activities were not provided for at the site, however they were provided for on neighbouring land. If all things were equal, on the face of it, this could meet the test under section 85 as amounting to an unfair and unreasonable burden on the Appellant. However, in considering the basis for the restrictive zoning, the Court stated that the planning history of Matarangi was relevant to the extent that it explained the history of development and how it relates to the rest of the environment. The Court stated it was clear that:

“[136] ... the preservation of the natural character of the coastal environment and the protection of it from unnecessary subdivision and development has been an express matter of national importance for 45 years.”
34. The design and construction of the golf course was the method which enabled appropriate development and protection of the natural character of the Matarangi peninsula simultaneously.
35. The Court further stated that it is relevant to ask who made the land open space. If it was the council who initially imposed that zoning, then it may be unreasonable without agreement from the owner, however, if it was the owner’s choice (or their predecessor) then it is not unreasonable. The Court concluded that the test under section 85 was not met solely on the basis of the proposed change in zoning.
36. This decision finds that there is no general principle that private land cannot be zoned as open space against the owner’s wishes and that the planning history of an area is relevant to determining the appropriateness of zoning for a particular site. However,

each case will be determined on its own merits. The particular factors that were determinative in this case were that the site had been open space for a number of years and this was known to the Appellant when it was purchased, and the site and surrounding area also had high amenity value which required protection. It should be noted that in the Panel's decision, they recommended that the Council and Matarangi Community make it a priority to formally acquire the land of the golf course which was zoned open space. Therefore, this case could be distinguished from others where such extreme factors are not present.

4.2.2. What is an alternative zoning?

37. Typically, when land is no longer required as open space, the most appropriate alternative zone is the zoning of the adjacent land. 1039 Linwood Road, Kingseat is adjacent to the Residential – Single House zone and 1023 Linwood Road, Kingseat is adjacent to the Rural – Rural Production zone. Logically both lots should be rezoned to Residential – Single House zone so that there is a consistent zone boundary between residential and rural zones. Nevertheless, both the Residential – Single House zone and the Rural – Rural Production zone are assessed as options, along with the status quo.

4.2.3 What are the transport and traffic effects of an alternative zoning?

38. Advice from Auckland Transport was that a new Integrated Transport Assessment (ITA) was required assuming the two lots were to be rezoned from open space to a Residential – Single House zone. The development yield is to be assumed to be 90 dwellings.
39. In addition to the above assessment of the proposed rezoning, Auckland Transport was also of the view there was the need for a wider review of the transport related aspects of the Kingseat precinct has been identified given that the Kingseat Structure Plan and supporting ITA are now more than 10 years old.
40. The two deliverables were therefore:
1. An integrated transport assessment (ITA) to support a potential Plan Change
 2. A wider transport review / assessment of the Kingseat Precinct
41. Flow Transportation Specialists Ltd (Flow) assessed the potential safety and efficiency effects of a plan change on the surrounding transport network. They noted that:
- the new intersections with Linwood Road and Kingseat Road are expected to operate with acceptable delays, with the right turn movement predicting a delay of 50 seconds or LOS F during the morning and afternoon peak periods. These results reflect a future scenario where Kingseat is fully developed. They noted that the modelling assumption presents a somewhat conservative approach, with alternative access points likely to bring the delay down. The plan change shows a negligible effect, therefore they considered that the plan change does not, by itself, generate effects that warrant specific mitigation beyond that identified within the precinct provisions

□ there is a trend for head on and loss of control crashes on Linwood Road and Kingseat Road, which is not atypical of a heavily trafficked rural road. As the Kingseat Precinct continues to urbanise, it is expected that Linwood Road and Kingseat Road will be urbanised and the speed limit reduced from the existing 70 km/hr posted speed limit to a 50 km/hr posted speed limit. This will likely reduce the severity of any crashes and combined with the very low increase in daily traffic movements attributable to the plan change, Flow consider that there will be a negligible safety effects as a result of a plan change.

4.2.4 Integrated Transport Assessment (ITA)

42. Flow assessed the plan change against the objectives and policies of the Regional Policy Statement B2.4 Residential Growth and the Kingseat Precinct that are relevant to transport matters. In summary they consider that the plan change is consistent with relevant Objectives and Policies of RPS B2 Tāhuhu whakaruruhau ā-taone - Urban growth and form and I418 Kingseat Precinct.
43. Having reviewed the Kingseat Precinct provisions, Flow considered that any transport upgrades for Kingseat Road and/or Linwood required to support the Kingseat Precinct (including the plan change sites) are captured by Table I418.4.1 Activity table 1 (A13) to (A15) and (A63) and (A64). In Flow's view, amendments to the Kingseat Precinct to support the plan change are not required.
44. Overall, Flow considered that the plan change can be accommodated by the local transport network and that the existing Kingseat Precinct provisions are adequate to ensure that any development within the plan change area will provide appropriate improvements to the local transport network to support development.

4.2.5 Wider Transport Review / Assessment of the Kingseat Precinct

45. Recent land use applications within Kingseat and Karaka North have suggested that the density of residential developments in these areas is greater than previously anticipated. As a result, the transport planning carried out to date in this area of south Auckland may not accurately reflect future demands of this growing community. While the immediate transport network about these developments will likely have sufficient road capacity, the wider transport network effects are not clear.
46. Flow has looked at the development proposals of each area and compared these to the previously forecast land use projections. They have also used Auckland Transport's Southern Sector SATURN Model (the S3M) to assess the wider transport network and to provide some commentary on the predicted effects of this residential growth.
47. Flow's analysis has found that in Karaka North:
 - actual land use growth has not been accounted for in the regional land use projections, being some 900 households light

- as a result, they estimate that the currently anticipated development will result in up to 400 more vehicle trips to/from/within Karaka North than what has been included in the 2038 S3M traffic model to date. The increase is in the order of 170%.
48. And in Kingseat:
- land use is fairly consistent with the regional projections (2,430 projected households in 2048 vs 2,585 households proposed), with this being higher than the original Kingseat ITA which projected 1,835 households
 - nonetheless, they estimate that the currently anticipated development will result in up to 700 more vehicle trips to/from/within Kingseat than what has been included in the 2038 S3M traffic model to date. The increase is up to 85%.
49. Flow added the extra development vehicle trips to the S3M traffic model, to identify what effects these vehicle trips are predicted to have on the transport network. They anticipate the following outcomes in 2038:
- increases in peak period traffic volumes on Linwood Road of up to 300 vehicles per hour, per direction. Increases are also predicted on other routes, such as Glenbrook Road/Karaka Road
 - increased pressure on both Papakura and Drury interchanges
 - the S3M predicts that, even without the anticipated development, sections of Linwood Road and Hingaia Road would operate with congested conditions during peak periods, with both eastbound morning peak and westbound evening peak traffic flows at practical capacity. With the additional land use development now expected, they anticipate that this congestion would worsen during the commuter peak periods. Flow have not assessed interpeak period, where they expect capacity to exist about the network
 - during the morning peak period, traffic demands on SH1 at the northbound on-ramp merges, and at the northbound on-ramp meters is predicted to exceed capacity. They expect that queuing from the northbound on-ramps will extend back to both Hingaia Road and Beach Road, affecting the operation of both roads. With the additional land use development now expected, they anticipate that these queues would worsen. They're unable to conclude however whether these queues would affect east-west through traffic on this corridor, or affect other upstream intersections, noting that Waka Kotahi have the ability to manage and moderate this traffic through the meter signals
 - during the evening peak period, there is no significant impacts predicted as a result of the currently anticipated land use development. This is because upstream capacity constraints, such as at Manukau, are expected to limit the flow of traffic to Papakura, limiting the local effects of increased car travel to Kingseat and Karaka North
50. In conclusion, Flow consider that the currently anticipated land use development will increase the level of morning peak period traffic congestion on both Linwood Road and Hingaia Road, and increase pressure on Papakura interchange. The effects of this increasing congestion have not previously been fully considered, through for example the Supporting Growth programme of work.
51. Demands for private car travel on the Linwood Road/Hingaia Road corridor are predicted to exceed capacity in the future, as will demand for travel through the Papakura interchange. This is to be expected through growth anticipated about the

wider South Auckland area. Waka Kotahi will continue their role of managing demand on the motorway network through ramp metering, and prioritising high productivity vehicles through T2/truck lanes at Papakura interchange. However there is little ability to increase the capacity of the general traffic network in this area, so residents living in Kingseat and Karaka North will instead need to be given better choices to 'opt out' of peak period congestion. Options would include:

- Travel Demand Management measures that reduce the need for travel
- a land use development pattern that provides local destinations, such as local schools, shops and community facilities within Kingseat
- significantly improved public transport offering, relative to the existing peak direction bus service on Linwood Road. This may include:
 - more frequent bus services to Waiuku and Papakura
 - new bus services such as to Drury, and to proposed new train stations at Drury West and Paerata
 - interventions to make the proposed new train stations at Drury West and Paerata more attractive. Flow understands that these stations will include park and ride facilities that may well attract commutes from Kingseat and Karaka North
- interventions to prioritise high productivity vehicles, such as transit lanes on Hingaia Road

52. Flow noted that active travel is unlikely to be a realistic option from either Kingseat or Karaka North, due to the distances involved (a minimum of 6 km to the rail network, and 15 km from Kingseat to Papakura) and the high speed, rural roads involved.

4.2.6 Water Supply and Wastewater Infrastructure

53. Kingseat is not currently serviced by public reticulated water supply and wastewater infrastructure.
54. In terms of water and wastewater, the Kingseat precinct contains the following policy:
(10) Ensure infrastructure provision for public water supply and one public wastewater system in the precinct is in advance of, or concurrent with, any resource consents for subdivision and development, provided that resource consent for the reticulated and treated waste water disposal and any required resource consents for storm water discharge have been granted.
55. This is implemented via the following precinct standard:
1418.6.12. Wastewater and Water Supply
(1) Any site located within the Kingseat precinct must be connected to a public reticulated wastewater treatment and disposal system.
(2) Any site located within the Kingseat precinct, must be connected to a public reticulated water supply and network.

56. Subdivision of sites within the Kingseat Precinct that are not connected to a public reticulated water supply or a public reticulated sewage disposal system, and where all necessary resource consents have not been granted for a public reticulated water supply network and a public reticulated sewage disposal system, is a non-complying activity.
57. Both Watercare and the owner of 1023 and 1039 Linwood Road – Kingseat Village Limited, are currently investigating the provision of water supply and wastewater infrastructure for the Kingseat area.
58. Kingseat Village Limited has been granted a resource consent (on 1 April 2022) “to take and use a total of 714m³/day and 260,610m³ per year of ground water from the Franklin Te Hihi North Waitemata Aquifer with three proposed bores for a reticulated water supply to service residential, commercial and community uses in the Kingseat Precinct area”.

4.3 What is in scope/ out of scope

59. Within scope of this plan change is the zoning of 1023 and 1039 Linwood Road, Kingseat.
60. Out of scope is the zoning/zone boundaries of other land in the Kingseat area. The zones around the Kingseat Village are “schematic” at this stage. Other zone boundaries will need to be rationalised via a future plan change.

5.0 Identification of Potential Options

5.1 Description of Options

61. The criteria used to select potential options for consideration to address the resource management issue and achieve the objective were:
 - I. Achievable/able to be implemented;
 - II. Acceptable RMA practice;
 - III. Timeliness – able to be implemented in a timely manner;
 - IV. Addresses the RMA issue.
62. There are essentially three options:
 - I. Do nothing – leave the land with its current open space zoning.
 - II. Rezone the land no longer required for open space/recreation purposes to an appropriate residential zone. There are five residential zones – Large Lot, Single House, Mixed Housing - Suburban, Mixed Housing – Urban and Terrace Housing and Apartment Building. Each residential zone has a different purpose and provides for different intensities of development and building typologies. As the adjacent land is zoned Residential – Single House zone, this is considered the most appropriate residential zoning option for the land.
 - III. Rezone the land no longer required for open space/recreation purposes to an appropriate rural zone. As 1023 Linwood Road, Kingseat is adjacent to the Rural

– Rural Production zone, this is considered the most appropriate rural zone option.

63. The assessment of possible options against the selection criteria is outlined in Table 1 below:

Table 1: Assessment of possible options against the selection criteria

| Criteria | Option 1 – Do Nothing | Option 2 – Rezone the land to an appropriate residential zone | Option 3– Rezone the land to an appropriate rural zone |
|---|---|---|---|
| Achievable/able to be implemented | <i>Requires no change so requires no implementation. There are however implementation issues when land is to be used for non-open space/recreation purposes.</i> | <i>Requires a plan change. Can be implemented but will take time and resources.</i> | <i>Requires a plan change. Can be implemented but will take time and resources</i> |
| Acceptable RMA practice | <i>It is unusual for privately owned land to be zoned open space (or equivalent) when both the Council and landowner are not supportive of such a zoning</i> | <i>A residential zone is consistent with the zoning of the surrounding land – adjacent to 1039 Linwood Road, Kingseat</i> | <i>A rural zone is consistent with the zoning of the surrounding land – adjacent to 1023 Linwood Road, Kingseat</i> |
| Timeliness – able to be implemented in a timely manner | <i>No plan change under this option so timeliness is not an issue. There will however be issues with the time required to achieve subsequent resource consents to use and develop the land for non-open space/recreation purposes.</i> | <i>Simply plan changes invariably take 9mths – 1 year or more, excluding appeals which can take considerably longer.</i> | <i>Simply plan changes invariably take 9mths – 1 year or more, excluding appeals which can take considerably longer.</i> |
| Addresses the RMA issue | <i>Doesn't address the RMA issue – that the open space zoning is no longer appropriate.</i> | <i>Does address the RMA issue by rezoning to an appropriate residential zone. This will negate the need for future resource consents for the use and development of land for residential purposes.</i> | <i>Does address the RMA issue by rezoning to an appropriate rural zone. This will negate the need for future resource consents for the use and development of land for rural purposes.</i> |

64. All three options are valid RMA approaches and both have strengths and weaknesses as outlined above.

65. Options 2 and 3 are the only option that address the resource management issue however.

5.2 Refinement of Options

66. The initial options identified in this evaluation report may be added to or modified as a result of the statutory evaluation under the RMA (section 6), assessment against the National and Regional Planning context (section 7), consultation undertaken with iwi and local boards (section 8) and the evaluation of options (section 9).

5.3 Information Used

67. The list of reports, documents and evidence that have been used in the development of this section 32 report are listed below in Table 2:

Table 2: Information Used

| Name of document, report, plan | How did it inform the development of the plan change |
|---|--|
| Auckland Plan 2050 (refresh) | A refresh of Auckland’s high level strategic plan – contains directives and focus areas that are relevant to open space and recreation, residential and rural land uses. Used to assess the appropriateness of the options for rezoning the land. |
| The following Legislation: Resource Management Act 1991 New Zealand Coastal Policy Statement 2010. National Policy Statement: Urban Development 2020 and the Enabling Housing Supply and Other Matters Act 2021 National Policy Statement: Highly Productive Land (2022) Hauraki Gulf Marine Park Act 2000 Waitakere Ranges Heritage Area Act 2008 Reserves Act 1977 | Relevant sections of the legislation are used to assess the appropriateness of the options. |
| 1023 and 1039 Linwood Road, Plan Change. Integrated Transport Assessment. Flow Transportation Specialists, August 2021 | Confirmed that the additional development provided by rezoning of 1023 and 1039 Linwood Road, Kingseat could be accommodated by the local transport network and that the existing Kingseat Precinct provisions were adequate to ensure that any development within the plan change area would provide appropriate improvements to the local transport network to support development |
| Kingseat Wider Area Review Transport Assessment, Flow Transportation Specialists, September 2021 | The currently anticipated land use development will increase the level of morning peak period traffic congestion on both Linwood Road and Hingaia Road, and increase pressure on Papakura interchange. The effects of this increasing congestion have not previously been fully considered, through for example the Supporting Growth programme of work. Demands for private car travel on the Linwood Road/Hingaia Road corridor are predicted to exceed capacity in the future, as will demand for travel through the |

| | |
|--|--|
| | <p>Papakura interchange. This is to be expected through growth anticipated about the wider South Auckland area.</p> <p>However there is little ability to increase the capacity of the general traffic network in this area, so residents living in Kingseat and Karaka North will instead need to be given better choices to 'opt out' of peak period congestion.</p> |
|--|--|

6.0 Statutory Evaluation under the Resource Management Act 1991 (RMA)

6.1 Overall broad judgement against Part 2 of RMA

68. The potential options are assessed against the relevant provisions of the Resource Management Act 1991.
69. Section 5 of the RMA describes the purpose of the Act. This is:
- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.*
70. The issue addressed by the plan change is what is the most appropriate zoning of 1023 and 1039 Linwood Road, Kingseat.
71. Open space provides for people and communities social and cultural wellbeing and health. Housing provides for the social, economic, and cultural well-being and for their health and safety of people and communities. Rural production activities (i.e the growing of food) likewise provides for the economic well-being health of people and communities. A rural zoning also safeguards the life-supporting capacity of soil.
72. There are other open space and recreation opportunities in the vicinity, and these will be added to as the area develops. The existing park is considered to be of an appropriate size. The provision of formal sports fields for current and future residents of the Kingseat area are catered for at the nearby Karaka Recreation Reserve.
73. Section 6 of the RMA outlines matters of national importance. In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to

managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:

(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:

(d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:

(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:

(f) the protection of historic heritage from inappropriate subdivision, use, and development:

(g) the protection of protected customary rights:

(h) the management of significant risks from natural hazards.

74. The Unitary Plan's open space zones and associated objectives, policies and rules provide protection of natural and heritage resources, facilitate public access to and along the coastal marine area, provide for customary rights and can be a tool used to manage significant risks from natural hazards such as sea level rise, flooding and land instability.

75. 1023 and 1039 Linwood Road, Kingseat do not have any known natural and heritage resources and are not in a coastal location.

76. Section 7 of the RMA outlines other matters of importance:

7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

(a) kaitiakitanga:

(aa) the ethic of stewardship:

(b) the efficient use and development of natural and physical resources:

(ba) the efficiency of the end use of energy:

(c) the maintenance and enhancement of amenity values:

(d) intrinsic values of ecosystems:

(e) [Repealed]

(f) maintenance and enhancement of the quality of the environment:

(g) any finite characteristics of natural and physical resources:

(h) the protection of the habitat of trout and salmon:

(i) the effects of climate change:

(j) the benefits to be derived from the use and development of renewable energy.

77. The rezoning of 1023 and 1039 Linwood Road, Kingseat to a residential zone will enable the efficient use and development of natural and physical resources. The land is in close proximity to Kingseat Village centre and the rezoning and subsequent development will result in additional housing in close proximity to the village centre. This will contribute to the efficiency of the end use of energy and assist in mitigating the effects of climate change as some local trips will be in walking/cycling distance.
78. The rezoning to a residential zone will affect the maintenance and enhancement of amenity values and the maintenance and enhancement of the quality of the environment. The amenity values/quality of the environment associated with open space will be replaced by those associated with residential development. Additional open space will be provided elsewhere in the Kingseat area. In addition, the existing adjacent council owned open space will remain as a reserve.
79. The rezoning of 1023 and 1039 Linwood Road, Kingseat to a rural zone will result in the retention of 5 ha of prime soils. This is consistent with the zoning of the land to the east. A rural zoning would also retain the “open character” of the land.
80. The rezoning to a rural zone would result in the loss of additional residential development (up to 90 dwellings) in close proximity to the Kingseat Village. The economic viability of the village centre would be reduced accordingly. The zone boundary between urban and rural zones would also lose its consistency/integrity.
81. Section 8 of the RMA outlines obligations under the Treaty of Waitangi.

8 Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

82. The Treaty principles¹ include the following:

Partnership - the Treaty signified a partnership between the races’ and each partner had to act towards the other ‘with the utmost good faith which is the characteristic obligation of partnership’. The obligations of partnership included the duty to consult Māori and to obtain the full, free, and informed consent of the correct right holders in any transaction for their land.

Reciprocity - the partnership is a reciprocal one, involving fundamental exchanges for mutual advantage and benefits. Māori ceded to the Crown the kawanatanga (governance) of the country in return for a guarantee that their tino rangatiratanga (full authority) over their land, people, and taonga would be protected. Māori also ceded the right of pre-emption over their lands on the basis that this would be

¹ Waitangi Tribunal website, justice.govt.nz

exercised in a protective manner and in their own interests, so that the settlement of the country could proceed in a fair and mutually advantageous manner.

Active protection - the Crown's duty to protect Māori rights and interests arises from the plain meaning of the Treaty, the promises that were made at the time (and since) to secure the Treaty's acceptance, and the principles of partnership and reciprocity. The duty is, in the view of the Court of Appeal, 'not merely passive but extends to active protection of Māori people in the use of their lands and waters to the fullest extent practicable', and the Crown's responsibilities are 'analogous to fiduciary duties'. Active protection requires honourable conduct by, and fair processes from, the Crown, and full consultation with – and, where appropriate, decision-making by – those whose interests are to be protected.

Equity - The obligations arising from kawanatanga, partnership, reciprocity, and active protection required the Crown to act fairly to both settlers and Māori – the interests of settlers could not be prioritised to the disadvantage of Māori. Where Māori have been disadvantaged, the principle of equity – in conjunction with the principles of active protection and redress – requires that active measures be taken to restore the balance.

Equal treatment - The principles of partnership, reciprocity, autonomy, and active protection required the Crown to act fairly as between Māori groups – it could not unfairly advantage one group over another if their circumstances, rights, and interests were broadly the same.

83. The rezoning of 1023 and 1039 Linwood Road, Kingseat was originally part of the consultation package with iwi for Plan Change 60. No issues were raised by iwi in relation to the rezoning.
84. Subsequent discussions specifically on the Kingseat properties have revealed that some iwi have issues with the rezoning and the lack of water supply and wastewater infrastructure in the Kingseat area. This is discussed in more detail under Section 8 – Consultation.

6.2 The relevance of the plan change to other sections of the RMA

There are relevant sections of the RMA that must be considered in context of the proposed plan change. These are:

- *Section 30 – Functions of regional councils under this Act*
- *Section 31 – Functions of territorial authorities under this Act*
- *Section 60 – Preparation and change of regional policy statements*
- *Section 61 – Matters to be considered by regional council (policy statements)*
- *Section 62 – Contents of regional policy statements*
- *Section 63 – Purpose of regional plans*
- *Section 65 – Preparation and change of other regional plans*
- *Section 66 – Matters to be considered by regional councils (plans)*

- *Section 67 – Contents of regional plans*
- *Section 68 – Regional rules*
- *Section 72 – Purpose of district plans*
- *Section 73 – Preparation and change of district plans*
- *Section 74 - Matters to be considered by territorial authority*
- *Section 75 – Contents of district plans*
- *Section 76 – District rules*
- *Section 79 – Review of policy statements and plans*
- *Section 80 – Combined regional and district documents*

Relevance to the above sections

85. Sections 30 and 31 of the RMA specify the functions of regional and territorial authorities, and the PAUP, as a combined plan, performs both of these functions. The zoning of land relates only to district plan functions.

86. Specifically, these functions include:

(a) The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region;

(b) In respect of any coastal marine area in the region, the control (in conjunction with the Minister of Conservation) of land and associated natural and physical resources;

(c) The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district; and

(d) The control of any actual or potential effects of the use, development, or protection of land.

87. Section 80 of the RMA sets out the approach to which local authorities may prepare, implement, and administer the combined regional and district documents. Auckland Council has a combined regional and district plan - the Auckland Unitary Plan (AUP).

88. The Auckland Unitary Plan contains existing objectives, policies, rules and other methods that are of regional and district significance. Zoning of land is a method used to give effect to objectives and policies.

89. A plan change must have regard to the operative regional policy statement provisions and is required to give effect to the regional policy statement.

90. Overall, it is considered that a plan change would assist the council in carrying out its functions set out in section 30 and 31 of the RMA to meet the requirements of the prescribed sections of the RMA set out above.

91. Under section 74(2)(b) of the RMA the Council must have regard to any management plan, including Reserve Management Plans, when preparing a district plan. There is no relevant reserve management plan for 1023 and 1039 Linwood Road, Kingseat (or the existing adjacent Council owned reserve).

7.0 National and Regional Planning Context

92. The potential options are now assessed against the relevant national and regional planning documents.

7.1 Relevance to National Policy Statements

New Zealand Coastal Policy Statement

93. Given Auckland's location between two harbours, a large amount of the open space has a coastal location. The provisions of the New Zealand Coastal Policy Statement which are of particular relevance to the zoning of public open space include:

Policy 18: Public Open Space:

Ensuring that the location and treatment of public open space is compatible with the natural character, natural features and landscapes, and amenity values of the coastal environment.

94. 1023 and 1039 Linwood Road, Kingseat do not have a coastal location, so the NZCPS is not relevant.

National Policy Statement: Urban Development 2020 and the Enabling Housing Supply and Other Matters Act 2021

95. The Plans and Places Department is currently responding to the National Policy Statement on Urban Development 2020. A number of workstreams are underway. These include:

- Identifying qualifying matters (i.e. exceptions to the increase in height & density - sites of significance, special character areas, volcanic viewshafts)
- Enabling 6+ storeys in walkable catchments
- Developing standards to manage the transition between 6+ storey development and adjacent lower development
- Implementing the Enabling Housing Supply and Other Matters Amendment Act 2021
- Addressing issues relating to the removal of parking minimums and private ways.

96. The above matters are addressed via plan changes (and other methods) notified in August 2022. Consultation occurred with local boards, iwi, key stakeholders and the community throughout 2022, prior to notification.

97. Policy 3(d) of the NPS:UD, as amended by the Resource Management (Enabling Housing Supply) Amendment Act 2021 states:

Policy 3: In relation to tier 1 urban environments, regional policy statements and district plans enable:

...

“d) Within and adjacent to neighbourhood centres zones, local centre zones, and town centre zones (or equivalent), building heights and density or urban form commensurate with the level of commercial activity and community services”.

98. Kingseat village is zoned as a Business – Local Centre zone. Advice from Plans and Places is that Kingseat is a local centre with low accessibility and therefore does require any additional policy 3(d) intensification.

99. Under section 77F Duty of specified territorial authorities to incorporate MDRS and give effect to policy 3 or 5 in residential zones

(1) Every relevant residential zone of a specified territorial authority must have the MDRS incorporated into that zone

(2) Every residential zone in an urban environment of a specified territorial authority must give effect to policy 3 or policy 5, as the case requires, in that zone

100. Section 2 – Interpretation, contains the following definitions:

Relevant Residential zone

a) means all residential zones; but

b) does not include –

(i) a large lot residential zone;

(ia) an area predominantly urban in character that the 2018 census recorded as having a resident population of less than 5,000, unless a local authority intends the area to become part of an urban environment

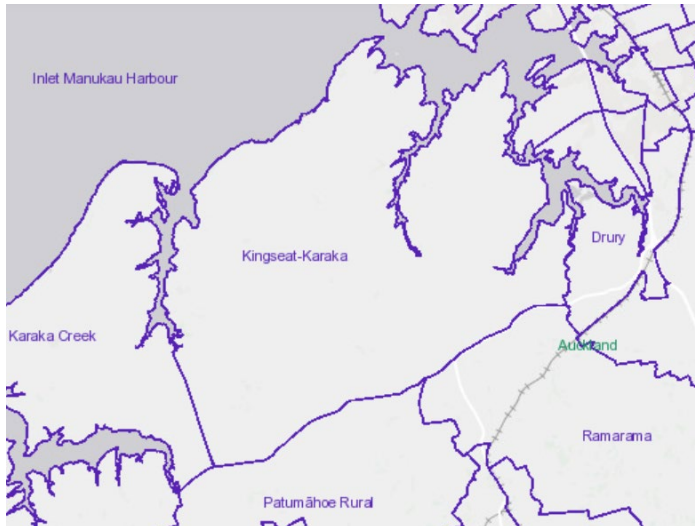
Specified territorial authority means any of the following

(a) every tier 1 territorial authority

Tier 1 territorial authority means any of the following

(a) Auckland Council

101. The Kingseat – Karaka statistical area (see map below) had a 2018 usually resident population of 2904 people. Kingseat – Karaka also lies outside the Auckland Unitary Plan’s Rural Urban Boundary.



102. Therefore, the Kingseat area is not subject to the Resource Management (Enabling Housing Supply) Amendment Act 2021.

Elite and Prime Soils & the National Policy Statement for Highly Productive Land (2022)

103. Kingseat, including 1023 and 1039 Linwood Road, Kingseat is identified as an area of prime soils in the AUP.

104. The National Policy Statement for Highly Productive Land (2022) came into effect on 17 October 2022.

105. The objective of the NPS is that *“Highly productive land is protected for its use in land – based primary production, both now and for future generations”*.

106. Policy 5 of the NPS states that *“the urban rezoning of highly productive land is avoided, except as provided for in this National Policy Statement”*.

107. Policy 7 states *“the subdivision of highly productive land is avoided, except as provided for in this National Policy Statement”*.

108. Under Section 1.3 Interpretation:

Urban rezoning means changing from a general rural or rural production zone to an urban zone, and

Urban, as a description of a zone, means any of the following zones:

- a) *Low density residential, general residential, medium density residential, large lot residential and high density residential*

...

109. Under Section 3.5 – Implementation, of the NPS

(7) Until a regional policy statement containing maps of highly productive land in the region is operative, each relevant territorial authority and consent authority must apply this National Policy Statement as if references to highly productive land were references to land that, at the commencement date:

- (a) is (i) zoned general rural or rural production; and*
- (ii) LUC 1, 2, or 3 land; but*

(b) is not: (i) identified for future urban development; or

(ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

110. As both 1023 and 1039 Linwood Road, Kingseat are currently zoned Open Space (and not a general rural or rural production zone), the NPS does not apply.
111. The AUP (Operative in part) contains an objective for the growth of existing or new rural and coastal towns and villages that states:
- “Avoid elite soils and avoid where practicable prime soils which are significant for their ability to sustain food production.”*
112. This objective is the subject of extensive and ongoing litigation in the Environment Court and High Court in response to the council’s rejection of the Auckland Unitary Plan Independent Hearings Panel’s recommendation to enable urban development at Crater Hill and Pūkaki near Māngere. The High Court recently (28 November 2022) dismissed the appeal against the Environment Court’s 2020 decision.
113. Both 1023 and 1039 Linwood Road, Kingseat were part of the Kingseat Structure Plan. That plan resulted in urban zonings being applied to the Kingseat area, which is identified in the Auckland Plan for urban development. The two properties have a combined area of approximately five hectares. They are contiguous with land zoned Residential – Single House zone. The original intention of the structure plan was that the two sites (along with a third site owned by the council) were to be developed and used for sport and active recreation. They are not currently used for food production.
114. Taking into account the planning history of the Kingseat area, the relatively small land area in question, and the fact that the Kingseat precinct (including the two properties) is identified for urban development in the Auckland Plan, on balance, the proposed rezoning to Residential – Single House zone (as one of the rezoning options) is considered to be appropriate and consistent with the objectives and policies of the AUP.

7.2 Relevance to any particular Acts i.e. Reserves Act 1977, Local Government Act 2002, Hauraki Gulf Marine Park Act 2000

Reserves Act 1977

115. Auckland Council manages a large proportion of its open spaces under the Reserves Act 1977. Part 3 of the Act sets out the classification and purpose of the reserves. Where appropriate, consideration of the reserve classification and resulting purpose listed in gazette notices has been taken into account when determining the most appropriate zone.
116. 1023 and 1039 Linwood Road, Kingseat are privately owned so are not vested as reserve.

Local Government Act 2002

117. Where open space is not subject to the Reserves Act 1977, Auckland Council manages this open space under the Local Government Act 2002. Specific sections on open space include s138, 139 and 139A which refer to disposal of parks and the protection of regional parks under Orders in Council. Other sections include s205 and 206, which outline the use of development contributions for reserves. The Local Government Act does not provide a specific classification system for open space.
118. The rezoning of 1023 and 1039 Linwood Road, Kingseat does not affect land vested under the Reserves Act.

Hauraki Gulf Marine Park Act 2000

119. Section 3 sets out the purpose of the Act:

The purpose of this Act is to—

(a) integrate the management of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments:

(b) establish the Hauraki Gulf Marine Park:

(c) establish objectives for the management of the Hauraki Gulf, its islands, and catchments:

(d) recognise the historic, traditional, cultural, and spiritual relationship of the tangata whenua with the Hauraki Gulf and its islands:

(e) establish the Hauraki Gulf Forum.

120. Section 7 recognises the national significance of the Hauraki Gulf and that the interrelationship between the Hauraki Gulf, its islands, and catchments and the ability of that interrelationship to sustain the life-supporting capacity of the environment of the Hauraki Gulf and its islands are matters of national significance.
121. The catchment for 1023 and 1039 Linwood Road, Kingseat is the Manukau Harbour, so the Hauraki Gulf Marine Park Act 2000 is not relevant.

7.3 Relevance to the Auckland Plan 2050

122. Table 3 below list the priorities and directives of the Auckland Plan 2050 (Auckland's non-statutory spatial planning document) which was approved by Auckland Council on 5 June 2018.

Table 3: Auckland Plan Directives and Focus Areas

| Outcome | Directives and Focus Areas | How does rezoning land from open space to residential or rural assist in achieving the relevant directives and focus areas |
|--|--|--|
| Outcome: Belonging and Participation | <p>Directive 2: Improve health and wellbeing for all Aucklanders by reducing harm and disparities in opportunities.</p> <p>Focus area 1: Create safe opportunities for people to meet, connect, participate in, and enjoy community and civic life.</p> <p>Focus area 2: Provide accessible services and social and cultural infrastructure that are responsive in meeting peoples evolving needs.</p> <p>Focus area 7: Recognise the value of arts, culture, sport and recreation to the quality of life.</p> | <p>The land is privately owned.</p> <p>The front lot – Sec 2 SO 404282 is owned by Auckland Council and retains its open space zoning.</p> <p>Sports fields are located at Karaka Sports Park - 372 Blackbridge Road, Karaka and the Drury Sports Complex – 20 Victoria Street, Drury</p> |
| Outcome: Environment and cultural heritage | <p>Direction 1: Ensure the environment is valued and cared for.</p> <p>Focus area 2: Focus on restoring environments as Auckland grows.</p> <p>Focus area 4: Protect Auckland’s significant natural environments and cultural heritage from further loss.</p> | <p>1023 and 1039 Linwood Road, Kingseat do not contain any significant natural environments or known cultural heritage sites</p> |
| Outcome: Homes and places | <p>Direction 1: Develop a quality compact urban form to accommodate Auckland’s growth.</p> <p>Direction 4: Provide sufficient public places and spaces that are inclusive, accessible and contribute to urban living.</p> <p>Focus area 5: Create urban places for the future.</p> | <p>The rezoning of 1023 and 1039 Linwood Road, Kingseat from open space to residential will enable additional residential development in close proximity to the future Kingseat Village. This will assist in achieving a quality compact urban form.</p> <p>The front lot – Sec 2 SO 404282 is owned by Auckland Council and retains its open space zoning.</p> <p>Sports fields are located at Karaka Sports Park - 372 Blackbridge Road, Karaka and the Drury Sports Complex – 20 Victoria Street, Drury</p> |
| Outcome: Transport and access | <p>Direction 1: Better connect people, places, goods and services.</p> <p>Direction 2: Increase genuine travel choices for a healthy, vibrant and equitable Auckland.</p> | <p>1023 and 1039 Linwood Road, Kingseat do not provide any additional opportunities for walking and cycling connections</p> |

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| | <p>Direction 3: Maximise safety and environmental protection.</p> <p>Focus area 4: Make walking, cycling and public transport preferred choices for many more Aucklanders.</p> <p>Focus area 7: Develop a sustainable and resilient transport system.</p> | <p>that the proposed primary school and future roading pattern wont offer.</p> <p>The rezoning of 1023 and 1039 Linwood Road, Kingseat from open space to residential will however enable additional residential development in close proximity to the future Kingseat Village. This will assist in achieving a quality compact urban form and promote greater walking and cycling (to school, local gods and services).</p> |
| <p>Outcome: Opportunity and Prosperity</p> | <p>Direction 1: Create the conditions for a resilient economy through innovation, employment growth and raised productivity</p> <p>Focus area 4: Leverage Auckland's position to support growth in exports</p> | <p>The AKL Plan states: "There are a number of emerging and evolving economic sectors including:</p> <ul style="list-style-type: none"> • advanced manufacturing • building and infrastructure • high technology • food and beverage • tertiary education and training • screen and creative industries • circular economy. <p>Encouraging these new sectors will increase the resilience of Auckland's economy and also make New Zealand less vulnerable to fluctuations in commodity prices".</p> <p>If 1023 and 1039 Linwood Road, Kingseat are zoned rural production, they provide additional opportunities for rural production on</p> |

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| | | prime soils, thus contributing to the food and beverage sector. |
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7.4 Relevance to Auckland Unitary Plan Regional Policy Statement

123. Table 4 below identifies the relevant Auckland Unitary Plan Regional Policy Statement objectives and policies relating to open space and recreation and assesses the relevance of Option 2 – Rezoning land to open space, against each objective or policy.

Table 4: Auckland Unitary Plan RPS Objectives and Policies

| RPS Chapter | Relevant objective or policy | Relevance to Open Space Plan Change - i.e. how does rezoning land to open space assist in achieving the relevant objectives and policies |
|---|--|--|
| B2.6. Rural and coastal towns and villages | <p>B2.6.1. Objectives</p> <p>(1) Growth and development of existing or new rural and coastal towns and villages is enabled in ways that: (a) avoid natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage or special character unless growth and development protects or enhances such values; and (b) avoid elite soils and avoid where practicable prime soils which are significant for their ability to sustain food production; and (c) avoid areas with significant natural hazard risks; (d) are consistent with the local character of the town or village and the surrounding area; and (e) enables the development and use of Mana Whenua's resources for their economic well-being.</p> <p>(2) Rural and coastal towns and villages have adequate infrastructure.</p> | <p>(Note: Kingseat is outside the RUB)</p> <p>Rezoning 1023 and 1039 Linwood Road, Kingseat from open space to residential will enable greater development around the Kingseat Village centre.</p> <p>This will assist in avoiding natural and physical resources, elite soils, areas of significant natural hazard for urban development elsewhere, and is consistent with the local character of the village.</p> <p>It will also promote more efficient use of infrastructure and community facilities – including the centre itself, primary school.</p> |
| B2.7 Open space and recreation facilities | <p>B2.7.1(1)</p> <p>Recreational needs of people and communities are met through the provision of a range of</p> | <p>The front lot – Sec 2 SO 404282 is owned by Auckland Council and retains its open space zoning.</p> <p>Sports fields are located at Karaka Sports Park - 372 Blackbridge Road, Karaka and the Drury Sports Complex – 20 Victoria Street, Drury.</p> |

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| | quality open spaces and recreation facilities. | <p>Future open space in the form of neighbourhood parks may be acquired when the area is further developed.</p> <p>Community and Social Policy (Parks) have advised that 1023 & 1039 Linwood Road are not required as open space</p> |
| | B2.7.1(2) Public access to and along Auckland's coastline, coastal marine area, lakes, rivers, streams and wetlands is maintained and enhanced. | 1023 and 1039 Linwood Road, Kingseat are not adjacent to the coast, river or stream so do not enable access to and along Auckland coastline, lakes, rivers and stream. |
| | B2.7.2(1) Enable the development and use of a wide range of open spaces and recreation facilities to provide a variety of activities, experiences and functions. | There are a variety of open spaces in the area which provide for a variety of activities, experiences and functions. |
| | B2.7.2(2) Promote the physical connection of open spaces to enable people and wildlife to move around efficiently and safely. | <p>The front lot – Sec 2 SO 404282 is owned by Auckland Council and retains its open space zoning.</p> <p>1023 and 1039 Linwood Road, Kingseat do not provide any additional opportunities for walking and cycling connections and wildlife connections, that the proposed primary school and future roading pattern wont be able to offer</p> |
| | B2.7.2(3) Provide a range of open spaces and recreation facilities in locations that are accessible to people and communities. | <p>The front lot – Sec 2 SO 404282 is owned by Auckland Council and retains its open space zoning.</p> <p>Sports fields are located at Karaka Sports Park - 372 Blackbridge Road, Karaka and the Drury Sports Complex – 20 Victoria Street, Drury.</p> <p>Future open space may be acquired when the area is further developed.</p> |
| | B2.7.2(4) Provide open spaces and recreation facilities in areas where there is an existing or anticipated deficiency. | Community and Social Policy (Parks) have advised that 1023 and 1039 Linwood Road, Kingseat are not required for open space/recreational purposes. |
| | B2.7.2(9) Enable public access to lakes, rivers, streams, wetlands and the coastal marine area by enabling public facilities and by seeking agreements with private landowners where appropriate. | 1023 and 1039 Linwood Road, Kingseat do not provide public access to lakes, rivers and streams. |

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| B8.2 Natural Character | B8.2.1(1) Areas of the coastal environment with outstanding and high natural character are preserved and protected from inappropriate subdivision, use and development. | 1023 and 1039 Linwood Road, Kingseat are not adjacent to the coast, river or stream so do not enable access to and along Auckland coastline, lakes, rivers and stream. |
| | B8.2.1(2) Subdivision, use and development in the coastal environment are designed, located and managed to preserve the characteristics and qualities that contribute to the natural character of the coastal environment. | 1023 and 1039 Linwood Road, Kingseat are not adjacent to the coast, river or stream so do not provide opportunity to preserve the characteristics and qualities that contribute to the natural character of the coastal environment. |
| | B8.2.2(3) Preserve and protect areas of outstanding natural character and high natural character from inappropriate subdivision, use and development by: (a) avoiding adverse effects of activities on natural character in areas of the coastal environment scheduled as outstanding natural character; and (b) avoiding significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment. | 1023 and 1039 Linwood Road, Kingseat do not contain areas of outstanding natural character or high natural character. |
| | B8.2.2(4) Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects on natural character of the coastal environment not identified as outstanding natural character and high natural character from inappropriate subdivision, use and development. | 1023 and 1039 Linwood Road, Kingseat are not adjacent to the coast so do not provide opportunity to avoid, remedy or mitigate other adverse effects on natural character of the coastal environment not identified as outstanding natural character and high natural character. |
| B8.3 Subdivision, use and development | All objectives and policies | 1023 and 1039 Linwood Road, Kingseat are not adjacent to the coast. |

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| B8.4 Public access and open space | All objectives and polices | 1023 and 1039 Linwood Road, Kingseat are not adjacent to the coast. |
| B8.5 Managing the Hauraki Gulf | All objectives and polices | 1023 and 1039 Linwood Road, Kingseat are in a west coast catchment. |
| B9.2 Rural Activities | B9.2.1.(1) Rural areas make a significant contribution to the wider economic productivity of, and food supply for, Auckland and New Zealand. | 1023 and 1039 Linwood Road, Kingseat comprise approximately 5 ha of prime soils. |
| | B9.2.1.(3) Rural production and other activities that support rural communities are enabled while the character, amenity, landscape and biodiversity values of rural areas, including within the coastal environment, are maintained. | Rezoning the land to Rural Production zone would enable access to 5 ha of prime soils for rural production. However, this would not reflect the original Kingseat Structure Plan boundary, where the land was identified for urban development. |
| B9.3. Land with high productive potential | B.9.3.1(2) Land containing prime soil is managed to enable its capability, flexibility and accessibility for primary production. | Rezoning the land to Rural Production zone would enable access to 5 ha of prime soils for rural production. Rezoning the land to residential, would result in the development of 5ha of prime soils. (Refer to comments on the NPS: Highly Productive Land 2022) |
| | B.9.3.3(2) Encourage activities that do not depend on using land containing elite and prime soil to locate outside these areas. | Rezoning the land to Single House Zone would result in the development of 5 ha of prime soils. A residential zone, reflects the original Kingseat Structure Plan boundary, where the land was identified for urban development. |
| B9.4. Rural subdivision | B.9.4.1(3) Subdivision of rural land avoids, remedies or mitigates adverse effects on the character, amenity, natural character, landscape and biodiversity values of rural areas (including within the coastal environment), and provides resilience to effects of natural hazards. | Rezoning the land to Rural Production zone would retain its “open or rural” character and amenity values. The zoning would be consistent with the zoning to the east. Rezoning the land to Single House Zone would result in the development of 5 ha of prime soils. A residential zone, reflects the original Kingseat Structure Plan boundary, where the land was identified for urban development. (Refer to comments on the NPS: Highly Productive Land 2022) |
| | B.9.4.2 (4) Provide for new rural lifestyle subdivision in locations and at scales and densities so as to: | 1023 and 1039 Linwood Road, Kingseat comprise approximately 5 ha of prime soils. Rezoning the land to Rural Production Zone would retain its “open or rural” character and amenity values. |

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| | (d) avoid where practicable land containing prime soil; (f) maintain or enhance landscape, rural and, where relevant, coastal, character and amenity values; | This would not reflect the original Kingseat Structure Plan boundary, where the land was identified for urban development. |
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8.0 Consultation

8.1 Relevant Sections of Resource Management Act and Local Government Act

124. Schedule 1 of the Resource Management Act 1991 contains the process for the preparation, change and review of policy statements and plans.
125. Section 1A – Mana Whakahono a Rohe, requires that a proposed policy statement or plan must be prepared in accordance with any applicable Mana Whakahono a Rohe.
126. At the time of preparing this plan change, Auckland Council had not entered into any Mana Whakahono a Rohe with iwi. One request had been received however from Nga Tai Ki Tāmaki and a Mana Whakahono a Rohe is in the process of being developed.
127. During the preparation of a proposed policy statement or plan, the local authority concerned shall consult —
- (a) the Minister for the Environment; and*
 - (b) those other Ministers of the Crown who may be affected by the policy statement or plan; and*
 - (c) local authorities who may be so affected; and*
 - (d) the tangata whenua of the area who may be so affected, through iwi authorities; and*
 - (e) any customary marine title group in the area.*
- (2) A local authority may consult anyone else during the preparation of a proposed policy statement or plan.*
- (4) In consulting persons for the purposes of subclause (2), a local authority must undertake the consultation in accordance with section 82 of the Local Government Act 2002.*
128. Section 82 of the Local Government Act outlines the principles of consultation. These are:

82(1) Consultation that a local authority undertakes in relation to any decision or other matter must be undertaken, subject to subsections (3) to (5), in accordance with the following principles:

(a) that persons who will or may be affected by, or have an interest in, the decision or matter should be provided by the local authority with reasonable access to relevant information in a manner and format that is appropriate to the preferences and needs of those persons:

(b) that persons who will or may be affected by, or have an interest in, the decision or matter should be encouraged by the local authority to present their views to the local authority:

(c) that persons who are invited or encouraged to present their views to the local authority should be given clear information by the local authority concerning the purpose of the consultation and the scope of the decisions to be taken following the consideration of views presented:

(d) that persons who wish to have their views on the decision or matter considered by the local authority should be provided by the local authority with a reasonable opportunity to present those views to the local authority in a manner and format that is appropriate to the preferences and needs of those persons:

(e) that the views presented to the local authority should be received by the local authority with an open mind and should be given by the local authority, in making a decision, due consideration:

(f) that persons who present views to the local authority should have access to a clear record or description of relevant decisions made by the local authority and explanatory material relating to the decisions, which may include, for example, reports relating to the matter that were considered before the decisions were made.

(2) A local authority must ensure that it has in place processes for consulting with Māori in accordance with subsection (1).

129. Section 4A Further pre-notification requirements concerning iwi authorities

(1) Before notifying a proposed policy statement or plan, a local authority must—

(a) provide a copy of the relevant draft proposed policy statement or plan to the iwi authorities consulted under clause 3(1)(d); and

(b) have particular regard to any advice received on a draft proposed policy statement or plan from those iwi authorities.

(2) When a local authority provides a copy of the relevant draft proposed policy statement or plan in accordance with subclause (1), it must allow adequate time and opportunity for the iwi authorities to consider the draft and provide advice on it.

8.2 Consultation with Mana whenua / iwi authorities

130. Clause 3(1)(d) of Schedule 1 to the RMA, states that local authorities shall consult with tangata whenua of the area who may be so affected, through iwi authorities, during the preparation of a proposed policy statement or plan.

131. Clause 4A of Schedule 1 to the RMA states that local authorities must:

- Provide a copy of a draft proposed policy statement or plan to iwi authorities to consider
- Have regard to feedback provided by iwi authorities on the draft proposed policy statement or plan
- Provide iwi authorities with sufficient time to consider the draft policy statement or plan.

132. In addition to the above, recent legislation changes to the RMA introduced section 32(4A):

(4A) If the proposal is a proposed policy statement, plan, or change prepared in accordance with any of the processes provided for in Schedule 1, the evaluation report must—

(a) summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of Schedule 1; and

(b) summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.

(c) a summary of all advice received from iwi authorities on the PC (section 32 (4)(a) of the RMA).

133. Both 1023 and 1039 Linwood Road, Kingseat were originally included in Proposed Plan Change 60. A draft copy of that plan change was forwarded to all Auckland's 19 iwi as required under Section 4A of the first schedule above. The properties were subsequently withdrawn from PC60, but the feedback received from iwi still remains relevant.

134. Feedback was received from:

- Ngāti Manuhiri – who wished to reserve their rights for cultural engagement and to be notified of the plan change;
- Waikato Tainui – who support mana whenua to take the lead role in this plan change.

135. There was no feedback specifically on 1023 and 1039 Linwood Road, Kingseat.

136. Subsequent discussions with representatives from Ngāti Tamaoho, Ngaati Te Ata Waiohua and Te Akitai Waiohua have indicated that they have concerns with the proposed rezoning and the absence of water supply and wastewater infrastructure in the Kingseat area.

137. As discussed under the Water Supply and Wastewater Infrastructure section of this Section 32A report, there are triggers in the Kingseat Precinct which would make any proposed subdivision without the necessary public water supply and wastewater infrastructure in place, a non-complying activity.
138. Further, Ngāti Tamaoho and Ngaati Te Ata Waiohua were both involved in the Kingseat Village Limited's resource consent process to take water and would likewise be involved in any resource consent process for a public reticulated sewerage disposal system.

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8. 3 Local Board and Community Consultation

139. Initial consultation occurred with the Franklin Local Board when 1023 and 1039 Linwood Road, Kingseat was initially included in Plan Change 60. It was subsequently withdrawn from that plan change due to concerns over traffic/transport issues arising from its development for residential purposes.
140. The Chairperson of the Franklin Local Board had raised an issue relating to a park and school that will be divided by an access road to a new residential development. He was concerned this was a poor design and safety outcome. He expressed his view that it would be good if Auckland Council could work with MOE to suggest that the school and park land are contiguous meaning the access road to the rear residential area is on the outside of the western and southern sides of the MOE land.
141. Since the withdrawal of 1023 and 1039 Linwood Road, Kingseat from Plan Change 60, the designation for a new primary school has advanced.

NOR - 1043 Linwood Road



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Legend

Land to be designated for Education Purposes

Existing parcel

Zones

- Residential - Single House Zone
- Residential - Mixed Housing Suburban Zone
- Open Space - Sport and Active Recreation Zone
- Business - Local Centre Zone
- Business - Light Industry Zone
- Rural - Rural Production Zone
- Rural - Mixed Rural Zone

142. The Franklin Local Board views on the proposed designation included:

- a) provide the following local board views on the Notice of Requirement for a new primary school and early childhood education centre at 1043 Linwood Road Kingseat.
- i) support the Ministry of Education acquisition of land for a school at Kingseat, noting that a school will be an important centre of this growing community
- ii) recommend that the design of the space is reviewed so that the designated reserve adjacent to the proposed school property is adjoined with the school and separation by road avoided

143. Item ii) is noted and relates to an area zoned as Open Space [Sport and Active Recreation] outside the proposed designation. The MoE's comments on this are summarised below: -

“As part of the negotiations to purchase the land the seller (Kingseat Village Limited - KVL) needed to retain access to the only existing road – Linwood Road. Therefore, KVL retained a strip from Linwood Road to the rear of the site to ensure they have practical road access for future use of that site. Other indicative roads cross land they do not own so there is no guarantee of the timing or alignment of those roads.....”

Whilst the matter raised by the Board is acknowledged, the Ministry have settled on the land purchase subject to the NoR and does not own the strip separating it from the Council reserve. The matter raised by the Board as part of the NOR consultation was after the purchase of the land had been completed, so it is not a matter that the Ministry is in a position to change. The land at the rear is still zoned reserve so would require a plan change to be developed for residential use.

If a future road is developed to serve land at the rear, we envisage that a pedestrian crossing(s) with traffic calming measures such as speed bumps or a raised table could be implemented to ensure safe and suitable connections between the school and the park. Further, advice from Abley [MoE's traffic expert] is that any side road at this location would likely to be designed to a 30km/h speed limit (as per AT's TDM recommendations) and would also be beneficial for providing alternative road access from Linwood Road to the school".

144. On 26 May 2021, a panel of Independent Hearing Commissioners appointed by Auckland Council issued its recommendation to Minister Of Education that the Notice of Requirement be confirmed.
145. On the 4 June 2021, Pursuant to s172(1) of the Resource Management Act 1991 ("the Act"), the Minister advised that the Council's recommendation was accepted in full.
146. The Franklin Local Board were formally consulted on the proposed plan change at their business meeting on 22 March 2022. The local board were supportive of a plan change to rezone the two properties to Residential – Single House zone and passed the following resolution:

Resolution number FR/2022/30

MOVED by Member A Cole, seconded by Member L Soole:

That the Franklin Local Board:

- a) support the rezoning of 1023 and 1039 Linwood Road, Kingseat from Open Space – Sport and Active Recreation zone to Residential – Single House zone;
- b) note that the future subdivision of 1023 and 1039 Linwood Road will be the appropriate time to address the issue of the proposed primary school and existing park being separated by the access leg to 1039 Linwood Road, Kingseat.

9.0 Evaluation of Options

9.1 Evaluation of options

147. Table 5 below outlines the criteria to assess the options for addressing the resource management issue – i.e. to apply an appropriate zone to 1023 and 1039 Linwood Road, Kingseat, given the land is zoned Open Space – Sport and Active Recreation, is privately owned and is no longer required as open space by Auckland Council.

Table 5: Criteria for the evaluation of options

| Sections of the RMA | | Criteria |
|------------------------|------------------------------------|--|
| Appropriateness | s32(1)(a) and s32(1)(b) of the RMA | Is this option the most appropriate way in which to address the issue at hand? In doing so, is this option the most appropriate way to meet the objective of the AUP and the purpose of the RMA? |
| Effectiveness | s32(1)(b)(ii) of the RMA | How successfully can this option address the issue? Does this option successfully meet the objectives of the AUP and the purpose of the RMA? |
| Efficiency | s32(1)(b)(ii) of the RMA | Does this option address the issue at lowest cost and highest net benefit? |
| Costs | s32(2) of the RMA | What are the social, economic, environmental or cultural costs and/or negative impacts that this option presents? |
| Benefits | s32(2) of the RMA | What are the social, economic, environmental or cultural benefits and/ or positive impacts that this option presents? |
| Risks | s32(2)(c) of the RMA | What are the risks of addressing this issue? What are the risks of not addressing this issue? |

148. The evaluation of the three possible options against the evaluation criteria is set out in Table 6 below:

Table 6: Evaluation of possible options against the selection criteria

| Evaluation Criteria | Option 1 – Status Quo/Do Nothing | Option 2 - Rezone the land to an appropriate residential zoning | Option 3 - Rezone the land to an appropriate rural zoning |
|---------------------|---|--|--|
| Appropriateness | <p>The AUP does zone some privately owned land as open space. This includes golf courses, bowling clubs, and privately owned sports fields.</p> <p>This is generally only undertaken with the consent of the landowner.</p> | <p>Where land is no longer required for open space purposes, an alternative zoning is appropriate.</p> <p>Open space zonings generally reflect the land's environmental characteristics, existing or intended use and development.</p> <p>Rezoning land that is no longer required as open space will enable its use and development for its</p> | <p>A rural production zoning is consistent with the zoning of the land to the east.</p> <p>Rezoning the land to Rural Production zone would enable access to 5 ha of prime soils for rural production.</p> <p>A rural zone, does not reflect the original Kingseat Structure Plan boundary, where the land was identified for urban development.</p> |

| Evaluation Criteria | Option 1 – Status Quo/Do Nothing | Option 2 - Rezone the land to an appropriate residential zoning | Option 3 - Rezone the land to an appropriate rural zoning |
|---------------------|--|--|--|
| | | intended purpose (e.g. in this case, residential uses). | |
| Effectiveness | <p>Not effective in enabling the appropriate development of land for residential purposes.</p> <p>A non – complying resource consent would be required.</p> | <p>More effective than Option 1 in enabling the appropriate use of privately owned land for residential purposes.</p> <p>Meets the urban growth objectives of the AUP.</p> | <p>Enables the land to be used for rural activities.</p> <p>Meets the rural objectives of the AUP (especially those relating to prime soils).</p> <p>Doesn't meet the urban growth objectives nor recognise that the land was part of the Kingseat Structure Plan area.</p> |
| Efficiency | <p>Doesn't address the issue of an inappropriate zoning of the land.</p> <p>Requires no change so is efficient in terms of cost and time.</p> <p>Resources (staff time) can be used for other priority projects – so there is greater efficiency in achieving the department's overall work programme.</p> <p>There will be less efficiencies when land is to be used and developed for residential purposes as typically a resource consent will be required because of the mismatch between zoning and proposed use.</p> | <p>Does address the issue of an inappropriate zoning of the land.</p> <p>There are time and money costs associated with undertaking a plan change and resolving any subsequent appeals.</p> <p>There will however be greater efficiencies when land is to be used and developed for residential purposes, as typically a resource consent(s) will not be required (apart from resource consent for the subdivision).</p> | <p>Does address the issue of an inappropriate zoning of the land.</p> <p>There are time and money costs associated with undertaking a plan change and resolving any subsequent appeals.</p> <p>There will however be greater efficiencies when land is to be used and developed for rural purposes, as typically a resource consent(s) will not be required.</p> |
| Costs | <p>The open space zoning will trigger the need for resource consents to use and develop the land for residential purposes.</p> <p>This will result in additional costs for projects and time delays.</p> <p>Not rezoning land on the other hand will mean that staff resources can be directed to other priority projects.</p> | <p>There are time and financial costs of undertaking a plan change.</p> <p>Opportunity costs – staff resources could be directed to other priority projects.</p> <p>These costs are offset by avoiding the need for resource consents further on down the track for residential use of the land.</p> | <p>There are time and financial costs of undertaking a plan change.</p> <p>Opportunity costs – staff resources could be directed to other priority projects.</p> <p>These costs are offset by avoiding the need for resource consents further on down the track for rural use of the land.</p> |

| Evaluation Criteria | Option 1 – Status Quo/Do Nothing | Option 2 - Rezone the land to an appropriate residential zoning | Option 3 - Rezone the land to an appropriate rural zoning |
|---------------------|--|---|--|
| Benefits | <p>This is a no cost option but it does not address the resource management issue that the land is privately owned and the open space zoning is inappropriate.</p> | <p>A residential zoning reflects the land’s intended use and development. It is also consistent with the zoning of adjoining land to the west.</p> <p>A residential zoning enables the landowner to develop the land for residential purposes (without the need for a non-complying resource consent).</p> <p>Rezoning 1023 and 1039 Linwood Road, Kingseat from open space to residential will enable greater development around the Kingseat Village centre.</p> <p>This will assist in avoiding natural and physical resources, elite soils, areas of significant natural hazard for urban development elsewhere, and is consistent with the local character of the village.</p> <p>It will also promote more efficient use of infrastructure – including the centre itself, primary school.</p> | <p>Rezoning the land to Rural Production zone would enable access to 5 ha of prime soils for rural production.</p> |
| Risks | <p>The land owner is unable to develop/use the land for residential or rural purposes (without the need for a non-complying resource consent).</p> <p>Auckland Council is required to purchase the land.</p> | <p>There are risks of appeals associated with any plan change which will delay the plan change process and add costs.</p> <p>The lack of water supply and waste water infrastructure is currently a risk to the rezoning of the land as residential.</p> <p>There are however mechanisms in the AUP to address this.</p> <p>Work is underway by both the land owner and Water</p> | <p>There are risks of appeals associated with any plan change which will delay the plan change process and add costs.</p> <p>No infrastructure risks associated with a rural zoning.</p> |

| Evaluation Criteria | Option 1 – Status Quo/Do Nothing | Option 2 - Rezone the land to an appropriate residential zoning | Option 3 - Rezone the land to an appropriate rural zoning |
|---------------------|----------------------------------|---|---|
| | | care to address the infrastructure issues. | |

9.2 Summary of analysis

149. In summary, the analysis of the three options:

Option 1 - Do nothing and retain an open space zoning. This is the least cost option (initially). Staff resources and department budgets can be utilised on other priority projects. This option does not however enable the use and development of land for residential or rural purposes unless a non-complying resource consent is obtained. It does not address the RMA issues that the land is in private ownership and is inappropriately zoned.

Option 2 - Rezoning the land that that is no longer required for open space purposes to a residential zone best achieves the RMA objective. There are time and financial costs of undertaking a plan change but these are offset somewhat by enabling land to be developed for residential purposes and avoiding the need for non-complying resource consents.

Option 3 - Rezoning the land that that is no longer required for open space purposes to a rural zone also achieved the RMA objectives. However, it doesn't meet the urban growth objectives nor recognise that the land was originally part of the Kingseat Structure Plan area and thus intended for urbanisation.

9.3 Recommendation

150. The recommended option is:

Option 2 - Rezoning the land that that is no longer required for open space purposes to a residential zone – the Single House Zone, is the preferred option and is the recommended course of action.

10.0 Conclusion

151. This plan change seeks to apply an appropriate zone to 1023 and 1039 Linwood Road, Kingseat, given the land is zoned Open Space – Sport and Active Recreation, is privately owned and is no longer required as open space and/or for recreation purposes by Auckland Council.

152. Section 32 of the Act requires that before adopting any objective, policy, rule or other method, the Council shall carry out an evaluation to examine:

- The extent to which each objective is the most appropriate way to achieve the purpose of the Act, and
 - Whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objective.
153. The evaluation must also take into account:
- The benefits and costs of policies, rules, or other methods; and
 - The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.
154. A section 32 analysis of options to the spatial zoning of land recently vested with Council has been undertaken in accordance with section 32(1)(b) and (2) of the RMA. The two options analysed are:
- Option 1 - Do nothing and retain an open space zoning
 - Option 2 - Rezoning the land that that is no longer required for open space purposes to a residential zone
 - Option 3 - Rezoning the land that that is no longer required for open space purposes to a rural zone
155. Option 2 is the recommended option.
156. This option best achieves Part 2 of the Resource Management Act and the purpose or objectives of relevant national and regional planning documents. These include:
- Reserves Act 1977;
 - Local Government Act 2002;
 - The Auckland Plan 2018;
 - The Unitary Plan's Regional Policy Statement 2016.
157. A plan change – as part of PC96 is therefore the most efficient, effective and appropriate means of addressing the resource management issue identified.

List of Attachments

| Attachment | Name of Attachment |
|-------------------|---|
| 1 | 1023 and 1039 Linwood Road, Plan Change, Integrated Transport Assessment, Flow Transportation Specialists, September 2021 |
| 2 | Kingseat Wider Area Review Transport Assessment, Flow Transportation Specialists, September 2021 |
| 3 | Iwi Consultation Maps for Proposed Plan Change 60 – showing the inclusion of 1023 & 1043 Linwood Road, Papakura |

Attachment 3 – Iwi consultation maps for Proposed Plan Change 60 (showing the inclusion of 1023 and 1043 Linwood Road, Papakura)



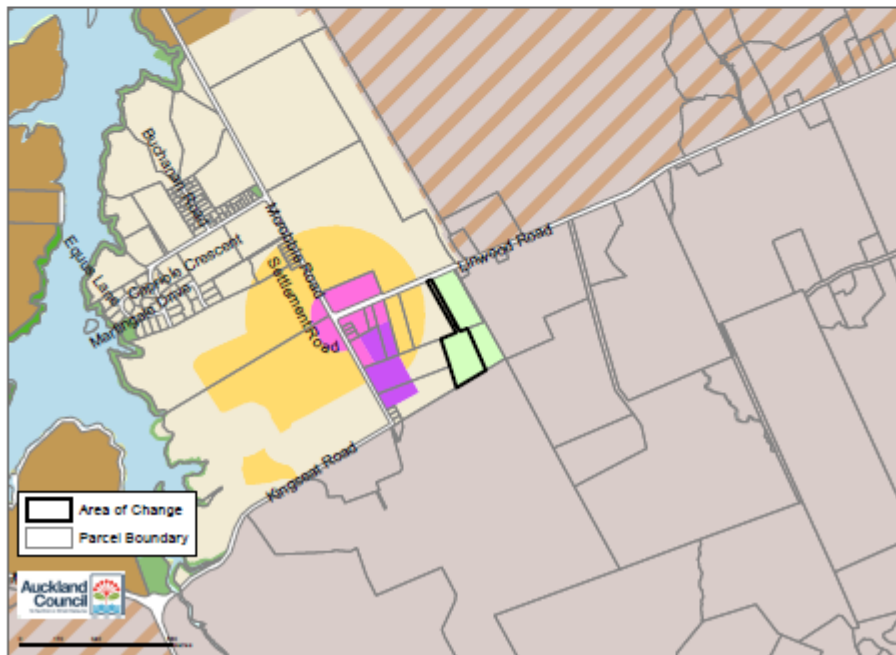
Proposed Plan Change - Open Space 2020

Proposed amendments to Auckland Unitary Plan GIS Viewer (maps)

Notes

1. The proposed change to the viewer (maps) has not be made
2. The map is shown to place the changes in context

Map number: 99
Geographic area: Papakura
Subject property: 1043 Linwood Road Papakura Auckland 2580
Legal Description/s: Lot 2 DP 417814
Current zone/s: Open Space - Sport and Active Recreation Zone, Residential - Single House Zone
Proposed zone: Residential - Mixed Housing Suburban Zone, Residential - Single House Zone



Proposed Plan Change - Open Space 2020

Proposed amendments to Auckland Unitary Plan GIS Viewer (maps)

Notes

1. The proposed change to the viewer (maps) has not be made
2. The map is shown to place the changes in context

Map number: 100
 Geographic area: Papakura
 Subject property: 1023 Linwood Road Papakura Auckland 2580
 Legal Description/s: Lot 1 DP 417814
 Current zone/s: Open Space - Sport and Active Recreation Zone

Proposed zone: Residential - Single House Zone

