

**Decision following the hearing of a Private Plan
Change to the Auckland Unitary Plan under the
Resource Management Act 1991**

**Private Plan Change 114 – 36A Eaglehurst Road,
Ellerslie**

Apexone Limited

7 November 2025 | Te Tuawhitu o Noema 2025

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A. OVERVIEW | TIROHANGA WHĀNUI

Proposed Private Plan Change 114 (**PC114**) relates to part of the site located at 36A Eaglehurst Road, Ellerslie (**site**). The site is split zoned, with the majority the site subject to a Residential - Mixed Housing Suburban (**MHS**) zone and the rear portion (comprising some 554m²) being Business - Light Industry (**BLI**) zone. PC114 proposes to rezone the rear portion MHS. A precinct is also proposed over that rear portion to incorporate the Medium Density Residential Standards (**MDRS**).

This plan change is **GRANTED** with minor modifications to that publicly notified to correct cross references and minor typographical/grammatical errors.

The reasons for this Decision are set out in the sections that follow.

Private Plan Change:	114 - 36A Eaglehurst Road, Ellerslie
Applicant:	Apexone Ltd (Apexone or the Applicant)
Hearing:	16 October 2025
Commissioner:	Vicki Morrison-Shaw (Chair and Sole Commissioner)
Appearances:	<p><u>For the Applicant:</u></p> <ul style="list-style-type: none">• Alan Webb KC (Legal Counsel)• Oleg Palinich (Planner)• Andy Wang (Translator/Assistant) & Judy Deng (Owner) <p><u>For the Ōrākei Local Board:</u></p> <ul style="list-style-type: none">• None <p><u>For the Submitters:</u></p> <ul style="list-style-type: none">• None <p><u>For Auckland Council:</u></p> <ul style="list-style-type: none">• Clare Wall Shaw (Team Leader)• Ewen Patience (s.42A Report Author)• Emeline Fonua (AT Transport Planner) via AVL• Ruben Naidoo, Specialist – Contamination, Air & Noise – On call <p>Chayla Walker (Kaitohutohu Mātāmua Whakawā)</p>
Tabled evidence:	Table from Council
Hearing adjourned:	16 October 2025
Commissioner site visit:	16 October 2025
Hearing closed:	12pm 29 October 2025

1. INTRODUCTION | KUPU WHAKATAKI

Tuia te rangi e tū iho nei

Tuia te papa e takoto ake nei

Tuia te here tangata

Tihei wā mauri ora!

1. This Decision is made on behalf of the Auckland Council (**Council**) by Independent Hearing Commissioner Vicki Morrison-Shaw, appointed and acting under delegated authority under section (s.) 34A of the Resource Management Act 1991 (**RMA** or the **Act**).
2. I have been delegated authority by the Council to make a decision on PC114 to the Auckland Unitary Plan Operative in Part (**AUP**).
3. PC114 was lodged by the Applicant with the Council on 28 November 2024. It was amended by agreement on 10 March 2025, and then accepted by Council for processing pursuant to cl.25(2)(b) on 11 April 2025.
4. PC114 was limited notified on 22 May 2025.
5. The submission closing date was 23 June 2025. Three (3) submissions were received by that date. A summary of those submissions was notified for further submissions on 11 July 2025. The further submissions period closed on 25 July 2025, with no further submissions or late submissions having been received.¹

2. THE SITE, ITS CONTEXT AND CONSENTS | TE WHENUA ME ŌNA HOROPAKI ME NGĀ WHAKAAETANGA

About the Site

6. PC114 is a site specific private plan change which applies to part of the land at 36A Eaglehurst Road, Ellerslie.
7. The entire 3,342m² site is comprised in one legal lot, being Lot 2 DP 157980, Record of Title NA101D/827 (**Site**). **Figure 1** below shows the Site (outlined in yellow).²

¹ Section 42A Report, at [18]-[20].

² Section 32 Report, Figure 1.



Figure 1: Site locality

8. At present there are two existing houses located on the central and eastern half of the Site, with a pool attached to the eastern part of the central house and a number of small sheds. The houses are not currently occupied.³
9. There are a number of trees on the western frontage of the Site including a large protected Pōhutukawa tree on the boundary between the Site and 36 Eaglehurst Road.⁴
10. The Site is subject to an existing consent notice, regarding fencing, which was imposed at the time the Site was created through a subdivision in 1995.

Zoning and AUP Provisions

11. The Site is subject to a split zoning under the AUP, with the majority of the Site being zoned MHS, and a rear portion of the Site (comprising some 17%) zoned BLI.
12. The MHS zone enables intensification, while retaining a suburban built (two-storeyed) character up to 8m in height. Resource consent is required for four or more dwellings.⁵

³ Section 32 Report, at section 3.1.

⁴ Barry Satchell Consultants, Infrastructure Report, May 2021, at section 2.1.

⁵ MHS Zone description H4.1, and Standard H4.6.4 of the AUP.

13. The BLI zone anticipates industrial activities up to 20m in height that do not generate objectionable odour, dust or noise.⁶
14. **Figure 2** below identifies the Site (with an aqua line) and shows this existing split zoning with the pale orange representing the MHS and the purple representing the BLI.⁷ The area subject to PC114 is outlined in red.

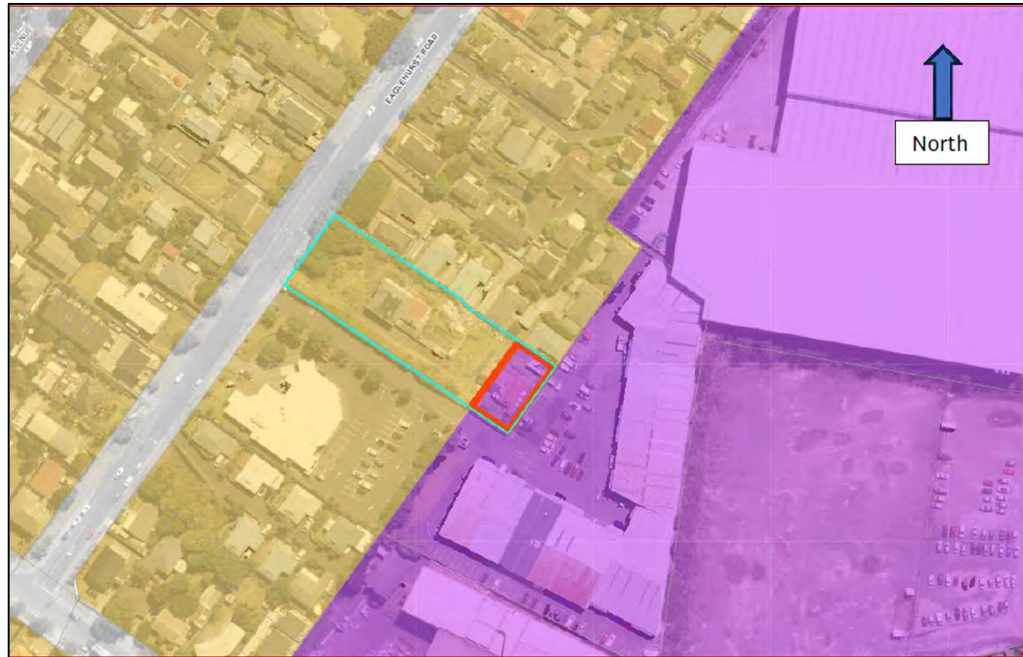


Figure 2: Site and zoning

15. The following management overlay and designation affect the property:
- a. Natural Heritage: Maunga Viewshafts and Height Sensitive Areas Overlay [rcp/dp] - W26, Mount Wellington, Viewshafts; and
 - b. Designations: Airspace Restriction Designations - ID 1102, Protection of aeronautical functions - obstacle limitation surfaces, Auckland International Airport Ltd.
16. The overlay, which applies at 52m above ground level, and the designation which applies at 150m above sea level, will not limit the height or intensity of the development proposed given the Site is located approximately 39m above sea level.⁸
17. A minor overland flow path (stormwater) traverses the front part of the property and runs to the road. However, no assessment is required as the catchment area above the flow path is less than 4,000m².

⁶ BLI Zone description H17.1, and Standard H17.6.1 of the AUP.

⁷ Section 42A Report, Figure 1, p.14.

⁸ Section 42A Report, at [43].

18. The property is in the Low Wind Zone category.
19. There is no change sought to designations or overlays as part of this plan change request. The natural hazards factors would be addressed at resource and/or building consent stage.⁹

Resource Consent

Existing resource consent

20. The Applicant holds land use and subdivision consents for the Site which were granted in September 2022 and which enable:¹⁰
 - a. a high-density residential development comprising 19 dwellings (terraced houses) and associated accesses to be constructed (on the part of the Site outside the Plan Change Area (**PC Area**); and
 - b. subdivision of the Site into 21 lots and one jointly owned access lot – with the PC Area to be held as a vacant lot.
21. The consent contains conditions which address a range of matters including design, , contaminated soil, traffic, access, impacts on public assets, the protected Pōhutukawa, and mechanical ventilation (amongst others).¹¹ No consent was sought (or granted) for any land use on the PC Area.¹²
22. A decision was also issued at the time resource consent was granted to cancel the existing consent notice applying to the Site (which was imposed at the time the Site was originally subdivided).¹³
23. The development anticipated by the resource consents has not yet been undertaken. The consents will lapse in September 2027 unless given effect to prior.
24. One of the approved resource consent plans showing the general layout and a potential permitted commercial use for the PC Area is shown in **Figure 3** below.¹⁴

⁹ Section 42A Report, at [42]-[45].

¹⁰ LUC60380706 and SUB60380707.

¹¹ PC114 as notified, Appendix C, Part 1.

¹² Section 42A Report, at [89].

¹³ Being a cancellation of consent notice C886206.3.

¹⁴ Resource Consent Approved Plans.

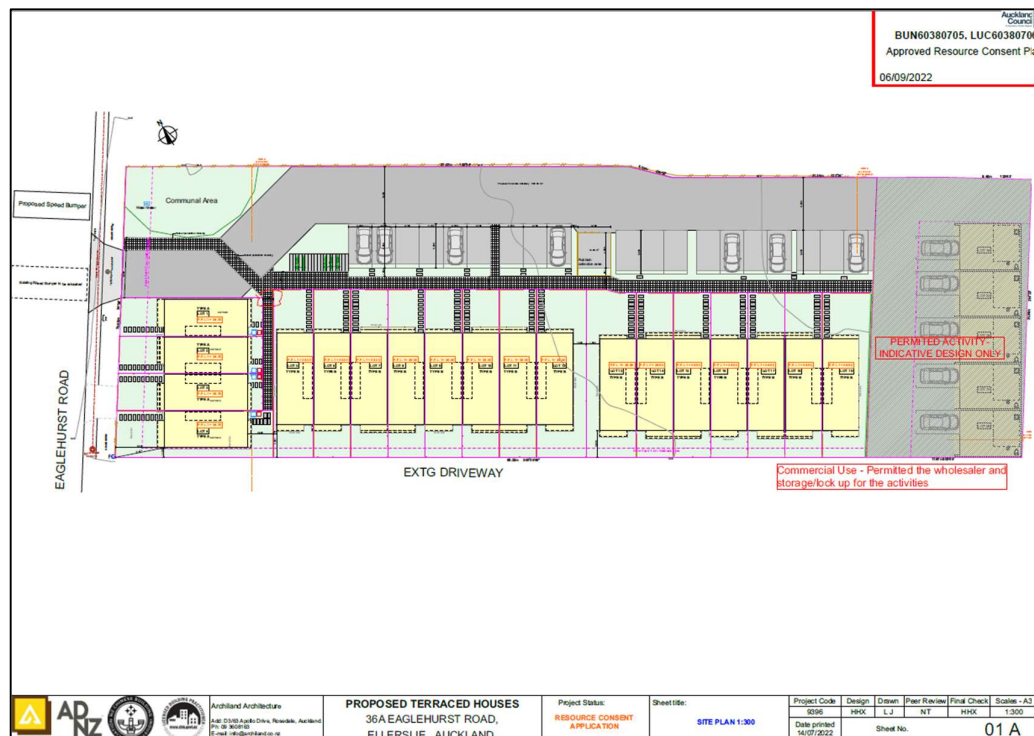


Figure 3: Approved Resource Consent Plan Layout

New resource consent application

25. The s.42A Report advised that a new application for consent for 18 units in a different layout was lodged with the Council in April 2025.¹⁵ However, it was confirmed at the hearing that that application is currently on hold and no decision on notification or on the substantive application has as yet been made.¹⁶

Archaeological Site and Archaeological Authority

26. The Site is an “archaeological site” with its two residential dwellings built between 1878 and 1888 for the central house, and 1907 for the eastern dwelling. While it is listed in ArchSite - the national archaeological database as R11/3352, the Site has no statutory protection under the AUP.
27. The applicant holds an archaeological authority from Heritage New Zealand Pouhere Taonga for demolition and earthworks, which expires on 13 January 2027.

Hazardous Substances and Activities

28. Council records show that historical activities undertaken on the Site are listed as including a motor vehicle workshop (at the northeastern corner of the wider Site) as well as the application of lead-based paints to the Site structures, activities which

¹⁵ Section 42A Report, at [12], and [39].

¹⁶ Oral Submissions for Applicant, 16 October 2025; and Oral Evidence of Ewen Patience, 16 October 2025.

are on the Ministry for the Environment's Hazardous Activities and Industries (**HAIL**) List.¹⁷

29. A Detailed Site Investigation identified numerous exceedances of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (**NES-CS**) and the discharge criteria of the AUP, particularly in relation to lead.¹⁸
30. At the time the Site is developed for residential purposes, consent will be required under the NES-CS for the removal of the contaminated soil, and a remedial action plan will be required.¹⁹

Surrounding Area

31. As Mr Palinich noted in his evidence, the Site “sits on the border of the residential/industrial divide of Ellerslie”.²⁰ To the north and west of the site there is a mixture of low to medium density residential development. The land immediately to the north of the Site (36 Eaglehurst Road) has been in multi-unit residential development for at least 30 years.²¹
32. To the south and east of the site are commercial and industrial activities. Business Heavy Industry zoned land is situated approximately 160m to the east.²²
33. To the rear of the site is a medium sized commercial hub, with a two-way access strip on the eastern boundary.²³ This also provides alternative access to the church located at 40 Eaglehurst Road.²⁴
34. The Ellerslie Town Centre town and train station are approximately 15-18 minutes away by foot. The Panmure-Ellerslie Highway, which has frequent bus services is approximately 6 minutes away by foot. The Ellerslie Domain on Main Highway is within a 10 minute walk.

3. ABOUT THE PRIVATE PLAN CHANGE | MŌ TE PANONI HOAHOA TŪMATAITI

About PC114

35. PC114 only applies to the PC Area, being the BLI zoned “rear portion” of the Site as delineated in **red** in **Figure 2** above.
36. The purpose of PC114 is to enable consistent residential zoning across the entirety of the Site. The s.32 Report states that the plan change will be consistent with the

¹⁷ Section 42A Report, Attachment 3, Sharon Tang Memorandum, at [4.2].

¹⁸ Section 42A Report, Attachment 3, Sharon Tang Memorandum, at [4.1].

¹⁹ It is noted that a Remedial Action Plan was submitted with the previous consent application.

²⁰ Statement of Evidence of Oleg Palinich, 30 September 2025, at [5.4].

²¹ Section 42A Report, at [10].

²² Section 42A Report, at [35].

²³ Section 32 Report, at section 3.1.

²⁴ Statement of Evidence of Oleg Palinich, 30 September 2025, at [5.4].

consented and anticipated built environment of the Site, thereby aligning the zoning with its intended use.²⁵

37. To give effect to this objective, PC114 proposes two key changes:
- a. rezoning the PC Area from its current BLI zone to MHS zone so that the entire Site is subject to a MHS zoning; and
 - b. the application of a Precinct to the PC Area so that the medium density residential standards (**MDRS**) apply.
38. The s.42A Report states that the application of a Precinct is the Council's preferred method of incorporating the MDRS, where, as here, that is (still) required.²⁶
39. In order to avoid conflict between the MDRS (which allows three storey development up to 11m in height – subject to qualifying matters) and the proposed underlying MHS zoning (which provides for two-storey development up to 8m in height), the proposed Precinct provisions exempt Objective H4.2(2) and Policy H4.3(2) from applying.

Consultation

40. The Applicant did not consult with any party or mana whenua group prior to lodging the plan change application.²⁷

Limited Notification

41. Limited notification is permitted under cl.5A(2) of Schedule (**Sch.**) 1 to the RMA where a council is able to identify all persons directly affected by a proposed plan change. Here, the Council notification report stated that given the small-scale and site-specific nature of the rezoning and that the effects would impact only a few adjacent properties, it was possible to identify all directly affected persons.²⁸
42. PC114 was limited notified to both the owners and occupiers²⁹ of the following properties (including all units located on those properties):
- a. 5, 7, 9, 11, 13, 13A, 26, 38 and 40 Eaglehurst Road;
 - b. 40 and 60 Leon Leicester Avenue; and
 - c. 40 Gavin Street.

²⁵ Section 32 Report, at section 4.2.

²⁶ Section 42A Report, at [14] and [47]. Noting that under cl.6(c) of Schedule 3C, the MDRS is still required to be included in the PC Area.

²⁷ Section 42A Report, at [15].

²⁸ Council Notification Report, 15 April 2025, at section 2.2.

²⁹ Oral Evidence of Ewen Patience, 16 October 2025.

43. Following notification, only three submissions were received. All sought that the plan change be declined and the BLI zone be retained. These submissions generally raised the following issues:³⁰
- a. intensity of development;
 - b. loss of amenity;
 - c. proximity to industrial land and related noise and air pollution;
 - d. soil contamination and health implications for neighbours and residents;
 - e. loss of vegetation and birdlife including risk to Pōhutukawa, and preservation of property as green space;
 - f. traffic and parking effects;
 - g. loss of business land; and
 - h. archaeological site.

4. PROCEDURAL MATTERS | NGĀ MEA HĀTEPE

Commissioner Directions

44. During the course of the PC114 hearing process, I issued four Directions. These related to:
- a. changes in response to submissions (Direction #1);
 - b. evidence timetable (Direction #2); and
 - c. Plan Change 78 – Intensification (**PC78**) withdrawal and Plan Change 120 – Housing Intensification and Resilience (**PC120**) notification date (Direction #3); and
 - d. closure of hearing (Direction #4).
45. A copy of all of these Directions is available from the Council website.³¹

Evidence and Hearing

46. The Council filed a s.42A Report in advance of the Hearing and confirmed its position remained the same orally at the hearing.³²
47. In light of the Council's position in support of PC114, the Applicant filed only one brief planning statement of evidence from Mr Oleg Palinich, who was also the author

³⁰ As summarised in the Section 42A Report, at [22]-[24].

³¹ <https://www.aucklandcouncil.govt.nz/have-your-say/hearings/find-hearing/Pages/Hearing-documents.aspx?HearingId=923>.

³² Oral Evidence of Ewen Patience, 16 October 2025.

of the s.32 Report. A synopsis of legal submissions for the Applicant were filed on 13 October 2025 addressing the application, the withdrawal of PC78, the question of whether PC114 should be made operative, and the MDRS provisions.

48. No expert or lay submitter evidence was filed.
49. A hearing was held on 16 October 2025 with representatives from the Applicant and Council appearing, as noted in the Overview section of this Decision. No submitters attended the hearing.
50. Brief closing legal submissions were filed by counsel for the Applicant on 28 October 2025 confirming that the Applicant continued to seek that the PC Area be rezoned MHS with MDRS applied.

Ōrākei Local Board

51. The Ōrākei Local Board (**Local Board**) provided feedback to the Council on PC114 on 23 July 2025. In short, that feedback confirmed that while the Local Board “endorsed” the plan change, it was concerned that what was proposed (enabling up to 21 units) would result in “over densification” of the Site.³³ The Local Board did not appear to speak further to its feedback at the hearing.

Site Visit

52. Following the hearing, I visited the Site viewing it from the road, before driving down the adjoining accessway to the commercial / industrial hub behind to view the PC Area itself.
53. I also drove the full length of Eaglehurst Road, and drove past the properties at 40 and 60 Leon Leicester Avenue and at 40 Gavin Street that received limited notification of PC114.

Acknowledgements

54. I record my appreciation for all who participated in and assisted with the smooth running of this private plan change hearing process.

E pari atu nei te tai o mihi ki a koutou katoa.

5. STATUTORY PROVISIONS AND REQUIREMENTS | NGĀ KUPU TURE ME NGĀ HERENGA

55. Clause 21 of Sch.1 of the RMA enables private plan change requests to be made to the Council. The provisions of a private plan change request must comply with the same mandatory RMA requirements as council-initiated plan changes, including a s.32 assessment.³⁴

³³ Section 42A Report, Attachment 4.

³⁴ Clause 22(1) of Sch.1 to the RMA.

56. The s.42A Report contains a detailed outline of the statutory requirements (in Attachment 5)³⁵ and summarises these as follows:³⁶

...In brief, section 32(1)(a) of the RMA requires an assessment of whether the objectives of a plan change are the most appropriate way for achieving the purpose of the RMA in Part 2. Section 72 also states that the purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of the Act and section 74 provides that a territorial authority must prepare and change its district plan in accordance with the provisions of Part 2 and requires that a plan change must have particular regard to an evaluation prepared in accordance with section 32. Section 32 requires an evaluation report... to examine whether the provisions are the most appropriate way of achieving the objectives. Section 32AA requires a further evaluation for any changes that are proposed to the notified plan change after the section 32 evaluation was carried out.

57. With one minor typo correction to the outline in Attachment 5,³⁷ I accept that outline and the above summary.
58. I also note that s.32 clarifies that analysis of efficiency and effectiveness is to be at a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal.

6. POLICY FRAMEWORK | ANGA KAUAPAPA

Documents identified in s.32 Report and s.42A Report

59. The Applicant's s.32 Report identifies the following RMA policies and plans as being of relevance to PC114 and assesses the plan change against them as follows:³⁸
- a. National Policy Statement on Urban Development 2020 (NPS-UD): which sets out the objectives and policies for well-functioning urban environments. Those of particular relevance to PC114 include Objectives 1, 2, 4, and 8; as well as Policies 1, 4, and 6. The PC Area is located in close proximity to Ellerslie town centre, and will provide for housing close to jobs, community services and main transport routes.
 - b. Auckland Regional Policy Statement: sets the strategic statutory framework to achieve integrated management of the natural and physical resources of Tāmaki. Chapter B2 contains provisions directing urban growth and form (B2.2) and a quality built environment (B2.3). PC114 is said to support the efficient utilisation of land and infrastructure while ensuring the bulk and location of the proposed multi-unit buildings are appropriately managed.

³⁵ Referring to Part 2 and ss.31, 32, 67, 72-76 and Sch.1, as well as summary contained in the Environment Court decision of *Colonial Vineyard v Marlborough District Council* [2014] NZEnvC 55, at [17].

³⁶ Section 42A Report, at [31].

³⁷ The reference in A(3)(b) of the Table in Attachment 5 should read: "not be inconsistent with any operative regional policy statement".

³⁸ Section 32 Report, at sections 5 and 6.

- c. PC78: which applies the MDRS to residential zones, but does not propose any change to the BLI zoned portion of the Site.³⁹ However, as PC114 proposes to rezone the PC Area as a “relevant residential zone”, the PC Area is proposed to have the MDRS applied. MDRS Objectives 1 and 2 and Policies 1 – 5 are identified as being of relevance. The location, accessibility and type of development proposed (terraced housing), the s.32 Report opines it will be consistent with MDRS.⁴⁰
 - d. Auckland Plan 2050: which sets the Council’s social, economic, environmental and cultural objectives. Development is focused on a quality compact approach in existing urban areas. The location, accessibility, availability of facilities and infrastructure for the PC Area are identified as relevant in this regard.
60. The Council s.42A Report agreed that the above documents are relevant and largely agreed with the Applicant’s assessment of them with the following exceptions/clarifications:⁴¹
- a. Policy 6 of the NPS-UD does not apply as there is no operative plan that responds to the NPS-UD;
 - b. The development would not provide a “higher residential density” than is anticipated under the MHS with MDRS enabled, as there are no “density” controls under the AUP. Density is instead effectively a function of land-size.
61. The s.42A Report also identified the following as being relevant and included commentary (in summary) as follows:⁴²
- a. NES-CS: which establishes standards and controls to prevent or mitigate any adverse effects of activities proposed on land which has been (potentially) impacted by activities identified on the Ministry for the Environment’s Hazardous Activities and Industries List. The NESCS was considered and conditions applied to the 19 unit consented development, and if the rezoning is approved, conditions addressing the NESCS would again be imposed on any new residential development application.
 - b. Plan Change 79 Amendments to the Transport provisions: which proposes to establish new rules for pedestrian access design (affecting residential developments) including an increased minimum width and the need for footpaths to be vertically raised where they are adjacent to vehicle access. This plan change will be relevant for any resource consent application of the proposed rezoned portion of the Site.
 - c. Auckland’s Urban Ngahere (Forest) Strategy: which sets out a number of social, environmental, economic and cultural strategies relating to the values

³⁹ Section 42A Report, at [11].

⁴⁰ I address the status of PC78 later in this Decision.

⁴¹ Section 42A Report, at [54] and [65].

⁴² Section 42A Report, at [57]-[58], [69], [77]-[78], and [80]-[82].

of urban trees and vegetation. One of the main methods Council uses to protect significant trees on private property is through scheduling. There are currently no scheduled trees on the PC Area⁴³ and none proposed for scheduling through Councils proposed Plan Change 113 – Additions to Schedule 10 Notable Trees Schedule.

- d. Te Tāruke a Tāwhiri – Auckland’s Climate Plan: which is a plan for zero emissions by 2040 and for a resilient and healthier region. Given the Site’s proximity to the Ellerslie Town Centre, Ellerslie train station, frequent bus services on the Ellerslie Panmure Highway and schools, PC114 is considered by the s.42A Report author to be consistent with the Climate Plan.
 - e. Ōrākei Local Board Plan: the s.42A Report notes the existence of this plan, and that the Local Board comments make no mention of the Plan, but otherwise provides no further comment.
62. Overall the s.42A Report concludes that PC114 does not conflict with the other AUP provisions and will work with those provisions to appropriately manage future development of the Site.⁴⁴

Analysis and findings

63. I accept that the documents identified in the s.32 Report and s.42A Report are relevant. To the extent that there is any difference between them, I prefer the list contained in the s.42A Report given it is more comprehensive.
64. In the absence of any contrary evidence, I also accept the Applicant and s.42A Report author’s view that PC114 is consistent with/does not conflict with the relevant planning documents (as summarised in paragraphs 59-62 above).

PC78

65. On 1 October 2025, in response to my Direction #3, the Council advised that the PC78 would be withdrawn in part on 9 October 2025,⁴⁵ and that from this date, cl.6 of Sch.3C of the RMA applies.
66. The Applicant agreed that cl.6 applies. It also referred to cl.7 of that Schedule and submitted that:⁴⁶
- a. as this is a private plan change which was accepted by the Council prior to PC78 being withdrawn, and as the proposed rezoning is to a “relevant residential zone” I have a discretion as to whether to apply the MDRS to the PC Area; and
 - b. applying the MDRS is appropriate here as it would produce a coherent result and more closely align the level of development with that in the Mixed Housing

⁴³ Noting the protected Pōhutukawa is on the part of the Site outside the PC Area.

⁴⁴ Section 42A Report, at [71].

⁴⁵ Council Memorandum, 1 October 2025.

⁴⁶ Applicant Legal Submissions, 13 October 2025, at [13] and [22]-[25].

Urban (**MHU**) zone - which is the zoning proposed to apply to the balance of the Site under PC120.

67. At the hearing, while the Council officers agreed that the MHS zone with MDRS should be applied, they disagreed that application of MDRS was discretionary. In their view, that discretion only arose after the plan change became operative.⁴⁷
68. In his closing submissions for the Applicant, Mr Webb KC noted that the parties had differing views on this, but submitted that:⁴⁸

In the result it doesn't particularly matter as both parties agreed both [sic] that whichever approach was taken, PC114 should be approved and the MDRS applied via the precinct.

Analysis and findings

69. I accept, as both parties did, that as PC114 was notified prior to PC78 being withdrawn, cl.6 of PC78 applies. This clause states:

Application of certain provisions if Plan Change 78 withdrawn

(1) From the date that all or part of Plan Change 78 is withdrawn,—

(a) the Council must continue to progress any parts of Plan Change 78 that are not withdrawn; and

(b) clause 25(4A) of Schedule 1 ceases to apply to the Council; and

(c) section 77G ceases to apply to the Council, except in relation to—

(i) any parts of Plan Change 78 that are not withdrawn; and

(ii) any private plan change that was adopted or accepted by the Council (under clause 25 of Schedule 1) before the earliest date that any part (or all) of Plan Change 78 was withdrawn; and

(d) any direction made under sections 80L and 80M that applied to the Council before any part of Plan Change 78 was withdrawn ceases to apply to the Council, except in relation to any parts of Plan Change 78 that are not withdrawn; and

(e) clause 7 applies to the Council, except in relation to—

(i) any parts of Plan Change 78 that are not withdrawn; and

(ii) any private plan change that was adopted or accepted by the Council (under clause 25 of Schedule 1) before the earliest date that any part (or all) of Plan Change 78 was withdrawn.

⁴⁷ Oral Evidence of Clare Wall Shaw, 16 October 2025.

⁴⁸ Applicant Reply Legal Submissions, 28 October 2025, at [5].

(2) If section 77G continues to apply in relation to any part of Plan Change 78 or private plan change under subclause (1)(c), then if that relevant part or plan change becomes operative,—

(a) section 77G ceases to apply in relation to the part or plan change; and

(b) clause 7 applies in relation to the operative provisions.

[Underlining my emphasis]

70. My interpretation of this clause aligns with the view expressed by Council officers. Section 77G, which is the requirement to incorporate MDRS, remains for PC114 since it was accepted by the Council prior to PC78 being withdrawn. Clause 7, which provides a discretion regarding incorporating MDRS, does not apply until PC114 becomes operative.
71. However, whether or not there is a discretion is a moot point, given, for the reasons noted elsewhere in this Decision, I have determined it is appropriate to rezone the property MHS with MDRS included.

PC120

72. PC120 is the Council's proposed Intensification replacement plan following the withdrawal of PC78.⁴⁹ This Plan Change proposes to enable intensification along major transport routes, corridors and around centres rather than through a blanket application of MDRS on residential sites.
73. PC120 was notified on 3 November 2025. It proposes to retain the existing operative BLI zoning for the PC Area and to rezone the balance of the Site, from MHS to MHU.⁵⁰
74. At the hearing on 16 October 2025, I queried the parties whether there was scope for the PC Area to be rezoned to MHU to align with what is proposed under PC120, or whether a further rezoning could/should occur once PC120 is notified.
75. The Council officers while not expressing a firm view on scope, outlined some other issues for consideration. The operative MHU zone under the existing AUP differs from that proposed under PC120 (revised MHU), so a change to the operative MHU zone would not provide complete alignment. There is no ability through this PC114 process to rezone the PC Area to a proposed zone which is not yet operative, and there is no ability to amend PC120 to amend the PC Area zone from BLI to MHU, given the Council approval processes have been completed and PC120 is being readied to be notified. However, if the PC Area is rezoned through this Decision, any such rezoning could be incorporated into PC120 at a later point (such as at the

⁴⁹ Noting that Schedule 3C of the RMA enabled the Council to withdraw PC78 and notify a new plan in its place.

⁵⁰ Council Memorandum, 1 October 2025.

s.42A Report stage). There would also be an opportunity for the Applicant to submit on PC120 and seek a rezoning of the PC Area to the revised MHU at that stage.⁵¹

76. Mr Patience for the Council also helpfully provided a table which outlined the differences between the operative MHU zone standards and the MDRS.⁵² He noted his understanding that the MDRS was modelled on the operative MHU and while there are some differences, there are a lot of similarities.⁵³
77. The Applicant after considering the issue confirmed via its Reply Legal Submissions:⁵⁴
- a. it considered there was scope given the differences between MHU and MDRS development controls are negligible and MDRS are more permissive;
 - b. however, the Applicant wished to proceed with PC114 in its current form (i.e. MHS zoning with MDRS applied); and
 - c. it would review its position once PC120 comes into effect.

Analysis and findings

78. In relation to PC120, I note that as it has now been notified I am required to take it into account. However, I understand (as confirmed by Council) that PC120 has simply 'rolled over' the existing operative BLI zoning for the PC Area and has not considered the appropriateness or otherwise of that zoning.⁵⁵
79. I accept the Council's view that there may be some practical issues in seeking to rezone the PC Area MHU through this process, even if there is scope to make such a change. However, in the end, I am not required to determine the scope question, given that neither party is seeking an MHU zoning for the PC Area.
80. I accept the parties submissions that MHS with MDRS is similar to the operative MHU zone, and therefore from a planning framework consistency perspective is the most appropriate. I also accept that any further zoning change (i.e. beyond any rezoning made as part of this Decision) could be considered as part of PC120 or another future plan change.

7. ASSESSMENT OF ENVIRONMENTAL EFFECTS | TE MĀTAI I NGĀ ĀHUATANGA KA PĀ KI TE TAIAO

81. Section 76 of the RMA requires Council to have regard to the actual or potential effect on the environment when making a rule.
82. Potential effects of the proposal were identified in the s.32 Report, the Council requests for further information, submissions and the s.42A Report. For ease of

⁵¹ Oral Evidence of Ewen Patience and Clare Wall Shaw, 16 October 2025.

⁵² Comparison operative MHU standards and MDRS with PC78 provisions (now withdrawn).

⁵³ Oral Evidence of Ewen Patience, 16 October 2025.

⁵⁴ Reply Legal Submissions, 28 October 2025, at [9]-[10].

⁵⁵ Oral Evidence of Ewen Patience, 16 October 2025.

reference, in evaluating these effects, I have used the categorisations and followed the order set out in the s.42A Report as follows:

- a. the intensity of development and loss of amenity;
- b. loss of vegetation and birdlife and impacts on protected Pōhutukawa tree;
- c. proximity to industrial land and related noise and air pollution and reverse sensitivity;
- d. soil contamination and health implications for neighbours and residents;
- e. traffic effects; and
- f. other effects.

Intensity of development and loss of amenity

Submissions and evidence

- 83. All three submissions on the plan change expressed concern about the intensity of development proposed for the wider Site and the effects that flow from this. The Local Board, while supporting the plan change, also expressed concern with an “over-densification” of the Site.
- 84. The s.42A Report did not agree with these concerns and in response noted that:⁵⁶
 - a. the extent that the submitters were commenting on the consented development (19 residential unit lots, 1 access lot, and a vacant rear business lot), such effects were not relevant to PC114;
 - b. any different development layout which proposed over 4 dwelling units would require consent as a restricted discretionary (**RDIS**) activity;
 - c. the relevant RDIS assessment criteria address the effects of the intensity of the development and are concerned with both on-site amenity for residents and the amenity of neighbouring properties and the impacts on the street;
 - d. the planned urban built character of the MHS zone involves increased housing intensity and choice especially for areas close to transport options, commercial centres and facilities such as schools and open space;
 - e. rezoning the PC Area MHS would not necessarily generate an adverse outcome, changes to the status quo (areas built many years ago) are anticipated by the AUP, and good design can overcome many potential issues; and

⁵⁶ Section 42A Report, at

- f. the potential of three or four more units at the same density as the consented units was not excessive or significant, and would require consent.
85. Mr Palinich for the Applicant, confirmed he agreed with the Council's assessment of these issues.⁵⁷

Analysis and findings

86. In the absence of any evidence to the contrary, I accept the detailed assessment set out in the s.42A Report, which was supported by the Applicant (as summarised at paragraphs 84 and 85 above). I am satisfied that the density enabled by the plan change by the rezoning is appropriate and that any amenity issues can be appropriately managed through the AUP provisions (as amended by this plan change) and/or the terms of any resource consent.

Loss of vegetation and birdlife and impacts on protected Pōhutukawa tree

Submissions and evidence

87. Two submitters (Jennifer Gosse and Logan Horton) expressed concerns about the loss of green space and the impact this would have on local fauna habitats and biodiversity. Mr Horton also expressed concern about impacts on the protected Pōhutukawa tree.
88. The s.42A Report did not recommend any changes in response to the concerns expressed by submitters on the basis that:⁵⁸
- a. the submissions do not expressly address the PC Area but appear focused on the broader Site;
 - b. there is no significant vegetation within the PC Area itself; and
 - c. the protected tree is located outside the PC Area and effects on it will be managed by the AUP provisions and terms of the existing or any replacement consent.
89. Mr Palinich for the Applicant, confirmed he agreed with the Council's assessment of these issues.⁵⁹

Analysis and findings

90. In the absence of any evidence to the contrary, I accept the detailed assessment set out in the s.42A Report, which was supported by the Applicant (as summarised at paragraphs 88 and 89 above). I am satisfied that the vegetation of concern and protected tree are located outside of the PC Area and that any effects on these

⁵⁷ Statement of Evidence of Oleg Palinich, 30 September 2025, at [7.2]; and Oral Evidence, 16 October 2025.

⁵⁸ Section 42A Report, at [107] and [112]-[115].

⁵⁹ Statement of Evidence of Oleg Palinich, 30 September 2025, at [7.2]; and Oral Evidence, 16 October 2025.

matters can be appropriately managed through the AUP provisions (as amended by this plan change) and/or the terms of any resource consent.

Proximity to industrial land and related noise and air pollution and reverse sensitivity

Submissions and evidence

91. Two submitters (Kullasit Chutipongpisit and Logan Horton) expressed concern about the proximity of new residential activities to the industrial land and the effects that may be experienced by those residents, and sought that PC114 be declined.
92. The s.42A Report author did not agree that the plan change needed to be declined on this basis and noted:⁶⁰
 - a. potential buyers/residents will be aware of the proximity of the industrial uses next door;
 - b. the AUP has adequate safeguards to protect residential amenity from the effects of light industrial activities and where consents are in place, residents can expect that the council will administer those consents to ensure that adverse effects do not eventuate; and
 - c. the adjoining business landowners and occupiers were given notice of the plan change and no submissions were received.
93. Mr Palinich for the Applicant, confirmed he agreed with the Council's assessment of these issues.⁶¹
94. The Applicant had also earlier noted (in response to the Council's first request for information), that the industrial activities located on the neighbouring land do not generate significant, dust, odour or noise, the buildings on that site are set back around 30m and there is a carpark which provides a buffer.⁶²

Analysis and findings

95. In the absence of any evidence to the contrary, I accept the detailed assessment set out in the s.42A Report, which was supported by the Applicant (as summarised at paragraphs 92 and 93 above).
96. I also accept the Applicant's view that the potential effects of the proximity to industrial land are also mitigated in this case due to the nature of the existing industrial activities on those sites, the setback to the industrial buildings and the existence of the carpark.
97. While not determinative, I also note that there are other neighbouring residentially zoned properties that border the industrial land, and that some of those properties,

⁶⁰ Section 42A Report, at [121]-[124].

⁶¹ Oral Evidence of Oleg Palinich, 16 October 2025.

⁶² RFI#1, 20 December 2024, wit[99]-[106].h responses included (12 February 2025), at [10].

such as those located at the rear of 34 Eaglehurst Road, are closer to the industrial buildings than 36A Eaglehurst, due to the adjoining carpark.

98. Given the above, I am satisfied that the proximity to industrial land can be appropriately managed through the AUP provisions (as amended by this plan change).

Soil contamination and health implications for neighbours and residents

Submissions and evidence

99. One submitter (Kullasit Chutipongpisit) is concerned that as the soil is contaminated with lead, this will pose a health and safety risk during construction and to any future residents.
100. The s.42A Report notes that Council's senior contaminated land specialist, Sharon Tang, has considered the issues and is satisfied that:⁶³
- a. while further soil sampling is required, the NES-CS consent process will identify, remediate and manage any soil contamination issues; and
 - b. there is no need to restrict the use of the Site for residential activities.
101. As a result the s.42A Report author concludes the issue of soil contamination will be well managed and provided any conditions of consent are complied with there will be no adverse human health effects.⁶⁴
102. Mr Palinich for the Applicant, confirmed he agreed with the Council's assessment of these issues.⁶⁵

Analysis and findings

103. In the absence of any evidence to the contrary, I accept the detailed assessment set out in the s.42A Report, which was supported by the Applicant (as summarised at paragraphs 100-102 above). I am satisfied that the issue of soil contamination (and any related effects) can be appropriately managed through the AUP provisions (as amended by this plan change) and/or the terms of any resource consent.

Traffic effects

104. Four different traffic concerns were raised in submissions. These related to:
- a. traffic congestion and increase in traffic;
 - b. carparking;

⁶³ Section 42A Report, Attachment 3, Sharon Tang Memorandum, at [6.1]-[6.3] and [7].

⁶⁴ Section 42A Report, at [129].

⁶⁵ Statement of Evidence of Oleg Palinich, 30 September 2025, at [7.2]; and Oral Evidence, 16 October 2025.

- c. safety concerns relating to visibility and access; and
 - d. traffic noise.
105. The submissions and evidence for each of these issues is summarised in turn, with my analysis and findings for all traffic related issues addressed collectively at the end of this section.

Submissions and evidence

Traffic congestion and increase in traffic

106. Two submitters (Jennifer Gosse and Logan Horton) raised concerns regarding traffic increases and congestion as a result of the plan change.
107. In response the s.42A Report notes that Auckland Transport’s specialist planner Emeline Fonua, has assessed the traffic issues and concludes that:⁶⁶
- a. the issues raised by submitters reflect existing network issues within the wider transport network and are not directly related to PPC114;
 - b. given the small scale of the PC Area the proposed rezoning is not expected to result in any material increase in traffic volumes or congestion; and
 - c. the level of additional activity enabled by the plan change can be accommodated by the existing road network without significant impacts on traffic flow or safety.
108. The s.42A Report author agrees with Ms Fonua’s conclusions, and notes that there are three existing speed bumps in the Road which assist with safety, and if the rezoning is approved, a further resource consent application will be required, and any traffic issue can be reassessed at that time. Accordingly, the s.42A Report author does not consider PC114 needs to be declined on traffic volume grounds.⁶⁷
109. Mr Palinich for the Applicant, confirmed he agreed with the Council’s assessment of these issues.⁶⁸

Carparking

110. All three submitters raised concerns about the impact of on-street parking if PC114 is approved.
111. The s.42A Report notes that the AUP cannot require on-site parking, and that Ms Fonua has considered the parking issues and concluded that:⁶⁹

⁶⁶ Section 42A Report, Attachment 3, Emeline Fonua Memorandum, at [3.3].

⁶⁷ Section 42A Report, at [138]-[140].

⁶⁸ Statement of Evidence of Oleg Palinich, 30 September 2025, at [7.2]; and Oral Evidence, 16 October 2025.

⁶⁹ Section 42A Report, at [144], and Attachment 3, Emeline Fonua Memorandum, at [3.5]-[3.8].

- a. the issues raised by submitters highlight existing parking pressures;
 - b. parking pressure associated with the religious centre at 40 Eaglehurst Road is expected to be occasional and limited in duration and scale with adjacent streets having sufficient capacity to accommodate parking during these times; and
 - c. residential properties along Eaglehurst Road typically provide on-site parking, often with capacity for more than one vehicle per dwelling - there is generally sufficient space to accommodate both existing on-street parking demand and future demand enabled by the plan change.
112. The s.42A Report author relies on Ms Fonua's conclusions, and also notes that given the existing consented development includes on-site parking, it is likely that any additional units would also be provided with parking – albeit that is not a requirement. The s.42A Report author therefore concludes that parking concerns do not provide a basis to decline the plan change.⁷⁰
113. Mr Palinich for the Applicant, confirmed he agreed with the Council's assessment of these issues.⁷¹

Safety concerns relating to visibility and access

114. Submitters raised safety concerns relating to visibility and access. In particular:
- a. parked vehicles on the street limiting visibility when entering or exiting properties; and
 - b. limited street frontage may cause bins to obstruct footpaths and driveways on collection days, impacting pedestrian safety and vehicle access.
115. These concerns were considered and responded to by Ms Fonua as follows:⁷²
- a. concerns around on-street parking limiting visibility are outside the scope of the plan change process, and where found to exist are managed separately (such as through no stopping markings); and
 - b. waste management details will not be known until the resource consent stage; however, it is not expected that there will be any significant impacts on the operation or safety of the road network.
116. The s.42A Report author relies on Ms Fonua's advice, and reiterates that if the rezoning is approved, access and parking would be evaluated at the resource consent stage.⁷³

⁷⁰ Section 42A Report, at [150].

⁷¹ Statement of Evidence of Oleg Palinich, 30 September 2025, at [7.2]; and Oral Evidence, 16 October 2025.

⁷² Section 42A Report, Attachment 3, Emeline Fonua Memorandum, at [3.9]-[3.10].

⁷³ Section 42A Report, at [149].

117. Mr Palinich for the Applicant, confirmed he agreed with the Council's assessment of these issues.⁷⁴

Traffic noise

118. Logan Horton raises a concern about elevated noise resulting from an increased level of traffic if the plan change is approved.

119. In response the s.42A Report author opines that:⁷⁵

- a. any additional traffic would not be significant;
- b. if the PC Area remained as BLI it would also generate levels of traffic, although potentially less after normal business hours; and
- c. the most recent consent application (which has not yet been determined) has the driveway running down the centre of the development, which if approved, would reduce vehicle noise for adjoining neighbours.

120. As a result the s.42A Report author concluded that traffic noise concerns did not provide a basis to decline the plan change.⁷⁶

121. Mr Palinich for the Applicant, confirmed he agreed with the Council's assessment of these issues.⁷⁷

Analysis and findings

122. In the absence of any evidence to the contrary, I accept the detailed assessment of traffic effects set out in the s.42A Report, which was supported by evidence of Ms Fonua for Auckland Transport, and the Applicant (as summarised at paragraphs 119 – 121 above).

123. In particular, I agree with Ms Fonua that:⁷⁸

- a. overall traffic effects will be negligible and will not compromise the function, capacity or safety of the surrounding transport network; and
- b. the existing AUP provisions in the Transport and MHS chapters (E27 and H5 respectively) are sufficient to facilitate good outcomes for the Site at resource consent stage and additional site-specific provisions are not necessary.

124. I also agree with the s.42A Report author that traffic noise concerns do not provide a basis to decline the plan change.

⁷⁴ Statement of Evidence of Oleg Palinich, 30 September 2025, at [7.2]; and Oral Evidence, 16 October 2025.

⁷⁵ Section 42A Report, at [151].

⁷⁶ Section 42A Report, at [152].

⁷⁷ Statement of Evidence of Oleg Palinich, 30 September 2025, at [7.2]; and Oral Evidence, 16 October 2025.

⁷⁸ Section 42A Report, Attachment 3,

Other effects

Submissions and evidence

125. Other issues raised by submitters and in earlier information requests by the Council related to the loss of BLI zoned land, the existence of the archaeological site, the overland flow path, and the availability of infrastructure to service the PC Area.
126. In relation to these matters, the s.42A Report author notes that:
- a. Loss of BLI zoning: the Site appears to have been used for residential purposes since at least 1996 and does not appear to have been used for industrial purposes. The loss of 554m² of BLI zoned land is a very small fraction of the total available industrial land, and not anticipated to have any adverse effects on overall availability.⁷⁹
 - b. Archaeological Site: while the Site is an archaeological site, the Applicant has an archaeological authority to develop the Site, and there is no additional protection provided to the Site under the AUP.
 - c. Overland Flow Path and Infrastructure Servicing: No Council agencies have raised any concerns in relation to infrastructure matters.
127. The Applicant's response in relation to the Council first request for further information is also relevant, as it notes that the overland flood path does not extend into the PC Area so there are not expected to be any adverse effects for future development.⁸⁰
128. Mr Palinich for the Applicant, confirmed he agreed with the Council's assessment of these issues.⁸¹

Analysis and findings

129. In the absence of any evidence to the contrary, I accept the assessment of these matters as set out in the s.42A Report, which was supported by the Applicant (as summarised at paragraphs 126 - 128 above). I also accept the Applicant's advice that the overland flood path does not extend into the PC Area. Accordingly, I am satisfied that these concerns do not provide a basis to decline the plan change.

⁷⁹ Section 42A Report, at [154] referring to the Applicant's Response to Further Information Request #1, dated 12 February 2025, at [11].

⁸⁰ RFI#1, 20 December 2024, with responses included (12 February 2025), at [12].

⁸¹ Statement of Evidence of Oleg Palinich, 30 September 2025, at [7.2]; and Oral Evidence, 16 October 2025.

8. SECTION 32 | AROTAKE TEKIONA 32

Alternatives, methods and risk of not acting

130. The s.32 Report which accompanied PC114 contained an assessment of alternatives and methods, and addressed the risk of not acting, concluding as follows:⁸²
- a. the application of the MHS zone to the PC Area ... is the most appropriate mechanism for achieving the AUP objectives because it will support the efficient use of land close to public transport and amenities and responds appropriately to the residential context; and
 - b. an assessment of the risk of not acting is not required as there is sufficient information to determine the range and nature of environmental effects of the options.
131. The s.42A Report author agreed with the s.32 Report conclusions stating:⁸³
- a. the application of the MHS zoning with MDRS added would be more consistent with the zoning on the balance of the Site, and fix what appears to be an anomaly in the zoning;
 - b. the status quo option is not appropriate because the land area is small for BLI purposes and involves gaining access through a residential site, compromising both the efficient use of the land resource and the amenity of any residential development;
 - c. use of the precinct provisions is the most appropriate method to incorporate the MDRS (standards) and has been applied successfully to other rezoning requests; and
 - d. in terms of the risk of not acting, the operative MHS zone provisions (operative since 2016) are well established and understood and provide for development that is in keeping with a suburban built character, where four or more residential units are assessed as a RDIS and MDRS is applied.

Section 32AA further assessment

132. Section 32AA of the RMA requires a further evaluation for any changes that are proposed to the notified plan change after the s.32 evaluation was conducted. This further evaluation must be undertaken at a level of detail that corresponds to the scale and significance of the changes.⁸⁴

⁸² Section 32 Report, at 8.3.12 and 8.4.

⁸³ Section 42A Report, at [158]-[160], and as updated at the hearing in Oral Evidence of Ewen Patience, 16 October 2025.

⁸⁴ RMA, s.32AA(1)(c).

133. The s.42A Report recommended two minor changes to the Precinct provisions to correct the size of the PC Area, and the reference to the Subdivision standards.⁸⁵ These changes were not contested and I have adopted them for the purposes of this decision. In reviewing the provisions, I also noted a few grammatical and typographical errors. I identified these to the parties at the hearing and no party objected to corrections being made.
134. As all of these changes are minor in nature, I am satisfied that they can be made pursuant to cl.16(2) of Sch.1, and no further s.32AA assessment is required.

9. DECISIONS ON SUBMISSIONS | NGĀ WHAKATAUNGA MŌ NGĀ TĀPAETANGA

135. Clause 10 of Sch.1 requires that this Decision include reasons for accepting or rejecting the submissions made on PC114.
136. The s.42A Report provides a table setting out the s.42A Report author's recommendations on submissions and decisions requested.⁸⁶ In short, the s.42A Report author recommends rejecting all submission points (for the reasons set out in the balance of the s.42A Report).
137. I adopt that summary as it reflects the decisions I have made in this report. I therefore **reject** the three submissions that opposed the plan change and sought its decline, for the reasons set out in this Decision.

10. PART 2 OF THE ACT | WĀHANGA TUARUA O TE TURE

138. For all of the reasons set out in this decision, I am satisfied the matters set out in ss.6, 7 and 8 of the RMA have been addressed. PC114 has appropriately recognised and provided for, had particular regard to and taken into account those relevant section 6, 7 and 8 matters.
139. Finally, in terms of s.5 of the RMA, I find that the modifications of PC114 in s.32 and s.32AA terms, are consistent with, and are the most appropriate way to achieve the purpose of the RMA.

11. DECISION | WHAKATAUNGA

140. Pursuant to cl.10 of Sch.1 of the RMA, PC114 to the AUP is **APPROVED** and the AUP is amended by:
- a. changing the zoning of the subject land from BLI to MHS and applying the Eaglehurst Road Precinct to this land as shown in **Appendix 1** to this Decision; and
 - b. adding to "Chapter I Precincts" the "Eaglehurst Road Precinct";

⁸⁵ Section 42A Report, Attachment 8.

⁸⁶ Section 42A Report, Attachment 7.

in the manner set out in **Appendix 2** to this Decision.

141. Submissions on the plan change are accepted and rejected in accordance with this Decision, as outlined in Section 9 above.
142. The reasons for this Decision are that overall, I am satisfied PC114 has been developed in accordance with the relevant statutory and policy matters required by the RMA. In particular, PC114:
- a. will assist the Council in achieving the purpose of the RMA;
 - b. is consistent with the provisions of Part 2 of the RMA;
 - c. will give effect to the requirement in s.77G to incorporate the MDRS;
 - d. gives effect to the national policy statements, in particular the NPS-UD promoting a well-functioning urban environment;
 - e. is the most appropriate way of giving effect to the objectives of the AUP particularly those relating to Urban Growth and Form (B2.2) and a Quality Built Environment (B2.3);
 - f. is consistent with the Auckland Plan 2050; and
 - g. is supported by necessary evaluation in accordance with s.32.



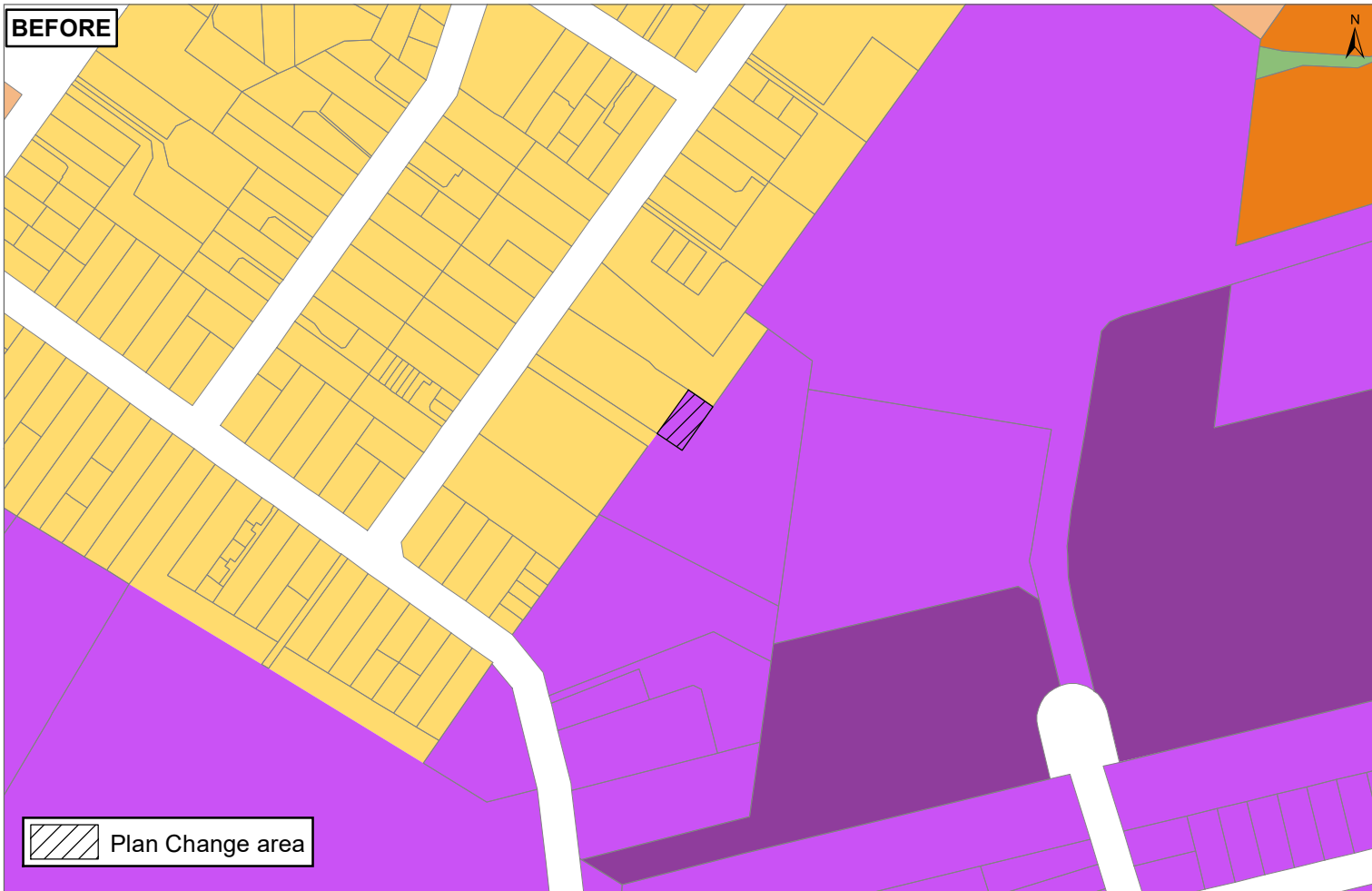
Vicki Morrison-Shaw

Chairperson | Sole Commissioner | Tiamana | Kaikōmihana Takitahi

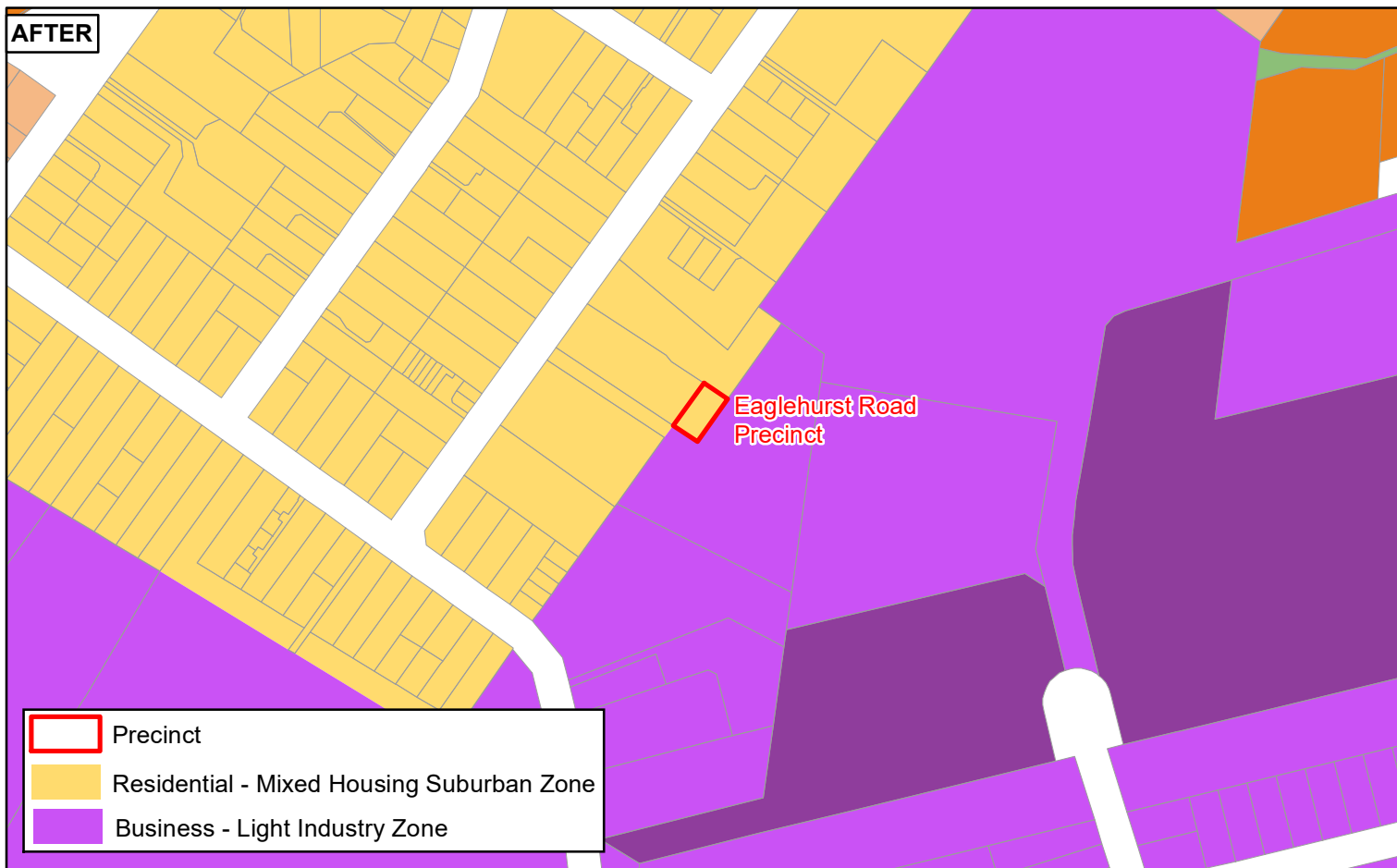
Date: 7 November 2025 | Te Tuawhito o Noema 2025

APPENDIX 1: ZONING MAP | TE MAPI ROHEROHENGA

BEFORE



AFTER



0 30 60 120 Metres

Whilst due care has been taken, Auckland Council gives no warranty as to the accuracy and completeness of any information on this map/plan and accepts no liability for any error, omission or use of the information.

Date: 6/11/2025

Before after map -
Eaglehurst Road

APPENDIX 2: PC114 PROVISIONS | ĀPITI HANGA 2: NGĀ WHAKARITENGA O PC114

Appendix F

Eaglehurst Road Precinct Provisions

Note:

Additions are shown in blue underline and deletions in ~~red strikethrough~~

[This note does not form part of the provisions]

IXXX. Eaglehurst Road Precinct

IXXX.1 Precinct Description

The purpose of the precinct is to incorporate the Medium Density Residential Standards (MDRS) contained in Schedule 3A of the Resource Management Act 1991 (RMA).

The Eaglehurst Road Precinct applies to an area of approximately ~~650~~ 554m² at the rear of 36a Eaglehurst Road, Ellerslie. The zoning of the land within this precinct is Residential – Mixed Housing Suburban Zone. The outcomes anticipated in the precinct correspond to the Residential – Mixed Housing Suburban Zone with MDRS incorporated, and the provisions apply except to the extent the MDRS provisions are incorporated.

IXXX.2 Objectives

- (1) A well-functioning urban environment that enables all people and communities to provide for their social, economic and cultural wellbeing, and for their health and safety, now and into the future.
- (2) A relevant residential zone provides for a variety of housing types and sizes that respond to –
 - (a) housing needs and demand; and
 - (b) the neighbourhood's planned urban built character, including three-storey buildings.

In addition to the objectives specified above, all relevant overlay, Auckland-wide and zone objectives apply in this precinct with the exception of the following:

- Objective H4.2(2).

IXXX.3 Policies

- (1) Enable a variety of housing types with a mix of densities within the zone, including three-storey attached and detached dwellings, and low-rise apartments.
 - (2) Apply the MDRS across all relevant residential zones in the District Plan except in circumstances where a qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga).
 - (3) Encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.
 - (4) Enable housing to be designed to meet the day-to-day needs of residents.
-

Appendix F

Eaglehurst Road Precinct Provisions

- (5) Provide for developments not meeting permitted activity status, while encouraging high-quality developments.
- (6) Require development to achieve a built form that contributes to high-quality built environment outcomes by:
 - (a) maintaining privacy, outlook, daylight and sunlight access to provide for the health and safety of residents on-site;
 - (b) providing for residents' safety and privacy while enabling passive surveillance on the street;
 - (c) minimising visual dominance effects to adjoining sites;
 - (d) maintaining a level of privacy, and sunlight and daylight access for adjoining sites;
 - (e) minimising visual dominance effects of carparking and garage doors to streets and private accessways;
 - (f) minimising adverse effects on the natural environment, including restricting maximum impervious area on a site to reduce the amount of stormwater runoff generated by a development and ensure that adverse effects on water quality, quantity and amenity values are avoided or mitigated;
 - (g) requiring development to reduce the urban heat island effects of development and respond to climate change, by providing deep soil areas that enable the growth of canopy trees;
 - (h) designing practical, sufficient space for residential waste management; and
 - (i) designing practical, sufficient space for internal storage and living areas.

In addition to the policies specified above, all relevant overlay, Auckland-wide and zone policies apply in this precinct with the exception of the following:

- Policy H4.3(2).

IXXX.4 Activity table

All relevant overlay, Auckland-wide and zone activities apply in this precinct unless specified below at IXXX.4(1).

- (1) H4.4.1(A5) The conversion of a principal dwelling existing as at 30 September 2013 into a maximum of two dwellings.

Table IXXX.4.1 specifies the activity status of activities in the IXXX Eaglehurst Road Precinct pursuant to section 9(3) and section 11 of the [RMA Resource Management Act 1991](#).

A blank table cell with no activity status specified means that the zone, Auckland-wide and overlay provisions apply.

Appendix F

Eaglehurst Road Precinct Provisions

Note 1

All applications for subdivision consent are subject to section 106 of the RMA.

Note 2

Particular values associated with an area or resource that are managed by overlay or Auckland-wide Plan Chapters that apply in this precinct may be a qualifying matter under section 771 of the RMA. For this precinct there are no controls that limit the height or density permitted by the Medium Density Residential Standards.

Table IXXX.4.1 Activity Table

Activity		Activity Status
Use		
(A1)	Up to three dwellings per site each of which complies with Standards IXXX.6.1.1 to IXXX.6.1.9 inclusive	P
(A2)	The conversion of a principal dwelling into a maximum of three dwellings each of which complies with Standards IXXX.6.1.1 to IXXX.6.1.9 inclusive	P
Development		
(A3)	Accessory buildings associated with a development of dwellings each of which complies with Standards IXXX.6.1.1 to IXXX.6.1.9 inclusive	P
(A4)	Internal and external alterations to buildings for a development of dwellings all of which complies <u>comply</u> with Standards IXXX.6.1.1 to IXXX.6.1.9 inclusive	P
(A5)	Additions to an existing dwelling which complies with Standards IXXX.6.1.1 to IXXX.6.1.9 inclusive	P
Subdivision for the purpose of the construction or use of dwellings		
(A6)	Subdivision in accordance with an approved land use consent for the purpose of the construction, or use of dwellings as permitted or restricted discretionary activities in the precinct, and meeting IXXX.6.2 Standards for controlled subdivision activities	C
(A7)	Subdivision for up to three sites accompanied by:	C

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Activity		Activity Status
	(a) A land use consent application for up to three dwellings one or more of which does not comply with any of Standards IXXX.6.1.2 to IXXX.6.1.9 inclusive but does comply with all applicable zonal, Auckland-wide, precinct and overlay standards; or (b) A certificate of compliance for up to three dwellings each of which comply complies with Standards IXXX.6.1.2 to IXXX.6.1.9 inclusive and applicable zonal, Auckland-wide, precinct and overlay standards	
(A8)	Any subdivision listed above not meeting IXXX.6.2 Standards for controlled subdivision activities	
(A9)	Any subdivision listed above not meeting General Standards E38.6.2 to E38.6.6 inclusive	D
(A10)	Any subdivision listed above not meeting Standards for subdivision in residential zones E38.8.1.1(1) and E38.8.1.2	D

IXXX.5 Notification

- (1) Unless the Council decides that special circumstances exist under section 95A(9) of the ~~RMA Resource Management Act 1991~~, public notification of an application for resource consent is precluded if the application is for the construction and use of one, two or three dwellings that do not comply with one or more of Standards IXXX.6.1.2 to IXXX.6.1.9.
- (2) Unless the Council decides that special circumstances exist under section 95A(9) of the ~~RMA Resource Management Act 1991~~, public and limited notification of an application for a controlled subdivision resource consent is precluded if the subdivision is associated with an application:
 - (a) for the construction and use of one, two or three dwellings that do not comply with one or more of the Standards listed in IXXX.6.1.2 to IXXX.6.1.9; or
 - (b) four or more dwellings for which a land use consent has been approved for the purpose of the construction, or use of dwellings as a restricted discretionary activity in the precinct.
- (3) Any application for a resource consent which is listed above which also requires resource consent under other rules in the Plan, including standards other than IXXX.6.1.2 to IXXX.6.1.9, will be subject to the normal tests for notification under the relevant sections of the RMA.

IXXX.6 Standards

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- (1) Unless specified in Standard IXXX.6(2) below, all relevant overlay, Auckland-wide and zone standards apply to all activities in the IXXX ~~[insert Name]~~ [Eaglehurst Road](#) precinct.
- (2) The following zone standards do not apply to activities (A1) to (A5) listed in Activity Table IXXX.4.1 above:
 - (a) H4.6.3 The conversion of a principal dwelling existing as at 30 September 2013 into a maximum of two dwellings;
 - (b) H4.6.4 Building height;
 - (c) H4.6.5 Height in relation to boundary;
 - (d) H4.6.6 Alternative height in relation to boundary;
 - (e) H4.6.7 Yards;
 - (f) H4.6.9 Building coverage;
 - (g) H4.6.10 Landscaped area;
 - (h) H4.6.11 Outlook space; and
 - (i) H4.6.13 Outdoor living space.
- (3) The activities listed as a permitted activity in Activity Table IX.4.1 must comply with permitted activity standards IXXX.6.1.1 to IXXX.6.1.9.
- (4) The activities listed as a controlled activity in Activity Table IXXX.4.1 must comply with IXXX.6.2 Standards for controlled subdivision activities [and any other applicable Chapter E38 subdivision standards for the proposed subdivision.](#) ~~and the E38 subdivision standards listed in Activity Table IXXX.4.1.~~

IXXX.6.1 Standards for land use activities

IXXX.6.1.1 Number of dwellings per site

- (1) There must be no more than three dwellings per site.

IXXX.6.1.2 Building height

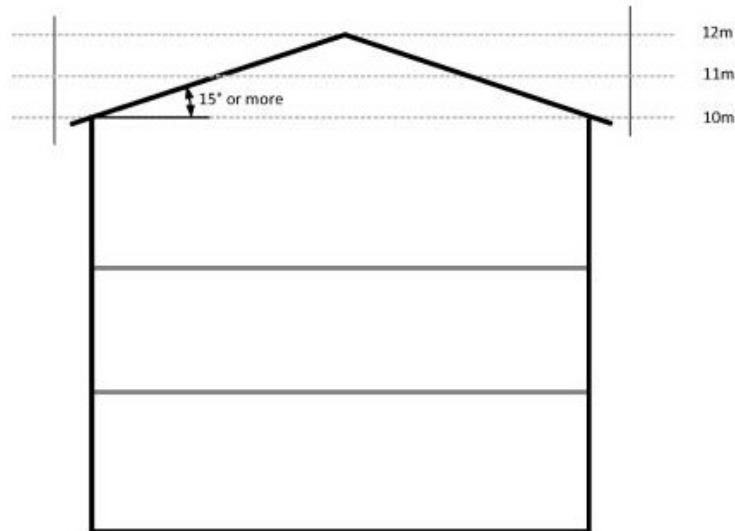
Purpose: To manage the height of buildings to:

- achieve the planned urban built character of predominantly three storeys;
 - minimise visual dominance effects;
 - maintain a reasonable standard of residential amenity for adjoining sites; and
 - provide some flexibility to enable variety in roof forms.
- (1) Buildings must not exceed 11m in height, except that 50% of a building's roof in elevation, measured vertically from the junction between wall and roof, may exceed this height by 1m, where the entire roof slopes 15° or more, as shown in Figure IXXX.6.1.2.1 below.
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Figure IXXX.6.1.2.1 Building height



IXXX.6.1.3 Height in relation to boundary

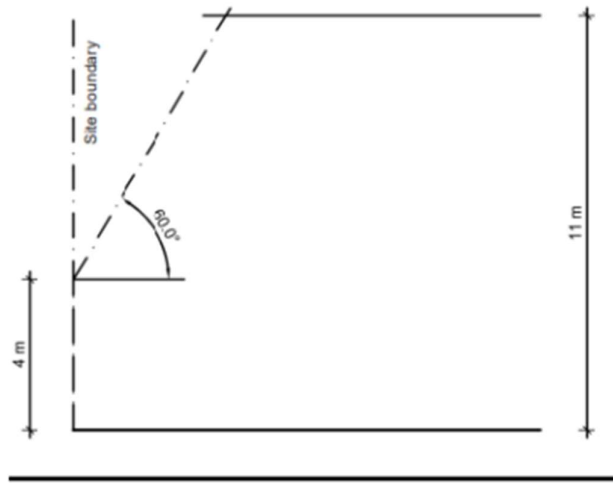
Purpose: To manage the height and bulk of buildings at boundaries to maintain a reasonable level of sunlight access, privacy and minimise adverse visual dominance effects to immediate neighbours.

- (1) Buildings must not project beyond a 60-degree recession plane measured from a point 4m vertically above ground level alongside and rear boundaries as shown in Figure IXXX.6.1.3.1 Height in relation to boundary below.
- (2) Standard IXXX.6.1.3(1) above does not apply to a boundary, or part of a boundary, adjoining any Business Zone.
- (3) Standard IXXX.6.1.3(1) above does not apply to site boundaries where there is an existing common wall between two buildings on adjacent sites or where a common wall is proposed.
- (4) Where the boundary forms part of a legal right of way, entrance strip, access site or pedestrian access way, the control in Standard IXXX.6.1.3 applies from the farthest boundary of that legal right of way, entrance strip, access site or pedestrian access way.
- (5) The height in relation to boundary standard does not apply to existing or proposed internal boundaries within a site.

Figure IXXX.6.1.3.1 Height in relation to boundary

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IXXX.6.1.4 Yards

Purpose:

- to create an urban streetscape character and provide sufficient space for landscaping within the front yard;
- to maintain a reasonable standard of residential amenity for adjoining sites;
- to ensure buildings are adequately set back from lakes, streams and the coastal edge to maintain water quality and provide protection from natural hazards; and
- to enable buildings and services on the site or adjoining sites to be adequately maintained.

(1) A building or parts of a building must be set back from the relevant boundary by the minimum depth listed below:

- (a) Front yard: 1.5m.
- (b) Side yard: 1m.
- (c) Rear yard: 1m.

(2) Standard IXXX.6.1.4(1)(b) does not apply to site boundaries where there is an existing common wall between two buildings on adjacent sites or where a common wall is proposed.

IXXX.6.1.5 Building coverage

Purpose: To manage the extent of buildings on a site to achieve the planned character of buildings surrounded by open space.

(1) The maximum building coverage must not exceed 50 per cent of the net site area.

IXXX.6.1.6 Landscaped area

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Purpose:

- to provide for quality living environments consistent with the planned urban built character of buildings surrounded by vegetation; and
 - to create a vegetated urban streetscape character.
- (1) A dwelling at ground floor level must have a landscaped area of a minimum of 20 percent of a developed site with grass or plants, and can include the canopy of trees regardless of the ground treatment below them.
 - (2) The landscaped area may be located on any part of the development site, and does not need to be associated with each dwelling.

IXXX.6.1.7 Outlook space

Purpose:

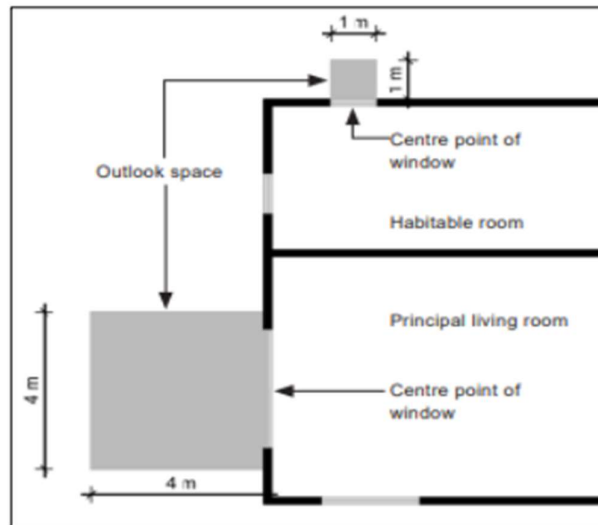
- to ensure a reasonable standard of visual privacy between habitable rooms of different buildings, on the same or adjacent sites; and
 - in combination with H5.6.13 Daylight Standard, manage visual dominance effects within a site by ensuring that habitable rooms have an outlook and sense of space.
- (1) An outlook space must be provided for each dwelling as specified in this standard.
 - (2) An outlook space must be provided from habitable room windows as shown in Figure IXXX.6.1.7.1 Outlook space requirements.
 - (3) The minimum dimensions for a required outlook space are as follows and as shown in Figure IXXX.6.1.7.1 Outlook space requirements [below](#):
 - (a) a principal living room must have an outlook space with a minimum dimension of 4 metres in depth and 4 metres in width; and
 - (b) all other habitable rooms must have an outlook space with a minimum dimension of 1 metre in depth and 1 metre in width.
 - (4) The width of the outlook space is measured from the centre point of the largest window on the building face to which it applies.
 - (5) Outlook spaces may be over driveways and footpaths within the site or over a public street or other public open space.
 - (6) Outlook spaces may overlap where they are on the same wall plane in the case of a multi-storey building.
 - (7) Outlook spaces may be under or over a balcony.
 - (8) Outlook spaces required from different rooms within the same building may overlap.
 - (9) Outlook spaces must—
 - (a) be clear and unobstructed by buildings; and
-

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- (b) not extend over an outlook space or outdoor living space required by another dwelling.

Figure IXXX.6.1.7.1 Outlook space requirements



IXXX.6.1.8 Outdoor living space

Purpose: To provide dwellings with outdoor living space that is of a functional size and dimension, has access to sunlight, is separated from vehicle access and manoeuvring areas, and ensure:

- private outdoor living spaces are directly accessible from the principal living room, dining room or kitchen; [and](#)
 - communal outdoor living spaces are conveniently accessible for all occupants.
- (1) A dwelling at ground floor level must have an outdoor living space that is at least 20m² and that comprises ground floor, balcony, patio, or roof terrace space that, —
- (a) where located at ground level, has no dimension less than 3 metres; and
 - (b) where provided in the form of a balcony, patio, or roof terrace, is at least 8m² and has a minimum dimension of 1.8 metres; and
 - (c) is accessible from the dwelling; and
 - (d) may be—
 - (i) grouped cumulatively by area in 1 communally accessible location; or
 - (ii) located directly adjacent to the dwelling; and
 - (e) is free of buildings, parking spaces, and servicing and manoeuvring areas.
- (2) A dwelling located above ground floor level must have an outdoor living space in the form of a balcony, patio, or roof terrace that—

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- (a) is at least 8m² and has a minimum dimension of 1.8 metres; and
- (b) is accessible from the dwelling; and
- (c) may be—
 - (i) grouped cumulatively by area in 1 communally accessible location, in which case it may be located at ground level; or
 - (ii) located directly adjacent to the dwelling.

IXXX.6.1.9 Windows facing the street

Purpose: To provide for passive surveillance while maintaining privacy for residents and users.

- (1) Any dwelling facing the street must have a minimum of 20 per cent of the street-facing façade in glazing. This can be in the form of windows or doors.

IXXX.6.2 Standards for controlled subdivision activities

Purpose: To provide for subdivision of land for the purpose of construction and use of dwellings in accordance with MDRS permitted and restricted discretionary land use activities.

IXXX.6.2.1 Subdivision in accordance with an approved land use consent for the purpose of the construction or use of dwellings as permitted or restricted discretionary activities in the precinct

- (1) Any subdivision relating to an approved land use consent must comply with that land use consent.
- (2) Subdivision does not increase the degree of any non-compliance with standards IXXX.6.1.1 to IXXX.6.1.9 except that Standard IXXX.6.1.3(1) does not apply along the length of any proposed boundary where dwellings share a common wall.
- (3) No vacant sites are created.

IXXX.6.2.2 Subdivision around existing buildings and development

- (1) Prior to subdivision occurring, all development must meet the following:
 - (a) Comply with the relevant overlay, Auckland-wide, zone and precinct rules; or
 - (b) Be in accordance with an approved land use consent.
- (2) Subdivision does not increase the degree of any non-compliance with standards IXXX.6.1.1 to IXXX.6.1.9 except that Standard IXXX.6.1.3(1) does not apply along the length of any proposed boundary where dwellings share a common wall.
- (3) No vacant sites are created.

IXXX.6.2.3 Subdivision for up to three sites accompanied by a land use consent application or certificate of compliance for up to three dwellings

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- (1) The subdivision application and land use consent application or certificate of compliance relate to a site on which there are no dwellings;
- (2) The subdivision application and land use consent application or certificate of compliance must be determined concurrently;
- (3) Each dwelling, relative to its proposed boundaries, complies with Standards IXXX.6.1.2 to IXXX.6.1.9;
- (4) A maximum of three sites and three dwellings are created; and
- (5) No vacant sites are created.

IXXX.7 Assessment – controlled activities

IXXX.7.1 Matters of control

The Council will reserve control over all of the following matters when assessing a controlled activity resource consent application:

- (1) All controlled subdivision activities in Table IXXX.4.1:
 - (a) compliance with an approved resource consent or consistency with a concurrent land use consent application or certificate of compliance;
 - (b) compliance with the relevant overlay, Auckland-wide, precinct and zone rules;
 - (c) the effects of infrastructure provision.

IXXX.7.2 Assessment criteria

- (1) The Council will consider the relevant assessment criteria for controlled subdivision from the list below:
 - (a) compliance with an approved resource consent or consistency with a concurrent land use consent application or certificate of compliance:
 - (i) refer to Policy E38.3(6);
 - (b) compliance with the relevant overlay, Auckland-wide, precinct and zone rules;
 - (i) refer to Policy E38.3(1) and (6);
 - (c) whether there is appropriate provision made for infrastructure including:
 - (i) whether provision is made for infrastructure including creation of common areas over parts of the parent site that require access by more than one site within the subdivision; and
 - (ii) whether appropriate management of effects of stormwater has been provided;
 - (iii) refer to Policies E38.3(1), (6), (19) to (23).

IXXX.8 Assessment – restricted discretionary activities

IXXX.8.1 Matters of discretion

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The Council will restrict its discretion to all of the following matters when assessing a restricted discretionary resource consent application:

- (1) For buildings that do not comply with one or more Standards IXXX.6.1.2 to IXXX.6.1.9:
 - (a) any precinct and zone policies relevant to the standard;
 - (b) the purpose of the standard;
 - (c) the effects of the infringement of the standard;
 - (d) the effects on the urban built character of the precinct;
 - (e) the effects on the amenity of neighbouring sites;
 - (f) the effects of any special or unusual characteristic of the site which is relevant to the standard;
 - (g) the characteristics of the development;
 - (h) any other matters specifically listed for the standard; and
 - (i) where more than one standard will be infringed, the effects of all infringements considered together.

IXXX.8.2 Assessment criteria

The Council will consider the assessment criteria below for restricted discretionary activities to the extent relevant to the proposal:

- (1) For buildings that do not comply with one or more of Standards IXXX.6.1.2 to IXXX.6.1.9:
 - (a) for all infringements to standards:
 - (i) refer to Policy IXXX.3(5); and
 - (ii) refer to Policy IXXX.3(6);
 - (b) for building height:
 - (i) refer to Policy IXXX.3(1);
 - (ii) refer to Policy IXXX.3(5);
Visual dominance
 - (iii) the extent to which buildings as viewed from the street or public places are designed to minimise visual dominance effects of any additional height, taking into account:
 - the planned urban built character of the precinct; ~~and~~
 - the location, orientation and design of development; ~~;~~ and

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- the effect of the proposed height on the surrounding and neighbouring development.

Character and Visual Amenity

- (iv) the extent to which the form and design of the building and any additional height responds to the planned form and existing character of the surrounding area, including natural landforms and features, and the coast;
 - (v) how buildings as viewed from the street or public places are designed to appear against the skyline, taking into account:
 - whether roof plan, services and equipment are hidden from views; and
 - whether the expression of the top of the building provides visual interest and variation.
- (c) for height in relation to boundary:
- (i) refer to Policy IXXX.3(1);
 - (ii) refer to Policy IXXX.3(5);

Sunlight access

- (iii) whether sunlight access to the outdoor living space of an existing dwelling on a neighbouring site satisfies the following criterion:

Four hours of sunlight is retained between the hours of 9am – 4pm during the Equinox (22 September):

 - over 75% of the existing outdoor living space where the area of the space is greater than the minimum required by Standard IXXX.6.1.8; or
 - over 100% of existing outdoor living space where the area of this space is equal to or less than the minimum required by Standard IXXX.6.1.8.
- (iv) in circumstances where sunlight access to the outdoor living space of an existing dwelling on a neighbouring site is less than the outcome referenced in IXXX.8.2(1)(c)(iii):
 - the extent to which there is any reduction in sunlight access as a consequence of the proposed development, beyond that enabled through compliance with Standard IXXX.6.1.3 Height in relation to boundary control; and
 - the extent to which the building affects the area and duration of sunlight access to the outdoor living space of an existing dwelling on a neighbouring site, taking into account site orientation, topography, vegetation and existing or consented development.

Visual dominance

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- (v) the extent to which buildings as viewed from the side or rear boundaries of adjoining residential sites or developments are designed to reduce visual dominance effects, taking into account:
- the planned urban built character of the zone;
 - the location, orientation and design of development;
 - the physical characteristics of the site and the neighbouring site;
 - the design of side and rear walls, including appearance and dominance; and
 - ~~providing the~~ adequacy of visual and/or physical break up of long continuous building forms.

Overlooking and privacy

- (vi) the extent to which direct overlooking of a neighbour's habitable room windows and outdoor living space is minimised to maintain a reasonable standard of privacy, including through the design and location of habitable room windows, balconies or terraces, setbacks, or screening.
- (d) for yards:
- (i) refer to Policy IXXX.3(1); [and](#)
 - (ii) refer to Policy IXXX.3(3);
- (e) for building coverage:
- (i) refer to Policy IXXX.3(1);
 - (ii) refer to Policy IXXX.3(3);
 - (iii) whether the non-compliance is appropriate to the context, taking into account:
 - whether the balance of private open space and buildings is consistent with the planned urban built character anticipated for the precinct;
 - the degree to which the balance of private open space and buildings reduces onsite amenity for residents, including the useability of outdoor living areas and functionality of landscape areas; [and](#)
 - the proportion of the building scale in relation to the proportion of the site.
- (f) for landscaped area:
- (i) refer to Policy IXXX.3(1);
 - (ii) refer to Policy IXXX.3(3);
 - (iii) refer to Policy H5.3(10); [and](#)
-

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- (iv) the extent to which existing trees are retained.
- (g) for outlook space:
 - (i) refer to Policy IXXX.3(1);
 - (ii) refer to Policy IXXX.3(3);
 - (iii) refer to Policy IXXX.3(4); [and](#)
 - (iv) ~~T~~he extent to which overlooking of a neighbour's habitable room windows and private and/or communal outdoor living space can be minimised through the location and design of habitable room windows, balconies or terraces and the appropriate use of building and glazing setbacks and/or screening which is integrated part of the overall building design.
- (h) for outdoor living space:
 - (i) refer to Policy IXXX.3(1);
 - (ii) refer to Policy IXXX.3(4); and
 - (iii) the extent to which dwellings provide private open space and communal open space that is useable, accessible from each dwelling and attractive for occupants.
- (i) for windows facing the street:
 - (i) refer to Policy IXXX.3(3); [and](#)
 - (ii) the extent to which the glazing:
 - allows views to the street and/or accessways to ensure passive surveillance; and
 - provides a good standard of privacy for occupants.

IXXX.9 Special information requirements

There are no special information requirements in this precinct.

IXXX.10 Precinct plans

There are no precinct plans in this precinct.
