

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



## Proposal

This plan change seeks to rezone land in the Auckland Unitary Plan: Operative in Part (“**the Unitary Plan**”). The plan change has four components:

- i. rezone 4 parcels of land recently vested or acquired by Auckland Council to an open space zone.
- ii. Rezone 12 parcels of land to correct zoning errors and anomalies.
- iii. Rezone 11 parcels of land to better reflect the current or future intended use and or development.
- iv. Rezone 5 parcels of land to reflect land exchanges between Kāinga Ora and Auckland Council in the Ōwairaka and Onehunga areas and Fletcher Residential Limited and Auckland Council in the Mount Roskill area and/or to enable approved land rationalisation and disposal by Auckland Council.

This plan modification is **GRANTED**, with modifications. The reasons are set out below. Submissions and further submissions are accepted and rejected in accordance with the decision.

<b>Plan modification number:</b>	
<b>Site address:</b>	
<b>Hearing commenced:</b>	Wednesday 17 September 2025 at 9.30am
<b>Hearing panel:</b>	Janine Bell (Chairperson) Trevor Mackie
<b>Appearances:</b>	<p><u>For the Local Board (via MS Teams):</u>  Rodney Local Board - Louise Johnson  Papakura Local Board - Brent Catchpole  Albert Eden Local Board - Christina Robertson  Howick Local Board - Damian Light  Franklin Local Board - Angela Fulljames  Hibiscus and Bays Local Board - Julia Parfitt and Gregg Walden,</p> <p><u>For the Submitters:</u>  Drury South Limited - 39 Fitzgerald Road, Drury (Map 2) represented by.</p> <ul style="list-style-type: none"> <li>• Greg Osborne (Planning)</li> </ul>

	<ul style="list-style-type: none"> <li>• Sean Thompson (Development Manager)</li> </ul> <p>Pukekohe Rugby Football Club Incorporated (PRFC) - 81 Franklin Road, Pukekohe (Map1) represented by:</p> <ul style="list-style-type: none"> <li>• Daniel Sadlier (Legal)</li> <li>• Patrick Twomey (President - PRFC)</li> <li>• Vance Hodgson (Planning)</li> </ul> <p>Allyson Wood, - 33 Allenby Road, Panmure (Map 11), 528 Ellerslie Panmure Highway, Mt Wellington (Map 25), Ruapōtaka Marae, 40 Maybury Street, Point England, Part of 14A Maybury Street, Point England, Part of: 1/12 Maybury Street, Point England &amp; 2/12 Maybury Street, Point England (Map 7).</p> <p>Kāinga Ora (46 Range View Road, Ōwairaka (Map 29), 1, 3 &amp; 5 Olea Road, Onehunga (Map 30), 133R Settlement Road (Map 28) represented by:</p> <ul style="list-style-type: none"> <li>• Claire Moore</li> </ul> <p>Birkenhead United AFC and Beach Haven Bowling Club Inc and Friends of Shepherds Park (31-35 Cresta Avenue, Beach Haven (Map 8)) represented by:</p> <ul style="list-style-type: none"> <li>• William Taylor (Birkenhead United Association Football Club)</li> <li>• Richard Ponting, (Beach Haven Bowling Club Inc)</li> <li>• Caroline Paver, (Friends of Shepherds Park)</li> </ul> <p>Peter Aitken (101 St Marys Road, Ponsonby (Map 5) represented by:</p> <ul style="list-style-type: none"> <li>• Peter Aitken (Owner)</li> <li>• Owen Burns (Planning)</li> </ul> <p><u>Tabled evidence</u></p> <p>Todd Property Group:</p> <ul style="list-style-type: none"> <li>• Stephen Martin (Development Manager)</li> </ul> <p><u>For Council:</u></p> <p>Natasha Nades, Reporting Officer</p> <p>Eryn Shields, Team Leader</p> <p>Marcus Ruddock – Auckland Urban Development Office – (previously Eke Panuku)</p> <p>Ezra Barwell, Senior Policy Advisor – Parks (online)</p>
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	Chayla Walker, Senior Hearing Advisor
<b>Hearing adjourned</b>	Wednesday 17 September 2025
<b>Commissioners' site visit</b>	Wednesday 10 September 2025
<b>Hearing Closed:</b>	21 October 2025

## INTRODUCTION

1. This decision is made on behalf of the Auckland Council ("the Council") by Independent Hearing Commissioners Janine Bell and Trevor Mackie ("the Hearing Panel") appointed and acting under delegated authority under section 34 of the Resource Management Act 1991 ("the RMA").
2. The Hearing Panel have been given delegated authority by the Council to make a decision on Plan Change 96 ("**PC 96**") to the Auckland Council Unitary Plan Operative in Part ("the Unitary Plan") after considering all the submissions, the section 32 evaluation, the reports prepared by the officers for the hearing and information presented at the hearing of submissions.
3. PC 96 is a Council-initiated plan change that has been prepared following the standard RMA Schedule 1 process.
4. The plan change was publicly notified on 25 January 2024 following a feedback process involving iwi, as required by Clause 4A of Schedule 1. Notification involved a public notice as well as letters to directly affected landowners and occupiers alerting them to the plan change.
5. The submission period closed on 23 February 2024. A total of 139 submissions were received, including 4 late submissions. A summary of submissions was notified for further submissions on 08 March 2024 and closed on the 22 March 2024. 7 further submissions were received to the plan change.

## SUMMARY OF PLAN CHANGE

6. The proposed plan change is described in detail in the Council's section 42A hearing report. A summary of key components of the plan change is set out below.
7. PC 96 seeks to:
  - a) re-zone 4 parcels of land recently vested or acquired for open space purposes so that the zoning of the land reflects its purpose and intended use.
  - b) correct some 12 open space zoning errors, typically private land that has been incorrectly zoned as open space.
  - c) re-zone 11 parcels of land that are deemed surplus to the Council's open space requirements. These sites are currently zoned open space or

shown as road. These sites have been determined by the Council to be no longer required for open space purposes, and the proposed plan change seeks to re-zone these parcels to the same zone as applies to the adjoining land.

- d) re-zone 5 parcels of land to reflect land ownership changes between Kāinga Ora and Auckland Council in the Ōwairaka and Onehunga areas and Fletcher Residential Limited and Auckland Council in the Mount Roskill area and/or to enable approved land rationalisation and disposal by Auckland Council.

- 8. No proposed text changes to the Unitary Plan arise from PC 96.

## **HEARING PROCESS**

- 9. In accordance with section 41B(3) and (4) of the RMA, the Hearing Panel issued a Direction on 5 July 2024, setting the timetable for the pre-circulation of the Council's s42A report and any expert evidence to be given at the hearing on behalf of any submitter.
- 10. Prior to the commencement of the hearing the Panel were advised that the hearing would be postponed allowing the parties to work through some issues that needed to be resolved prior to finalising the s42A hearing report.
- 11. A new direction was issued on 1 August 2025, notifying all parties of the new hearing date and the revised timetable for the pre-circulation of the Council's s42A report and any expert evidence to be given at the hearing on behalf of any submitter.
- 12. On 10 September 2025, the Hearing Panel visited the sites subject to submission where submitters had indicated they wished to be heard along with some of the sites where the reporting planner recommended the proposed changes be rejected. The Hearing Panel were satisfied that the issues raised relative to the other land subject to PC 96, did not require a site visit to be undertaken.

## **PROCEDURAL MATTERS**

### **Late Submissions**

- 13. The Council's s42A report advised there were four late submissions received from:
  - (i) Stephen Kim (Submission no. 43) – Map 19
  - (ii) Adam van den Berg (Submission no. 136) – does not specify a map, but is opposed to PC96
  - (iii) Tim MacWinney (Submission no. 138) – Map 2
  - (iv) Beach Haven Bowling Club (Submission no. 139) – Map 8

14. These late submissions were accepted under delegated authority by Warren MacLennan, Manager Planning – Regional, North, West and Islands, Planning and Resource Consents Department.

### **Plan Change 78 - Intensification**

15. During the hearing the matter was raised about the relationship between Plan Change 78 (“**PC 78**”) and PC 96. PC 78 was the Council’s Intensification Plan Change to enable higher levels of housing intensification in response to the National Policy Statement on Urban Development. It was publicly notified on 18 August 2022 just over three years before PC 96. In several cases sites were proposed to be rezoned different zones under PC 78 to those in PC 96. The Council sought to correct this by way of a submission (submission 112) to ensure that if PC 78 proceeded then the zoning of these sites should be consistent with the zoning of the surrounding area under PC78.
16. Commissioner Mackie sought clarification on whether PC 96 was a variation to PC 78 and if so what impact the imminent withdrawal of parts of PC 78 would have for those sites which had a different zoning proposed under PC 96 to PC 78. Officers advised that “PC 96 was not a variation to PC 78 and is a standalone plan change. In the case of PC 96, it is correct that the proposed zoning of certain sites is different to the proposed zoning applied to the same site in PC 78”<sup>1</sup>.
17. Prior to the closure of the PC 96 hearing, on Thursday 9 October 2025, the Council partially withdrew those parts of PC 78 related to the urban environment, with the exception of the City Centre area (which was operative) and the Metropolitan Centre zone topics (except for Westgate and New Lynn Precincts) and related Qualifying Matter Topics related to the Business – Metropolitan Centre Zone. These matters have been heard, with the PC 78 Independent Hearings Panel’s recommendations to the Council expected before the end of 2025. Therefore, the only proposed rezonings that now exist are those proposed in PC 96.
18. Officers also advised that a replacement plan change (“**PC 120**”) to PC 78 has been prepared to rezone urban Auckland (other than the City Centre and Metropolitan Centre zones), for housing intensification and resilience. This is likely to be publicly notified in November 2025. “The Council has anticipated the possibility that following this notification, PC96 would return to the situation it has been in with PC78 – two Council initiated plan changes proposing different zones for the same site. To avoid this, Council has excluded all of the sites proposed to be rezoned in PC96 from PC120”<sup>2</sup>.
19. With the withdrawal of PC 78, the Panel are satisfied that there is no issue regarding the proposed zoning of the land parcels in PC 96.

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<sup>1</sup> Memorandum from Eryn Shields and Natasha Nades, dated 17 October 2025, page 1

<sup>2</sup> Ibid, page 2

## RELEVANT STATUTORY PROVISIONS CONSIDERED

20. The RMA sets out the requirements for the formulation of plans and changes to them. Section 3 of the s42A report and the section 32 assessment, that formed part of the hearing report, sets out the statutory context for the consideration of the plan change. We adopt that analysis and do not repeat it again in detail, as the plan change is very much focused on detailed methods.
21. Clause 10 of Schedule 1 requires that this decision must include the reasons for accepting or rejecting submissions. The decision must include a further evaluation of any proposed changes to the plan change arising from submissions; with that evaluation to be undertaken in accordance with section 32AA. Regarding Section 32AA, we note that the submissions and evidence presented by the Council, as well as our evaluation set out in this decision, represents this assessment, and that material should be read in conjunction with this decision, where we have determined that a change to PC 96 should be made.

## PLANNING CONTEXT

22. The Unitary Plan became operative in part on 15 November 2016. Each year, however, many parcels of land are vested or acquired by the Council for open space purposes either as a result of subdivision or purchase by the Council. This land typically does not have a zone that reflects its intended use and development as open space. In addition, the public and Council staff identify a number of errors or anomalies where privately owned land is zoned as open space, or where historically vested open space is no longer required for that purpose.
23. Periodically the Council, undertakes plan changes to address these zoning anomalies. PC 96 proposes to re-zone 4 lots recently vested or acquired land for open space purposes to reflect the land's open space qualities and intended use and development (for open space/recreation purposes). These parcels of land are set out in the following table:

Map No.	Address	Legal Description	Operative Zone	Proposed Zone under PC 96
3	8-10 Link Road, Stanmore Bay	Sec 2 SO 435211 Lot 101 DP 512162	Open Space - Informal Recreation Zone	Open Space-Community Zone
20	120 Hill Road, Manurewa	Lot 1 DP 59551	Residential - Mixed Housing Suburban Zone	Open Space - Informal Recreation Zone
24	47 Jellicoe Street, Auckland Central	Sect 1 SO 590587, Sect 4 SO 590587	Business - City Centre Zone	Open Space - Informal Recreation Zone

27	901 Great South Road, Manukau Central	Part of Sect 2 SO 515350	Special Purpose – Healthcare Facility and Hospital Zone	Open Space - Informal Recreation Zone
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24. PC 96 also includes corrections to some open space zoning errors (a total of 12) identified in the Unitary Plan. These include privately owned land that has been zoned open space in error. These parcels of land are set out in the following table:

Map No.	Address	Legal Description	Operative Zone	Proposed Zone under PC 96
2	539 Fitzgerald Road, Drury	Lot 1015 DP 586073 Lot 106 DP 573572 Lot 108 DP 573572 Lot 105 DP 573451	Business – Light Industry Zone, and Business – Heavy Industry Zone	Open Space - Informal Recreation Zone, Business – Light Industry Zone and Business – Heavy Industry Zone
5	101 St Marys Road, Ponsonby	SECT 3 SO 464619, SECT 6 SO 464619, SECT 14 SO 464619, SECT 21 SO 464619, SECT 22 SO 464619, SECT 31 SO 464619, SECT 36 SO 464619, SECT 38 SO 464619	Road and Strategic Transport Corridor Zone	Open Space - Informal Recreation Zone
6	103 St Marys Road, Ponsonby	SECT 16 SO 464619, SECT 30 SO 464619, SECT 33 SO 464619, SECT 37 SO 464619	Road and Strategic Transport Corridor Zone	Open Space - Informal Recreation Zone
10	Part of 500 Island Road, Mangere Bridge	Sect 8 SO 497537 Sect 9 SO 497537 Sect 14 SO 501074	Rural – Rural Production Zone	Business – Light Industry Zone

		Lot 2 DP 156421 Sect 1 SO		
11	33 Allenby Road, Panmure	Allot 59 Sec 3 Village Panmure	Open Space - Informal Recreation Zone	Residential - Mixed Housing Suburban Zone
18	56 Brookview Drive, Flat Bush	Lot 2DP 512235	Open Space - Sport and Active Recreation Zone	Residential - Terrace Housing and Apartment Building Zone
19	66 Flat Bush School Road, Flat Bush	Lot 300 DP 532614	Open Space - Sport and Active Recreation Zone	Residential - Terrace Housing and Apartment Building Zone
21	50 Waiwai Drive, Upper Orewa	Lot 5501 DP 574430	Residential – Mixed Housing Urban and Open Space – Conservation Zone	Residential Mixed Housing Urban Zone
22	285 Te Taruna Drive, Upper Orewa, 261 Te Taruna Drive, Upper Orewa, 17 Matahae Crescent, Upper Orewa, 131 Argent Lane, , Upper Orewa, 31 Kendall Road, Upper Orewa, 29 Kendall Road, Upper Orew	Lot 1 DP 588538 Lot 5001 DP 588538 Lot 6002 DP 588538 Lot 9005 DP 588538 Lot 244 DP 574826 Lot 243 DP 574826	Residential – Mixed Housing Urban and Open Space – Conservation Zone	Residential Mixed Housing Urban Zone
23	117 Richardson Road, Ōwairaka	Sect 3 SO 553272, Sect 2 SO 553272, Sect 6 SO 553272, Pt Lot 49 DP 43547	Residential - Terrace Housing and Apartment Building Zone	Open Space - Sport and Active Recreation Zone
28	133R Settlement Road, Red Hill	Lot 289 DP 79448	Road	Open Space - Informal Recreation Zone
29	46 Range View Road, Ōwairaka, Part of 117 Richardson Road, Ōwairaka, In the vicinity of Hargest Terrace, Ōwairaka, In the vicinity of Hargest Terrace, Ōwairaka	Part Lot 70 DP 38660 Part Lot 49 DP 43547 Part Lot 49 DP 43547 Part Lots 106, 107, 109, 110, 111, DP 41766	Residential – Mixed Housing Urban and Open Space - Sport and Active Recreation Zone	Open Space – Sport and Recreation Zone, Residential Terrace Housing and Apartment Building zone and Residential – Mixed using Urban and Road



25. PC 96 also proposes to re-zone 11 parcels of land to better reflect the current or future intended use and/or development of the land. These parcels of land are set out in the table below:

<b>Map No.</b>	<b>Address</b>	<b>Legal Description</b>	<b>Operative Zone</b>	<b>Proposed Zone under PC 96</b>
1	81 Franklin Road, Pukekohe	Lot 1 DP 87998	Open Space - Informal Recreation Zone	Residential – Mixed Housing Suburban
7	Ruapōtaka Marae 40 Maybury Street, Point England, Part of 14A Maybury Street, Point England, Part of: 1/12 Maybury Street, Point England & 2/12 Maybury Street, Point England	Sections 1,2,3 SO 577888 (in the process of being transferred from TRC to Council) Lot 3 and Lot 4 DP 184600 (in the process of being transferred from TRC to Council) Sections 2,3,4 SO 596660 and Lot 1 DP 114327: Council reserves	Open Space – Informal Recreation Zone, Open Space – Community Zone and Residential - Terrace Housing and Apartment Building Zone	Special Purpose – Māori Purpose Zone.
8	31-35 Cresta Avenue, Beach Haven	Part of: Lot 156 DP 20048, Lot 157 DP 20048, Lot 158 DP 20048, Lot 159 DP 20048, Lot 160 DP 20048, Lot 161 DP 20048, Lot 162 DP 20048, Lot 167 DP 20048, Pt Lot 1 DP 99986	Open Space – Sport and Active Recreation Zone	Special Purpose – Māori Purpose Zone.
9	1 Oruarangi Road, Mangere	Part of: LOT 1 DP 210937, SECT 7 SO 497537, SECT 10 SO 497537, SECT 11 SO 497537, SECT 12 SO	Road	Business – Light Industry Zone

		497537, SECT 13 SO 497537		
13	Hobsonville Road, Hobsonville	Lot 100 DP 475543, Lot 101 DP475543	Future Urban Zone and Business – Light Industry Zone	Open Space - Informal Recreation Zone
14	2-8 Maurice Road, Penrose	Lot 1 DP 19582 Lot 1 DP 83450 Sec 1 SO 461472	Road	Business – Light Industry Zone
16	10 & 12 Western Road Laingholm	Lot 219 DP 19098 Pt Lot 220	Residential - Large Lot Zone	Open Space - Informal Recreation Zone
17	220 – 240 Shaw Road Titirangi	Pt Lot 2 DP 7177	Rural – Waitakere Ranges Zone	Open Space – Conservation Zone
26	37 Coles Crescent Papakura	Sect 15 SO 471986	Business – Metropolitan Centre Zone	Open Space – Informal Recreation Zone
31	575 Te Atatū Road, Te Atatū Peninsula	Lot 1 DP 565413, Lot 3 DP 68647	Open Space – Community Zone	Business - Town Centre Zone
32	1023 and 1039 Linwood Road, Papakura	Lot 1 DP 417814, Sect 2 SO 544696	Open Space – Sport and Active Recreation Zone	Residential – Single House Zone

26. In addition, PC 96 also proposes to rezone two land parcels or groupings of land parcels to:

- a) enable redevelopment by Kāinga Ora and Fletcher Residential Limited
- b) improve the quality of open space/access to open space

27. The land parcels affected, and the proposed new zones are outlined in the following table:

Map No.	Address	Legal Description	Operative Zone	Proposed Zone under PC 96
12	30 Grahame Breed Drive, Mount Roskill	Lot 5 DP 514701 Lot 6 DP 514701	Business - Town Centre Zone	Open Space - Informal Recreation Zone
30	1,3,5 Olea Road, Onehunga	Part Lot 396 DP 37886	Residential Mixed Housing Suburban Zone and Open Space –	Open Space – Sport and Active Recreation Zone and Residential - Mixed Housing Suburban Zone

		Part Lot 397 DP 37886 Part Section 3 SO 322992	Sport and Active Recreation Zone	
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28. Lastly, PC 96 proposes to re-zone three parcels of land that have been through the Auckland Council's property rationalisation process and identified as surplus or no longer having a service need; and are approved for disposal by the Council. These parcels of land are set out in the table below:

Map No.	Address	Legal Description	Operative Zone	Proposed Zone under PC 96
4	119A May Road, Mount Roskill	Lot 4 DP 40979	Open Space - Informal Recreation Zone	Business – Light Industry zone
15	1 Upper Harbour Highway, Rosedale	Sect 1 SO 564093	Open Space – Sport & Active Recreation Zone	Business – Light Industry zone
25	528 Ellerslie-Panmure Highway, Mt Wellington	Sect 15 SO 471986	Road	Business – Town Centre Zone

29. We see very unambiguously that for land to be re-zoned from open space to an urban zone a two-step process must be followed. First, the land must be demonstrated as being no longer reasonably needed for the open space purpose that it is currently zoned for. We see potential redevelopment aspirations as having no valid part in this consideration.
30. The second step, assuming that the first step is 'cleared', is to then identify what of the various zone alternatives available would be the most appropriate for each area of land. The developer's preferences, whether that is the Council or any other third-party, then do form one of many factors to be considered in this step.
31. The May Road and Upper Harbour Highway sites have both been transferred from the Council to Watercare. May Road is a former plantation reserve and surplus to requirements and is to be purchased by the adjoining owner. The Upper Harbour Highway site was formerly part of the Rosedale hockey fields which have been relocated. The land will form part of the wastewater treatment plant site, and the proposed rezoning is consistent with the zoning of the wastewater treatment plant. No submissions opposing these rezonings have been received.
32. The only site where the proposed rezoning is in contention is 528 Ellerslie-Panmure Highway, Mt Wellington (Map 25). The site is currently shown as road

and has been identified as part of a wider Council land holding identified as a former Plantation Reserve and surplus to requirements.

33. The Council's section 32 report outlines the process in identifying these parcels of land for disposal. The Council advised that one motivation for the re-zoning of these 3 parcels is to enable disposal to adjoining landowners and to reflect the current or future use of the land.

## SUMMARY OF EVIDENCE

34. The hearing evidence in this case includes the notified plan change, the accompanying s32 report and supporting documentation, the Council officer's s42A report, the submissions received, and the presentations and evidence presented and tabled at the hearing by the Council's planner, submitters and the further information requested from the Council officers. This information is all part of the public record and is not repeated. This material was taken as read.

### Council Officers

35. **Mr Eryn Shields**, the Council's Team Leader, Regional, North, West and Islands Unit of the Planning and Resource Consents Department provided a brief opening summary. He placed on the hearing record that on 16 October 2025, the Minister Responsible for Resource Management Reform had approved Auckland Council's application for Plan Change 96 to be exempted from the Plan Stop provisions in Subpart 5B of the Resource Management Act 1991. Plan Change 96 had been subject to these requirements.
36. Mr Shields also provided advice on the relationship between PC 96 and the Council's Plan Change 78 Intensification (PC78) which are being progressed in parallel timeframes. He noted that 14 maps in PC 96 propose to rezone 14 sites (or parts of sites) to become a relevant residential zone under PC 78. PC 96 proposed the operative AUP residential zones and did not propose the Medium Density Residential Standards to these sites. The result was the Council was proposing different zones for these sites in PC 96 in comparison to PC 78. He also noted that PC 96 proposes to rezone two sites but without proposing to remove/amend the applicable operative Height Variation Control for these sites.
37. He also advised that that Council's Policy and Planning Committee is considering PC 78 on Wednesday 24 September 2025. If the Committee resolves to withdraw PC 78, this "paves the way for the completion of PC 96". If the Committee resolves to continue with PC 78 that will affect the Panel's ability to make decisions on some sites in PC 96.
38. **Ms Natasha Nades**, the reporting planner advised that she had reviewed the statements of [pre-circulated] evidence received by the Panel. She noted that the evidence presented on behalf of the following submitters:

- Todd Corporation Ltd (Map 18 56 Brookview Drive and Map 19 – 66 Flat Bush School Road, Flat Bush)
- Pukekohe Rugby Football Club (Map 1 - 81 Franklin Road, Pukekohe)
- Peter Aitken (Map 5 - St Marys Road, Ponsonby)

agreed with the recommendations in her s42A.

39. Likewise, she noted that Mr Osborne the planning witness for Drury South Limited largely supported the proposed rezoning in Map 2 – 539 Fitzgerald Road, Drury. Attachment 2 to his evidence which corrects anomalies in Map and clarifies where the roads are located and amends the precinct boundary to be consistent with the recent approved subdivision.
40. In relation to Ms Moore’s evidence on behalf of Kāinga Ora she noted the agreement with her recommendations in relation to 46 Range View Road, Ōwairaka (map 29) and the withdrawal of Kāinga Ora’s submission points in relation to 113R Settlement Road, 11R Fulmen Place, 8R Redcrest Avenue and 16R Redcrest Avenue, Papakura.
41. She also maintained her opinion that submission point 130.6 related to the rezoning of 3 Jordon Avenue, Onehunga is out of the scope, and the land should be rezoned in a later plan change. Although she did consider the request to rezone the land did have merit under the RMA.
42. Ms Nades also commented on the three presentations provided by Ms Allyson Wood related to 528 Ellerslie Panmure Highway, 33 Allenby Road, Panmure and 40 Maybury Street, Glen Innes.
43. In relation to 528 Ellerslie Panmure Highway, she maintained her view that the site which is located in the centre of the Panmure centre is appropriately rezoned as Business – Town Centre. The Town Centre zone “builds on the richness and importance of Panmure as one of Tamaki’s best-connected centres, and this is underscored by recent investments in the Panmure Train Station and Eastern Busway”<sup>3</sup>
44. In relation to the 33 Allenby Road, Panmure presentation, Ms Nades confirmed that only the land at 33 Allenby Road was being rezoned to Residential Mixed Housing Suburban. She deferred the response to the question raised by Ms Wood on public access to the reserve and foreshore to the Council’s Parks Department. Lastly in relation to the Ruapōtaka Marae and Reserve, Ms Nades maintained her recommendation that the Special Purpose – Māori Purpose zone is the appropriate zoning for this site. She concluded by advising she maintained the recommendations contained in her section 42A report.

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<sup>3</sup> Opening Summary (17 September 2025), Natasha Nades, paragraph 11

## Local Board Comments

### Rodney Local Board

45. **Ms Louise Johnson**, Deputy Chair of the Rodney Local Board, spoke on behalf of the Local Board. She addressed the Board's resolution on PC 96 (19 June 2024) advising their concerns at the proposed rezoning of open space conservation land to urban residential mixed housing in the Milldale area (Maps 21 and 22). She outlined that the Milldale development does not provide adequate open space and that parkland purchased by the Council does not match the quality of green spaces found in the established Auckland suburbs. The Board considered these privately owned conservation open space areas would provide a visual greenspace for future residents and enhance the overall character of the neighbourhood in a similar manner to the way Significant Ecological Areas (SEAs) contribute to the aesthetic value in rural Auckland even when not publicly accessible.
46. Ms Johnson also highlighted that many flood hazards had been identified across the Milldale development on the Council's flood viewer and the important role that the open space conservation zone in increasing the region's flood resilience. The Board was particularly concerned that parts of the flood hazard areas were being rezoned to urban residential mixed housing. While engineered solutions like stream diversions are planned, past events (e.g., 2023 flooding) had shown such measures can fail under extreme conditions and had resulted in the Council needing to buy out flood affected land.
47. She concluded by advising that the Board do not support granting consents for dense housing in these privately owned open space conservation zones and was disappointed that the blanket consenting process across the Milldale development meant the open space conservation zones identified in Maps 21 and 22 are already consented for housing. She advised that the Board wanted a clear direction on whether it's appropriate for resource consents to be granted for mixed housing urban developments in open space conservation zones.

### Papakura Local Board

48. **Mr Brent Catchpole** spoke on behalf of the Papakura Local Board and advised that the Local Board supported the proposed rezoning of the land at 37 Coles Crescent in Papakura from Business Metropolitan Centre to Open Space – Informal Recreation zone as this would support the integrity of the Centennial Restrooms a significant local building opened in 1940 to mark the centenary of the Treaty of Waitangi. The building is no longer a restroom but is still used as a community building.
49. He also advised of the Board's support for the rezoning of 133R Settlement Road, Red Hill and opposed the request by Kāinga Ora to rezone the land for residential housing.

## **Albert Eden Local Board**

50. **Ms Christina Robertson** spoke on behalf of the Albert Eden Local Board and advised of its overall support for the proposed PC 96. In particular the proposal to correct an error by rezoning 117 Richardson Road, Ōwairaka (Murray Halberg Park) from THAB zone to Open Space - Sport and Active Recreation zone, noting this best reflects the use of the land as a park.
51. She also advised of the Local Board's support for the rezoning of 46 Range View Road from Residential Mixed Housing Urban (MHU) to Open Space - Sport and Active Recreation and the rezoning of part of 117 Richardson Road in the vicinity of Hargest Terrace from Open Space - Sport and Active Recreation zone to THAB zone, Residential MHU zone and Road. Both rezonings are associated with former land swaps between the Council and Kāinga Ora. She also highlighted that a small narrow strip of land adjacent to Alamein Terrace used as an accessway needs to be included in a future plan change to reflect the land swap as had occurred in Cassino Terrace as part of PC 60.

## **Howick Local Board**

52. **Mr Damian Light**, Chair of the Howick Local Board addressed the Board's resolution on PC 96 (27 June 2024). He advised that the Local Board is concerned about the proposed rezoning of two properties in Flat Bush being 56 Brookview Drive (Map 18) and 66 Flat Bush School Road (Map 19).
53. While the Local Board acknowledged that land at 56 Brookview Drive was planned for housing as part of the original masterplan for the area and the rezoning to Open Space – Sport and Active Recreation zone was unintended. They, however noted the significant opposition to the proposed rezoning to THAB zone from the neighbourhood and the concerns raised about the impacts of further intensification, lack of infrastructure and community facilities and potential effects on the neighbouring residents. While the Local Board acknowledged there are financial benefits for the Council and the community arising from the redevelopment of the land for housing, ultimately and in line with public feedback, the Local Board opposes the rezoning to THAB zone and considered it should retain its existing zoning.
54. In relation to the adjacent land at 66 Flat Bush School Road (Map 19), he highlighted the strong opposition to the proposed rezoning of the land. He noted that the land was occupied by a public footpath, street furniture and lighting. Rezoning to THAB zone would require the removal of the street furniture, reduce the amenity for local residents and was a waste of public funds. In the Local Board's view, the land was extremely narrow and given the location not suitable for housing. Therefore, the Local Board opposes the rezoning and requests the land be rezoned Open Space – Informal Recreation zone which was more fitting of its current use.

## **Franklin Local Board**

55. **Ms Angela Fulljames** on behalf of the Franklin Local Board spoke to the Board's resolutions on PC 96 (23 July 2024). The resolutions concerned 81 Franklin Road, Pukekohe (Map 1), 539 Fitzgerald Road, Drury (Map 2) and 1023-1039 Linwood Road, Kingseat (Map 32). In relation to 81 Franklin Road the Board requested that the site be rezoned Business - Mixed Use zone rather than Residential Mixed Housing Suburban. Franklin Road, Pukekohe has a mixture of activities, it is near the park, the stadium and a number of light industrial activities and the land at the lower part of the road is also subject to flooding. Therefore, it's not practical or logical to rezone the land for housing.
56. In the case of 539 Fitzgerald Road, Drury the Local Board supports the proposed rezoning that will enable the realignment of the boundaries to be consistent with the constructed environment.
57. Lastly in relation to Linwood Road, Kingseat this is a long-standing development proposal and based on the advice received, the Local Board supports the proposed rezoning. Ms Fulljames advised that the Local Board has been involved with the development of the Karaka sports' area to act as a sort of hub which will support a number of communities. That said, she advised the Local Board is keen to hear from Council staff when the Kingseat residential development occurs on what provision will be made for open space in that community.

## **Hibiscus and Bays Local Board**

58. **Ms Julia Parfitt and Mr Gregg Walden** appeared on behalf of the Hibiscus and Bays Local Board and spoke to the Board's resolution on PC 96 (23 April 2024). Ms Parfitt advised the Board supports the proposed rezoning of 8-10 Link Crescent Stanmore Bay (Map from Open Space – Informal to Open Space zone – Community zone). The parcel of land adjoins the Hoyts cinema and the Whangaparāoa town centre and was set aside by the legacy Rodney District Council for a community hub. Unfortunately, the zoning the site received in the AUP was incorrect and has prevented the development of a community hub. This issue will be resolved by applying the correct zoning on the site.

## **Submitters**

### **Drury South Limited 539 Fitzgerald Road, Drury (Map 2)**

59. **Mr Sean Thompson**, Development Manager for Drury South Limited and **Mr Greg Osborne** a planning consultant appeared in support of the submission by Drury South Limited.
60. Mr Osborne spoke to his pre-circulated statement of evidence prepared on behalf of Drury South Limited. In his address he focussed on the maps attached to his evidence. He advised that Drury South Limited supported PC 96 and were seeking to clarify and align the zone and Drury South Precinct boundaries with the approved subdivision. PC 96 seeks to address and correct



these mismatches. He directed the Panel to Attachment 2 of his evidence where the zoning and precinct provisions had been overlaid on the approved subdivision plans. This highlighted and identified where the vested roads and precinct boundaries were not in alignment. This identified some minor changes were required.

61. In response to questions from the Panel, the Council officers advised that both parties were keen to reach agreement, and they would review attachment provided by Mr Osborne. The Panel requested the Council officers to work with Mr Osborne to provide an agreed plan of the changes required to correct the anomalies.

**Pukekohe Rugby Football Club Incorporated – 81 Franklin Road,  
Pukekohe (Map 1)**

62. **Mr Sadlier**, legal counsel for Pukekohe Rugby Club (“**PRC**”) spoke briefly to his legal submissions outlining and advised that the Club supported PC 96 and in particular the proposal to rezone the Club’s property at 82 Franklin Road, Pukekohe. He advised, however, that the PRC are seeking the property is rezoned from Public Open Space Informal Recreation Zone to Business – Mixed Use Zone rather than Residential – Mixed Housing Suburban Zone. He noted that buildings on site are currently occupied by a tenant and used as a funeral home.
63. He also addressed the three submissions made by people in the surrounding area that seek to maintain the open space zoning and the submission from Auckland Council which sought to rezone the site to Residential – Mixed Housing Urban Zone in line with PC 78.
64. In relation to the lay submissions, he considered the proposal to maintain the open space zone was appropriately addressed in the Council’s s42A report. In terms of the appropriate zoning that should be applied to the site he relied on the analysis in the s42A report, and the s32AA assessment attached to the Club’s submission and Mr Hodgson’s evidence that demonstrates the site is more appropriately zoned Business – Mixed Use zone.
65. He directed the Panel to the most relevant case law<sup>4</sup> regarding the legality of zoning privately owned land for public purposes and the need for good resource management reasons to justify the setting aside of private land for public purposes under section 32 and Part 2 of the RMA. He advised “[T]he present case is entirely dissimilar to these examples cited in Golf (2012) or other similar cases. The zoning of the property does not reflect its existing use which has been established for over a decade, and which is proposed to continue for at least the next decade. Accordingly, the public open space zoning is neither required nor appropriate in section 32 terms.”<sup>5</sup>

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<sup>4</sup> Golf (2012) Ltd v Thames Coromandel District Council [2019] NZEnvC 112

<sup>5</sup> Legal Submissions Daniel Sadlier, page 3, paragraph 6

66. In summary he advised that the zoning of the site does not reflect its current use which is effectively a business activity and will continue for at least another decade and the zoning of the site should reflect the use of the site and that the most appropriate zone is the Business – Mixed Use zone.
67. **Mr Patrick Twomey**, President of the PRFC set out the Club was established in 1956 and was an important part of the local community. He explained the Club's aspirations and the need to rezone the property. He advised that in 2014 to support the development of the new clubrooms at Colin Lawrie Fields, the PRFC leased their offsite senior clubrooms at 81 Franklin Road to Waters Funeral Directors. This lease has recently been renewed for another ten years. The lease providing a valuable revenue stream for the Club which is invested back into the community to achieve its charitable and sporting objectives. The proposed rezoning of 81 Franklin Road to Business – Mixed Use is essential to this strategy.
68. He concluded that the Club considered rezoning 81 Franklin Road to Business – Mixed Use is the most appropriate option as it resolves the existing zoning anomaly, reflects the site's current use and those in the surrounding activities in Franklin Road, and will assist with the clubs continued financial viability, which allows the PRC to fulfil its purpose and serve the community effectively
69. **Mr Vance Hodgson** a resource management consultant spoke to his pre-circulated statement of evidence prepared in support of the submission lodged by PRFC to rezone the site at 81 Franklin Road, Pukekohe from Open space – Informal Recreation to Business – Mixed Use Zone.
70. He advised he agreed with the recommendation in the Council's s42A report to accept the PRFC's submission to rezone the site Business – Mixed Use. Noting the site was privately owned, that Franklin Road already functions as a mixed-use corridor and rezoning this site would not compromise the function, role and amenity of the Pukekohe Town Centre zone. He also noted that the Business – Mixed Use did not preclude the site being used for housing purposes. Responding to concerns raised in submissions about associated transport effects and the potential for flooding he advised these matters would be addressed by the provisions of Chapter E27 and E36 of the AUP respectively.
71. In his assessment the proposed rezoning to Business Mixed Use Zone would better achieve the purpose and principles of the RMA.

**Panmure Community Action Group – 33 Allenby Road, Panmure (Map 11) and 528 Ellerslie-Panmure Highway Mt Wellington (Map 25)**

72. **Ms Allyson Wood**, with the aid of a power point presentation, spoke to the submission lodged by the Panmure Community Action Group related to the proposed rezoning of 33 Allenby Road, Panmure and 528 Ellerslie-Panmure Highway Mt Wellington.

### *33 Allenby Road, Panmure*

73. With respect to 33 Allenby Road, Ms Wood raised concerns that while the property when viewed from the street reads as a single site that there are two separate titles of land. The impression of a single site reinforced by the erection of a wooden and brick fence that runs along the front boundary to the end of the land. This has meant that the public have not been able to access the reserve site.
74. She advised that the second parcel (Parcel 5230417) has always been shown as road reserve (unformed road) and can be traced back to the 1847 Panmure Village Map and known as "Goose Green". The site provided access for boats to the water and allowed people to go out fishing.
75. Ms Wood also expressed concern that the Council's submission to PC 96 appeared be pre-empting decisions on Plan Change 78. The Council submission now seeking to rezone the site Mixed Housing Urban zone rather than Mixed Housing Suburban zone.
76. Ms Wood requested that the Panel verify the title and legal boundaries of 33 Allenby Road and the Allenby Road reserve and only rezone 33 Allenby Road to Residential Mixed Housing Suburban in accordance with the operative zoning applied to the surrounding location. She also requested that Council ensure the public has access and can use this reserve and the foreshore.

### *528 Ellerslie-Panmure Highway Mt Wellington*

77. With respect to 528 Ellerslie-Panmure Highway, Ms Wood advised that the Panmure Community Action Group opposed this land which is currently classified as road being re-zoned to Business - Town Centre zone. The land is located adjacent to the Panmure Station. She requested the Panel give consideration to the future land use of the site and the impacts it would have on the local environment and potential loss of local identity.
78. She outlined the site had been acquired as part of the AMETI Panmure train station development and that the site is mainly used as a park and ride site for train commuters. She noted the site directly opposite at 528 Ellerslie-Panmure Highway had been identified by the Maungakiekie Tamaki Board, in October 2023, as a site that should remain as reserve due to future KiwiRail development. She considered a similar case could be made for this site which formed part of the potential KiwiRail corridor who currently use the site as part of its emergency evacuation plans for the Panmure Station.
79. Turning to the future development of the site, she referred the Panel to the Eke Panuku's Panmure Masterplan (2023) which shows this future use of the site being for housing and apartment blocks. While in PC 78 the site has remained road, the surrounding Business Mixed Use and THAB zone would provide for 50m (15 storey) developments.
80. Other concerns for the community arising from rezoning of the site was the loss of the well-used park and ride facility, the challenges for the development of the

site arising from flooding issues and impacts on the greater Onehunga Aquifer and the impacts on the volcanic viewshafts which are proposed to be removed by PC 78 (August 2025).

81. The preference was that the site to be retained as road and rezoned for open space. This would either enable the land to be used for a future third rail line or to provide an open space area to serve any new housing or commercial developments in the area. She also suggested the area could be developed as a pervious area which would assist with flooding issues and impacts on water quality and could provide tree canopy options.
82. In response to Commissioner Mackie's question on access to the site she outlined that pedestrian access and confirmed that the only vehicle access would be Potaka Lane and could only be achieved through the adjacent sites. This was confirmed by Mr Marcus Ruddock representing the Auckland Urban Development Office (previously Eke Panuku). He confirmed that Auckland Council owned all the sites adjacent sites to Panmure Station, and any sale or redevelopment of these sites would retain the pedestrian access to the Panmure Station. He also advised that 528 Ellerslie-Panmure Highway would not be sold in isolation rather it would be amalgamated as part of a larger development vision. He also confirmed that there had been discussions between Eke Panuku with KiwiRail.

**Allyson Wood - Ruapōtaka Marae, 40 Maybury Street, Point England, Part of 14A Maybury Street, Point England, Part of: 1/12 Maybury Street, Point England & 2/12 Maybury Street, Point England (Map 7)**

83. Ms Allyson Wood, with the aid of a power point presentation, spoke to her submission on the proposed rezoning of the Ruapōtaka Marae and surrounding sites to Special Purpose Māori Zone. She raised questions about the proposed zone change advising there were inconsistencies in the information provided in the plan change and to the community. She advised the description of the site in the plan change was incorrect and appeared to seek to rezone the whole of 40 Maybury Street rather than the area shown in Map 7.
84. Ms Wood referred the Panel to the Tamaki Open Spaces Network Plan (2016) ("TOSNP") which identifies the use of the site as Open Space Community Zone. In her view the TOSNP erroneously refers to Ruapōtaka Reserve which in her view does not exist as a separate area rather it is part of the Maybury Street Reserve. She shared her research of the titles and local purpose reserve gazette notices to demonstrate historically the intention for the land to be a local purpose (community buildings).
85. In 2019 the Local Board agreed to the Ruapōtaka Marae lease area for the land at 204 Taniwha Street. In her view this land had been vested as reserve with the Council as part of the redevelopment of land in the area, therefore it was her understanding that this land needed to be retained for reserve purposes.

86. Ms Wood was concerned that with the wide range of suggested activities on the redeveloped Ruapōtaka Marae there may be a need to change the current Reserve Act reserve classification. In her view if a proposed lease is supported on the reserve, then reclassifying the lease area to a local purpose (marae) reserve would provide “a more aligned and flexible statutory framework for the Council to manage the reserve for the purpose specifically of a marae”<sup>6</sup>.
87. She was also concerned at the loss of public reserve land in the Glen Innes area. Under the Council PC 78 the area has been identified for housing intensification with the introduction of a 50-metre height variation control around the Glen Innes town centre and adjoining THAB zone.
88. Ms Wood considered that there was sufficient provision for the marae redevelopment and its associated activities within the existing open space zone provisions. Whereas the Special Purpose - Māori Purpose Zone will provide for a higher density and a greater range of activities including housing and general office and business activities and urupā.
89. Ms Wood concluded by reiterating her concerns around the lack of public consultation around the proposed rezoning. She considers Auckland Council has a duty of stewardship and in her view there had been a lack of “due diligence” around PC 96 and the s32 material.

#### **Kāinga Ora – Various**

90. **Ms Claire Moore**, Senior Development Planner within the Housing Delivery Group at Kāinga Ora – Homes and Communities (“Kāinga Ora”) spoke to her pre-circulated brief of corporate evidence. She advised Kāinga Ora had an interest in PC 96 in ensuring the zoning accurately reflected the use of land. This was essential to Kāinga Ora’s use and development of its land.
91. The Kāinga Ora submissions on PC 96 had three main points. The parts of the submission related to land at 46 Range View Road, Ōwairaka and the properties at 133R Settlement Road were not being pursued. The outstanding matter related to 3 Jordon Avenue, Onehunga where Kāinga Ora were seeking to correct an error in the zoning of the site (submission point 130.6).
92. In relation to 3 Jordon Avenue, Kāinga Ora are seeking to have a portion of land within this site currently zoned Open Space - Informal Recreation Zone rezoned to THAB zone being reflective of Crown ownership and future residential use of the land.
93. Ms Moore disagreed with the conclusion in the Council’s s42A report that this request was outside the scope of PC 96. Kāinga Ora took a different view to the Council in relation to the applicability of the High Court decision *on Clearwater Resorts Limited v Christchurch City Council (HC Christchurch AP34/02, 14 March 2003)*. The decision sets out a two limb ‘test’ with the first

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<sup>6</sup> A Wood, Powerpoint presentation PC 96 Notice for Ruapōtaka Marae Glen Innes 40 Maybury Street Glen Innes, page 10

limb requiring it to be established “whether or not the relief was ‘coming out of left field’ – that is, whether it is unforeseeable, unusual in character, or would materially alter the scope of the plan change beyond that detailed in the notified documents”<sup>7</sup>.

94. In Kāinga Ora’s view the zone request aligns with the scope of PC 96, as the site is in Crown ownership with the purpose of “State Housing” registered on the record of title with the entire site anticipated for future residential development. The second limb of the test relates to “natural justice”. While she acknowledged that the submission raised a zoning request not included in PC 96 this was not a reason to conclude the submission is out of scope.
95. From a natural justice standpoint, Kāinga Ora is the primary affected party by the request as the Crown entity responsible for managing the site which is held in a single Record of Title for the purpose of state housing. “Were any party to be considered affected and thereby directly notified of this aspect of the plan change, it would be Kāinga Ora and Auckland Council as the only other adjoining landowner. She concluded that overall Kāinga Ora’s submission fits within the objectives of PC 96.
96. In relation to 46 Range View Road, Ōwairaka, Ms Moore’s written statement advised that Kāinga Ora agreed with the recommendations provided in the Council’s s42A report and no further action is required in relation to submission point 130.3.
97. In relation to Kāinga Ora’s submission point 130.5 related to 133R Settlement Road, 11R Fulmen Place, 8R Redcrest Avenue and 16R Redcrest Avenue, Papakura, she advised that the acquisition of these sites has not progressed and therefore this submission point is withdrawn.

**Birkenhead United AFC, Beach Haven Bowling Club Inc and the Friends of Shepherds Park - 31-35 Cresta Avenue, Beach Haven (Map 8)**

98. A joint presentation was made on behalf of the **Birkenhead United Association Football Club (“BUAFC”)** (represented by Mr William Taylor), the **Beach Haven Bowling Club Inc (“BHBC”)** (represented by Mr Richard Ponting) and the **Friends of Shepherds Park (“the Friends”)** (represented by Ms Caroline Paver) in respect of their respective submissions and further submission.
99. Mr Taylor, President of the BUAFC and an architect outlined the Club’s concerns with the proposed rezoning of Shepherds Park to Special Purpose Māori Purpose Zone. He outlined that Shepherds Park is a sensitive public open space. He was concerned that the land and future development of the site will have significant impact on the adjoining existing users. The site has parts with a steep contour, inadequate infrastructure to accommodate development of the scale and size permitted in the proposed zone and would result in the

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<sup>7</sup> Claire Moore, Statement of Evidence (15 September 2025), page 8, paragraph 5.4

removal of heritage bush and vegetation. In his opinion the proposed development would have major effects on the environment.

100. While the Council's s42A report focused on the proposed zone facilitating the marae development, he was concerned that the proposed Māori Purpose zoning provided for a broader range of uses and was basically a mixed-use commercial zone. The range of other activities that would be permitted are currently non-complying activities. He was concerned about the lack of wider consultation on the proposed rezoning. He didn't consider that the s42A report "provided a substantive assessment of effects for the full range of activities enabled by the Māori Purpose Zone (MPZ)—including environmental, transport, infrastructure, open-space and recreation network effects."<sup>8</sup> The site didn't need to be rezoned to enable the development of the marae and could be achieved through a resource consent application.
101. In conclusion, he considered that there was a lack of evidence in PC 96 to justify the rezoning of Shepherds Park to Māori Purpose Zone. That the more appropriate way was for the marae proposal to proceed through a resource consent application or tightly tailored, site-specific precinct that limits activity status and built form. He requested the rezoning be deferred pending a comprehensive effects assessment.
102. Ms Paver spoke on behalf of the Friends of Shepherds Park. She outlined the Friends of Shepherds Park Group, was a group of volunteers established in 1989 who had taken an area of farmland and with the help of Forest and Bird had re-established it as an area of coastal native bush. The current volunteers continue the work planting native trees, undertaking pest control and monitoring the environment including water testing.
103. The site is situated on the headland overlooking the Oruamo (Hellyers Creek) which supports a lot of native species and includes a grove of mature Pohutukawa. She advised the Group was not averse to the development of a marae on the site but did have serious concerns about the current proposal and felt the impacts of such a development had not been appropriately considered or explained to the public and key stakeholders.
104. The Group's key concerns were the lack of clarity around the boundaries of the site shown in some of the documentation, the size and scale of the development in relation to the proposed development. If the marae didn't proceed what could happen on the land. The Group were particularly concerned about the environmental impacts of any development including plant removal, impacts on wildlife, sediment run-off from earthworks, the impact on the waterways and the loss of the Fale built by the Friends Group.
105. Ms Paver expressed concern at the lack of transparency and engagement by the Local Board and the Marae Committee. The Friends have tried to engage with the Marae Committee around the proposal and particularly around

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<sup>8</sup> Birkenhead United, Power Point presentation, slide 7.

vegetation removal, without success. She advised that the Friends of Shepherds Park see the rezoning decision as significant and while they would like to support the initiative, there is a lack of clarity about what is proposed and the environmental impacts. A full environmental assessment is required along with mitigation strategies needed to protect the biodiversity.

106. Mr Ponting, Past President of the BHBC, advised the Panel that the Bowling Club fully supported the points made in the presentation. He reinforced the points made regarding the lack of consultation and engagement around the marae proposal.

**Peter Aitken -101 St Marys Road, Ponsonby (Map 5)**

107. **Mr Owen Burns** a planning consultant introduced Mr Aitken to the Hearing Panel and then spoke to his pre-circulated statement of evidence prepared in support of the submission lodged by Mr Peter Aitken to that part of PC 96 which seeks to rezone the site described as Section 38 SO plan 464619 from Strategic Corridor to Open Space Informal recreation.
108. He advised Mr Aitken owns the property at 121D Shelly Beach Road zoned THAB zone which abuts the site included in the plan change. He advised that the site had been incorrectly identified in PC 96 as being zoned Road - Strategic Corridor zone where in fact the site is zoned THAB zone. The site was originally acquired in 1959 as part of a larger piece of land by the Auckland Harbour Bridge Authority for the purpose of forming the approach road to the Auckland Harbour Bridge. Mr Burn advised as successor in title to the original owner, Mr Aitken intends to seek to purchase the site under section 40 of the Public Works Act 1981 and amalgamate it with his adjacent property.
109. Mr Burns advised that in 2021 the site was transferred to the Auckland Council and zoned THAB zone and that this zoning of the site has been carried through in PC 78. He noted that this has been confirmed by the Council's reporting planner. He accordingly requested the s32 assessment of the proposed rezoning of the site be set aside. In his opinion the retention of the current zoning of this parcel of land would not compromise any of the matters set out in Part 2 of the RMA. Further to rezone the land to an open space zone would be inconsistent with various planning instruments seeking to intensify residential development such as the NPS UD and the AUP including the RPS B2.2 Urban Growth and Development.
110. He endorsed the recommendation of the Council's reporting planner to have the land parcel remain within the THAB zone.

**Tabled Evidence**

**Todd Property Group – 56 Brookview Drive, Flat Bush (Map 18) and 66 Flat Bush School Road (Map 19)**

111. **Mr Stephen Martin**, General Manager land Development for Todd Property Group ("Todd") provided a written statement of evidence. The evidence related



to 56 Brookview Drive (Map 18) and 66 Flat Bush School Road (Map 19), Flat Bush.

112. He outlined that the longstanding relationship that Todd has had with these landholdings, advised that Todd, had entered into a Development Agreement (DA) with Auckland Council in 2016 to purchase and develop the sites, which was originally referred to as 66 Flat Bush School Road, but now comprises the residential development at the southern end of the DA land and a narrow strip of land to its west (now referred as 66 Flat Bush School Road), as well as the northern undeveloped land at 56 Brookview Drive. He also advised that Todd (through a related entity) also owns the nearby Ormiston Town Centre, which was developed in partnership with Auckland Council under the terms of a separate development agreement. He also provided a chronology of the relevant background material related to the zoning and development of the DA land.
113. Mr Martin outlined that Todd supports the recommendations of the Council's s42A report to rezone 56 Brookview Drive to THAB zone which will enable Todd to meet its obligations under the DA and to deliver the density and typologies approved under that agreement. He advised that Todd has commenced preparing the masterplan and design for the Stage 2 land, being 56 Brookview Drive, and wholly intends to develop this land accordingly. "The design work includes the detailed mapping of the floodplain and riparian margins associated with the perimeter streams. These areas on the perimeter of the site will be set aside from development for stormwater, ecology and open space purposes on completion".
114. With respect to 66 Flat Bush School Road, he advised that Todd supports the Auckland Council submission that seeks to rezone this narrow strip of land from proposed THAB to Open Space – Informal Recreation.

### **Council Response to Matters Raised in the Hearing**

115. Mr Shields made a few comments in response to matters raised in the hearing by various submitters.
116. In relation to presentation by Ms Wood in relation to the proposed rezoning Ruapōtaka Marae and Maybury Street Reserve where she referred to the Ngāti Paoa Treaty Settlement process, he advised that this matter was still before Parliament. It was his understanding that the Ngāti Paoa Treaty Settlement Bill has had its second reading in the House but yet to be enacted.
117. In relation to Shepherds Park, Beach Haven, he advised that the Local Board has been going through process to establish its intention to develop a marae at this location through the Local Board Parks Management Plan process. This Plan would have been through a public consultation process under the Local Government Act process. As a result of this process, staff would have been requested to identify an appropriate zone to apply to the site which in this case this was the Special Purpose Māori Purpose zone. While there had been a suggestion in the hearing that a Precinct approach should manage the effects,

he advised that it wasn't the Council's practice to create a precinct that would replicate zones.

118. Ms Nades added that she considered by applying the Special Purpose - Māori Purpose zone at Shepherds Park, the Council was seeking to create an appropriate planning framework which in conjunction with the other provisions in the AUP will manage the concerns raised by the submitters including the effects on the coast.
119. In relation to the Panel's question to regarding the land at 101 St Marys Road about the separation of the pathway from the land to be rezoned, she noted that the submitter had now clarified the position.
120. In relation to 33 Allenby Road, Panmure, Ms Nades advised that she had followed up with the Council's Compliance Monitoring Team who had confirmed that the Council's GeoMaps showed that the fence referred to in Ms Wood's presentation is located wholly within the boundaries of 33 Allenby Road. She acknowledged that gaining access to the reserve area was challenging and that officers would follow up with the Local Board and request they engage with the Council's Parks Department to establish the boundary and improve public access to the area.

## PRINCIPAL ISSUES IN CONTENTION

121. Having considered the submissions received, the hearing report, the evidence presented at the hearing and the Council officers' response to questions we are in general agreement with the recommendations in the officer's s42A report.
122. The principal issues in contention can be categorised as follows and are limited to the proposed rezoning of the following areas:

- a) Recently vested or acquired for open space purposes

*No issues in contention*

- b) Errors & Anomalies.

- 539 Fitzgerald Road, Drury (Map 2)
- 101 St Marys Road, Ponsonby (Map 5)
- 33 Allenby Road, Panmure (Map 11)
- 56 Brookview Drive, Flat Bush (Map 18)
- 66 Flat Bush School Road, Flat Bush (Map 19)

- c) Land to be rezoned to better reflect the current or future intended use and or development.

- 81 Franklin Road, Pukekohe (Map 1)

- *Ruapōtaka Marae 40 Maybury Street, Point England, Part of 14A Maybury Street, Point England, Part of: 1/12 Maybury Street, Point England & 2/12 Maybury Street, Point England (Map7)*
  - *31-35 Cresta Avenue, Beach Haven (Map 8)*
- d) Land to be rezoned in response to land exchanges between Kāinga Ora and Auckland Council in the Ōwairaka and Onehunga areas and Fletcher Residential Limited and Auckland Council in the Mount Roskill area and/or to enable approved land rationalisation and disposal by Auckland Council.
- *528 Ellerslie- Panmure Highway, Mt Wellington (Map 25)*
- e) Other submissions to PC 96.

## **FINDINGS ON THE PRINCIPAL ISSUES IN CONTENTION**

### **a) Recently vested or acquired for open space purposes**

123. There are 4 sites included in PC 96 which have been vested or acquired by the Council for open space purposes. These are:

- i. 8-10 Link Road, Stanmore Bay (Map 3)*
- ii. 120 Hill Road, Manurewa (Map 20)*
- iii. 47 Jellicoe Street, Auckland Central (Map 24)*
- iv. 901 Great South Road, Manukau Central (Map 27)*

124. Only one of these sites, 8 - 10 Link Crescent, Stanmore Bay (Map 3) was subject to submission. This submission was in support of the proposed rezoning from Open Space – Informal Recreation zone to Open Space – Community zones.

125. Therefore, we confirm the proposed open spaces zones to be applied to these pieces of land reflect their intended recreational use and development. Submission 117.1 in support of the proposed rezoning of 8 - 10 Link Crescent, Stanmore Bay is accepted.

### **b) Correction of Errors and Anomalies**

126. As set out in paragraph 25, there are 12 land parcels included in PC 96 which seek to correct errors or anomalies (typically private land that has been incorrectly zoned as open space). Only five of these were subject to submission that sought changes to the proposed zones in PC 96 as notified. These sites are discussed below.

- *539 Fitzgerald Road, Drury (Map 2)*
- *101 St Marys Road, Ponsonby (Map 5)*

- 33 Allenby Road, Panmure (Map 11)
- 56 Brookview Drive, Flat Bush (Map 18) and 66 Flat Bush School Road, Flat Bush (Map 19)

### **539 Fitzgerald Road, Drury (Map 2)**

127. PC 96 proposes to rezone 539 Fitzgerald Road, Drury to Business – Light Industry Zone, Business – Heavy Industry Zone and Open Space – Informal Recreation Zone. PC 96 also seeks to amend the boundary of the Drury South Precinct Plan (Chapter I410) to align with the. The proposed changes will ensure the AUP zone and precinct boundaries align with the approved subdivision consent for this land.
128. Drury South Limited lodged a submission in support of PC 96 (submission 110) however it identified several corrections that they considered were required to either the zoning map and/or the precinct plan to be amended. The Council's reporting planner supported the requested changes in principle and requested the submitter provide an annotated maps that depict the spatial location of the changes at the hearing.
129. The annotated map was appended to the planning evidence presented by Mr Osborne on behalf of Drury South Limited. This highlighted and identified where the vested roads and precinct boundaries were not aligned and highlighted where some minor changes were required.
130. At the hearing the Council officers advised that both parties were keen to reach agreement, and they would review the attachments provided by Mr Osborne. The Panel requested the Council officers to work with Mr Osborne to provide an agreed plan of the changes required to correct the anomalies. The Council's post hearing information response provided the map of the agreed legal boundaries of the vested road, precinct boundaries and zoning between the Council and Drury South Limited and is attached as Appendix 1 to this decision report.
131. Therefore, we confirm the proposed changes to the vested roads, zoning and precinct boundaries as shown in Appendix 1. Submissions 103.1 – 103.5 and Submission 112.2 be accepted, Submissions 110.1 – 110.6 and Submissions 120.1 – 120.2 be accepted in part and Submissions 120.3 and 138.1 be rejected. That the further submissions in support are accepted accordingly.

### **101 St Marys Road, Ponsonby (Map 5)**

132. PC 96 proposes to rezone 101 St Marys Road, Ponsonby from Road/Strategic Transport Corridor zone to Open Space – Informal Recreation. A submission was lodged by Peter Aitken (submission 125.1) requesting the site be removed and retain its THAB zone.
133. Mr Burns in his planning evidence advised the site had been incorrectly identified in PC 96 as being zoned Road - Strategic Corridor zone where in fact

the site is zoned THAB zone. The site was originally acquired in 1959 as part of a larger piece of land by the Auckland Harbour Bridge Authority for the purpose of forming the approach road to the Auckland Harbour Bridge. Mr Aitken as successor in title to the original owner intends to seek to purchase the site under section 40 of the Public Works Act 1981 and amalgamate it with his adjacent property at 121D Shelly Beach Road which is also zoned THAB zone.

134. The reporting officer acknowledged that the site had been incorrectly shown as Road - Strategic Corridor zone rather than THAB zone. In light of the submitters intention to purchase the land, the reporting officer recommended the land parcel remain within the THAB zone.
135. Therefore, we confirm that 101 St Marys Road, Ponsonby should be retained in the THAB zone. Therefore, submission 125.1 is accepted.

***33 Allenby Road, Panmure (Map 11)***

136. PC 96 proposes to rezone 33 Allenby Road, Panmure from Open Space – Informal Recreation Zone to Mixed Housing Suburban Zone. As confirmed at the hearing by both the Council's reporting officer and the Panmure Committee Action Group, the land currently zoned open space is in two titles. The property at 33 Allenby Road is privately owned and contains a dwelling and is incorrectly zoned as Open Space – Informal Recreation.
137. The Council officers have also confirmed that the wall along the frontage of the property is wholly within the boundary of 33 Allenby Road (i.e., not across the reserve land). In response to the submission by the Panmure Community Action Group related to public access to the reserve area, the Council's reporting planner agreed that this was currently challenging, and she would follow up with the Local Board and request they engage with the Council's Parks Department to establish the boundary and improve public access to the area.
138. We confirm the proposed zoning of 33 Allenby Road, Panmure as Residential – Mixed Housing Suburban zone. Therefore, submission 102.1 is accepted and submission 118.1 are accepted in part and submission 112.1 be rejected.
139. We also recommend that the Council take up the issue identified by the Panmure Community Action Group to improve the boundary definition and public access to the Allenby Reserve area.

***56 Brookview Drive, Flat Bush (Map 18) and 66 Flat Bush School Road, Flat Bush (Map 19)***

140. PC 96 proposes to rezone 56 Brookview Drive, Flat Bush and 66 Flat Bush School Road, Flat Bush from Open Space and Active Recreation to Residential THAB zone. The proposed rezoning seeks to rectify an earlier error in the zoning of these sites and to align the proposed zoning of 56 Brookview Road and 66 Flat Bush Road, Flat Bush with the I412. Flat Bush Precinct provisions in the AUP.

141. As outlined in the s42 report and the evidence of Mr Martin (Todd Property Group) there is a longstanding Development Agreement (DA) between Todd and Auckland Council to purchase and develop the sites. This land includes the residential development at the southern end of the DA land and a narrow strip of land to its west (66 Flat Bush School Road), as well as the northern undeveloped land at 56 Brookview Drive.
142. As part of the DA, Todd have delivered Stage 1 of the development and created a balance lot of reserve (66 Flat Bush School Road). Stage 2 of the DA involves development on 56 Brookview Drive. The rezoning of 56 Brookview Drive to THAB zone will enable Todd to meet its obligations under the DA and to deliver the density and typologies approved under that agreement.
143. As outlined by Mr Martin, Todd has commenced preparing the masterplan and design for the Stage 2 land, being 56 Brookview Drive, and intends to develop this land accordingly. With respect to 66 Flat Bush School Road, Todd supports the Auckland Council submission that seeks to rezone this narrow strip of land from proposed THAB to Open Space – Informal Recreation.
144. There were a significant number of submissions largely from the surrounding area who oppose the proposed rezoning of both parcels of land from Open Space and Active Recreation to Residential THAB zone. The concerns expressed in these submissions related to the loss of open space within an area of higher housing density and the effects likely to arise from further housing in the area.
145. It is clear looking at both the AUP Chapter I412 Flat Bush Precinct provisions (I41) and the legacy Manukau Operative District Plan 2002 that the land has previously been identified for residential development on the edge of the Barry Curtis Park. PC96 seeks to rectify the error by rezoning 56 Brookview Road to THAB and aligns with the site with I412.10.1 Flat Bush Precinct Plan 1. This will provide for the efficient and effective implementation of development in this area in accordance with the DA agreement between Todd and Auckland Council.
146. As outlined in the Council's s42A report:  
  
*"240. 56 Brookview Drive, Flat Bush borders Barry Curtis Park. Barry Curtis Park is a substantial urban park with an area of approximately 94 hectares. It has facilities for both organised sport and informal recreation. This includes playgrounds, sports fields, accessible toilets and changing rooms, car parks, basketball court, skate ramp, seating and picnic tables, drinking fountains and walking tracks."*

241. *The park has frontage to several arterial roads – Chapel Road, Flat Bush School Road, Ormiston Road, Stancombe Road. It is therefore highly accessible for the surrounding neighbourhoods.”<sup>9</sup>*

147. Having visited the site, considered the s42A report, the submissions and evidence tabled on behalf of Todd Property Group, we confirm the proposed rezoning of 56 Brookview Drive, Flat Bush (Map 18) from Open Space and Active Recreation to Residential THAB zone.
148. While in the case of 66 Flat Bush Road, Flat Bush (Map 19) we find this land parcel should retain its open space zoning but be rezoned from Open Space and Active Recreation to Open Space – Informal Recreation zone. This zone more accurately reflects the use and development of the site and aligns with its reserve status as a local purpose reserve (drainage).
149. Therefore, submissions 2.1, 8.1, 16.1, 17.1, 21.1, 29.1, 35.1, 36.1, 39.1, 40.1, 41.1, 42.1, 43.1, 46.1, 49.1, 50.1, 51.1, 54.1, 55.1, 56.1, 57.1, 63.1, 64.1, 66.1, 67.1, 70.1, 71.1, 73.1, 87.1, 89.1, 90.1, 91.1, 96.1, 99.1, 101.1, 111.1, 112.5, 113.1, 116.1, 126.1, 129.1, 132.1 and 137.1 be accepted.
150. Submissions 1.1, 37.1, 38.1, 44.1, 45.1, 95.1, 131.1 are rejected.
151. Submissions 3.1, 4.1, 6.1, 7.1, 9.1, 10.1, 11.1, 12.1, 13.1, 14.1, 15.1, 18.1, 19.1, 20.1, 22.1, 23.1, 24.1, 25.1, 26.1, 27.1, 28.1, 30.1, 31.1, 32.1, 33.1, 34.1, 47.1, 48.1, 52.1, 53.1, 58.1, 59.1, 60.1, 61.1, 62.1, 68.1, 69.1, 72.1, 74.1, 75.1, 76.1, 77.1, 78.1, 79.1, 80.1, 81.1, 82.1, 84.1, 86.1, 88.1, 96.1, 97.1, 98.1, 100.1, 106.1, 121.1, 128.1 are accepted in part.
152. That the further submissions in support and opposition lodged by the Todd Property Group, Yulia Dimock, GCK Properties Limited, Stephen Kim and Suhua Li be accepted, accepted in part and rejected accordingly.

### ***Balance of the sites***

153. With respect to the balance of the land parcels in PC 96 dealing with the correction of errors and anomalies, these land parcels either received submissions in support or were not the subject of specific submissions. These sites are:
- 103 St Marys Road, Ponsonby (Map 6)
  - 1 Oruarangi Road, Mangere (Map 9)

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<sup>9</sup> Council Agenda, page 88-89

- *Part of 500 Island Road, Mangere Bridge (Map 10)*<sup>10</sup>
- *50 Waiwai Drive, Upper Orewa (Map 21)*
- *285 Te Taruna Drive, Upper Orewa, 261 Te Taruna Drive, Upper Orewa, 17 Matahae Crescent, Upper Orewa, 131 Argent Lane, Upper Orewa, 31 Kendall Road, Upper Orewa, 29 Kendall Road, Upper Orewa (Map 22)*
- *117 Richardson Road, Ōwairaka (Map 23)*
- *133R Settlement Road, Red Hill (Map 28)*
- *46 Range View Road, Ōwairaka, Part of 117 Richardson Road, Ōwairaka, In the vicinity of Hargest Terrace, Ōwairaka, In the vicinity of Hargest Terrace, Ōwairaka (Map 29)*

154. We find the proposed zonings will correct and resolve the current errors and anomalies to the zones applied to these sites and confirm the proposed rezoning of these areas in accordance with the notified PC 96.

155. With respect to Part of 500 Island Road, Mangere Bridge (Map 10) the Rural Urban Boundary is also corrected to follow the boundary of the rezoned land.

156. Therefore, the submissions in support of these proposed rezonings are accepted, being submissions by Summerset Villages (Milldale) Limited (83.1 - 83.3), Watercare Services Limited (122.2 – 3), Fulton Hogan Land Development Limited (124.1, 124.2), Amanda Carter (92.1) Xiu Ping Song (93.1) and Kāinga Ora (130.3 and 130.5). Submission 46.2 is rejected and submission 130.5 was withdrawn at the hearing.

**c) Land re-zoned for to better reflect the current or future intended use and/or development of the land**

157. As set out in paragraph 26, there are 11 land parcels included in PC 96 which seek to rezone land to better reflect the current or future intended use and/or development of the land. The sites of contention are set out below.

- *81 Franklin Road, Pukekohe (Map 1)*
- *Ruapōtaka Marae 40 Maybury Street, Point England, Part of 14A Maybury Street, Point England, Part of: 1/12 Maybury Street, Point England & 2/12 Maybury Street, Point England (Map 7)*

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<sup>10</sup> In relation to Part of 500 Island Road, Mangere Bridge (Map 10), we note a submission opposing the rezoning was received but that the submission 46.2 (Kathryn Michie) sought the plan change in relation to Map 10 be rejected however the reason given relate to Map 19 (66 Flat Bush School Road).



- *31-35 Cresta Avenue, Beach Haven (Map 8)*

***81 Franklin Road, Pukekohe (Map 1)***

158. PC 96 seeks to re-zone 81 Franklin Road from Open Space – Informal Recreation to Residential – Mixed Housing Suburban.
159. The s42A report supported the rezoning to Business – Mixed Use, as requested in the submissions and evidence of Pukekohe Rugby Football Club. The site has been leased to a funeral parlour business and the lease has been renewed for the next ten years.
160. The Panel’s findings are that a Business – Mixed Use zone would be more in keeping with the adjacent sites on Franklin Road, with the Residential – Mixed Housing Suburban zoned land to the north and east marking a distinct end of the town centre periphery extent. We also consider that privately owned land should generally not be zoned as open space unless this is supported by the landowner.
161. Therefore, submissions 104.1, 105.1, 112.1, 133.1 and 134.1 are rejected.
162. Submissions 109.1 and 109.2 Pukekohe Rugby Football Club Inc are accepted.

***Ruapōtaka Marae 40 Maybury Street, Point England, Part of 14A Maybury Street, Point England, Part of: 1/12 Maybury Street, Point England & 2/12 Maybury Street, Point England (Map 7)***

163. PC 96 seeks to re-zone part of the Maybury Reserve and parts of adjacent ex-residential land on Maybury Street to Special Purpose Māori Purpose zone, in part to facilitate the redevelopment and expansion of existing marae activities. The existing Ruapōtaka Marae is sited within the Ruapōtaka Reserve, adjacent to Maybury Reserve.
164. The Panel requested clarification of the addresses and legal descriptions of the land involved, as there was some ambiguity in the written descriptions of the land. We had maps in the Hearing Report which showed the intended rezonings very clearly. The Council Planner’s response clarified the parts of land affected by PC 96 but also stated that the Marae Committee no longer sought to expand the ground lease over the Maybury Street fronting land. This information in our view did not constitute an amendment of the PC 96 rezoning extent. It is possible that the Open Space – Community Zone, as requested by submitter Allyson Wood, would provide some greater flexibility in use of the reserve if it is not required for marae expansion. However, the proposed Special Purpose – Māori Purpose Zone provision would allow for marae-related as well as recreation reserve-related activities, without excluding either. The Panel’s findings are that the proposed rezoning to Special Purpose Māori Purpose zone should be confirmed in accordance with Map 7 in Appendix 2.
165. Therefore, submission 135.1 is rejected.

***31-35 Cresta Avenue, Beach Haven (Map 8)***

166. PC 96 seeks to re-zone 31-35 Cresta Avenue, Beach Haven from Open Space –Sport and Active Recreation zone to Special Purpose – Māori Purpose zone.
167. Presentations were received from the submitters Birkenhead United Association Football Club (Mr William Harris) and Beach Haven Bowling Club Inc (Mr Richard Ponting) and from the further submitter Friends of Shepherds Park (Ms Caroline Paver) and those presentations are on the hearing records. While none opposed the proposed use as marae as an activity, each presentation focused on a mix of three key elements:
- (i) Site Suitability - the land is unsuitable for the size and intensity of marae-associated activities proposed.
  - (ii) Development Constraints - that the proposed site has substantial development constraints such as steep topography, transport and other infrastructure limitations, and its proximity to active recreation which makes the land unsuitable for any intensive development; and
  - (iii) Environmental and recreational impacts – the proposed development will result in the potential loss of regenerating native vegetation, result in sediment run-off, and loss of passive recreation uses, including the long-standing restoration work undertaken by the Friends of Shepherds Park for more than 35 years.
168. The Panel understands the Concept Plans were redacted from the Hearing Report as the PC 96 scope only included the zoning of the land, and not the approval of any specific design. We have therefore not considered whether that specific design would be able to be accommodated on the land. Our findings are that there is sufficient land area for a marae complex, with access to infrastructure including a road comprised of combined lot accessways. There will be a loss of some native vegetation, but also much will be able to be retained, as the zoning follows an existing lot boundary rather than being drawn around a proposed building. It is hoped that the Council will endeavour to obtain the planting to be removed for transplantation by the Friends of Shepherds Park.
169. Therefore, submission 115.1 is accepted.
170. Submissions 119.1 and 139.1 are rejected, as is the further submission from Friends of Shepherds Park.

### ***Balance of the sites***

171. The balance of the land parcels in PC 96, where rezoning is sought to better reflect the current or future intended use and/or development of the land are:
- *Hobsonville Road, Hobsonville (Map 13)*
  - *2-8 Maurice Road, Penrose (Map 14)*
  - *10 & 12 Western Road Laingholm (Map 16)*

- 220 – 240 Shaw Road Titirangi (Map 17)
- 37 Coles Crescent Papakura (Map 26)
- 575 Te Atatū Road, Te Atatū Peninsula (Map 31)
- 1023 and 1039 Linwood Road, Papakura (Map 32)

172. These land parcels either received only submissions in support or were not the subject of specific submissions. We find the proposed zonings better reflect the current or future intended use and/or development of the land and confirm the proposed rezoning of these areas in accordance with the notified PC 96.

173. In confirming these proposed rezoning there are two consequential changes in relation to the land parcels at 37 Coles Crescent Papakura (Map 26) and 575 Te Atatū Road, Te Atatū Peninsula (Map 31). In the case of the land at 37 Coles Crescent, Papakura, the height variation control that applies to the site needs to be removed. While in the case of the land parcel at 575 Te Atatū Road, Te Atatū Peninsula which is rezoned Business – Town Centre zone needs to have the height variation control that applies to the adjacent Business – Town Centre zone also applied to the site.

#### **d) Kāinga Ora, Fletchers and Auckland Council's redevelopment land**

174. PC 96 also seeks to re-zone 5 land parcels (or groups of land parcels) to reflect land exchanges between Kāinga Ora and Auckland Council in the Ōwairaka and Onehunga areas and Fletcher Residential Limited and Auckland Council in the Mount Roskill area. There are also three parcels of land where rezoning is sought to enable approved land rationalisation and disposal by Auckland Council. The only sites in contention are:

- 30 Grahame Breed Drive, Mount Roskill (Map 12)
- 528 Ellerslie- Panmure Highway, Mt Wellington (Map 25)

#### **30 Grahame Breed Drive, Mount Roskill (Map 12)**

175. PC 96 seeks to re-zone 30 Grahame Breed Drive from Business Town Centre zone to Open Space - Informal Recreation. Fletcher Residential Limited ("Fletcher") is undertaking the progressive development of the former Three Kings Quarry site. Two land exchanges between Fletcher and Auckland Council are being progressed as part of the wider development, resulting from a collaborative approach between the parties involving integrated planning for both Fletcher and Council owned land. The second of these land exchanges is relevant to PC 96 and involves the transfer of land in and around the former Auckland Council Depot Site to Fletcher in return for Fletcher land which

borders Three Kings Reserve. A map detailing the exchange is included in the Fletcher submission (no. 107<sup>11</sup>).

176. Fletcher submission sets out that all the land identified as “Proposed zone changes” on Map 12 should be corrected to retain its operative Business – Town Centre Zone notation. The previous stub road (that has now been stopped) has taken on the Business – Town Centre Zone notation applied to the adjoining land. The submission sets out that the “retention of the operative zoning importantly reflects the status of the former Council Depot Land Exchange area under the Land Exchange Agreement”<sup>12</sup>. The submission sets out that the land identified on Map 12 as notified in PC 96 is inconsistent with the intent of the land exchange and should be retained in the Business – Town Centre Zone. In addition, submission identifies a small area of land at the western end of the former Council Depot Land Exchange that has been excluded from PC 96 which should be rezoned Business – Town Centre Zone.
177. The Council’s s42A Council’s reporting planner confirms that an error has occurred and that the current Business - Town Centre zone for 30 Grahame Breed Drive, Mount Roskill is appropriate. They also recommend that the small rectangular piece of land at the western end of the site, identified in the Fletcher submission, should be rezoned to Business - Town Centre zone.
178. Therefore, the submissions by Fletcher Residential Limited (107.1 - 107.3) and Auckland Council (112.4) are accepted. We confirm the proposed zoning of these areas as Business - Town Centre zone.

#### ***528 Ellerslie- Panmure Highway, Mt Wellington (Map 25)***

179. PC 96 seeks to re-zone 528 Ellerslie-Panmure Highway from road to Business -Town Centre zone. The site lies between the existing Panmure Town Centre zone and the eastern railway line.
180. As outlined in the Council’s s42A report and the presentation on behalf of the Panmure Committee Action Group, the site is also subject to the Regionally Significant Volcanic Viewshaft and Height Sensitive Area Overlays to Maungarei / Mt Wellington and a portion of the site is identified as a flood prone area, with an overland flow path located towards the southern edge of the site and along the front portion of the eastern boundary.
181. The Panmure Committee Action Group (Ms Wood) raised concerns with the rezoning to Business Town Centre zoning suggesting the land was better retained as road or rezoned open space to future proof the development of the rail network and/or provide an open space area for future residents. Ms Wood also raised concerns at the potential for high-rise developments infringing the viewshaft to Maungarei / Mt Wellington and the difficulties posed for any future development as the site as it was identified in a flood prone area.

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<sup>11</sup> Council Agenda, page 849

<sup>12</sup> Ibid, page 852

182. The evidence from the Council, however, indicates that discussions have been held with KiwiRail and that this land is not required for any future rail expansion (i.e., there is sufficient land within the existing rail corridor to accommodate a third line). With regard to the impacts of high-rise developments on the views to the Maunga, the officers confirmed that the volcanic view shafts provisions remained in place. Any new development would be assessed not only in terms of the Business Town Centre zoning but also the other AUP overlay and Auckland wide provisions including the natural hazards and flooding provisions (Chapter E36 of the AUP). Further the reporting officer recommends if the site is rezoned Business Town Centre that a consequential amendment is made to the AUP to apply the 18-metre height variation control to the site which applies to the adjacent Business – Town Centre Zone sites.
183. As outlined in the s42A report and confirmed by Mr Ruddock from the Auckland Urban Development office, the rezoning of 528 Ellerslie – Panmure Highway, to Business – Town Centre Zone, is consistent with the Council’s Master Plan for Panmure and that it was the Council’s intention to sell 528 Ellerslie-Panmure Highway in isolation rather it would be amalgamated as part of a larger development vision.
184. Therefore, we confirm the proposed zoning of this parcel of land as Business - Town Centre zone. The Panmure Committee Action Group’s submission points (118.5 -118.9) are rejected.

#### ***Balance of the sites***

185. The balance of the land parcels in PC 96, where rezoning is sought to enable approved land rationalisation and disposal by Auckland Council are:
- 119A May Road, Mount Roskill (Map 4)
  - 1 Upper Harbour Highway, Rosedale (Map 15)
  - 1,3,5 Olea Road, Onehunga (Map 30)
186. The submissions to these land parcels in support of the proposed rezonings by Watercare Services Limited (122.1 and 122.4, May 1 Limited and May 3 Limited (127.1) and Kāinga Ora (130.4) are accepted. We find the proposed zonings are appropriate to enable the approved land rationalisation and disposal by Auckland Council. We confirm the proposed rezoning of these areas in accordance with the notified PC 96.

#### **e) Other submissions to PC 96.**

#### ***General opposition to the PC 96.***

187. Four submissions were received to PC 96 as a whole that raised the following general matters:
- Approve the plan change with more public facilities such as swimming pools and libraries (K Prakash - submission 5.1)

- Decline the plan change in particular those parts resulting in a loss or reduction in the amount of available open space (submissions 85.1, 94.1, and 136.1).
188. Submission 5's support for PC 96 is noted. The support however is conditional upon the provision of more public amenities. As outlined in the Council's s42 report the matters raised seeking it be approved with more public facilities is not within the scope of the plan change process. Rather the provision of more public facilities such as swimming pools and libraries is a matter to be considered by the Council as part of its Long-Term Plan and Annual Plan processes. Therefore submission 5.1, is accepted in part.
189. The submissions lodged by S Holtshousen (submission 85.1), B Leung (submission 94.1) and A van den Berg (submission 136.1) seek PC 96 be declined in its entirety. These submissions raise concerns about the potential loss of open space in their communities or across the region both in providing recreational benefits to those living in the surrounding areas and/or to assist with the effects of increased stormwater as the region intensifies.
190. While the Panel understands the concerns of these submitters, we are not able to withdraw the Plan Change either in whole or part, rather we are limited to making decisions on the submissions received. Therefore, submissions 85.1, 94.1 and 136.1 are rejected.
191. In addition, Kāinga Ora (submission 130.1 and 130.2) expressed support for the purpose of PC 96 subject to the specific amendments sought in the submission and detailed in Appendix 1 to its submission being accepted and adopted along with any consequential relief necessary to satisfy its concerns. The specific amendments requested relate to:
- *46 Range View Road, Ōwairaka (Map 29)*
  - *1, 3, & 5 Olea Road, Onehunga (Map 30)*
  - *113R Settlement Road, 11R Fulmen Place, 8R Redcrest Avenue and 16R Redcrest Avenue, Papakura. (Map 28)*
192. These specific amendments are dealt with in paragraphs 133-136 and 159-160 of this decision report. Therefore, submissions 130.1 and 130.2 are accepted in part.

***Out of Scope submissions to PC 96.***

193. Three submissions were received to PC 96 that sought additional sites be added to PC96.
- Jenny Jianghua Han (submission 123.1) sought the rezoning of 726 and 804 Kingseat Road be rezoned residential.
  - Fulton Hogan Development Limited (submission 124.3 and 124.4) sought an additional 94 sites at Milldale be rezoned as listed in

Appendix 1 to its submission or such other consequential amendments to give effect to the relief sought in the submission.

- Kāinga Ora's (submission 130.6) sought that Lot 7 DP 48904 at 3 Jordan Avenue, Onehunga be rezoned from Open Space – Informal Recreation to Residential THAB zone.

194. As set out in the Council's s42:

*"A submission must be within the scope of PC96 to be considered. The approach to scope derives from clause 6(1) of Schedule 1 of the RMA which allows a person to make a submission 'on' a plan change. Consistent with case law (Clearwater Resorts Limited v Christchurch City Council and Palmerston North City Council v Motor Machinists), consideration is required of two interconnected factors:*

- i. Whether the submission addresses the change to the status quo advanced by the plan change; and*
- ii. Whether there is a real risk that persons potentially affected by such a change have been denied an effective opportunity to participate in the plan change process."*<sup>13</sup>

195. We agree with the assessment undertaken by the Council's reporting planner that all three submission points raises matters that are outside the scope of PC 96. The submission related to Kingseat Road seeks to rezone a substantial area of Rural Production zoned land to Residential and is clearly outside the scope of PC 96. While the submissions by Fulton Hogan and Kāinga Ora seek to include additional sites beyond those identified in PC 96 at Milldale and Onehunga respectively.

196. We have considered the evidence presented by Ms Moore of behalf of Kāinga Ora in relation to 3 Jordan Avenue, Onehunga we agree with the conclusion of the Council's reporting planner that this site is out of scope. While we acknowledge that the site is in Crown ownership for the purpose of "State Housing" which is registered on the record of title for the entire site. It may not be unreasonable for those in the surrounding area to anticipate that part of any redevelopment for residential might also include an area of open space and therefore we disagree with her view that the affected parties who would have been directly notified of this aspect of the plan change would have been limited to Kāinga Ora and Auckland Council as the only other adjoining landowner.

197. Therefore, we find that both the Fulton Hogan and Kāinga Ora submissions are also out of scope and agree these requests should be addressed in a future open space related plan change. Therefore submissions 123.1, 124.3, 124.4 and 130.6 are rejected.

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<sup>13</sup> Council agenda, page 199, paragraph 353

## STATUTORY PROVISIONS

198. The RMA sets out a range of matters that must be addressed when considering a plan change, as identified in the section 32 report accompanying the notified plan change. We note that the plan change is focused on rezoning land that has either been recently vested or acquired for recreation and open space purpose, correcting open space zoning errors, or land that was formerly vested as recreation or road reserve and which Council has resolved to dispose of.
199. We also note that section 32 clarifies that analysis of efficiency and effectiveness is to be at a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.
200. Having considered the evidence and relevant background documents, we are satisfied, overall, that PC 96 has been developed in accordance with the relevant statutory and policy matters. The plan change in part will assist the Council in its effective administration of the Auckland Unitary Plan.
201. We find that:
- a) the zoning proposed of the various sites that have recently been vested or acquired by the Council for open space purposes (as set out in paragraph 23 of this report) and the correction of open space zoning errors and anomalies (as set out in paragraph 24) is consistent with the intended use and development of these areas and/or their environmental values and that the various parcels of land should be re-zoned in accordance with PC 96 except for:
    - 101 St Marys Road, Ponsonby (Map 5) that should be rezoned Residential –Terraced and Apartment Building Zone rather than Open Space – Informal Recreation Zone; and
    - 66 Flat Bush School Road, Flat Bush (Map 19) that should be rezoned Open Space – Informal Recreation Zone rather than Open Space – Sport and Active Recreation Zone.
  - b) the zoning proposed of the various land parcels to better reflect their current or future intended use and or development. (as set out in paragraph 26 of this report) should be re-zoned in accordance with PC 96 except for:
    - 81 Franklin Road, Pukekohe (Map 1) that should be rezoned Business Mixed Use rather than Open Space – Residential Mixed Housing Suburban Zone.
    - 539 Fitzgerald Road, Drury (Map 2) that is rezoned in accordance with Map appended as Appendix 1 to this report.
  - c) the zoning proposed of parcels of land to reflect land exchanges between Kāinga Ora and Auckland Council in the Ōwairaka and Onehunga areas and





Fletcher Residential Limited and Auckland Council in the Mount Roskill area and/or to enable approved land rationalisation and disposal by Auckland Council.(as set out in paragraphs 28 and 29 of this report) should be rezoned in accordance with PC 96 except for the following site where the proposed plan change is in part rejected:

- 30 Grahame Breed Drive, Mount Roskill (Map 12) with:
  - (i) the operative Business - Town Centre zone is retained and
  - (ii) the small rectangular piece of land at the western end of the site, rezoned from Open Space Informal Recreation Zone to Business - Town Centre zone.
- d) PC 96 will assist the Council in achieving the purpose of the Act; is consistent with the Auckland Regional Policy Statement, and the Auckland Plan.
- e) Section 32AA RMA requires the undertaking of a further evaluation on any changes proposed after the original s32 evaluation, in such detail as corresponds to the scale and significance of those proposed changes, and sufficient to demonstrate that such has been undertaken as required.
- f) Since the development of the underpinning Section 32 Evaluation Report and the lodgement of the application, a series of amendments have been suggested to the proposed plan change provisions to address the matters raised by submitters. These changes have been assessed in the s42A report and the expert evidence presented at the hearing. We consider these assessments address the requirements of s32AA.

## **DECISION**

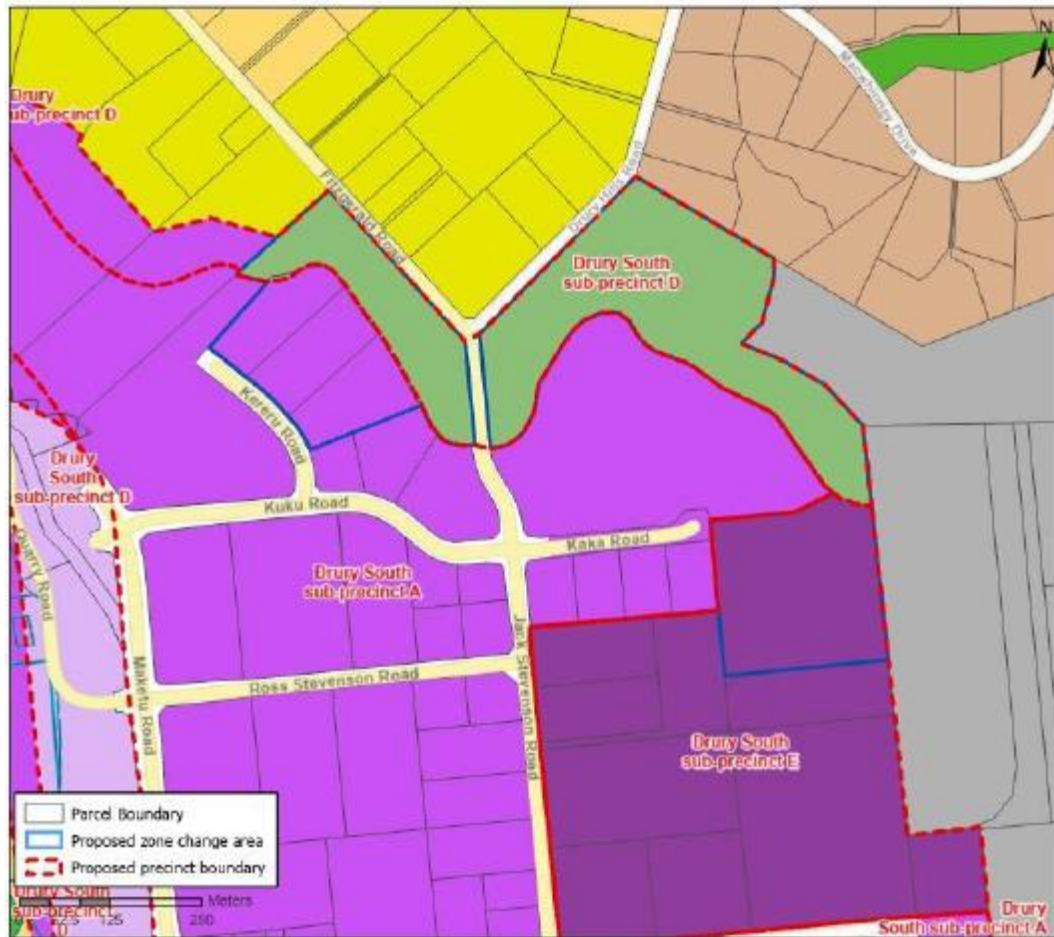
- 1 That pursuant to Schedule 1, Clause 10 of the Resource Management Act 1991, that Proposed Plan Change 96 to the Auckland Unitary Plan (Operative in Part) be approved, subject to the modifications as set out in this decision and shown in the amendments to the planning maps in Appendix 2.
- 2 Submissions on the plan change are accepted and rejected in accordance with this decision. In general, these decisions follow the recommendations set out in the Council's section 42A report, except as identified in this report.
- 3 The reasons for the decisions are that Plan Change 96:
  - a. will assist the Council in achieving the purpose of the RMA;
  - b. is consistent with the Auckland Regional Policy Statement;
  - c. is consistent with the provisions of Part 2 of the RMA;
  - d. is supported by necessary evaluation in accordance with section 32; and Section 32AA, and

- e. will help with the effective implementation of the plan.
- 4 That the Auckland Unitary Plan (Operative in Part) be amended in accordance with this decision.
- 5 It is also recommended to the Maungakiekie - Tamaki Local Board (Tamaki Subdivision) that they engage with the Council's Parks Department to establish the boundary between 33 Allenby Road, Panmure and the adjoining reserve and improve public access to the reserve area.

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

**Date: 04 December 2025**

## Appendix 1 - Amendments to 539 Fitzgerald Road, Drury (Map 2)



## **Appendix 2 – Plan Change 96 – Open Space and Other Rezoning Matters (2024)**

### **Amendments to Planning Maps (Decision Version)**