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Dear Sir / Madam

**PRIVATE PLAN CHANGE - GOLDING ROAD AND BIRCH ROAD, PUKEKOHE**

**1. INTRODUCTION**

1.1 We act for Aedifice Development No.1 Limited (“AD1L”). AD1L is seeking a private plan change to rezone the following land:

- (a) 50 Pukekohe East Road, legally described as Part Allot 15 PSH of Pukekohe; and
- (b) 47 Golding Road, Pukekohe legally described as Lot 1 DP 392968.

1.2 The land identified at 1.1 above is referred to in this letter as “the Plan Change Area”.

1.3 The location of the Plan Change Area makes it a strong candidate for more intensive residential zoning (as recognised by the Pukekohe-Paerata Structure Plan 2019 (“the Structure Plan”)).

1.4 The Plan Change aligns with the Structure Plan which was adopted by Auckland Council (“the Council”) on 6 August 2019 and Plan Change 72 which the Applicant has separately proposed. The Structure Plan provides for 30 years of urban growth, schedules the Pukekohe Future Urban zoned land to be ‘development ready’ in 2023 – 2027, and intends for the Plan Change Area to be zoned Residential - Mixed Housing Urban Zone (“MHU”). The Plan Change is consistent with the structure plan and the anticipated implementation timeframe.

**Purpose and scope of this letter**

1.5 The purpose of this letter is to set out why we consider that it appropriate that the plan change be accepted by the Council. In doing so, this letter addresses:

- (a) Plan Change Area description (Section 3);

- (b) The Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill (Section 4);
- (c) Relevant statutory provisions (Section 5);
- (d) Analysis: compliance with clauses 21 and 22 of Schedule 1 of the RMA (Section 6);
- (e) Analysis: Options available to the Council (Section 7);
- (f) Rooding connectivity (Section 8);
- (g) Stormwater (Section 9);
- (h) Feedback from relevant iwi authorities (Section 10); and
- (i) Conclusion (Section 11).

## 2. SUMMARY

2.1 The application documentation comprises an AEE, s 32 analysis and supporting reports and complies with Clauses 21 and 22 of Schedule 1 of the RMA.

2.2 AD1L seeks that the plan change is accepted in its entirety. This is on the basis that:

- (a) AD1L has entered into contracts to purchase the land in the Plan Change Area;
- (b) The plan change is a targeted rezoning of a specific area of land, of which AD1L wants to retain control over the development;
- (c) There are no district or regional implications; and
- (d) As the plan change is primarily for the benefit of a private developer, it is more appropriate that the cost of the plan change is paid borne by the developer, rather than Auckland Council.

2.3 For the above reasons, it is not necessary or appropriate for the Auckland Council to adopt the plan change and take over control of it.

2.4 The key resource management issues arising from the plan change are:

- (a) Rooding connectivity and links to the existing rooding network and the network proposed pursuant to PC76;<sup>1</sup>
- (b) Management of the watercourses and wetlands through the Plan Change Area and associated stormwater control;<sup>2</sup>

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<sup>1</sup> The Master Plan is designed to integrate with the plan change to the west (Plan Change 76), see section 8 of this letter for further details.

<sup>2</sup> See section 9 of this letter.

- (c) Alignment with MDRS; <sup>3</sup>and
- (d) Feedback from relevant iwi authorities.<sup>4</sup>

### 3. PLAN CHANGE AREA DESCRIPTION

- 3.1 The Plan Change Area is approximately 27 ha. It is currently zoned Future Urban (“FUZ”) under the partly operative Auckland Unitary Plan (“the AUP”). The plan change proposes to rezone the Plan Change Area to Residential - Mixed Housing Urban (“MHU”) and includes a drainage reserve.
- 3.2 A concept plan for the Plan Change Area is included at Appendix 2 to the proposal and a plan showing integration with PC76 is at Appendix 3 of the proposal.

#### Overlays

- 3.3 The Plan Change Area is subject to the following aquifer management overlays:
  - (a) Natural Resources: High-Use Aquifer Management Areas Overlay [rp] - Pukekohe Kaawa Aquifer;
  - (b) Natural Resources: High-Use Aquifer Management Areas Overlay [rp] - Bombay Volcanic; and
  - (c) Natural Resources: Quality-Sensitive Aquifer Management Areas Overlay [rp] - Franklin Volcanic Aquifer.
- 3.4 As the Plan Change Area is to be supplied by reticulated water, the Pukekohe Kaawa Aquifer and Bombay Volcanic high-use aquifer overlays are irrelevant.
- 3.5 For the Franklin Volcanic Aquifer overlay, as this is a quality-sensitive management overlay, the overlay could be relevant in terms of discharges of contaminants such as stormwater or sewage. However, there is not anticipated to be any effects from discharges of stormwater or sewage as set out in the infrastructure report.
- 3.6 Wastewater will travel to a new wastewater pump station located within Plan Change 76. Stormwater flow and quality will be managed through precinct provisions as outlined in section 9 of this letter.
- 3.7 There are no overlays, precincts, controls or designations which apply to the Plan Change Area under the AUP that would affect or be an impediment to its rezoning.

#### Controls

- 3.8 The Plan Change Area is only subject to one control under the AUP, being the Macroinvertebrate Community Index (Rural). This addresses the quality of freshwater

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<sup>3</sup> See section 4 of this letter  
<sup>4</sup> See section 10 of this letter

(such as streams and rivers), by measuring the number of macroinvertebrates present in the water source.

- 3.9 There is an open watercourse that passes through the Plan Change Area, travelling from the south-eastern corner to the north-western corner. The development has been designed to ensure that the environment of this open watercourse is maintained and enhanced.

4. **THE RESOURCE MANAGEMENT (ENABLING HOUSING SUPPLY AND OTHER MATTERS) AMENDMENT BILL**

- 4.1 The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act (“the Amendment Act”) has amended the Resource Management Act 1991 (“the RMA”) in order to bring forward and strengthen the National Policy Statement on Urban Development 2020 (“NPS-UD”).

- 4.2 The relevant key proposal in the Amendment Act is the introduction of Medium Density Residential Standards (“MDRS”). The MDRS are intended to apply to all relevant residential zones in all tier 1 urban environments, from August 2022. Auckland is a tier 1 urban environment. MDRS will allow up to three dwellings on a site, of up to 11m high (intended to allow three storeys), as a permitted activity. Auckland Council addressed the MDRS requirements through Plan Change 78.

- 4.3 The proposed plan change seeks to apply the Residential Mixed Housing Urban zone. The legacy provisions of this zone have density provisions largely consistent with the MDRS. It is therefore anticipated that the Amendment Act and MDRS will have limited or no impact on the Plan Change Area (in terms of yield / density etc), particularly given that some other controls limit yield (such as deep soil and canopy trees).

- 4.4 Furthermore, it is understood that this is Auckland Council’s preferred approach, based on feedback from PC76.

5. **RELEVANT STATUTORY PROVISIONS**

**Requirements for requesting a plan change**

- 5.1 Section 65(4) of the RMA states that a person may request a regional council to change a regional plan:

**“65 Preparation and change of other regional plans**

...

*(4) Any person may request a regional council to prepare or change a regional plan in the manner set out in Part 2 of Schedule 1.”*

- 5.2 Section 73(2) of the RMA states that a person may request a territorial authority to change a district plan:

**“73 Preparation and change of district plans**

...

*(2) Any person may request a territorial authority to change a district plan, and the plan may be changed in the manner set out in Part 2 or 5 of Schedule 1."*

- 5.3 Clause 20 of Schedule 1 of the RMA specifies when a plan becomes operative, being a date which is publicly notified:

**"20 Operative date**

*Subject to sub-clause (2), an approved policy statement or plan shall become an operative policy statement or plan on a date which is to be publicly notified. The local authority shall publicly notify the date on which the policy statement or plan becomes operative at least 5 working days before the date on which it becomes operative."*

- 5.4 Clause 21 of Schedule 1 of the RMA specifies that any person may request a district or regional plan change:

**"21 Requests**

*(1) Any person may request a change to a district plan or a regional plan (including a regional coastal plan).  
..."*

- 5.5 Clause 22 of Schedule 1 of the RMA requires that a private plan change request must:

- (a) Be in writing;
- (b) Explain the purpose of and reasons for the change;
- (c) Describe any anticipated environmental effects of the proposed change, taking into account the matters listed in Schedule 4 to the RMA; and
- (d) Include an evaluation in accordance with section 32 of the RMA for the proposed change.

**Council's options for dealing with a plan change request**

- 5.6 Under clause 25 of Schedule 1 of the RMA, the Council has 30 working days after receiving the necessary information to consider the request and how it should be dealt with. In that regard, the Council can decide to:

- (a) Adopt the request as a council plan change, either in whole or in part;
- (b) Accept the request as a private plan change, either in whole or in part;
- (c) Convert the request to a resource consent application; or
- (d) Reject the request.

- 5.7 The Council's ability to reject a plan change request is limited to the grounds set out in clause 25(4) of Schedule 1 of the RMA which states:

*“(4) The local authority may reject the request in whole or in part, but only on the grounds that—*

- (a) the request or part of the request is frivolous or vexatious; or*
- (b) within the last 2 years, the substance of the request or part of the request—
  - (i) has been considered and given effect to, or rejected by, the local authority or the Environment Court; or*
  - (ii) has been given effect to by regulations made under section 360A; or**
- (c) the request or part of the request is not in accordance with sound resource management practice; or*
- (d) the request or part of the request would make the policy statement or plan inconsistent with Part 5; or*
- (e) in the case of a proposed change to a policy statement or plan, the policy statement or plan has been operative for less than 2 years.”*

## **6. ANALYSIS: COMPLIANCE WITH CLAUSES 21 AND 22 OF SCHEDULE 1 OF THE RMA**

6.1 AD1L is “a person” entitled to bring a plan change request pursuant to clause 21 of the First Schedule to the RMA.<sup>5</sup>

### **The purpose of the proposed plan change**

6.2 This is set out in the assessment of environmental effects (“AEE”) at section 5.1.

6.3 This element of Clause 22 of Schedule 1 of the RMA has been complied with.

### **The reasons for the proposed plan change**

6.4 This is set out in the assessment of environmental effects at section 5.1.

6.5 This element of Clause 22 of Schedule 1 of the RMA has been complied with.

### **The content of the proposed plan change**

6.6 This is set out in the application documentation, comprising and AEE, s 32 analysis and supporting reports.

6.7 This element of Clause 22 of Schedule 1 of the RMA has been complied with.

### **An assessment of the anticipated environmental effects of the proposed plan change taking into account the requirements of Clauses 6 and 7 of Schedule 4**

6.8 This is set out in the AEE and the supporting reports.

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<sup>5</sup> Resource Management Act 1991, ss 65(4) and 73(2).

6.9 This element of Clause 22 of Schedule 1 of the RMA has been complied with.

**An evaluation report prepared in accordance with section 32**

6.10 This is set out in the AEE at section 9.

6.11 This element of Clause 22 of Schedule 1 of the RMA has been complied with.

**7. ANALYSIS: OPTIONS AVAILABLE TO THE COUNCIL**

7.1 AD1L seeks that the Council accept the private plan change, rather than adopt the plan change, pursuant to clause 25(2)(b) of the First Schedule to the RMA.

**The application should be accepted**

7.2 The plan change should be accepted in its entirety for the following reasons:

- (a) AD1L has entered into contracts to purchase almost all of the land in the Plan Change Area;
- (b) The plan change is a targeted rezoning of a specific area of land, of which AD1L wants to retain control over the development;
- (c) There are no district or regional implications;
- (d) As the plan change is primarily for the benefit of a private developer, it is more appropriate that the cost of the plan change is paid borne by the developer, rather than Auckland Council.

7.3 For the above reasons, it is not necessary or appropriate for the Auckland Council to adopt the plan change and take over control of it.

**The application should not be rejected**

*Clause 25(4)(a)*

7.4 The plan change application is not frivolous or vexatious. The application is a comprehensive document that is supported by a suite of technical reports prepared by independent experts and has been carefully drafted to complement and improve existing AUP provisions.

*Clause 25(4)(b)*

7.5 The substance of the plan change request has not been considered within the last two years, and so the application cannot be rejected on this ground.

*Clause 25(4)(c)*

7.6 The plan change request accords with (and promotes) sound resource management practice. In that regard, the plan change request:

- (a) Is supported by a suite of comprehensive expert assessments, which demonstrate:
  - (i) Why the Plan Change Area is an appropriate location for the proposed residential development, consistent with the policy directives from the AUP and FULSS and that the proposed development will achieve the sustainable management purpose of the RMA; and
  - (ii) That the proposed development can be appropriately serviced by all relevant infrastructure, is entirely consistent with the proposed structure planning for the wider Auckland South / Pukekohe area and will not compromise the same.
- (b) Is consistent with a Council promoted and adopted structure plan.
- (c) Is not seeking to alter plan provisions that are due to be superseded.
- (d) Do not relate to an area that had recently been, or will shortly be, the subject of a detailed structure planning process (noting that under the FULSS review, Pukekohe is not anticipated to be “development ready” until sometime between 2023 to 2027).

7.7 On that basis, we do not consider that the application would meet the threshold for rejection on the grounds that it would not be in accordance with sound resource management practice.

*Clause 25(4)(d)*

7.8 Regarding consistency with Part 5, it is our view that:

- (a) The plan change will not make the AUP inconsistent with Part 5 of the RMA (regarding the purpose and contents of planning instruments including district plans), given that the AUP and FULSS all indicate that Pukekohe has been identified as being suitable for residential development as AD1L is proposing. Indeed, the plan change has been carefully drafted in light of this legal requirement to have precisely the opposite effect.
- (b) The plan change request clearly demonstrates how it will meet the relevant criteria from Part 5 of the RMA and sections 72 to 76 of the RMA in particular.

*Clause 25(4)(e)*

7.9 The partly operative AUP has been operative since 15 November 2016.<sup>2</sup> There are no provisions of the AUP that apply to the Plan Change Area that are subject to Environment Court and High Court appeals under the Local Government (Auckland Transitional Provisions) Act 2010.

7.10 Clause 25(4)(e) does not apply, and so the application cannot be rejected on this ground.



## 8. **ROADING CONNECTIVITY**

8.1 As noted in section 3 of the AEE:

- (a) The Master Plan is designed to integrate with the plan change to the west (Plan Change 76) including a local road linking Pukekohe East Road, Golding Road, and Birch Road to the south-west.
- (b) The combined master plans are shown in Appendix 3 and shown below in Figure 8 in Section 5 of the AEE.
- (c) A shared path is also proposed through the site running centrally alongside the watercourse and riparian margin from west to east and to the north of the Public Open Space Reserve to the east of the area. Also included as part of the PPC is a new Precinct – Pukekohe East-Central Precinct 2.
- (d) This includes a precinct plan showing key movement connection and a proposed drainage reserve area inclusive of minimum 10m riparian buffers and potential future neighbourhood park.
- (e) The Precinct Plan and associated rules are included in Appendix 4 and shown below in Figure 9 in Section 5 of the AEE.

8.2 This approach is supported by an Integrated Transport Assessment (ITA) prepared by TPC.

8.3 The effects of the PPC on the existing and future transport network have been assessed in the ITA and included within Appendix 11.

8.4 The ITA estimates traffic generation based on 580 residential units that could be accommodated on the Site as a result of the PPC and concludes that the additional traffic can be accommodated on the surrounding road network while maintaining acceptable levels of safety and efficiency without any immediate traffic network upgrades being necessary.

8.5 The AEE also records that future development and updates both within the Site and surrounds will future mitigate adverse effects and facilitate transport choice.

## 9. **STORMWATER**

9.1 As noted in section 3 of the AEE:

- (a) The proposed plan change ('PPC') application site ('the site') comprises two properties in land currently zoned Future Urban under the AUP
- (b) the Applicant seeks to rezone the land as Residential – Mixed Housing Urban to provide in the order of 580 new residential dwellings within a developable area of approximately 12.7ha.
- (c) The site contains wetlands and streams (approximately 5.4ha) which are to be protected via:

- (i) The existing Chapter E Auckland-wide provisions of the AUP; and
  - (ii) Precinct provisions which reference a precinct plan showing drainage reserve areas (approximately 2.5ha) with a minimum 10m riparian buffer to the wetlands and streams and includes requirements for riparian planting plans and stormwater management devices.
- (d) A public open space reserve area is also proposed surrounded by riparian planting and streams (approximately 0.6ha). The remaining area is road reserve (approximately 5.8ha).

9.2 In addition, section 8.5 records that:

- (a) Existing watercourses will be retained and upgraded, with stormwater outfalls recharging watercourses, and overland flow paths will allow conveyance of 1 in 100 year storm event runoff into the Whangapouri Stream catchment, generally expected to be channelled via Road Reserves.
- (b) 'SMAF1 - Retention (5 mm) and detention (95th percentile) measures should be implemented for stormwater runoff for roof areas for all dwellings via tanks with non-potable reuse.
- (c) Retention is not feasible for public roads, COALs and driveways. This solution has been chosen as it is the SMAF 1 specified outcome, which is the most restrictive outcome and will achieve equivalent hydrology (infiltration, runoff volume, peak flow) to pre-development (grassed state) levels for the dwellings.
- (d) Appendix H to the Infrastructure Report in Appendix 13 to the proposal includes the Stormwater Management Plan, and the Summary of the proposed stormwater management is included in Table 1.
- (e) The IR has completed modelling for flooding characteristics over the site as set out in Appendix G – Tuflow 100YR Flooding Results and Flood Modelling Methodology. This concludes that the 100 year pre and post flows are managed within the Plan Change 76 land and the Site. Further, the drainage reserve area within the Site will be contoured to attenuate the pre and post flow difference within the Site.

9.3 This approach, in conjunction with the Precinct Plan is consistent with good practice.

## 10. **FEEDBACK FROM RELEVANT IWI AUTHORITIES**

10.1 Section 10 of the AEE records that:

- (a) In response to the initial correspondence sent to iwi groups, Ngati Tamaoho and Ngati Te Ata both requested engagement and an opportunity to provide a Cultural Values/ Impact Assessment in regard to the PPC.
- (b) No response was received from other iwi groups.

- (c) Ngati Tamaoho and Ngati Te Ata were two of the four iwi with mana whenua customary interests over the structure plan area that actively engaged with the council as part of their preparation of the Structure Plan (see Section 6.1.3 of the AEE).
- (d) Both iwi group representatives have undertaken a site visit, and a CIA has been provided by Ngati Te Ata Waiohua. Ngati Tamaoho has advised it is to provide an addendum CVA to that provided for the first plan change application (Plan Change 76).
- (e) Precinct rules are drafted to recognise and provide for Mana Whenua considerations and for input into stormwater management designs at the resource consent stage.

10.2 The Precinct Plan contains specific provisions intended to address feedback from Mana Whenua. This includes:

- (a) Specific reference to identified Mana Whenua values in the objectives and policies of the precinct.
- (b) Specific rules targeted at stormwater control and design elements for larger developments, i.e. vacant lot subdivision (which is most likely to be super-lot subdivision) and large land-use (10 lots or more).

## 11. CONCLUSION

11.1 We trust the above is clear and sufficient for present purposes. Please contact us if you have any questions.

Yours sincerely



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