

UNITARY PLAN UPDATE REQUEST MEMORANDUM

TO Celia Davison, Manager Planning, Central South Unit

FROM Jimmy Zhang, Planner, Central South Unit



DATE 22 November 2022

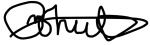


SUBJECT **Plan Modification to the Auckland Unitary Plan(AUP)
Operative in part (15 November 2016)**



This memorandum requests an update to Auckland Unitary Plan Operative in part

Reason for update – Plan Change 51 (Private): Drury 2 Precinct to be made operative	
Chapter	Chapter I Precincts
Section	South – I448 Drury 2 Precinct
Designation only	
Designation #	N/A
Locations:	N/A
Lapse Date	N/A
Purpose	N/A
Changes to text (shown in underline and strikethrough)	<p>Delete the placeholders '[subject to appeal]' in the Drury 2 Precinct:</p> <ul style="list-style-type: none"> • Objectives I448.2(6) • Policies I448.3(8) • Table I448.4.1(A11) • Standard I448.6.6 • Matters of discretion I448.8.1(4) • Assessment Criteria I448.8.2(4) <p>And replace with:</p> <ul style="list-style-type: none"> • Updated Drury 2 Precinct text – refer to Attachment 2.
Changes to diagrams	N/A
Changes to spatial data	N/A
Attachments	<p>Attachment 1: PC51 Environment Court Consent Order</p> <p>Attachment 2: PC51 text (clean version)</p>

Prepared by: Jimmy Zhang Planner	Text Entered by: Harry Barnes Planning Technician
Signature: 	Signature: 

Maps prepared by: Mitesh Bhula Geospatial Specialist	Reviewed by: Craig Cairncross Team Leader
Signature: 	Signature: 
Signed off by: Celia Davison Manager Planning – Central South	
Signature: 	

Attachment 1: PC51 Environment
Court Consent Order

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision [2022] NZEnvC 177

IN THE MATTER OF an appeal under clause 14 of the First
Schedule of the Resource Management
Act 1991

BETWEEN WAKA KOTAHI NEW ZEALAND
TRANSPORT AGENCY

(ENV-2022-AKL-000100)

Appellant

AND

AUCKLAND COUNCIL

Respondent

AND

KARAKA AND DRURY LIMITED

Applicant

Court: Environment Judge J A Smith sitting alone under s 279 of the Act

Date of Order: 27 September 2022

Date of Issue: 27 September 2022

CONSENT DETERMINATION

A: The Court orders, by consent, that the Appeal be allowed to the extent that the noise attenuation provisions in the Council's decision on PC51 are amended as shown in **Appendix 1**.



- B: The decisions version provisions for Objective IX.2(6) and (A11) in Activity Table IX.4.1 are confirmed.
- C: The appeal is otherwise dismissed. This order resolves the Appeal in its entirety.
- D: There are no orders as to costs.
- E: I direct the Registrar to send this determination to the parties to the other appeals on the Drury plan changes, so they can consider whether terms can be agreed.
- F: I reserve leave for any party to return to the Court if they consider the making of these orders gives rise to inconsistency or require review in light of the provisions in relation to noise attenuation finalised for outcome of the appeals on Proposed Private Plan Changes 48, 49 and 50.

REASONS

Introduction

[1] This appeal relates to a decision issued by Auckland Council (**Council**) dated 7 February 2022 to approve (with modifications) Plan Change 51 (**PC51**) to the partly operative Auckland Unitary Plan (**AUP**). Karaka and Drury Limited (**KDL**) was the applicant for PC51, which sought to introduce a Drury 2 Precinct and rezone 33.65 hectares of land currently zoned Future Urban as follows:

- (a) 15.29 hectares to Business – Town Centre zone;
- (b) 13.75 hectares to Residential – Terrace Housing and Apartment Buildings zone; and
- (c) 4.61 hectares to Residential – Mixed Housing Urban zone.

[2] The south-eastern boundary of the PC51 land directly adjoins State Highway 22 (**SH22**).

[3] On 7 April 2022, Waka Kotahi New Zealand Transport Agency (**Waka Kotahi**) appealed the Council's decision to approve PC51 under clause 14(1) of the First Schedule to the Act (the **Appeal**). The Appeal is limited to amending noise-related provisions of the Drury 2 Precinct, as approved in accordance with PC51, to ensure appropriate management of traffic noise effects between the PC51 land and SH22. The balance of PC51, excluding the noise-related provisions, was made operative in part on 12 August 2022.

[4] On 6 September 2022, a joint memorandum was filed setting out the agreement reached between the parties.

Related appeals before the Court

[5] Five private plan changes have been proposed in the Drury area. In addition to PC51, these are Proposed Private Plan Changes 48 – 50 and 61. There are multiple appeals in relation to Plan Changes 48 – 50,¹ Waka Kotahi is the only appellant in relation to PC51, and Lomai Properties Limited (**Lomai**) is the only appellant in relation to PC61.

[6] Negotiations for the five plan changes have been separate. However there are multiple parties who are party to multiple appeals across multiple plan changes, such as Auckland Council, Auckland Transport, Kāinga Ora, Waka Kotahi. This introduces a level of artificiality to the separate negotiations and the need for consistency in approach. The Court has suggested a combination of the appeals to expedite outcomes but this has been resisted by various parties.

¹ ENV-2022-AKL-000125: *Kainga Ora - Homes and Communities v Auckland Council* (PC 48); ENV-2022-AKL-000126: *Auckland Council v Auckland Council* (PC 50); ENV-2022-AKL-000127: *Kainga Ora - Homes and Communities v Auckland Council* (PC 49); ENV-2022-AKL-000128: *Auckland Council v Auckland Council* (PC 49); ENV-2022-AKL-000129: *Kainga Ora - Homes and Communities v Auckland Council* (PC 50); ENV-2022-AKL-000130: *Auckland Council v Auckland Council* (PC48); ENV-2022-AKL-000131: *Kleinsman v Auckland Council* (PC 50); ENV-2022-AKL-000132: *Auckland Transport v Auckland Council* (PC 48); ENV-2022-AKL-000133: *KiwiRail Holdings Limited v Auckland Council* (PC 48); ENV-2022-AKL-000134: *Auckland Transport v Auckland Council* (PC 49); ENV-2022-AKL-000136: *KiwiRail Holdings Limited v Auckland Council* (PC 50); ENV-2022-AKL-000137: *Auckland Transport v Auckland Council* (PC 50).

[7] This has placed the Court in a difficult position as some appellants seek to resolve their appeals early in circumstances where the Court has no knowledge of the actual levels of commonality between the appeals.

[8] Lomai sought an urgent consent order in May 2022. Lomai appealed the decision of Auckland Council to decline Private Plan Change 61 to the AUP. Following Court-assisted mediation and further discussions, consent documents were filed with the Environment Court on 10 May 2022. On 16 May 2022, the Court directed the parties to file further detail explaining the agreement reached between the parties and providing analysis under s 32AA to justify the agreed changes to the PC61 provisions. Following this request, the parties filed a second joint memorandum dated 1 June 2022, which was supported by an affidavit from a planning consultant. A consent determination was issued on 7 June 2022.²

[9] That consent determination recorded the parties to the PC61 appeal reached agreement on all matters, except for the noise attenuation provisions. The consent determination confirmed the inclusion of interim provisions, which applied to the parts of the PC61 land that was still the subject of discussion regarding whether noise attenuation provisions should apply. This approach enabled PC61 to become operative in part on 8 July 2022.

[10] At the time the consent determination was issued, the decision on PC51 had been appealed to the Environment Court by Waka Kotahi. No appeals had been lodged in relation to the decision on Plan Changes 48 – 50. Those appeals were filed on 17 June 2022. The Court noted in the PC61 consent determination that it was aware from newspaper articles that the Commissioner decisions for Drury East were to be appealed. The Court observed that it would usually seek further explanation, but was satisfied that the land in the PC61 case was subject to different issues, being on the western side of the motorway and closer to existing housing development.

[11] On 14 June 2022, shortly after the consent determination was issued, Lomai filed a s274 notice on the PC51 Waka Kotahi appeal in relation to noise attenuation. This was opposed by the Applicant and was unresolved when the Court received

² Lomai Properties Limited v Auckland Council [2022] NZEnvC 95.

contemporaneous memoranda on PC51 Waka Kotahi and PC 61 Lomai. The application for waiver is discussed further below.

[12] Further discussions on the Lomai appeal occurred and by Joint Memorandum dated 2 September 2022 the parties to the Lomai PC61 appeal filed a draft consent order detailing the parties' agreements regarding the noise attenuation provisions, and the proposed deleting of the "interim provisions".

[13] The consent documents for both PC51 and PC61 deal with noise attenuation and adopt the same wording. Whether the same issues arise for noise attenuation for PC48, PC49 and PC50 is unknown at this time by the Court. Overall, this piecemeal approach to rezoning is unfortunate and difficult to reconcile with the wholistic approach of the Resource Management Act.

[14] The noise attenuation provisions now proposed for PC51 and PC61 have been developed alongside each other and take a consistent approach where appropriate for the proposed land use in each plan change. The agreements reached for PC51 and PC61 settle both appeals in full. As a result Lomai have agreed to the settlement of PC51 which makes their s274 application unnecessary.

[15] It can be difficult to ensure a consistent approach across an area with private plan changes. The Court must try to avoid conflicts with appeals yet to be decided and maintain consistency. There is potential that Plan Changes 48 – 50 could end up with different wording than that agreed for Plan Changes 51 and 61. The Court cannot, at this time, assess if that would be justified or not.

[16] I signal at this point that I am reasonably confident that the provisions agreed upon are appropriate for this area, and for PC48 – 50, unless detail is given as to why they should be different.

[17] I do however note that as there are outstanding appeals which raise appeal points related to noise attenuation, the provisions approved by this order could be subject to further wording review to ensure consistency with the other plan changes, if required.

[18] The preference for consistency across areas does signal that there is a need to consider and resolve matters in relation to Plan Changes 48 – 50 promptly. I will direct that the Registrar send this determination to the parties to the other appeals on the Drury plan changes, so they parties to those appeals can consider whether terms can be agreed.

[19] Also, I reserve leave for any party to return to the Court if they consider the making of these orders gives rise to inconsistency or require review in light of the outcome of the appeals on Proposed Private Plan Changes 48, 49 and 50.

[20] Finally, the separate determinations for PC51 and PC61 have been developed alongside each other and should be read together.

Waka Kotahi appeal

Amendments sought by Waka Kotahi

[21] The specific relief sought by the Waka Kotahi Appeal is:

- (a) Amend Policy IX.3(8), so that it applies to:
 - (i) The part of the Drury 2 Precinct zoned Business: Town Centre, not just the part zoned Residential: Terraced Housing and Apartment Buildings; and
 - (ii) All buildings that contain activities sensitive to noise, not just residential buildings.
- (b) Amend Standard IX.6.6 – Noise attenuation, which sets out the relevant noise limits and ventilation requirements for noise sensitive spaces (including any indoor spaces in Table IX6.6.1) within 75m of the boundary between SH22 and the Drury 2 Precinct; and
- (c) Amendments to IX.8.1 Matters of Discretion and IX.8.2 Assessment Criteria, to expand the relevant matters of discretion and assessment criteria in respect of any non-compliance with Standard IX.6.6 and provide greater clarity on their meaning and application.

[22] Objective I448.2(6) (previously Objective IX.2(6) in PC51) and (A11) in Activity table I448.4.1 (previously (A11) in Activity Table IX.4.1 in PC51) were identified as being subject to appeal in the Auckland Council Auckland Unitary Plan: Operative in Part. The parties are not seeking that any changes be made to these provisions, and seek that the Council decision on these provisions be confirmed by the Court.

[23] The amendments sought are intended to address drafting deficiencies in the existing provisions and ensure that all noise sensitive activities within proximity to SH22 are covered by the provisions irrespective of whether they are located in the Business: Town Centre (**Town Centre**) or Residential: Terraced Housing and Apartment Buildings (**THAB**) zones.

Section 274 parties

[24] Auckland Transport and Kāinga Ora – Homes and Communities joined the appeal as section 274 parties.

Lomai application for waiver

[25] On 14 June 2022 Lomai Properties Limited (**Lomai**) filed a s 274 notice together with an application for waiver of time to join the appeal. Lomai's s274 notice was 30 working days out of time. Lomai is interested in the parts of the appeal that relate to noise attenuation in relation to property frontages at the boundary. Lomai's application for waiver stated that they wished to ensure consistency with Proposed Private Plan Change 61.

[26] Auckland Council and Auckland Transport consented to the waiver application. Kāinga Ora and Waka Kotahi advised they would abide the decision of the Court. Karaka and Drury Limited objected to the Court granting the application.

[27] The Court directed a timetable for filing of further submissions and affidavits. Lomai filed further legal submissions dated 21 July 2022 and an affidavit of Ballu Khan affirmed 20 July 2022. No other party filed any further submissions and/or affidavits in response.

[28] Before the Court could make a decision on the application for waiver, the consent documents were filed.

[29] The consent documents were not signed by Lomai. The Court asked the parties to the appeal whether they would consent to the Court sharing the consent documents with Lomai to obtain their view. The parties agreed to the sharing of the consent documents with Lomai.

[30] By email dated 9 September 2022, Lomai advised that “the provisions agreed by the parties to PC51 are the same as those for PC61 so Lomai agrees to them.”

[31] Given all parties to the appeal have signed the consent memorandum and Lomai have advised of their agreement, the waiver does not need to be considered. I have proceeded to consider the consent documents.

Agreement reached between the parties

[32] The parties have agreed to the amendments sought by Waka Kotahi (subject to the correction of typographical errors and a minor deletion from the amended assessment criteria) as set out in **Appendix 1** to the Appeal.

[33] The details of the agreed amendments are as follows:

- (a) Policy IX.3(8) will be amended to require all buildings in proximity to SH22 (not just residential buildings in the THAB zone) that contain activities sensitive to noise to be constructed to achieve specified minimum indoor noise levels. The amended Policy will apply to land within the Precinct, within 75m of SH22, that is zoned as THAB Zone and Town Centre Zone;
- (b) Standard IX.6.6 – Noise attenuation in the Decisions Version of PC51 will be amended. For simplicity the amendments are described as a replacement but the majority of the provision remains the same. For example, the spatial extent of the rule remains the same as the Decision i.e. 75m from the boundary of SH22;

- (c) Consistent with the proposed change to Policy IX.3(8) the revised Standard (IX.6.6(1)) applies to all noise sensitive spaces and states that they must be designed, constructed and maintained to achieve noise levels not exceeding those set out in new Table IX.6.6.1 for the particular indoor space;
- (d) Updated standards in IX.6.6(2) for ventilation requirements in habitable rooms;
- (e) An addition to IX.6.6(3) to clarify that the design report can use the current measured or predicted noise plus 3dB or future predicted noise levels;
- (f) An advice note that future predicted traffic noise levels means those levels recently modelled for the purposes of Waka Kotahi designation 6707 – State Highway 22 Upgrade. The purpose of this advice note is to provide plan users with access to the latest Waka Kotahi traffic noise modelling information for SH22 and is explained further below in the section 32AA assessment; and
- (g) IX.8.1 – Matters of Discretion will be expanded to better guide decision-making. The Decisions Version of PC51 only had a single matter of discretion relating to the effects on people’s health and residential amenity.

[34] The parties have agreed the matters the Council should limit its discretion to when the Council is required to assess non-compliance with standard IX.6.6 – Noise attenuation as follows:

- (a) The effects on people’s health and residential amenity;
- (b) The location of the building;
- (c) Topographical, building design features or other alternative mitigation that will mitigate potential adverse health and amenity effects relevant to noise;

- (d) Technical advice from an acoustic expert specialising in operational traffic noise mitigation or the State highway operator, or their successors as the road controlling authority for SH22.

[35] The parties have agreed that IX.8.2 – Assessment Criteria should be amended to include the following criteria, which implement the new matters of discretion:

- (a) Whether the location of the building or any other existing buildings/structures avoids, remedies or mitigates the adverse noise effects associated with the road traffic noise associated with the operation of SH 22;
- (b) The extent to which the alternative mitigation measures avoid, remedy, or mitigate the effects of non-compliance with the noise standards on the health and amenity of potential building occupants;
- (c) Whether any identified topographical or building design features will mitigate any potential adverse health and amenity effects;
- (d) Any implications arising from any technical advice from an acoustic expert specialising in operational traffic noise mitigation or the State Highway operator, or their successors as the road controlling authority for SH22.

[36] The Decisions Version of PC51 only had a single assessment criterion relating to whether the building accommodating an activity sensitive to noise is designed to achieve protection from adverse health and amenity effects.

Analysis of agreement under s 32AA of the RMA

[37] Section 32AA of the Act requires a further evaluation of any changes to a proposed plan change since the initial s 32 evaluation report and the Decision. Details of the amendments proposed are outlined above and the further reasoning is provided below.

Higher order policy instruments

[38] In reaching this agreement, the Parties have had regard to the relevant provisions of the regional policy statement component of the AUP, including Policies B3.2.2(4) and (5) and Policy B3.3.2(5)(f) which state:

Reverse sensitivity

(4) Avoid where practicable, or otherwise remedy or mitigate, adverse effects of subdivision, use and development on infrastructure.

(5) Ensure subdivision, use and development do not occur in a location or form that constrains the development, operation, maintenance and upgrading of existing and planned infrastructure.

Policy B3.3.2

(5) Improve the integration of land use and transport by:

...

(f) requiring activities adjacent to transport infrastructure to avoid, remedy or mitigate effects which may compromise the efficient and safe operation of such infrastructure.

[39] The parties consider that the agreed amendments to PC51:

- (a) Better give effect to the relevant RPS policies of the AUP; and
- (b) Do not compromise the ability of PC51 to give effect to the other higher order policy documents such as the National Policy Statement on Urban Development or other aspects of the regional policy statement, as outlined in the Decision.

Objectives and policies of PC51

[40] The Decisions Version of PC51 includes Objective IX.2(6), which has not been appealed and is beyond challenge. That objective states:

Activities sensitive to noise are protected from adverse health and amenity effects arising from road traffic noise associated with the operation of SH 22.

[41] Objective IX.2(6) applies to all activities sensitive to noise; it is not limited to residential activities or to the THAB zone. The parties consider that the Decisions Version of Policy IX.3(8) and the noise attenuation rules fail to fully implement the Objective on the basis that they do not address potential effects from road traffic noise on all activities sensitive to noise in the part of PC51 land zoned Town Centre or non-residential activities sensitive to noise within parts of PC51 zoned as THAB.

[42] The amendments to Policy 8 therefore better implement the Objective by adequately protecting all activities sensitive to noise within proximity to SH22.

Amended rules

[43] The Appeal does not seek any change to the activity status of Precinct Rule (A11). Any activity that does not comply with standard IX.6.5, IX.6.6 and IX.6.7 will remain a restricted discretionary activity.

[44] The amended standards are based on the expert acoustic evidence of Dr Chiles, as presented at the Council hearing. The parties consider that the agreed amendments to Standard IX.6.6:

- (a) Better implement Objective IX.2(6) and amended Policy IX.2(8) as they include appropriate internal noise levels for all activities sensitive to noise;
- (b) Are more effective and efficient than the alternatives of not providing any internal noise standards or relying on the existing AUP provisions for noise attenuation in town centres;³

³ This is consistent with the expert evidence of Dr Chiles for Waka Kotahi at the Council hearing which was that the existing Town Centre noise provisions and standards were not

- (c) The amended standards require a higher level of internal thermal comfort than the standards in the Decisions Version in order to provide adequate respite from, and less exposure to, road traffic noise; and
- (d) The amended standards require a design report to be submitted by a suitably qualified person demonstrating compliance with the internal noise standards. This provides a clear process for a developer to demonstrate how they are complying with the standards and a clear process for the consent authority to assess that compliance.

[45] The costs and benefits of the amended standards were identified and assessed (albeit as part of a suite of provisions) in the planning evidence of Ms Sukhi Singh on behalf of Waka Kotahi, presented at the Council hearing.

[46] The agreed amendments take into account the approval of the Waka Kotahi designation for future upgrades to SH22 which applies to the frontage of the PC51 land with SH22. The assessments for the notice of requirement modelled the future noise levels from the operation of SH22 over time. These assessments predict that the noise level from road traffic noise on SH22 will, with certain assumptions, reduce over time as a result of the upgrades to SH22 and reduced speed environment. The designation for the SH22 upgrades also contains a condition requiring the installation of a low noise road surface.

[47] This information provides greater certainty to future landowners about the future noise environment and therefore the potential measures needed to meet the internal noise standards in PC51.

[48] The amendments to PC51 include a new advice note which provides a cross reference to the project website for the SH22 upgrade project where plan users will be able to source the relevant noise assessment work undertaken to establish the

designed to address road traffic noise which varies based on distance and orientation of a building from the transport corridor. The appropriate measurement basis and degree of sound insulation can therefore vary between buildings. Furthermore, the current and predicted future noise generated by road traffic on SH22 at night is greater than the night time noise limits for the Town Centre Zone. The proposed Town Centre Zone noise rules therefore do not provide an adequate basis to assess road traffic noise or the necessary sound insulation for noise sensitive activities proximate to SH22 from road traffic noise.

future predicted noise levels as part of that project, in the event that they wish to use the future predicted noise levels for the design report required in Standard IX.6.6(3). This information will assist developers to identify the future environment and design and locate noise sensitive spaces in order to meet the relevant internal noise levels.

Matters of discretion and assessment criteria

[49] The amended matters of discretion and assessment criteria address a wider range of matters than the Decisions Version. This includes matters such as topography and building layout that can be relevant to determining the effects from road traffic noise on a particular proposal and potential mitigation measures to reduce those effects. This is in addition to the building design itself, which is already included within the assessment criterion in the Decisions Version.

[50] The revised provisions make it clear that these aspects of a proposal can be considered by a decision maker through a consent process in determining the appropriate mitigation package for road noise mitigation in building design or site design. This enables the land use response to road traffic noise to be developed most efficiently and effectively i.e., buildings or activities can be sited or located to manage or minimise effects rather than just insulated.

[51] The amended matter of discretion IX.8.1(4)(d) and assessment criterion IX.8.2(4)(e) relate to any technical advice from an acoustic expert specialising in operational traffic noise mitigation or the State Highway operator, or future road controlling authority. These provisions differ from the equivalent provisions sought in the appeal which required consultation with Waka Kotahi. The amendments achieve the same outcome but are more directive about the purpose and nature of engagement with relevant specialists, Waka Kotahi or the future road controlling authority.

[52] The agreed amendments refer to technical advice from acoustic expert specialising in operation traffic noise mitigation or the State Highway operator, or future road controlling authority. This is based on the assumption that Waka Kotahi, or the future road controlling authority, will have significant expertise and knowledge about the current and future road traffic noise levels and ways to mitigate effects from

that road traffic noise that assist a developer and a decision maker. The reference to technical advice is consistent with the provisions in the AUP relating to the National Grid,⁴ which is similar large-scale infrastructure to the state highway network.

Certain and sufficient information

[53] The parties agree that this is not a situation where there is uncertain or insufficient information.

[54] If the amendments are not made, Waka Kotahi considers that there is a real risk of not acting and allowing activities sensitive to noise to be established without adequate protection from the effects of road traffic noise.

Consideration

[55] In making this order, the Court has read and considered the appeal dated 7 April 2022 and the joint memorandum of the parties dated 6 September 2022.

[56] This determination does not represent the outcome of a full hearing by the Court, but rather an agreement reached between parties represented by experienced counsel.

[57] The parties have provided an analysis under s 32AA regarding why the change in position is justified. I am satisfied there is an appropriate planning rationale for the changes and the grant of PC51 as amended. The amendments ensure a land use response to noise issues will be implemented alongside roading network measures. I am of the view that the agreed amendments will provide certainty for future landowners about the noise environment.

[58] I am satisfied with the assurances that the amendments will appropriately align with higher order policy documents and give effect to the relevant policies of the AUP. I accept the agreement gives effect to AUP Policies B3.2.2(4) and (5) and B3.3.2(5)(f). I accept that the amendments better implement the objectives and

⁴ For example, D26.8 Assessment – restricted discretionary activities, Matter of Discretion D26.8.1(1)(g) *technical advice from an Electrical Engineer specialising in transmission or the National Grid operator*.

policies of PC51, including Objective IX.2(6). I am of the view that appropriate focus is placed on health and amenity effects.

[59] PC51 is located in close proximity to the PC61 site (which also adjoins SH22). The parties advised that both PC51 and PC61 have been developed in accordance with the Drury – Opāheke Structure Plan August 2019. As set out in the s 42A report and quoted in the Council decision:

The structure plan is intended to be the foundation to inform future plan changes to rezone the land and is a requirement under the AUP before Future Urban zones areas can be urbanised and ‘live’ zoned.

I am of the view that the agreed version of PC51 broadly aligns with the strategic planning approach developed for the Drury area. The noise attenuation measures, with their focus on noise sensitive activities, will provide for liveable urban environments from an acoustic perspective.

[60] The amendments provide a clarity of process for compliance and assessment. The matters of discretion and assessment criteria have been expanded to include additional aspects which address the full suite of factors that contribute to exposure to noise and potential mitigation measures. The expanded matters of discretion and assessment criteria give people better guidance and clarity as to what is being considered. I consider it proper that the matters of discretion and assessment criterion are directive and rely on technical advice.

[61] I reiterate my concerns about piecemeal plan changes where the Court does not have all of the information. I am of the view however that the agreed provisions are similar to those commonly used and unlikely to be seen as exceptional by parties to the other Drury Plan Change appeals. I would hope that Plan Changes 48 – 50 will take a more wholistic approach to common issues such as noise attenuation.

[62] The Court is making this order under section 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

[63] I conclude the parties have taken a well-tested and robust approach, and the agreed amendments are the most appropriate way to achieve the purpose of the Act and the objectives in the Plan. Overall, I consider the sustainable management purpose and the other relevant requirements of the Act are broadly met.

Order

[64] Therefore, the Court orders, by consent, that the Appeal be allowed to the extent that the noise attenuation provisions in the Council's decision on PC51 are amended as shown in **Appendix 1**.

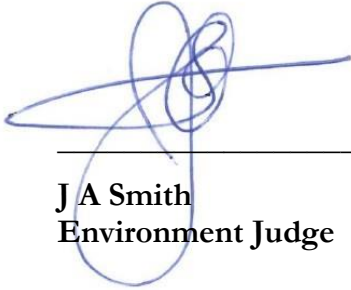
[65] The decisions version provisions for Objective IX.2(6) and (A11) in Activity Table IX.4.1 are confirmed.

[66] The appeal is otherwise dismissed. This order resolves the Appeal in its entirety.

[67] There are no orders as to costs.

[68] I direct the Registrar to send this determination to the parties to the other appeals on the Drury plan changes, so they can consider whether terms can be agreed.

[69] I reserve leave for any party to return to the Court if they consider the making of these orders gives rise to inconsistency or require review in light of the provisions in relation to noise attenuation finalised for appeals on Proposed Private Plan Changes 48, 49 and 50.



J A Smith
Environment Judge



APPENDIX 1

IX.3 POLICIES

Amend as follows:

- (8) Require buildings that contain activities sensitive to noise residential buildings in the Residential—Terrace House and Apartment Buildings Zoning zone in proximity to SH 22 to be designed and constructed with acoustic attenuation measures to provide for people’s health and residential amenity to achieve specified minimum indoor design noise levels to provide for people’s health and residential amenity.

IX.6 STANDARDS

Amend: IX.6.6 Noise Attenuation with the following provisions as follows:

- (1) Any ~~new buildings or alterations to existing buildings containing noise sensitive space (including any indoor spaces in Table IX6.6.1) in a new building or alteration to an existing building that contains an activity sensitive to noise located within 75m to the boundary of SH22~~ must be shall be designed, constructed and maintained to not exceed 40 dB LAeq (24 hour) for all noise sensitive spaces achieve indoor design noise levels not exceeding the maximum values set out in Table IX.6.6.1.

Table IX.6.6.1: Indoor noise levels:

<u>Indoor Space</u>	<u>Indoor noise level LAeq(24h)</u>
<u>Residential (excluding home occupation and camping grounds)</u>	<u>40 dB</u>
<i><u>Building type: Educational Facilities or Tertiary Educational Facilities</u></i>	
<u>Lecture rooms/theatres, music studios, assembly halls</u>	<u>35 dB</u>
<u>Teaching areas, conference rooms, drama studios</u>	<u>40 dB</u>
<u>Libraries</u>	<u>45 dB</u>

<u>Indoor Space</u>	<u>Indoor noise level $L_{Aeq(24h)}$</u>
<i><u>Building type: Health</u></i>	
<u>Overnight medical care, wards, sleeping areas</u>	<u>40 dB</u>
<u>Clinics, consulting rooms, theatres, nurses' stations</u>	<u>45 dB</u>
<i><u>Building type: Community Facilities</u></i>	
<u>Marae (excluding any area that is not a noise sensitive space)</u>	<u>35 dB</u>
<u>Places of Worship</u>	<u>35 dB</u>
<i><u>All other Activities Sensitive to Noise</u></i>	
<u>All other noise sensitive spaces</u>	<u>40 dB</u>

(2) If windows must be closed to achieve the design noise levels in Rule IX.6.6(1), the building must be designed, constructed and maintained with a mechanical ventilation system for noise sensitive spaces, to achieve the following requirements that:

a. For habitable rooms for a residential activity, must achieve the following requirements:

i. Provides mechanical ventilation to satisfy clause G4 of the New Zealand Building Code; and

~~i. an internal temperature no greater than 25 degrees celsius based on external design conditions of dry bulb 25.1 degrees celsius and wet bulb 20.1 degrees celsius; or~~

Note

~~Mechanical cooling must be provided for all habitable rooms (excluding bedrooms) provided that at least one mechanical cooling system must service every level of a dwelling that contains a habitable room (including bedrooms).~~

ii. ~~A high volume of outdoor air supply to all habitable rooms with an outdoor air supply rate of no less than~~

Is adjustable by the occupant to control the ventilation rate in increments up to a high air flow setting that provides at least 6 air changes per hour (ACH) for rooms with less than 30 per cent of the façade area glazed, or 15 air changes per hour (ACH) for rooms with greater than 30 per cent of the façade area glazed, or three air changes per hour for rooms with facades only facing south (between 120 degrees and 240 degrees) or where the glazing in the façade is not subject to any direct sunlight; and

~~iii. For all other noise sensitive spaces provide mechanical cooling to achieve an internal temperature no greater than 25 degrees celsius based on external design conditions of dry bulb 25.1 degrees celsius and wet bulb 20.1 degrees Celsius; and~~

iii. Provides relief for equivalent volumes of spill air; and

iv. Provides cooling and heating that is controllable by the occupant and can maintain the inside temperature between 18°C and 25°C; and

~~v. Be individually controllable across the range of airflows and temperatures by the building occupants in the case of each system; and~~

v. Have a mechanical ventilation and/or a cooling system that generates a noise level no greater Does not generate more than 35 dB LAeq(30s) when measured 1 metre away from any grille or diffuser. ~~at the minimum air flows required to achieve the design temperatures and air flows in Standard 2 (i) and (ii) above.~~

b. For other spaces, is as determined by a suitably qualified and experienced person.

- (3) A design report must be submitted by a suitably qualified and experienced person to the council demonstrating compliance with Rule IX.6.6(1) and (2) ~~can be achieved~~ prior to the construction or alteration of any building containing an activity sensitive to noise. In the design, road noise is based on current measured or predicted noise levels plus 3 dB, or future predicted noise levels.

Advice Note

For the purposes of this rule, future predicted noise levels means those levels modelled as part of the Waka Kotahi designation XXXX – State Highway 22 Upgrade and is based on an assumed posted speed limit of 50km/h, the use of a low-noise road surface and a traffic design year of 2048. Should future predicted noise levels be used for the purposes of this rule, this information and the associated assumptions and parameters is available on request from Waka Kotahi New Zealand Transport Agency (or their successors as the road controlling authority for Karaka Road / SH22) and on the project website for State Highway 22 Upgrade.

IX.8. ASSESSMENT – RESTRICTED DISCRETIONARY ACTIVITIES

Amend as follows:

IX.8.1 Matters of discretion

- (4) Non-Compliance with standard IX.6.6 – Noise attenuation:
- (a) The effects on people's health and residential amenity.
 - (b) The location of the building.
 - (c) Topographical, building design features or other alternative mitigation that will mitigate potential adverse health and amenity effects relevant to noise.
 - (d) Technical advice from an acoustic expert specialising in operational traffic noise mitigation or the State highway operator, or their successors as the road controlling authority for SH22.

IX.8.2 Assessment Criteria

- (4) Non-compliance infringements of with Standard IX6.6 Noise attenuation
- ~~(a) Whether the building accommodating activity sensitive to noise is designed to achieve protection from adverse health and amenity effects.~~
 - (a) Whether the location of the building or any other existing buildings/structures avoids, remedies or mitigates the adverse noise effects associated with the road traffic noise associated with the operation of SH22.
 - (b) The extent to which the alternative mitigation measures avoid, remedy or mitigate the effects of non-compliance with the noise standards on the health and amenity of potential building occupants.
 - (c) Whether any identified topographical or building design features will mitigate any potential adverse health and amenity effects.
 - (d) Any implications arising from any technical advice from an acoustic expert specialising in operational traffic noise mitigation or the State highway operator, or their successors as the road controlling authority for SH22.

Attachment 2: PC51 text (clean
version)

I448 Drury 2 Precinct

I448 Drury 2 Precinct

I448.1. Precinct Description

The precinct has an area of 33.65 ha and is bordered by the Drury 1 Precinct to the North, the Ngakoroa Stream to the east, State Highway 22/Karaka Road (SH22) to the south and land fronting Jesmond Road to the west. The site is gently rolling terrain with a number of small tributary streams of the Ngakoroa Stream and Drury Creek.

The precinct provides for a town centre within Drury West, as well as high density residential development; Residential - Terrace House and Apartment Buildings Zoning adjoining the town centre and Residential - Mixed Housing Urban Zoning. This supports the growing resident and worker population of this area.

The realignment of Burberry Road (and the closing of the existing intersection of Burberry Road and SH22), along with an intersection of the Mainstreet Collector Road with SH22 provides for an interconnected roading network from the Drury 1 Precinct, through the town centre to SH22. It also provides multi-modal transport links between future public transport opportunities, the Drury South Industrial Precinct and the Drury 1 Precinct to the north.

The precinct provisions ensure the implementation of the roading pattern shown in the Precinct Plan and associated infrastructure upgrading is undertaken in a planned and coordinated manner to support development enabled within the precinct. In particular, these provisions include:

- The existing intersection of Burberry Road/SH22 is to be closed and subdivision and development must develop alternative access. Increased traffic will exacerbate safety concerns at this intersection. No new or additional vehicle trips are permitted to or from the precinct using the existing intersection of Burberry Road and SH22.
- A signalised intersection of the Mainstreet Collector Road with SH22 provides the necessary access to the precinct, and with the extension of the Mainstreet Collector Road to Burberry Road provides for the future connections of the precinct with the Drury 1 Precinct (which because of the limitations with the existing intersection of Burberry Road and SH22 is unable to access Burberry Road until these are resolved).
- The Mainstreet Collector Road, its intersection with SH22 and approach lanes (including alignment with adjacent intersection upgrades) is constructed and operational prior to or with the first stage of subdivision and / or development.
- If an alternative roading connection is made outside of the precinct prior to the Mainstreet Collector Road intersection with SH22 being operational, then that would trigger the requirement for an upgrade to the intersection of SH22 and Jesmond Road because of existing capacity limitation with that intersection.
- Separated active transport provision is to be provided on SH22 to the intersection of SH22 and Jesmond Road to connect to the Drury West rail station.

A Transport Assessment Report (including appropriate forecast transport modelling, and latest Precinct land use assumptions including sensitivity tests of these) and independent Road Safety Audit is to be prepared to support resource consent applications for any new road intersection or upgraded existing road intersection with SH22 to confirm that the location and design of the intersection supports the safe and efficient function of the transport network.

Refer to planning maps for the location and extent of the precinct. The following underlying zones apply to the precinct:

- Residential - Mixed Housing Urban Zone
- Residential - Terrace Housing and Apartment Buildings Zone
- Business - Town Centre Zone.

The main stormwater catchments are identified on Precinct Plan 1, and include:

- Stream A catchment – which includes land that drains to the north and will drain into land falling in the Drury 1 Precinct.
- Ngakoroa Stream catchment - which includes land that drains either directly or indirectly to the tidally influenced Ngakoroa Stream.

The relevant overlays, Auckland-wide and zone provisions apply in this precinct unless otherwise specified in this precinct.

I448.2. Objectives

- (1) The Town Centre and high-density residential zones within the precinct:
 - (a) Achieve high-quality urban design outcomes, including as the development relates to SH22; and
 - (b) Services the needs of the existing and planned Drury West area.
- (2) The precinct is developed for urban activities in a comprehensive and integrated way, which recognises the importance of the town centre as a focal point for Drury West.
- (3) Transport and land use patterns are integrated to achieve a sustainable, liveable community, which provides active transport linkages through and between the precinct, adjoining precincts and to future planned public transport facilities.
- (4) Infrastructure necessary to service development within the precinct is established in a coordinated and timely way; either prior to or at the same time as development.
- (5) Stormwater management and ecological enhancement measures are implemented when developing within the precinct, to avoid or mitigate adverse effects of development on the receiving environments, and enhance the existing stream network and water feature.
- (6) Activities sensitive to noise are protected from adverse health and amenity effects arising from road traffic noise associated with the operation of SH22.

The overlay, Auckland-wide and zone objectives apply in this precinct in addition to those specified above.

I448.3 Policies

Development

- (1) Enable and design the town centre so that it:
 - (a) Incorporates a range of uses, such as retail, commercial, leisure, cultural, community and civic activities;
 - (b) Connects to a range of transport modes including, existing, planned and future public transport, vehicle, and active transport networks;
 - (c) Has well-designed, attractive public streets and a town square, that provide the focal point for intensive retail, commercial and civic development, as well as pedestrian activity including active transport networks around the precinct's water feature and adjoining the Ngakoroa Stream; and
 - (d) Contains buildings with high-quality urban design and which are of variable height.
- (2) Incorporate the following elements of the Precinct Plan in the design of any subdivision and development:
 - (a) The pattern, hierarchy and function of roads (including separated active transport), including the town centre's main street and links to the State Highway network, future rail station and schools;
 - (b) Active transport linkages;
 - (c) Linkages within the precinct and to adjacent land including the Drury 1 Precinct and that to the west of the precinct;
 - (d) Key intersections;
 - (e) The amenity feature of the water feature and streams associated with the town centre;

- (f) Open space areas; and
- (g) Key retail and commercial frontages.

Built Form

- (3) Control development so its scale and design contribute to the creation of high-quality intensive urban amenity through building heights as shown on the height variation control maps, pedestrian connections and public open space, particularly where it is associated with the town centre;
- (4) Require buildings with frontages to key retail and commercial streets to:
 - (a) Avoid blank walls;
 - (b) Provide easily accessible pedestrian entrances;
 - (c) Provide minimum floor heights to maximise building adaptability to a range of uses;
 - (d) Maximise outlook through glazing onto streets and public places;
 - (e) Have frontages of sufficient height to frame the street;
 - (f) Provide weather protection for pedestrians along road frontages;
 - (g) Locate vehicle crossings to provide for safe active transport and vehicular movements;
 - (h) Be designed according to perimeter block principles where car parking is provided behind buildings except for kerbside parking; and
 - (i) Apply these design requirements as appropriate to the building frontages to the town square and water feature.
- (5) Require buildings and alterations and additions to buildings in the Residential- Terrace Housing and Apartment Buildings Zone adjacent to SH22 to positively address and engage with SH22 by their design, layout, landscaping and planting, including by avoiding blank walls, supporting passive surveillance of the road and providing an attractive streetscape.

Infrastructure

- (6) Require subdivision and development to:
 - (a) Be sequenced so as to:
 - (i) not precede required infrastructure provision, including wastewater, water supply and transport upgrades necessary to support development within the precinct;
 - (ii) require the Mainstreet Collector Road, its intersection with SH22 and approach lanes (including alignment with adjacent intersection upgrades) is constructed and operational prior to or with the first stage of subdivision and / or development.
 - (b) Implement the transport network connections and elements as shown on the Precinct Plan;
 - (c) Avoid additional vehicle trips using the existing intersection of Burberry Road and SH22 and develop new and realigned road connections to SH22 and the Drury 1 Precinct as shown on the Precinct Plan, to ensure alternative access;
 - (d) Ensure it does not adversely affect the safe and efficient operation or capacity of the existing and planned transport, water or wastewater networks; gas transmission; and
 - (e) Promote and develop connections to the future planned public transport facilities and social infrastructure such as open space and schools.
 - (f) Ensure that any activity, development and/or subdivision provides for the necessary transport infrastructure including separated walking and cycling facilities, and connectivity through the precinct.

Stormwater Management

- (7) Require subdivision and development to achieve stormwater quality treatment consistent with the treatment train approach so as to enhance water quality and protect the health of stream and marine environments including by:
 - (a) Being consistent with any approved stormwater management plan; and
 - (b) Applying water sensitive design to achieve water quality and hydrology mitigation; and
 - (c) Incorporating biodiversity enhancement planting of riparian margins of streams (including the Ngakoroa Stream), wetlands and the water feature.

Noise

- (8) Require buildings that contain activities sensitive to noise in proximity to SH 22 to be designed and constructed to achieve specified minimum indoor design noise levels to provide for people's health and residential amenity.

The overlay, Auckland-wide and zone policies apply in this precinct in addition to those specified above.

I448.4. Activity table

The activity tables in any relevant overlays, Auckland-wide and zones apply unless the activity is listed in Table I448.4.1 Activity table below.

Table I448.4.1 specifies the activity status of land use and subdivision activities in the Drury 2 Precinct pursuant to sections 9(3) and section 11 of the Resource Management Act 1991.

Note: A blank cell in the activity status means the activity status of the activity in the relevant overlays, Auckland-wide or zones applies for that activity.

Table I448.4.1 Land use, development and subdivision activities in Drury 2 Precinct

Activity		Activity status
Subdivision		
(A1)	Subdivision listed in Chapter E38 Subdivision – Urban	
(A2)	Subdivision that does not comply with Standard I448.6.2 Transport infrastructure requirements	NC
(A3)	Subdivision that does not comply with any of the standards listed in I448.6.1, I448.6.2A and I448.6.3-I448.6.4	D
(A4)	Subdivision that does not comply with standard I448.6.5	RD
(A5)	Subdivision with a road intersection with SH22	RD
Use and development		
(A6)	Activities listed as permitted, restricted discretionary, discretionary or non-complying activities in Table H5.4.1 Activity table in the Residential – Mixed Housing Urban Zone	
(A7)	Activities listed as permitted, restricted discretionary, discretionary or non-complying activities in Table H6.4.1 Activity table in the Residential – Terrace Housing and Apartment Buildings Zone	
(A8)	Activities listed as permitted, restricted discretionary, discretionary or non-complying activities in Table H10.4.1 in the Business – Town Centre Zone	
(A9)	Activities that do not comply with Standard I448.6.2 Transport infrastructure requirements	NC
(A10)	Activities that do not comply with any of the standards listed in I448.6.1, I448.6.2A and I448.6.3-I448.6.4	D
(A11)	Any activity that does not comply with any of the standards listed in I448.6.5, I448.6.6 and I448.6.7	RD
(A12)	Development with a road intersection with SH22	RD

I448.5. Notification

- (1) Any application for resource consent for an activity listed in Table I448.4.1 Activity table above will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.
- (2) When deciding who is an affected person in relation to any activity for the purposes of section 95E of the Resource Management Act 1991 the council will give specific consideration to those persons listed in Rule C1.13(4).

I448.6. Standards

The standards in the overlays, Auckland-wide and zones apply to all activities listed in Table I448.4.1 Activity table in this precinct, in addition to the standards listed in I448.6.1-I448.6.7 below.

All permitted, controlled and restricted discretionary activities must comply with the following standards:

I448.6.1 Compliance with the Drury 2 Precinct Plan

- (1) Activities and subdivision must comply with the Drury 2 Precinct Plan.
- (2) The Building Frontage Control – Key Retail Frontage and Building Frontage Control – General Commercial Frontage illustrated on the Drury 2 Precinct Plan apply to the corresponding road vested with subdivision and any adjacent land use or development.
- (3) Any activities and/or subdivision must comply with Appendix 1 Road Function and Required Design Elements (except interim upgrades identified in Rule I448.6.2A).

I448.6.2 Transport Infrastructure Requirements

- (1) Prior to or in conjunction with the first stage of development, the Mainstreet Collector Road, its intersection with SH22, and approach lanes (including alignment with adjacent intersection upgrades) must be constructed and operational. This does not apply to earthworks and site preparation works within the precinct.
- (2) There must be no additional trip generation from subdivision, development and activities using the intersection of Burberry Road and SH22 (being the intersection in existence as at 27 August 2020).
- (3) There must be no development (excluding earthworks and site preparatory works) within the precinct that connects to a road outside the precinct and relies on access to Jesmond Road, and which would result in any trip generation prior to the Mainstreet Collector Road intersection with SH22 being operational, unless the SH22 and Jesmond Road intersection upgrade required in accordance with Rule 6.3.1.e. of the Drury 1 Precinct has been completed and is operational.
- (4) Rule I448.6.2(3) does not apply after the Mainstreet Collector Road intersection with SH22 is operational. Rule I448.6.2(3) does not apply to construction activities for Mainstreet Collector Road intersection with SH22.
- (5) All references to SH22 in the precinct are also to Karaka Road should the state highway gazette no longer exist.

I448.6.2A Connection with Drury 1 Precinct

- (1) When any road (including Burberry Road) is proposed to connect to the Drury 1 Precinct the following interim upgrades must occur:
 - (a) The Burberry Road carriageway is upgraded to a two lane urban standard north of Mainstreet Collector Road.
 - (b) An active transport facility is provided on Burberry Road.
 - (c) Tributary Parade is connected to Burberry Road.

I448.6.3 Riparian Planting

- (1) The riparian margins of any wetland, permanent or intermittent stream, and the precinct's water feature must be planted to a minimum width of 10m measured from the top of the stream bank, except where road or active transport crossings are required over streams.
- (2) The riparian margins of the Ngakoroa Stream must be planted to a minimum width of 15m measured from the top of the stream bank.
- (3) The riparian planting plan (to give effect to compliance with Standard I448.6.3(1-2)) must:

- (a) Include a plan identifying the location, species, planting bag size and density of the plants;
- (b) Use eco-sourced native vegetation where available;
- (c) Be consistent with local biodiversity; and
- (d) Be planted at a density of 10,000 plants per hectare, unless a different density has been approved on the basis of plant requirements.

I448.6.4 Site Access

- (1) Where subdivision or development adjoins a road with a 3m shared footpath or separated cycle lane on the site's frontage, rear lanes (access lot) or access from side roads must be provided so that no vehicle access occurs directly from the site's frontage to the 3m shared footpath, separated cycle lane or the road frontage.

I448.6.5 Stormwater Management

I448.6.5.1 Hydrological Mitigation

- (1) All new or redeveloped impervious surfaces (including roads) which discharge to the "Stream A" Sub-catchment as shown on the Precinct Plan must provide:
 - (a) Retention (volume reduction) of at least 5mm runoff depth for the impervious area for which hydrology mitigation is required; and
 - (b) Detention (temporary storage) and a drain down period of 24 hours for the difference between the predevelopment and post-development runoff volumes from the 95th percentile, 24-hour rainfall event minus the 5 mm retention volume or any greater retention volume that is achieved, over the impervious area for which hydrology mitigation is required
- (2) Clause (1) does not apply where:
 - (a) A suitably qualified person has confirmed that soil infiltration rates are less than 2mm/hr or there is no area on the site of sufficient size to accommodate all required infiltration that is free of geotechnical limitations (including slope, setback from infrastructure, building structures or boundaries and water table depth); and
 - (b) Rainwater reuse is not available because:
 - (i) The quality of the stormwater runoff is not suitable for on-site reuse (i.e., for non-potable water supply, garden/crop irrigation or toilet flushing); or
 - (ii) There are no activities occurring on the site that can re-use the full 5mm retention volume of water.

The retention volume can be taken up by providing detention (temporary storage) and a drain down period of 24 hours for the difference between the pre-development and post development runoff volumes from the 95th percentile, 24-hour rainfall event minus any retention volume that is achieved, over the impervious area for which hydrology mitigation is required.

For clauses (a) and (b) of this sub-clause to apply, the information must have been submitted with a subdivision application preceding the development or a land use application.

- (3) If at the time of subdivision, a communal device has been constructed to provide for the above requirements for multiple allotments, a consent notice shall be registered on such titles identifying that compliance with this provision has been met.

I448.6.5.2 Water Quality

- (1) The activity rules and standards in Chapter E9 apply to development in the precinct with the following amendments:
 - (a) Reference to high use roads is replaced with reference to all existing, new and upgraded or redeveloped roads.
 - (b) Development of surface car parking areas and vehicle access that are not defined as high contaminant generating car parking areas is a permitted activity provided water quality treatment of runoff from impervious surfaces is installed in accordance with Rule I448.6.5.2(2).
 - (c) Buildings cannot have exterior materials with exposed surfaces made from zinc, copper and lead.
- (2) Runoff from all impervious parking areas, vehicle access and any roads identified in Rule I448.6.5.2(1)(a) and (b) must provide for quality treatment:
 - (a) The device or system must be sized and designed in accordance with 'Guidance Document 2017/001 Stormwater Management Devices in the Auckland Region (GD01)'; or
 - (b) Where alternative devices are proposed, the device must demonstrate it is designed to achieve an equivalent level of contaminant or sediment removal performance to that of 'Guidance Document 2017/001 Stormwater Management Devices in the Auckland Region (GD01)';
 - (c) And in either case the device or system must be in accordance with an approved Stormwater Management Plan.
- (3) If at the time of subdivision, a communal device has been constructed to provide for the above requirements for multiple allotments, a consent notice shall be registered on such titles identifying that compliance with this provision has been met.

I448.6.5.3 Operation and Maintenance of devices

- (1) Stormwater device/s on private land must be maintained and operated by the site owner in perpetuity.
- (2) For any communal device and any device required by I448.6.5.2 (2), the stormwater management device must be certified by a chartered professional engineer as meeting the required Standard above, and an operations and maintenance plan must be established and followed to ensure compliance with all permitted activity standards. The operations and maintenance plan must be provided to the Council within three months of practical completion of works.

I448.6.6 Noise attenuation

- (1) Any noise sensitive space (including any indoor spaces in Table I448.6.6.1) in a new building or alteration to an existing building that contains an activity sensitive to noise located within 75m to the boundary of SH22 shall be designed, constructed and maintained to achieve indoor design noise levels not exceeding the maximum values set out in Table I448.6.6.1.

Table I448.6.6.1: Indoor noise levels:

Indoor Space	Indoor noise level LAeq(24h)
Residential (excluding home occupation and camping grounds)	40 dB
<i>Building type: Educational Facilities or Tertiary Educational Facilities</i>	
Lecture rooms/theatres, music studios, assembly halls	35 dB
Teaching areas, conference rooms, drama studios	40 dB
Libraries	45 dB
<i>Building type: Health</i>	
Overnight medical care, wards, sleeping areas	40 dB
Clinics, consulting rooms, theatres, nurses' stations	45 dB
<i>Building type: Community Facilities</i>	
Marae (excluding any area that is not a noise sensitive space)	35 dB
Places of Worship	35 dB
<i>All other Activities Sensitive to Noise</i>	
All other noise sensitive spaces	40 dB

- (2) If windows must be closed to achieve the design noise levels in Rule I448.6.6(1), the building must be designed, constructed and maintained with a mechanical ventilation system that:
- a. For habitable rooms for a residential activity, must achieve the following requirements:
 - i. Provides mechanical ventilation to satisfy clause G4 of the New Zealand Building Code; and
 - ii. Is adjustable by the occupant to control the ventilation rate in increments up to a high air flow setting that provides at least 6 air changes per hour; and
 - iii. Provides relief for equivalent volumes of spill air; and
 - iv. Provides cooling and heating that is controllable by the occupant and can maintain the inside temperature between 18°C and 25°C; and
 - v. Does not generate more than 35 dB LAeq(30s) when measured 1 metre away from any grille or diffuser.
 - b. For other spaces, is as determined by a suitably qualified and experienced person.
- (3) A design report must be submitted by a suitably qualified and experienced person to the council demonstrating compliance with Rule I448.6.6(1) and (2) prior to the construction or alteration of any building containing an activity sensitive to noise. In the design, road noise is based on current measured or predicted noise levels plus 3 dB, or future predicted noise levels.

Advice Note

For the purposes of this rule, future predicted noise levels means those levels modelled as part of the Waka Kotahi designation 6707 – State Highway 22 Upgrade and is based on an assumed posted speed limit of 50km/h, the use of a low-noise road surface and a traffic design year of 2048. Should future predicted noise levels be used for the purposes of this rule, this information and the associated assumptions and parameters is available on request from Waka Kotahi New Zealand Transport Agency (or their successors as the road controlling authority for Karaka Road / SH22) and on the project website for State Highway 22 Upgrade.

I448.6.7 Gross Floor Area Cap on Commerce Activities in the Town Centre Zone

- (1) The total gross floor area of commerce activities (as set out in the Commerce Nesting Table J1.3.1) in the Town Centre Zone must not exceed 29,000m², to ensure that the vehicle trip generation from development within the precinct remains within anticipated levels.

I448.7. Assessment – controlled activities

There are no controlled activities in this precinct.

I448.8. Assessment – restricted discretionary activities

I448.8.1 Matters of discretion

The council will restrict its discretion to all the following matters when assessing a restricted discretionary activity resource consent application, in addition to the matters specified for the relevant restricted discretionary activities in the overlay, Auckland-wide and zone provisions.

- (1) All activities:
 - (a) Consistency with the objectives and policies of the Drury 2 Precinct.
 - (b) Design of roads.
 - (c) Stormwater management devices.
 - (d) Construction traffic management planning.
- (2) Non-compliance with Standard I448.6.5.1 - Stormwater Management
 - (a) The matters of discretion listed in E10.8.1(1).
 - (b) Any approved Stormwater Management Plan.
- (3) Non-compliance with Standards I448.6.5.2-3 - Stormwater Management
 - (a) The matters of discretion listed in E9.8.1(1).
 - (b) Any approved Stormwater Management Plan.
- (4) Non-Compliance with standard I448.6.6 – Noise attenuation:
 - (a) The effects on people’s health and residential amenity.
 - (b) The location of the building.
 - (c) Topographical, building design features or other alternative mitigation that will mitigate potential adverse health and amenity effects relevant to noise.
 - (d) Technical advice from an acoustic expert specialising in operational traffic noise mitigation or the State highway operator, or their successors as the road controlling authority for SH22.
- (5) Subdivision or development with a road intersection with SH22
 - (a) Effect on the transport network.
 - (b) Function and operation of transport network.
 - (c) Active transport priority.
 - (d) Safety.
 - (e) Separated active transport connections to Drury West train station.
- (6) New buildings and alterations and additions to buildings not otherwise provided for in the Business – Town Centre Zone (in addition to Rule H10.8.1(2)):

- (a) Location and design (including incorporating Te Aranga Design Principles) of open spaces and a town square and active transport access to these, and around the water feature.
 - (b) The design and appearance of buildings adjoining the precinct's water feature, open spaces and town square.
 - (c) Integration of existing vegetation around the water feature.
 - (d) Integration of stormwater management devices.
- (7) New buildings and alterations and additions to buildings in the Residential - Terrace Housing and Apartment Buildings Zone (and their interface with SH22).
- (a) In addition to H6.8.1 – Matters of Discretion, the building and landscape design interface adjoining SH22.
- (8) Non-compliance with Standard I448.6.7 - Gross Floor Area Cap on Commerce Activities in the Business - Town Centre Zone
- (a) Function and operation of SH22.

I448.8.2 Assessment Criteria

The council will consider the relevant assessment criteria below for restricted discretionary activities, in addition to the assessment criteria specified for the relevant restricted discretionary activities in the overlay, Auckland-wide and zone provisions.

- (1) All activities:
- (a) The extent to which the proposal is consistent with the objectives and policies of the Drury 2 Precinct or achieves the equivalent or better outcome.
 - (b) The design of key design elements for roads provided in Drury 2 Precinct's Appendix 1.
 - (c) Whether stormwater management devices are appropriately located and designed for the efficient removal of contaminants, and are designed to be efficient to address operating costs.
 - (d) The extent of cumulative effects of any existing construction traffic management plans and the proposal on the transport network.
- (2) Non-compliance with Standard I448.6.5.1
- (a) The assessment criteria listed in E10.8.2(1).
 - (b) Consistency of proposed stormwater management devices with any approved Stormwater Management Plan.
- (3) Non-compliance with Standards I448.6.5.2-3
- (a) The assessment criteria listed in E9.8.2(1).
 - (b) Consistency of proposed stormwater management devices with any approved Stormwater Management Plan.
- (4) Non-compliance with Standard I448.6.6

- (a) Whether the location of the building or any other existing buildings/structures avoids, remedies or mitigates the adverse noise effects associated with the road traffic noise associated with the operation of SH22.
 - (b) The extent to which the alternative mitigation measures avoid, remedy or mitigate the effects of non-compliance with the noise standards on the health and amenity of potential building occupants.
 - (c) Whether any identified topographical or building design features will mitigate any potential adverse health and amenity effects.
 - (d) Any implications arising from any technical advice from an acoustic expert specialising in operational traffic noise mitigation or the State highway operator, or their successors as the road controlling authority for SH22.
- (5) Subdivision or development with a road intersection with SH22
- (a) The extent to which the proposal:
 - (i) Addresses the existing and planned widening of SH22;
 - (ii) Addresses the closing of the intersection of Burberry Road and SH22;
 - (iii) Proposes an intersection design addressing:
 - Safety of all users.
 - Function of SH22.
 - Efficiency of operation.
 - Appropriate design standards.
 - Ability for active transport to safely cross SH22.
 - The assessment and recommendations of the special information requirement I448.9(2).
 - (iv) Proposes appropriately designed separated active transport connections to the intersection of Jesmond Road and SH22 to provide access to the future Drury West train station.
- (6) New buildings and alterations and additions to buildings not otherwise provided for in the Business – Town Centre Zone (in addition to Rule H10.8.2(2)):
- (a) Refer to Policies I448.3.(1), I448.3.(2) and I448.3.(4).
 - (b) Whether existing well-established vegetation around the water feature, particularly the mixed exotic plants to the east of the water feature, can be retained and integrated into subdivision and development where possible.
 - (c) The design of stormwater management devices and their integration with the town centre and its amenity features.
- (7) New buildings and alterations and additions to buildings in the Terrace Housing and Apartment Buildings Zone (and their interface with SH22).
- (a) In addition to H6.8.2. Assessment criteria, whether the design of buildings adjoining SH22 positively addresses and engages with SH 22.

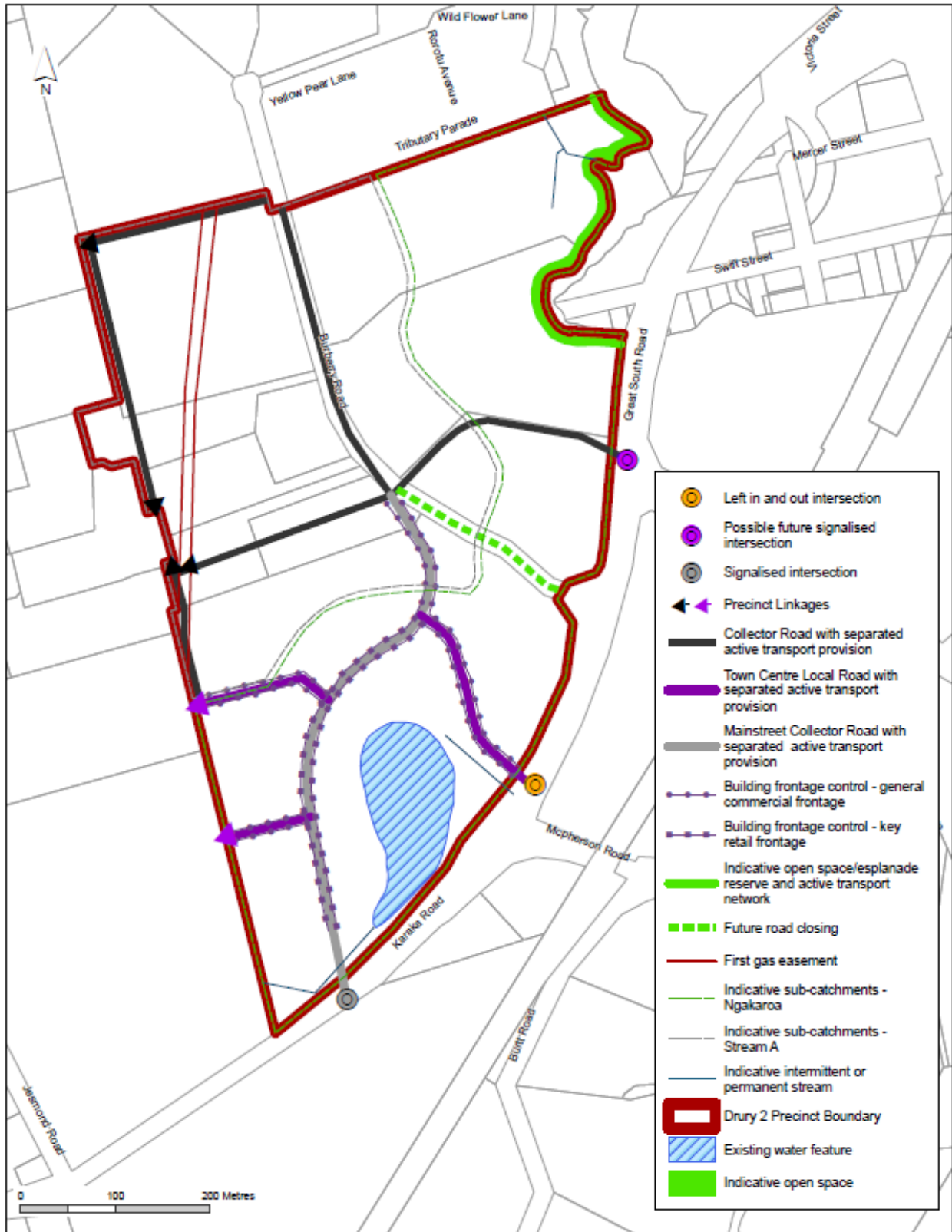
- (8) Non-compliance with Standard I448.6.7
 - (a) The extent of effects on the function and safe and efficient operation of SH 22.

I448.9 SPECIAL INFORMATION REQUIREMENTS

- (1) Any works associated with the water feature shall provide as a minimum the following information relating to the stability of the water feature:
 - (a) Cross sections through the highest point in the fill embankment.
 - (b) Estimate of the volume of water retained (current and/or proposed if this is to change as a result of the works).
 - (c) Geotechnical comment on the integrity of the structure.
- (2) Any new road intersection or upgraded existing road intersection with SH22 shall be supported by a Transport Assessment Report (including appropriate forecast transport modelling and latest Precinct land use assumptions including sensitivity tests of these), prepared by a suitably qualified transport engineer and independent Road Safety Audit confirming that the location and design of the intersection supports the safe and efficient function of the transport network.

I448.10. PRECINCT PLAN

I448.10.1 PRECINCT PLAN 1



Appendix 1 Road Function and Required Design Elements Table

Road Name (refer to Drury 2 Precinct Plan)	Proposed Role and Function of Road in Precinct Area	Minimum Road Reserve ¹	Total number of lanes	Speed Limit (Design)	Access Restrictions (refer rule 448.6.3)	Bus Provision ³	On Street Parking	Cycle provision ²	Pedestrian provision
Mainstreet Collector Road with separated active transport provision	Collector	22m	2 lane	30	Yes	Yes	Yes	Yes, separated on both sides	Both Sides
Town centre Local Road with separated active transport provision	Local	21m	2 lane	30	Active transport priority over vehicle crossings		Yes	Yes, separated on both sides	Both Sides
Collector Road with separated active transport provisions (includes Burberry Road)	Collector	22m	2 lane	40	Yes	Yes	Yes	Yes, separated on both sides	Both Sides

Note 1: Typical minimum width which may need to be varied in specific locations where required to accommodate batters, structures, stormwater treatment, intersection design, significant constraints or other localised design requirements.

Note 2: Type of Cycle Provision i.e. separated path, to be confirmed at the Engineering Plan Approval stage, based on nature and character of the Road.

Note 3: Carriageway and intersection geometry capable of accommodating buses.