Sites and Places of Significance to Mana Whenua - Tranche 1

Proposed Plan Change 22
Auckland Unitary Plan (Operative in Part) 2016

and

Proposed Plan Modification 12
Auckland Council District Plan - Hauraki Gulf Islands Section - Operative 2018

STATUTORY ASSESSMENT REPORT
National Policy Statements
New Zealand Coastal Policy Statement 2010 (NZCPS)
Relevant provisions of the Auckland Unitary Plan Operative in Part - Regional Policy Statement
Relevant provisions of the Auckland Unitary Plan Operative in Part - Regional Plan and Regional Coastal Plan Objectives and Policies.
Other Acts
Other plans

9. Analysis Against District Level Objectives (s32(3)(b) of the Act)

10. Section 86B of the RMA

11. Conclusion

Attachment:

Attachment 1 Assessment of Sites under the AUP(OIP) and the HGI, associated Cultural Values Assessments and planning and aerial maps for each site.
Acronyms:

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1. **Introduction**

### Scope and Purpose of the Report

1. This report has been prepared by Auckland Council to fulfil the statutory requirements of section 32 of the Resource Management Act 1991 (“RMA” or “the Act”) for proposed Plan Change 22 (PPC22) to the Auckland Unitary Plan (Operative in Part) 2016 (AUP(OIP)) and proposed Plan Modification 12 (PPM12) to the Auckland Council District Plan – Hauraki Gulf Islands Section – Operative 2018 (HGI). For the purposes of this report, a ‘plan change’ and ‘plan modification’ are equivalent terms and simply reflects the terminology used in the two respective plans.

2. PPC22 and PPM12 have been developed in collaboration with the 19 Mana Whenua entities within the Auckland Region and is the first of several plan changes to schedule new Sites and Places of Significance to Mana Whenua in the AUP(OIP) and HGI. PPC22 and PPM12 provide a statutory framework for recognition and protection of sites identified as part of the Māori Cultural Heritage Programme (MCHP).

3. The purpose of this plan change is to provide for the social and cultural wellbeing of the community through the protection of cultural heritage. It has been identified that the recognition and protection of Mana Whenua cultural heritage is an issue of regional significance. In particular, protecting Mana Whenua culture, landscapes and historic heritage is an issue of significance to Māori and to iwi authorities in the region.

4. The purpose of the plan changes is to recognise the cultural values of 34 sites nominated by Mana Whenua by:

   a) Adding 31 sites to the AUP(OIP)’s Sites and Places of Significance to Mana Whenua Overlay, as identified in Chapter L Schedule 12;

   b) Applying the ‘importance to Mana Whenua’ criterion to the nine nominated sites that are already scheduled in the AUP(OIP)’s Outstanding Natural Features Overlay Schedule (ONF), as identified in Chapter L Schedule 6 (Schedule 6);

   c) Applying the ‘Mana Whenua’ criterion to five nominated sites that are already scheduled in the AUP(OIP)’s Schedule of Historic Heritage, as identified in Chapter L Schedule 14.1 (Schedule 14.1);

   d) Adding four sites to the Hauraki Gulf Island District Plan’s Appendix 1f Schedule of Māori heritage sites – Inner islands (as applicable);

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1 Refer to Chapter B6 of the Regional Policy Statement
2 AUP(OIP) Section D21 Sites and Places of Significance to Mana Whenua Overlay
3 B4.2.2.(4)(k) the importance of the feature or site to Mana Whenua.
4 B52.2.(1)(c) Mana Whenua: the place has a strong or special association with, or is held in high esteem by, Mana Whenua for its symbolic, spiritual, commemorative, traditional or other cultural value.
5. One site, Te Rangihoua, will be added to both the AUP(OIP) and HGI as it extends over both land and the coastal marine area. Mana Whenua have asked that the ‘nominating iwi’ column be left blank in Chapter L: Schedule 12 so as to not give an impression to plan users that only one iwi has an interest in any particular site.

6. The plan change is supported by the following documents in Attachment 1:
   a) AUP(OIP)/HGI planning maps,
   b) a plan summary; and
   c) cultural values assessments for each site.

7. PPC22 introduces 31 new sites into Chapter L, Schedule 12 - Sites and Places of Significance to Mana Whenua Schedule of the AUP(OIP). Fourteen (14) of the sites proposed to be included in Schedule 12 are already scheduled and recognised for their historic heritage values in Schedule 14.1 (5 sites) or as ONFs in Schedules 6 (9 sites) respectively. PPC22 applies the importance of the site to Mana Whenua as a criterion in these schedules.

8. PPM12 amends Appendix 1f: Schedule of Māori Heritage sites – inner islands in the HGI plan to include four sites. It also introduces explanatory wording into Part 7.13 – Maori heritage, Appendix 4 – Criteria for scheduling heritage items, and Appendix 1f. This wording is in the form of introductory information and also explains the evaluation criteria for identifying and evaluating Maori heritage sites in the HGI.

9. The AUP(OIP) and the HGI contain existing objectives, policies, and rules to manage and protect Sites and Places of Significance to Mana Whenua (AUP(OIP)) and Maori heritage sites (HGI) at Regional Policy Statement (RPS), Regional Coastal Plan, Regional Plan and District Plan level. PPC22 and PPM12 do not alter any of the existing objectives or policies of the two plans.

10. When preparing a plan change under the RMA, the council must carry out an evaluation under section 32 of the Act. This evaluation must occur prior to the public notification of any proposed plan change. A section 32 evaluation report examines:
   a) the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA – these are specific objectives being introduced or amended, or the purpose of the proposal (if they do not relate to specific objectives)\(^5\); and

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\(^5\) s32(1)(a)
b) whether the provisions of the proposal are the most appropriate way to achieve the objectives – these are the specific policies, rules and other methods that implement, or give effect to, the objectives of the proposal\(^6\).

11. The evaluation report must be made available at the same time as the plan change being notified and will continue to be refined in response to any consultation that occurs, or in relation to any new information that may arise during the hearings.

**Background to the Plan Change**

12. In 2014 Auckland Council initiated a Māori Cultural Heritage Programme in collaboration with Mana Whenua with the purpose to improve the understanding and protection of Māori cultural heritage within the region. The programme involves working alongside 19 Mana Whenua entities to understand the cultural values\(^7\) and therefore the significance of sites to Mana Whenua. As part of the programme a number of new sites have been nominated by Mana Whenua for consideration to be scheduled as to the best management option for site recognition and protection. Thirty four of these sites are to be scheduled in the AUP(OIP) and/or HGI as part of PPC22 and PPM12.

13. As part of the project, a review of the AUP(OIP) and HGI provisions was undertaken to understand how the two plans recognise and protect the nominated sites. The review concluded that both plans offered protection for nominated sites. In the case of the AUP(OIP), this is primarily through their inclusion in Schedule 12 as well as by way of other schedules of the AUP(OIP)\(^8\). In the case of the HGI, this is through inclusion in Appendix 1f. The AUP(OIP) offers limited protection\(^9\) for sites that are only known to Mana Whenua, whereas the HGI offers no such protection.

14. The findings of the analysis were presented to the Planning Committee on 28 March 2017 with a recommendation to initiate a plan change for inclusion of sites into the AUP(OIP) and HGI Plan schedules as the most appropriate method to recognise and provide for protection of these sites. The committee resolved (Resolution PLA/2017/39) to initiate the plan change in collaboration with Mana Whenua.

15. A draft plan change was workshopped with the Planning Committee on 6 November 2018. The draft plan change was then presented at the Planning Committee on 27 November 2018. The committee resolved (Resolution PLA/2018/127) to approve the public notification of the proposed plan change to both the AUP(OIP) and HGI. The committee also approved the proposed plan change and this section 32 evaluation report

\(^6\) s32(1)(b)

\(^7\) Māori values are largely based on traditional concepts, beliefs and values, and shape the thinking of many Māori. From whakapapa and through time Māori acquired knowledge, termed Mātauranga Māori; and from knowledge came Māori values...Māori values form the basis for explaining the Māori world-view (Te Ao Māori), provide an intrinsic cultural basis for controlling or modifying human behavior, determine issues and perspectives, and provide the concepts, principles and lore Māori use to varying degrees in everyday life. They affect the interaction with others, govern responsibilities, establish the relationship with both the natural and spiritual environment, and form the basis for indigenous aspirations. Māori values therefore form the basis for developing principles, protocols, ethical and cultural standards, and for guiding philosophies for culturally based sustainable development” (Harmsworth, 2005, p.14).

\(^8\) Outstanding Natural Landscapes overlay (Section D10 and Schedule 7), Outstanding Natural Features overlay (Section D10 and Schedule 6), Outstanding Natural Character overlay (Section D11 and Schedule 8), High Natural Character (Section D11 and Schedule 8), Significant Ecological Areas overlay (Section D9 and Schedule 3 (Terrestrial Schedule), 4 (Marine Schedule) and 5 (Marine where mangroves are a minor component or absent), Historic Heritage overlay (Section D17 and Schedule 14.1)

\(^9\) By the ‘Accidental Discovery Rule’ refer to Sections E11 and E12 - Land Disturbance
subject to any final changes arising from later discussions with Mana Whenua. Any final changes were to be considered and approved by a delegated working group of three planning committee members.

16. At the time of the draft plan change being presented to the Planning Committee, several sites were still the subject of further discussion with, and between Mana Whenua iwi. As a result of these discussions, the following changes were made to the sites and places to be scheduled at the meeting of delegated planning committee members on 5 March 2019:

- **One site**, Taurārua, has been removed from Tranche 1 due to agreement being unable to be reached between Mana Whenua iwi.

- **Three sites**: Whakahuranga Pa, Manukapua and Whangaroa Pa, were withdrawn by Te Uri o Hau on 7 February 2019. It is their intention that these sites will be introduced through future plan changes.

17. These further discussions have resulted in a total of 34 sites being included in PPC22 and PPM12.

2. **Auckland Unitary Plan and Hauraki and Gulf Islands Section Plan**

18. The following section gives an overview of the sections of these plans most relevant to the proposed plan change as these provisions are referenced extensively in this evaluation report.

**Auckland Unitary Plan - Regional Policy Statement**

19. The Regional Policy Statement (RPS) of the AUP(OIP) provides an overview of the resource management issues of the region. The RPS includes policies and methods to manage the region’s natural and physical resources in an integrated manner to address these issues. The RPS of the AUP(OIP) applies to the whole Auckland region including the Hauraki Gulf Islands.

20. The RPS recognises that very little Mana Whenua cultural heritage has traditionally been scheduled in Auckland\(^\text{10}\). Council has a statutory responsibility under section 6(e) of the RMA to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga, and to protect Mana Whenua sites of significance from inappropriate subdivision, use and development under s6(f) of the Act. This can best be achieved through taking a collaborative approach to working with Mana Whenua, as exemplified in the RPS. The process for identifying the further sites and places of significance included in PPC22 and PPM12 has been developed with Mana Whenua as part of the wider Māori Cultural Heritage Programme.

21. Within the RPS, Section B6 Mana Whenua, contains overarching objectives and policies that work across the plan to recognise Māori values and to protect Mana Whenua

\(^\text{10}\) Section B6.6 Explanation and principal reasons for adoption
cultural heritage\textsuperscript{11}. These provisions seek to protect an array of cultural values pertaining to identified sites. In particular, B6.5: Protection of Mana Whenua cultural heritage, policy B6.5.2 sets out the criteria to help identify and evaluate new sites for inclusion in the respective Plans.

22. Section B4 of the RPS, Natural Heritage, contains objectives and policies to recognise the ancestral relationships of Mana Whenua and their culture and traditions with the landscapes and natural features of Auckland\textsuperscript{12}. Of particular relevance to this plan change is Policy B4.2.2(4) which identifies ‘the importance of the feature or site to Mana Whenua’ as an important criteria for identifying and evaluating outstanding natural features\textsuperscript{13}.

23. RPS Section B5, Historic Heritage, seeks to protect significant historic heritage places form inappropriate subdivision, use and development, and ensure they are used appropriately. The objectives and policies in this section recognise the significance of places to Mana Whenua as one of the criteria used to identify and evaluate historic heritage places within Auckland\textsuperscript{14}.

24. Section B8 of the RPS, Coastal Environment, seeks to preserve the characteristics and qualities of the coastal environment and, where degraded, restore and rehabilitate this environment. This part of the plan contains objectives and policies to protect sites within the coastal environment that have been scheduled as significant to Mana Whenua from inappropriate use and development through a partnership approach.

**Auckland Unitary Plan – Regional Coastal Plan and District Plan Level**

25. Within the AUP(OIP) is the Regional Coastal Plan, Chapter F. This plan contains objectives, policies and rules seeking to protect the cultural values of Mana Whenua within the coastal environment by regulating activities known to be incompatible with identified sites and cultural and traditional uses. Scheduled sites of significance to Mana Whenua within the coastal environment are located in Schedule 12 as discussed in paragraph 31.

26. Section D21, the Sites and Places of Significance to Mana Whenua Overlay in the AUP(OIP) contains objectives, policies and rules to protect and enhance the tangible and intangible values of Mana Whenua cultural and historic heritage sites and areas of significance, and to protect the sites from adverse effects of subdivision, use and development. D21.1, Background, states “It is intended to identify further sites and places nominated by Mana Whenua through future plan changes”.

27. Section D17, the Historic Heritage Overlay, contains objective, policies and rules to protect, maintain and conserve scheduled historic heritage places and enable the appropriate ongoing uses of these sites. Where these sites overlap with those scheduled through Section D21, both sets of provisions apply.

\textsuperscript{11} Section B6 Mana Whenua

\textsuperscript{12} Section B4.2 Outstanding Natural Features and Landscapes

\textsuperscript{13} Policy B4.2.2(4)(k)

\textsuperscript{14} Policy B5.2.2(1)(c)
28. Section D10, the Outstanding Natural Features Overlay and Outstanding Natural Landscapes Overlay, seeks to protect, among other matters, the ancestral relationships of Mana Whenua with features and landscapes through the application of specific objectives, policies and rules.

**Auckland Council District Plan - Hauraki Gulf Islands Section 2018**

29. The district level provisions for the Hauraki Gulf Islands are found in the Auckland Council District Plan - Hauraki Gulf Islands Section 2018. It is important to note that these apply to the land only and do not extend into the coastal marine area around the islands – which is administered by the Regional Coastal Plan (AUP(OIP)).

30. Chapter 7.3 contains an objective and policies which apply across all heritage resources in the islands recognising the importance of their identification, assessment and protection. Chapter 7.13 - Maori heritage of the HGI contains objectives, policies and rules to recognise and protect sites of spiritual, cultural or tikanga value to Māori within the Hauraki Gulf islands.

**Current Plan Provisions (AUP(OIP) and HGI)**

31. The AUP(OIP) currently contains 75 sites within Schedule 12 – Sites and Places of Significance to Mana Whenua. These comprise those on land and those within the coastal environment. There are 254 Outstanding Natural Features identified in Schedule 6 – Outstanding Natural Features Overlay Schedule, and 2739 Historic Heritage Places contained in Schedule 14.1 – Historic Heritage Overlay of the plan. Not all of the Schedule 6 and 14.1 sites have identified Mana Whenua values.

32. There are no sites scheduled in the Appendix 1f - Schedule of Māori heritage sites inner islands - of the HGI Plan, nor are there criteria to evaluate potential future sites. The HGI anticipates that future plan changes will address these matters.

3. **Summary of Proposed Plan Changes**

33. These plan changes meet the council’s statutory obligation to give effect to the RPS contained in the AUP(OIP) by recognising and protecting Mana Whenua cultural heritage, in particular through partnerships between Mana Whenua and the Auckland Council.

34. In summary, PPC22 and PPM12 proposes the addition of new sites to existing schedules and additional text as follows:

   a) The addition of 31 Sites and Places of Significance to Mana Whenua to Schedule 12 of the AUP(OIP);

   b) The addition of Criteria K\textsuperscript{15} – ‘the importance of the feature of site to Mana Whenua’ to nine sites already scheduled in Schedule 6 Outstanding Natural Features Overlay as an additional attribute of these sites in the AUP(OIP);

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\textsuperscript{15} Policy B4.2.4(k) of the RPS
c) The addition of Criteria C\textsuperscript{16} recognising the association and/or esteem held by Mana Whenua with respect to five sites already scheduled in Schedule 14.1 Schedule of Historic Heritage Overlay as a factor in their scheduling in the AUP(OIP);

d) The addition of four Māori Heritage Sites to Appendix 1f of the HGI;

e) The addition of explanatory text in Appendix 1f, Appendix 4 and Part 7.13 of the HGI explaining the criteria for scheduling Māori heritage sites; and

f) Amendments to the AUP(OIP) viewer and HGI planning maps to identify the locations of the scheduled sites.

35. All the sites and places proposed to be scheduled are supported by cultural values statements which is included as **Attachment 1** to this report. These have been provided by the nominating Mana Whenua entities in discussion with the council's Māori Cultural Heritage Team.

4. **Appropriateness of Plan Change to Achieve Purpose of Act (s32(1)(a))**

36. The following section undertakes an assessment under section 32(1)(a) of the Act. It considers whether the purpose of the plan change is the most appropriate way to achieve the purpose of the Act.

37. The purpose of the RMA (from section 5 of the Act) is:

\begin{itemize}
    \item[1)] \textit{to promote the sustainable management of natural and physical resources}
\end{itemize}

Sustainable management in this context means:

\begin{itemize}
    \item[2)] \textit{managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—}
    \begin{itemize}
        \item[(a)] \textit{sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and}
        \item[(b)] \textit{safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and}
        \item[(c)] \textit{avoiding, remedying, or mitigating any adverse effects of activities on the environment.}
    \end{itemize}
\end{itemize}

38. The purpose of this plan change is to provide for the social and cultural wellbeing of the community through the protection of cultural heritage. The RPS, which has been developed to give effect to the purpose of the Act in the Auckland Region, identifies that the recognition and protection of Mana Whenua cultural heritage is an issue of regional significance. In particular, Section B6.1 of the RPS identifies that protecting Mana Whenua culture, landscapes and historic heritage is an issue of significance to Māori and to iwi authorities in the region.

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\textsuperscript{16} Policy B5.2.2(c) of the RPS ‘Mana Whenua: the place has a strong or special association with, or is held in high esteem by, Mana Whenua for its symbolic, spiritual, commemorative, traditional or other cultural value.’
39. Part of the approach taken in Section B6.3 of the RPS is to recognise and provide for Mana Whenua values and the relationship of Mana Whenua with natural and physical resources that have been scheduled for their natural heritage, natural resources or historic heritage values. The following AUP(OIP) overlays recognise the significance or value of the scheduled item to Mana Whenua in addition to their other natural and historic attributes:

- Outstanding Natural Landscapes Overlay (Section D10 and Schedule 7)
- Outstanding Natural Features Overlay (Section D10 and Schedule 6)
- Outstanding Natural Character Overlay (Section D11 and Schedule 8)
- High Natural Character (Section D11 and Schedule 8)
- Significant Ecological Areas Overlay (Section D9 and Schedule 3 (Terrestrial Schedule), 4 (Marine Schedule) and 5 (Marine where mangroves are a minor component or absent))
- Historic Heritage Overlay (Section D17 and Schedule 14.1)

40. RPS Section B6.5 objectives and policies specifically provide for the identification, protection and enhancement of the tangible and intangible values of identified Mana Whenua cultural heritage, as shown in Schedule 12. This schedule is the Sites and Places of Significance to Mana Whenua Overlay of the AUP(OIP). Under RPS policy B6.5.2(2), Mana Whenua cultural and historic heritage sites, places and areas are to be evaluated and identified in Schedule 12 using the following criteria:

(a) Mauri: ko te mauri me te mana o te wāhi, te taonga rānei, e ngākaunuitia ana e te Mana Whenua. The mauri (life force and life-supporting capacity) and mana (integrity) of the place or resource holds special significance to Mana Whenua;

(b) Wāhi tapu: ko tērā wāhi, taonga rānei he wāhi tapu, arā, he tino whakahirahira ki ngā tikanga, ki ngā puri mahara, o ngā wairua a te Mana Whenua. The place or resource is a wāhi tapu of special, cultural, historic, metaphysical and or spiritual importance to Mana Whenua;

(c) Kōrero Tūturu/historical: ko tērā wāhi e ngākaunuitia ana e te Mana Whenua ki roto i ōna kōrero tūturu. The place has special historical and cultural significance to Mana Whenua;

(d) Rawa Tūturu/customary resources: he wāhi tērā e kawea ai ngā rawa tūturu a te Mana Whenua. The place provides important customary resources for Mana Whenua;

(e) Hiahiatanga Tūturu/customary needs: he wāhi tērā e eke ai ngā hiahia hinengaro tūturu a te Mana Whenua. The place or resource is a repository for Mana Whenua cultural and spiritual values; and

(f) Whakaaronui o te Wa/contemporary esteem: he wāhi rongonui tērā ki ngā Mana Whenua, arā, he whakaahuru, he whakawaihanga, me te tuku mātauranga. The place has special amenity, architectural or educational significance to Mana Whenua.
41. The identification of the protection of cultural value as an issue of significance for the region and the establishment of a framework of regional and district level provisions in the AUP(OIP) to protect qualifying significant sites is, in my view, evidence that within the Auckland context the active protection of significant sites has been evaluated as the most appropriate way to achieve the purpose of the Act.

42. There is no incompleteness, uncertainty or invalidity in the policy framework which might necessitate the need to further consider Part 2 of the RMA beyond the Auckland region planning documents17.

5. Options and Methods Assessment

43. The following section undertakes an assessment under Clauses 32(1)(b) and 32(2) of Schedule 1 of the Act. It considers whether the provisions proposed are the most appropriate way to achieve the purpose of the plan change which is to recognise and protect sites that are of cultural significance to Mana Whenua.

Development of Options

44. In the preparation of PPC22 and PPM12, the following options for achieving the objectives of the proposal have been identified:

   Option 1 – Do nothing;
   Option 2 – Other methods;
   Option 3 – Plan Change to add new sites to the AUP(OIP) and HGI Plans (the recommended option).

Evaluation of Options

45. In accordance with Clauses 32(1)(b) and 32(2) of the Act, the options have been assessed on their appropriateness, efficiency, effectiveness, costs, benefits and risks. The results of this evaluation and a summary of the reasons for deciding on the provisions are included in this section and in Table 1 below.

Option 1 – Adopt a ‘do nothing’ approach/retain the status quo

46. The ‘do nothing’ option means no change to the way sites are recognised or protected, including being added to the schedules of the AUP(OIP) and HGI. By doing nothing, the values of these places will not be actively protected, which may lead to further loss of Mana Whenua cultural values through inappropriate subdivision, use and development. These losses in most cases will be irreversible and the risks of such losses are likely to increase as growth pressure continues throughout the region.

47. I consider the ‘do nothing’ option is not an effective or efficient approach to achieve the purpose of the plan change which is to protect sites which are significant to Mana Whenua. I consider the proposed sites meet the AUP(OIP) and HGI policy thresholds to be identified as significant sites. As discussed in Section 4 of this evaluation report, as

17 Refer Friends of Nelson Haven and Tasman Bay Inc v Tasman District Council [2018] NZEnvC 046
the purpose of the Act is given effect to by the AUP(OIP) and HGI, this option will also not be the most appropriate way to achieve the purpose of the Act.

Option 2 – Other methods

48. Other methods for the protection and management of sites and places of significance to Mana Whenua include the following regulatory and non-regulatory methods:

a) land covenants to protect and promote public awareness of the cultural landscape and associated values. The method is appropriate on private property and can provide protection in perpetuity, where the landowner is agreeable, and encourage a collaborative approach between landowner and Mana Whenua to the protection of the site or place.

b) assistance by way of heritage funding and incentives and grants that can encourage the non-regulatory management and protection of sites on private properties.

c) reserve management plans undertaken by Auckland Council or Department of Conservation (DOC) for reserve land they administer under the Reserves Act 1977. The identification and protection mechanisms for Mana Whenua sites and places located on public open space (administered by council, the crown or a public trustee) can be through inclusion in a reserve management plan.

d) Iwi Management Plans or other relevant planning documents recognised by an iwi authority that recognise and protect economic, social, cultural, environmental and resource management issues. These documents are to be taken into account when preparing or changing regional policy statements and regional and district plans18. Council can also have regard to relevant iwi planning documents when considering resource consent applications19.

e) development of non-statutory plans and strategies (e.g. centre plans, area plans, park masterplans, structure plans) and identification of projects and education and advocacy opportunities within these.

f) the use of Memoranda of Understanding (MOU) and interagency agreements with, for example, other regulatory agencies such as government departments and agencies, Council Controlled Organisations, and/or with other entities including Mana Whenua.

g) the development of joint management agreements between a local authority and an iwi authority (or other group representing hapū) that provide for the parties to jointly perform the local authority’s functions in relation to a natural or physical resource in all or part of the region. Under Section 33, the RMA also provides for council to transfer their functions, powers or duties under the Act to public bodies, including iwi authorities.

h) Nomination of various sites for listing under the Heritage New Zealand Pouhere Taonga Act 2014. This method provides recognition of various sites but does not provide specific protections to the identified site.

18 RMA sections 61(2A)(a), 66(2A)(a), and 74(2A)
19 RMA section 104(1)(c)
49. The use of other methods may be appropriate if they can be found to be an efficient\textsuperscript{20} and effective\textsuperscript{21} approach to achieving the purpose of the plan change.

50. These methods can provide some recognition of specific sites through bespoke processes, however there are identified shortcomings. Many of these methods have uncertain timeframes and costs due to there being a need to reach agreement in many cases. The varying mechanisms and multiple actors involved make it likely that there could be incomplete and varying coverage across the sites.

51. There is also likely to be a lack of co-ordination between the application of the various methods and potential issues with monitoring and enforcement of the protections. Importantly from an effectiveness perspective, some of these methods are not readily visible to the general public and landowners resulting in a lack of awareness and the potential for accidental damage to sites.

52. Although these methods may be effective to some extent in recognising the cultural values of individual sites, using a suite of different methods is not an efficient way to achieve statutory recognition and consistent protection of the array of cultural values attributed to these sites. For these reasons, I do not consider Option 2 as the most efficient and effective manner to achieve the purpose of the plan change.

**Option 3 – Plan change to add Sites and Places of Significance to Mana Whenua to AUP(OIP) or HGI Plans (the recommended option).**

53. The RPS provides a framework for the identification and protection of Sites and Places of Significance to Mana Whenua. The methods of the AUP(OIP) and HGI give effect to the RPS by way of scheduling, which in turn gives effect to the purpose and principles of the Act.

54. The RPS objectives in relation to the recognition and protection of Mana Whenua values are predominantly contained in B6.3 and B6.5. The objectives seek to identify, protect and enhance the tangible and intangible values of sites and places of significance to Mana Whenua. The RPS policy seeks to protect an array of values associated with cultural and historic heritage areas that are of significance to Mana Whenua. The policy also sets out criteria for identifying and evaluating new sites for inclusion into the plans.

55. PPC22 and PPM12 adds new Sites and Places of Significance to Mana Whenua to Schedule 12 of the AUP(OIP) and Appendix 1f of the HGI as well as explanatory text. PPC22 also adds the additional criteria for scheduling of sites and places that are already scheduled as Outstanding Natural Features under Schedule 6 and Historic Heritage under Schedule 14.1 of the AUP(OIP), recognising that the historic heritage place or outstanding natural feature is significant to Mana Whenua.

56. Existing rule frameworks in the two plans (AUP(OIP) and HGI) are triggered when a development is proposed on a site affected by these schedules. Among other criteria, the matters of discretion specifically relate to the effects of the proposal on the values

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\textsuperscript{20} Likely to achieve the purpose of the plan change at the lowest total cost to all members of society

\textsuperscript{21} The extent to which the methods address the planning issue
and associations of Mana Whenua with the site or place, including effects on the context of the local history and whakapapa.

57. I consider that the scheduling of the sites will not unnecessarily constrain urban growth or impact on land development capacity. Most sites identified have an underlying zone that does not provide for increased growth and density. Where the underlying zone does provide for further development, scheduling of the sites will not necessarily prevent development occurring. Rather it will allow development to be undertaken in a manner that considers the cultural values of the sites.

58. The addition of sites and places of significance to Mana Whenua to the AUP(OIP) and HGI schedules will provide for the identification and protection of these places within the plans and will ensure their cultural values are considered when the use and development of these places is proposed. I consider that by giving effect to the RPS, the scheduling is the most appropriate way to achieve the purpose of the Act and the use of this pre-existing planning framework is the most efficient and effective option to achieve the purpose of the plan change to protect these sites as significant to Mana Whenua.

Table 1: Options – Summary of analysis and reasons for deciding on the provisions under section 32(1(b)) of the Act

<table>
<thead>
<tr>
<th>Options</th>
<th>Benefits</th>
<th>Costs</th>
<th>Efficiency and effectiveness of provisions in achieving the objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 1</td>
<td>Do nothing</td>
<td>There is no financial burden on the Council to undertake a public plan change. Landowners and developers would not be required to obtain a resource consent to undertake development on their properties or within the coastal marine area that may potentially affect sites identified as having particular significance to Mana Whenua. This could result in time and cost savings for landowners and developers. Private plan change requests would not have explicitly identified sites to contemplate, potentially resulting in time and costs savings for landowners and developers (recognising that qualifying sites may be identified through the private plan</td>
<td>There is the potential for known sites of particular importance to Mana Whenua to be encountered through individual resource consenting and plan change processes resulting in ad-hoc, potentially repetitive, time consuming and costly processes for proponents, the council, and Mana Whenua. There are likely to be costs to tangible and intangible Mana Whenua cultural heritage and values across the region through any loss or degradation of important cultural sites. It is likely these costs would be irreversible. There would likely be a degradation in the relationship between the council and its Treaty partners, Mana Whenua. A degraded</td>
</tr>
</tbody>
</table>

22 RMA s32(1)(b)(ii)

The identification, protection and enhancement of an array of tangible and intangible values of Mana Whenua cultural heritage is a strategic direction of the HGI, and of the AUP(OIP) as set out in the Regional Policy Statement (RPS). The loss of cultural heritage is contrary to this strategic direction. This is in turn contrary to sections 67(3) and 75(3) of the Act which states that the regional coastal plan and district plan must give effect to the RPS. Scheduling sites provides the council and the general public with transparent and prominent identification of locations of particular cultural sensitivity. Established provisions then apply to these sites.
<table>
<thead>
<tr>
<th>Options</th>
<th>Benefits</th>
<th>Costs</th>
<th>Efficiency and effectiveness of provisions in achieving the objectives$^{22}$</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Option 2</strong></td>
<td>Mechanisms beyond the AUP(OIP) to protect sites may, in some circumstances, provide greater certainty of protection in perpetuity or a greater range of protection for some identified sites. There are wider community benefits from recognition and awareness and increased knowledge and understanding of cultural values associated with sites of significance to Mana Whenua. This can be through the provision of information and use of education and advocacy, such as signage and interpretation, especially on public land.</td>
<td>While there is no financial burden on the Council from undertaking a public plan change, some cost may be associated with the provision of signage, instigating legal agreements, heritage funding and the like.</td>
<td>Not having formal identification of sites results in the information being gained through iwi planning documents or through consultation with Mana Whenua – which is a less visible, less certain and more time consuming activity to undertake. The ‘do nothing’ option is not an effective or efficient approach to achieve the objective of the Act as given effect to by the AUP(OIP) and HGI, as this approach does not achieve active recognition and protection of cultural values across the region. Doing nothing will also not achieve the objective of the plan change to protect these sites as significant to Mana Whenua.</td>
</tr>
</tbody>
</table>

The AUP(OIP) and HGI were developed in the knowledge that other methods are able to be employed by the council. Specific provisions are in both plans to formally protect qualifying sites, specifically as they relate to development activities. Not using these planning mechanism does not respond to the policy direction of the RPS and would be contrary to section 67 and 75 of the Act which states that the regional and district plans must give effect to the RPS. This option is not an effective or efficient option as it relies on the agreement and participation of landowners or other agencies in order to recognise and/or protect the cultural values of sites where there is no regulatory requirement to do so. Although other methods may provide some recognition and protection for some sites, there are likely to be gaps in the coverage of the
<table>
<thead>
<tr>
<th>Options</th>
<th>Benefits</th>
<th>Costs</th>
<th>Efficiency and effectiveness of provisions in achieving the objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Option 3 – plan change to add sites to the AUP(OIP) and HGI</strong></td>
<td>The identified cultural values of the nominated sites and places will be recognised and protected in a publicly transparent and unambiguous way. This protection will generate an ongoing environmental benefit for current and future generations. The addition of sites and places to the AUP(OIP) and HGI provides certainty that sites have met the appropriate qualifying criteria and suitable regulatory standards are already established avoiding additional costs associated with the creation of non-statutory protection mechanisms. Identified sites are protected upon notification, thereby avoiding the delays possible with non-statutory methods. This protection prevents degradation of the sites (cultural and environmental costs) while the merits of the plan change are examined.</td>
<td>There are financial implications relating to undertaking a public plan change, which goes through a public submission process and may extend to an appeal to the Environment Court. There is the potential for some cost to accrue to landowners whose development rights may potentially be affected by the identification of sites of significance to Mana Whenua on their property.</td>
<td>This method will provide the sites interim protection and allow a fully informed public examination of the change proposed. It will provide certainty on timeframes for protection and, if accepted, will provide a publicly transparent and unambiguous regulatory framework for the identification, protection and enhancement of these sites. Scheduling provides for a more rigorous activity status commensurate to activities that are anticipated to have the greatest effect on cultural values of known sites. Scheduling of the sites will not unnecessarily constrain urban growth or impact on land development capacity. Most sites identified have an underlying zone that does not provide for increased growth and density. Where the underlying zone does provide for further development, scheduling of sites will not necessarily preclude development occurring. Rather it allows the values of the sites to be considered as part of the consenting process. Scheduling is consistent with the council’s statutory requirements to give effect to the RPS.</td>
</tr>
</tbody>
</table>
Assessment of Rules

59. No amendments are proposed to the rules or other standards of the AUP(OIP) or HGI as the operative provisions are considered as the most appropriate way to achieve the objectives of PPC22 and PPM12. The text amendments in PPM12 make the relationship between the RPS and the HGI explicit for the purpose of identifying and evaluating future Maori heritage sites.

Risk of Acting or Not Acting

60. Section 32(2)(c) of the Act requires this evaluation to assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. I consider there to be sufficient certain information about the Mana Whenua values of the sites and places included in PPC22 and PPM12 to proceed with the plan changes.

61. Regardless, it may be helpful to note that the risks of acting are limited by these sites being almost exclusively in public ownership and which are zoned in a manner that does not anticipate intensification of land use.

62. The risks of not acting include the loss or degradation of the cultural values of identified sites, and also relationship risks between the Crown and its Treaty partner which may in turn create inefficiencies in future resource management processes.

6. Development of Plan Changes

Methodology

63. The threat to Māori cultural heritage from development was recognised by legacy plans within the Auckland region. These plans identified and provided protection to numerous known wāhi tapu sites within the region. The plans however noted that there were other sites within the region that were at risk as they were not in the plan or on the public record, but only known to Mana Whenua for a variety of reasons.

64. The work stream within the MCHP that has led to PPC22 and PPM12 has involved the development of a methodology for the collation of information about, and the assessment of, nominated sites and places of significance to Mana Whenua. The process set out for Mana Whenua has involved:

a) Nomination of site(s).

b) Identification of spatial extent for nominated site(s).

c) Identifying cultural values of the site(s).

The process set out for Auckland Council has involved:

a) Collating public records for archaeological and historical information for nominated site(s) for understanding the background to the nominated sites.

b) Identifying existing AUP(OIP) and HGI planning regimes and potential management options for nominated site(s).

c) Organising landowner consultation and site visits with Mana Whenua.

d) Initiating Mana Whenua decision making hui for nominated sites.

e) Initiating work on statutory and non-statutory methods for management.
65. The collated historical, archaeological information and cultural values have informed the consideration of the appropriate options to best protect nominated sites. This consideration has been undertaken in collaboration with Mana Whenua as part of preparing the two plan changes.

Sites within Tranche 1

66. The relationship of Māori and their culture and traditions to their ancestral lands, sites, waterways, wāhi tapu and other taonga is of national importance under the RMA.

67. As there is a long history of settlement in Tāmaki Makaurau, many of the sites and places within the region hold significance to multiple Mana Whenua entities. It is important to note that, where nominated sites and places are subject to overlapping interests from different Mana Whenua entities, the nomination for inclusion of the site in the schedule by one Mana Whenua group does not imply that the values or significance held by other Mana Whenua entities in relation to that site are diminished in any way.

68. The attributes that have been considered in the nomination of the sites for Tranche 1 of the plan change include:

   a) availability of cultural values for public notification;
   b) confirmation of site extent;
   c) landowner engagement; and
   d) the time and resource capacity of Mana Whenua to support the nominated site’s progress through the plan change process including council hearings and Environment Court /High court Appeals.

69. Thirty one (31) sites are nominated and proposed to be included into AUP(OIP) as part of PPC22. Four sites are nominated and proposed to be included into the HGI as part of PPM12. As noted earlier - one site, Te Rangihoua, will be added by both plan changes as it extends over both land and the coastal marine area.

70. By nominating the 34 sites, Mana Whenua entities seek to recognise, protect and enhance the cultural values and significance of these sites through their inclusion in the plans’ schedules.

Consultation requirements under the Act

71. Clauses 3, 3B and 4A of Schedule 1 of the Act require specific consultation with iwi authorities. This includes considering ways to facilitate communication between iwi and the council, providing draft copies of proposed plans, and having processes in place to ensure iwi are given adequate opportunities to respond.

72. The consultation for these plan changes has been undertaken in two phases which are discussed in the following sections.

Consultation: Phase 1

73. All 19 Mana Whenua entities within the Auckland region have had the opportunity to participate in the MCHP. Ten of these entities have progressed work on articulating
cultural values for the nominated sites as part of the Tranche 1 plan change. The Mana Whenua entities who have sites included in these plan changes are:

i. Ngāti Whātua o Ōrākei

ii. Te Rūnanga o Ngāti Whātua

iii. Te Ahiwaru

iv. Te Patukirikiri

v. Te Kawerau a Maki

vi. Te Ākitai Waiohua

vii. Ngāti Tamaoho

viii. Ngāti Manuhiri

ix. Ngāi Tai ki Tāmaki

x. Ngāti Paoa

74. As part of the first phase of consultation, the council actively consulted with 11 participating Mana Whenua entities between October 2017 and April 2018 to understand the cultural values and methods of management. Site visits for nominated sites were carried out with all parties available within this period. As part of this phase, the council along with iwi representatives also met with the respective landowners where this was possible.

75. Tranche 1 sites affect several landowners across the region. These include:

i. Auckland Council

ii. NZ Transport Agency

iii. City Rail Link Limited

iv. Auckland Transport

v. Ministry of Education

vi. Department of Conservation

vii. Watercare Services Limited

viii. One private landowner

76. As part of the development of the plan change, the council and landowners have collaboratively worked to understand the purpose of the plan changes, method of management of cultural values and the implications of scheduling.
Consultation: Phase 2

77. A second phase of consultation was initiated between June 2018 and September 2018 where all 19 Mana Whenua entities and key stakeholders were provided with the following documentation to provide feedback on:

i. The draft Section 32 evaluation report (this report)

ii. Proposed text and maps associated with the plan change

iii. Cultural values associated with the site as described by the nominating iwi

iv. The current planning framework for the nominated sites

78. To conclude this phase of consultation, a governance level hui was held on 15 November 2018. At this hui, it was resolved that the draft proposed plan change and supporting s32 evaluation report proceed to final Council reporting on 27 November 2018 (the Planning Committee). Governance noted that two additional sites were supported for inclusion into the plan change pending final agreement between two Mana Whenua, and that two other sites had outstanding issues which may prevent their eventual inclusion in the plan change. The indicative timeline for reporting and notification of the Tranche 1 proposed plan change was supported. Feedback from Mana Whenua has been summarised in Table 2 below.

79. It should be noted that the drafting of PPM12 provided to Mana Whenua did not include some of the explanatory text proposed. This text is consistent with the evaluation of the sites undertaken in the s32 evaluation report (which has been viewed and endorsed by Mana Whenua) and does not introduce any rules. The views of Mana Whenua are being sought and will be included at the first available opportunity. The sections of additional text are listed as follows:

a) The introduction and key reasons for scheduling Maori heritage sites to Appendix 1f Schedule of Maori heritage items – inner islands;

b) The addition of ‘Criteria for scheduling heritage items’ in Appendix 4; and

c) The reference to the criteria for scheduling Maori heritage sites in Part 7.13 Maori heritage.

80. As part of wider consultation on the proposed plan changes, the landowners, local boards, Independent Māori Statutory Board, Rural Advisory Panel and the Heritage Advisory Panel were also briefed, and feedback was requested by way of a memo or confirmation of minutes of the meeting. This feedback is also incorporated into Table 2.

Table 2: Summary of Consultation Feedback

<table>
<thead>
<tr>
<th>No</th>
<th>Feedback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mana Whenua</td>
<td>Support the scheduling of the sites as proposed and have provided cultural values assessments</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td></td>
<td>included in Attachment 1.</td>
</tr>
</tbody>
</table>

**Landowners:**

2. Auckland Council (Parks) | Generally support the scheduling of sites as proposed. Key concern relates to additional consents required due to scheduling of sites under Schedule 12 of the AUP. |
3. NZ Transport Agency | Generally support the scheduling of sites as proposed by the plan changes. |
4. Watercare Services Limited | Generally support the scheduling of sites as proposed by the plan changes. |
5. Department of Conservation | Generally support the scheduling of sites as proposed by the plan changes. |
6. Ministry of Education | Do not support the scheduling of one site as proposed by the plan change. Key concerns:  
  - Other negotiations currently being carried out outside the RMA process.  
  - Relationship of overlays and underlying zones and designations. |
7. Auckland Transport | Generally support the scheduling of sites as proposed by the plan changes. |
8. Crown | Generally support the scheduling of sites as proposed by the plan changes. |
9. City Rail Link Limited | Generally support the scheduling of sites as proposed by the plan changes. |
10. Private Landowner | Generally supports the scheduling of sites as proposed by the plan changes. |

**Local Boards:**

1. Albert-Eden Local Board | Generally support the scheduling of sites as proposed by the plan changes. |
2. Devonport-Takapuna Local Board | Generally support the scheduling of sites as proposed by the plan changes. |
3. Franklin Local Board | Generally support the scheduling of sites as proposed by the plan changes. Key concern relates to scheduling of Te Wairoa (section of Wairoa River) |
4. Kaipātiki Local Board | Generally support the scheduling of sites as proposed by the plan changes. |
The two draft plan changes meet several objectives set out in the local board plans and provide for the local boards to deliver on council’s commitments to Māori to meet its responsibilities under Te Tiriti o Waitangi and other statutes.
Preparation of Cultural Values Assessments

82. The sites to be included in the two plan changes have been nominated by Mana Whenua. The cultural values associated with each site have been provided by the nominating iwi.

83. As discussed in paragraph 40 of this report, Policy B6.5.2.2 provides criteria for consideration when identifying and evaluating Mana Whenua cultural and historic heritage sites, places and areas. The criteria were provided as a guideline to the participating Mana Whenua to assist them in articulating the cultural values.

(a) Mauri
(b) Wāhi tapu
(c) Kōrero Tūturu/historical
(d) Rawa Tūturu/customary resources
(e) Hiahiatanga Tūturu/customary needs
(f) Whakaaronui o te Wa/contemporary esteem

84. In addition, one further criterion is included in the cultural values assessments provided by Mana Whenua. The value Horopaki provides a wider landscape and /or historical context for the nominated site. This criterion is where Mana Whenua values and associations with the broader landscape surrounding the nominated site/place can be described, and the context of the site within the landscape can be articulated. It is noted that, although Horopaki provides context for the nominated site it is not one of the value criteria for scheduling under the RPS.

85. Attachment 1 contains the cultural values articulated by the nominating iwi for each site. Although the nominating Mana Whenua group have provided a values assessment for each site, this does not preclude other iwi from also having associations and holding values associated with these sites. In some cases, the final cultural values assessments have been arrived at through discussion between two or more iwi. It is also noted that within the values assessments there is variation in the level of detail and the manner in which the cultural values have been expressed by different Mana Whenua entities.
Site extents for nominated sites

86. The extent of each site was nominated by Mana Whenua and has been refined through discussions with iwi and landowners and during site visits. For water-based sites, in particular the Wairoa River, property boundaries have generally been used to determine the extent. It is noted that waterbodies, especially rivers, change course over time and the extent of sites mapped may not be accurate in the future. The extent for Te Wairoa is mapped to the legal boundaries of properties as recorded by Land Information New Zealand.

Evaluation of each nominated site and management method

87. The assessment of options undertaken in Section 5 of this report concluded that Option 3, adding new sites into the AUP(OIP) and HGI schedules, is the most appropriate option to achieve the purpose of the plan changes and the purpose of the Act for the nominated sites. This does not preclude the use of other management options, in addition to scheduling, where their use is appropriate.

88. Each site was assessed against the current provisions of the AUP(OIP) and HGI plan (objectives, policies, rules and assessment criteria) to determine the most appropriate method to recognise and protect the values of the site. In addition, historical and archaeological information from the public records has been collated for each site. As this information is publicly available and the plan change relies on cultural values, the archaeological and historical information associated with each site has not been notified as part of this plan change. It is also noted that the information in the public domain may be contested and may not always reflect the story and values that have been ascribed to the site by the nominating, or other, Mana Whenua entities.

89. Inclusion of these nominated sites into Schedule 12 of the AUP(OIP) and Appendix 1f of the HGI plan is, in my view, considered the most appropriate method to recognise and protect the sites and meet the purpose of the Act. In addition, I consider it appropriate that the two other schedules in the AUP(OIP) be amended to include the criteria that recognises the sites for their significance to Mana Whenua, and that the text of the HGI plan be amended to include evaluation criteria for such sites.

7. Statutory Evaluation under the RMA

Part 2 (sections 5-8) of the RMA – Purpose and Principles

90. The Resource Management Act 1991 (the Act) provides a legislative framework for the sustainable management of natural and physical resources in New Zealand. The purpose of the Act is to promote the sustainable management of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety.

91. Part 2 (Sections 5-8) sets out the Purpose & Principles of the Act.

Section 5 Purpose

(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.
(2) In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) avoiding,remedying, or mitigating any adverse effects of activities on the environment.

92. The purpose of the RMA should be read in conjunction with the Act’s principles contained in sections 6, 7 and 8.

**Section 6 Matters of national importance**

93. In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

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

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

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

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

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

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

(g) the protection of protected customary rights;

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

94. The RMA defines that historic heritage:

(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand’s history and cultures, deriving from any of the following qualities:

(i) archaeological;

(ii) architectural;

(iii) cultural;

(iv) historic;

(v) scientific;

(vi) technological; and

(b) includes—

(i) historic sites, structures, places, and areas; and
The purpose of PPC22 and PPM12 is to recognise and protect the cultural values associated with Sites and Places of Significance to Mana Whenua within the AUP(OIP) and Maori heritage sites in the HGI. These provisions seek to manage use and development in the vicinity of these sites so as to protect the cultural values of these sites so people and communities can provide for their social and cultural wellbeing, both for current and future generations. These sites are identified by the importance they hold for Māori with respect to their culture and traditions. The importance of these sites to the historic heritage of the region is also further defined by these plan changes. For these reasons, I consider these plan changes to be achieving section 6 of the Act.

Section 7 Other matters

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

(a) kaitiakitanga:
   (aa) the ethic of stewardship:
   (b) the efficient use and development of natural and physical resources:
      (ba) the efficiency of the end use of energy:
      (c) the maintenance and enhancement of amenity values:
      (d) intrinsic values of ecosystems:
      (e) [Repealed]
      (f) maintenance and enhancement of the quality of the environment:
      (g) any finite characteristics of natural and physical resources:
      (h) the protection of the habitat of trout and salmon:
      (i) the effects of climate change:
      (j) the benefits to be derived from the use and development of renewable energy.

Of these matters, I consider (a), (aa), (c) and (f) to have particular relevance to PPC22 and PPM12. The plan changes allow an efficient use and development of land while recognising the cultural values associated with Sites and Places of Significance to Mana Whenua by way of scheduling. PPC22 also recognises the cultural values associated with sites and places that have been scheduled in the AUP(OIP) for other values, within the ONF and historic heritage schedules. For these reasons, I consider the plan changes to be consistent with section 7 of the Act.

Section 8 Treaty of Waitangi

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

PPC22 and PPM12 have been developed in partnership with all 19 Mana Whenua entities in the region. The sites and places proposed to be included in the AUP(OIP) and
HGI have been nominated by iwi. Their feedback has been recorded in Section 6 of this report.

100. The identification of the sites has been led by Mana Whenua in a partnership approach with the council. In scheduling these sites to maintain and enhance their cultural values, Māori autonomy is promoted as is the principle of active Crown protection. For these reasons, I consider these plan changes are consistent with the principles of the Treaty of Waitangi.

101. In summary, PPC22 and PPM12 are consistent with Part 2 of the Act, and in particular with the purpose of the Act, as they seek to provide for the sustainable management of the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga, and for Auckland’s historic heritage and resources. The addition of Sites and Places of Significance to Mana Whenua to the Schedules in the AUP(OIP) and HGI will provide for the use, development, and protection of these physical resources to be managed in a way, or at a rate which enables people and communities to provide for their social, economic, and cultural well-being, and for their health and safety.

8. National and Regional Planning Context

Matters to be considered by a territorial authority

102. Section 66 and 74 of the Act sets out the matters to be considered by a territorial authority when preparing or changing its regional and district plans. These matters include: any proposed RPS, the Crown’s interests in the coastal marine area, a proposed regional plan, any management plans or strategies prepared under other legislation, and any relevant entry on the New Zealand Heritage List/Rārangi Kōrero. The authority must take into account any relevant planning document recognised by an iwi authority to the extent that its content has a bearing on the resource management issues of the district but must not have regard to trade competition.

Section 67 and 75 - Contents of regional and district plans

103. The relevant provisions in the Act are replicated below:

A regional or district plan must give effect to—
(a) any national policy statement; and
(b) any New Zealand coastal policy statement; and
(ba) a national planning standard; and
(c) any regional policy statement.

A regional plan or district plan must not be inconsistent with any other regional plan for the region. The following sections evaluate PPC22 and PPM12 against Section 67 and 75.
National Policy Statements

104. National policy statements (NPS) state objectives and policies for matters of national significance. There are currently five NPS in place. The relevant NPS are discussed below.

National Policy Statement for Freshwater Management (NPSFW)

105. The preamble to the NPSFW recognises that addressing tangata whenua values and interests across all of the well-beings and including the involvement of iwi and hapū in the overall management of fresh water, are key to giving effect to the Treaty of Waitangi.

Objective D1 of the NPSFW provides for

To provide for the involvement of iwi and hapū, and to ensure that tangata whenua values and interests are identified and reflected in the management of fresh water including associated ecosystems, and decision-making regarding freshwater planning, including on how all other objectives of this national policy statement are given effect to.

106. Policy D1(b) and (c) require local authorities to take reasonable steps to work with iwi and hapū to identify tangata whenua values and interests in freshwater and reflect tangata whenua values and interests in the management of and decision making regarding fresh water in the region.

107. The definition of ‘national values’ in the NPSFW includes mahianga kai sites for resource customary use, wahi tapu as places where rituals and ceremonies are performed, or where there is special significance to iwi/hapū, and tauranga waka - which refers to places to launch waka and water craft, and appropriate places for waka to land23.

108. The resource management approach adopted for the PPC22 and PPM12 is consistent with the above NPSFW objective. The two plan changes seek to ensure that the cultural values associated with Sites and Places of Significance to Mana Whenua as they relate to freshwater are recognised and protected. This is to be achieved through scheduling Sites and Places of Significance into the AUP(OIP) and HGI plan. Of the 31 Sites and Places of Significance to Mana Whenua proposed to be added to Schedule 12 through PPC22, nine are related to fresh water.

National Policy Statement on Urban Development Capacity 2016 (NPS-UDC)

109. The purpose of the NPS-UDC is to guide decision makers on planning for urban environments in a manner that enables urban environments to grow and change in response to the changing needs of the community and future generations. The objectives and policies of the NPS-UDC direct local authorities to provide sufficient development capacity, supported by infrastructure, to meet demand for housing and business and community needs. The NPS-UDC does not anticipate development will occur without regard to its effect or the range of matters and purpose of the RMA.

110. The resource management approach of PPC22 and PPM12 is consistent with the NPS-UDC. Scheduling of the sites will not unnecessarily constrain urban growth or impact on

23 Appendix 1 NPSFW (2017 version), p.26 to 29
land development capacity. Although most sites in PPC22 and PPC12 have an underlying zone that does not provide for increased growth and density, where the underlying zone does provide for further development, the scheduling of these sites and places will not necessarily preclude development occurring. Rather it requires that the values of the sites will need to be considered as part of the consenting process.

New Zealand Coastal Policy Statement 2010 (NZCPS)

111. A number of policies in the NZCPS generally relate to sites of significance to tangata whenua and historic heritage in the coastal environment. 

Objective 3 of the NZCPS seeks:

To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;
- promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;
- incorporating mātauranga Māori into sustainable management practices; and
- recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.

Objective 6 seeks:

To enable people and communities to provide for their social, economic and cultural wellbeing and their health and safety, through subdivision, use and development, recognising that:

... historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use and development.

112. Policy 2 - The Treaty of Waitangi, tangata whenua and Māori heritage, in particular 2 (g) relates to recognising Māori cultural and heritage values as in relation to the coastal environment.

(g) in consultation and collaboration with tangata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tangata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:

(i) recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and

24 NZCPS policies 1(2)(g), 6(1)(j), 10(f), 15(c)(viii), 20(1)(e) and (g) and 26(1)
provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.

113. In addition, Policy 17 specially relates to the identification and protection of historic heritage in the coastal environment from inappropriate subdivision, use and development.

114. The resource management approach adopted for the PPC22 and PPM12 is consistent with the above NZCPS objectives. The two plan changes seek to ensure that the cultural values associated with Sites and Places of Significance to Mana Whenua as they relate to the coastal environment are recognised and protected. This is to be achieved through scheduling Sites and Places of Significance into the AUP(OIP) (which includes the Regional Coastal Plan) and HGI plan. Of the 34 Sites and Places of Significance to Mana Whenua proposed to be added to Schedule 12 and Appendix 1f through PPC22 and PPM12, 17 relate to the coastal environment.

Relevant provisions of the Auckland Unitary Plan Operative in Part - Regional Policy Statement

115. As briefly discussed in Section 2 of this evaluation report, the AUP(OIP) contains the Regional Policy Statement (RPS) which sets out the direction for managing the use, development and protection of the natural and physical resources of the Auckland region. The RPS sections of the AUP(OIP) relevant to PPC22 and PPM12 are operative as these provisions are not subject to appeal. The strategic objectives and policies of the RPS provide a framework to achieve the integrated, consistent and co-ordinated management of the region’s resources. Matters have specific objectives, policies and methods to achieve the sustainable and integrated management of natural and physical resources in the region. An assessment of PPC22 and PPM12 against the relevant objectives and policies of the RPS are as follows:

B2: Tāhuhu whakaruruahau ā-taone - Urban growth and form

116. Section B2 sets out the objectives and policies for growth and form in the region. The section states that a quality built environment is one which enhances opportunities for peoples’ well-being by ensuring that new buildings respond to the existing built and natural environment in ways that promote the plan’s objectives and maintain and enhance the amenity values of an area.

117. PPC22 and PPM12 align with the objectives in Section B2 as they do not unnecessarily constrain urban growth or impact on land capacity. Most sites and places proposed for inclusion through the plan changes have an underlying zone that does not provide capacity for increased growth and density. However even where the underlying zone does provide for increased development, scheduling does not necessarily preclude growth.

118. The scheduling of a site of significance has the potential to affect the development of the property. As an example, subdivision that results in a site or place of significance to
Mana Whenua extending across multiple lots is a Discretionary Activity and new buildings or structures are a Discretionary Activity. However, it is important to recognise that the provisions do not prohibit development and that the maximum development potential under the AUP(OIP) and HGI is affected by a range of factors. The underlying zone of a property, and any relevant precinct, other overlays, and any other controls that apply to a property mean other objectives, policies and rules will apply that may also affect the development potential of a site.

119. By protecting specific sites and places, PPC22 and PPM12 recognises the cultural values of these sites to Mana Whenua and applies a management regime that requires consideration of those values when development, including subdivision, is proposed.

B3 Ngā pūnaha hanganga, kawekawe me ngā pūngao - Infrastructure, transport and energy

120. Section B3 sets out the importance of infrastructure, transport and energy to the Auckland region, with objectives and policies that recognise this importance, but also manage the adverse effects of infrastructure, transport and energy on the quality of the environment and, in particular, natural and physical resources that have been scheduled in the AUP(OIP).

121. Several sites and places of significance to Mana Whenua included in PPC22 are located within Auckland’s infrastructure and are subject to designations under the AUP(OIP). Works undertaken in accordance with a designation are not subject to AUP(OIP) district plan level provisions, including the Sites and Places of Significance to Mana Whenua Overlay. The scheduling of the place can be used to advocate for positive outcomes within the outline plan and other designation processes. Scheduling of these places also ensures that if the designation is uplifted or works occur that are not in accordance with the designation, the Sites and Places of Significance to Mana Whenua provisions will apply to the proposal.

122. Where nominated sites are not subject to designation, RPS objective B3.2.1(3) and policy B3.2.2(3) and B3.2.2(6) recognise that there can be a functional or operational need to locate infrastructure in areas with natural and physical resources that have been scheduled, including significance to Mana Whenua, and provides for the development, operation, maintenance and upgrading of infrastructure in these areas.

123. Schedule 12 already includes a ‘site exception’ clause in relation to infrastructure activities on sites that have been modified and where the values may be intangible.

124. For the sites subject to the site exception rule the activity status for earthworks and infrastructure not otherwise provided for, in Section E26 – Infrastructure -Table E26.6.3.1 and E26.10.3.1 is less restrictive. The site exception rule within Section E26 also recognises that some sites have intangible values associated with historic events, occupation and cultural activities that do not necessarily contain archaeology and places a less restrictive Restricted Discretionary activity status for works on these sites.

125. Two sites in PPC22 are proposed for scheduling with the site exemption rule attached.
B4 Te tiaki taonga tuku iho - Natural heritage

126. Section B4 emphasises protection of Auckland’s distinctive natural heritage, including the Auckland volcanic field, from inappropriate subdivision, use and development, and maintaining the contribution of landscape values to high amenity values. Included are objectives and policies particular to Outstanding Natural Features and Landscapes, Viewshafts, Notable trees and the Waitakere Ranges Heritage Area. Objective B4.2.1(2) provides for the recognition of the ancestral relationships of Mana Whenua and their culture and traditions with the landscapes and natural features of Auckland.

127. Under policies B4.2.2(1) and B4.2.2(4) factors that can be considered when scheduling an Outstanding Natural Feature and Outstanding Natural Landscape include the importance of the landscape or feature to Mana Whenua.

128. The relationship of Mana Whenua to the maunga is very important to their culture and traditions and this is recognised in B4.3 Viewshafts, in particular policy B4.3.2(d).

129. Nine Sites and Places of Significance to Mana Whenua in proposed PPC22 are already scheduled under the policies in Section B4. The significance of the site or place to Mana Whenua is proposed to be included as a listed scheduling factor where the site is already scheduled under Schedule 6.

B5 Ngā rawa hanganga tuku iho me te āhua - Built heritage and character

130. Section B5 contains two objectives: (1) Significant historic heritage places are identified and protected from inappropriate subdivision, use and development. (2) Significant historic heritage places are used appropriately, and their protection, management and conservation are encouraged, including retention, maintenance and adaptation. These objectives are supported by policies B5.2.2 (1) to (9). Policy B5.2.2(1)(c) is to identify and evaluate a place with historic heritage value considering the factor that the place has a strong or special association with, or is held in high esteem by, Mana Whenua for its symbolic, spiritual, commemorative, traditional or other cultural value.

131. Five sites and places of significance to Mana Whenua in proposed PPC22 are already scheduled under the policies in Section B5. The significance of the site or place to Mana Whenua is proposed to be included as a listed scheduling factor where the site is already scheduled under Schedule 6.

B6 Mana Whenua

132. PPC22 and PPM12 are based on the objectives and policies in Section B6, in particular B6.3 Recognising Mana Whenua values and B6.5 Protection of Mana Whenua cultural heritage. As already discussed in Section 3 of this report, the policies of B6.5.2(2) must be considered and assessed when considering a nominated site or place for scheduling under Schedule 12.

B7 Toitū te whenua, toitū te taiao - Natural resources

133. This section contains objectives and policies relating to the pressures placed on natural resources from urban growth and past land, coastal and freshwater management
practices. Objectives particularly relevant to PPC22 and PPM12 include B7.4.1(6) *Mana Whenua values, mātauranga and tikanga associated with coastal water, freshwater and geothermal water are recognised and provided for, including their traditional and cultural uses and values.* Relevant policies include B7.4.2(3) which requires the integration of Mana Whenua values, mātauranga and tikanga when giving effect to the National Policy Statement for Freshwater Management 2014 in establishing all of the following: (a) *water quality limits for freshwater, including groundwater;* (b) *the allocation and use of freshwater resources, including groundwater;* and (c) *measures to improve the integrated management of the effects of the use and development of land and freshwater on coastal water and the coastal environment.*

134. As discussed with respect to the NPSFW from paragraph 105 of this report, the two plan changes seek to ensure that the cultural values associated with sites as they relate to freshwater are recognised and protected. Nine of the 34 sites to be scheduled through PPC22 are related to fresh water.

B8 Toitū te taiwhenua - Coastal environment

135. This section contains objectives and policies relating to the natural character of the coastal environment; subdivision, use and development of the coastal environment; public access and open space; and managing the Hauraki Gulf. Relevant objectives and policies include:

- Policy B8.3.2 (2)(b), which seeks the avoidance of urban activities in areas with natural and physical resources that have been scheduled in the AUP(OIP) for Mana Whenua, amongst other values, and
- Policy B8.5.2(5) which avoids use and development that will compromise the natural character, landscape, conservation and biodiversity values of the islands, particularly in areas with natural and physical resources that have been scheduled in the AUP(OIP) for Mana Whenua, amongst other values.
- Policy B8.5.2(11) to work in partnership with Mana Whenua to protect and enhance culturally important environmental resources and values of the Hauraki Gulf that are important to their traditional, cultural and spiritual relationship with the Hauraki Gulf; and
- Policy B8.5.2(13) to require management and decision-making to take into account the historical, cultural and spiritual relationship of Mana Whenua with the Hauraki Gulf, and the ongoing capacity to sustain these relationships.

136. Seventeen (17) of the Sites and Places of Significance to Mana Whenua included in the plan changes are located in the coastal environment. The objective of the plan changes aligns with the coastal provisions of the AUP(OIP) as it seeks to identify these sites and places to ensure that any use and development is appropriate to site values.

137. It is considered that PPC22 and PPM12 are consistent with the objectives and policies set out in the Regional Policy Statement section of the AUP(OIP).
Relevant provisions of the Auckland Unitary Plan Operative in Part - Regional Plan and Regional Coastal Plan Objectives and Policies.

Regional Plan - Chapter E Auckland-wide

138. Sections E1 to E19 contain objectives, policies and rules relating to natural resource management. Consideration of Mana Whenua values are embedded broadly within the objectives and policies of these sections. Particular objectives and policies relevant to PPC22 and PPM12 are discussed as follows.

139. Objectives in Sections E1 Water quality and integrated management and E2 Water quantity, allocation and use, in particular:

- E1.2(2) The mauri of freshwater is maintained or progressively improved over time to enable traditional and cultural use of this resource by Mana Whenua; and
- E2.2.(5) Mana Whenua values including the mauri of water, are acknowledged in the allocation and use of water.

Relevant General policies in E3 Lakes, rivers, streams and wetlands, include

- E3.3(5) Avoid significant adverse effects, and avoid, remedy or mitigate other adverse effects of activities in, on, under or over the beds of lakes, rivers, streams or wetlands on:
  - (a) the mauri of the freshwater environment; and
  - (b) Mana Whenua values in relation to the freshwater environment.

- E3.3(6) Manage the adverse effects on Mana Whenua cultural heritage that is identified prior to, or discovered during, subdivision, use and development by:
  - (a) complying with the protocol for the accidental discovery of kōiwi, archaeology and artefacts of Māori origin;
  - (b) undertaking appropriate actions in accordance with mātauranga and tikanga Māori; and
  - (c) undertaking appropriate measures to avoid adverse effects, or where adverse effects cannot be avoided, effects are remedied or mitigated.

The scheduling of nine sites related to freshwater will serve to provide greater recognition of the cultural importance of these freshwater environments and manage development in a manner that protects these values. For these reasons, I consider the plan change is consistent with the above objectives and policies.

140. Relevant policies in E11 Regional land disturbance, include

- E11.3(1)(1) to avoid, mitigate, or where appropriate, remedy, adverse effects on areas where there are natural and physical resources that have been scheduled in the Plan in relation to Mana Whenua; and
- E11.3(2)(d), to manage land disturbance to maintain the cultural and spiritual values of Mana Whenua in terms of land and water quality, preservation of wāhi tapu, and kaimoana gathering.
The scheduling of sites provides greater visibility of locations of significant cultural value to Mana Whenua. The standards associated with the scheduling manage land disturbance activities so as to protect these values. The proposed plan change is therefore consistent with the above policies.

**Regional Coastal Plan**

141. Chapter F contains the Coastal Plan provisions of the AUP(OIP). Objectives and policies of particular relevance to PPC22 and PPM12 include Section F2 Coastal – General Coastal Marine zone objectives relating to disturbance of the foreshore and seabed, in particular:

Objective F2.5.2(2) which requires that activities that have long-term impacts or involve more than a minor level of disturbance, should avoid, remedy or mitigate adverse effects on historic heritage and Mana Whenua values.

Policy F2.5.3(3) also provides for the disturbance of the foreshore or seabed that is necessary to protect, maintain or enhance historic heritage or Mana Whenua values, geological, ecological or habitat values, or for public access or research, where this is consistent with maintaining the values of the area.

142. Overall, I consider that PPC22 is consistent with the objectives and policies set out in the Regional Plan and Regional Coastal Plan sections of the AUP(OIP). The Regional Coastal Plan is not relevant to PPM12.

**Other Acts**

**Waitakere Ranges Heritage Area Act 2008**

143. The purpose of the Waitakere Ranges Heritage Area Act 2008 is to recognise the national, regional, and local significance of the Waitakere Ranges heritage area; and promote the protection and enhancement of its heritage features for present and future generations. The Act recognises that the ranges lie within the rohe of Te Kawerau a Maki and Ngāti Whātua and provides for a deed of acknowledgement to recognise the historical, traditional, cultural and spiritual relationship of tangata whenua with land within the heritage area. The purpose of the deed of acknowledgement is to identify opportunities for contribution of tangata whenua to the management of the land concerned. However, there are no deeds of acknowledgement signed yet. There is one site of significance to Mana Whenua, located in the Waitakere Ranges Heritage Area, that is proposed to be included in PPC22.

144. The resource management approach of PPC22 is not inconsistent with the Waitakere Ranges Heritage Act 2008. This Act is not relevant to PPM12.

**Hauraki Gulf Marine Park Act 2000**

145. The Hauraki Gulf Marine Park Act 2000 (HGMPA) was established to promote integrated management and the protection and enhancement of the Hauraki Gulf, its islands, and its catchments. In order to achieve the purpose of the HGMPA, all persons
exercising powers or carrying out functions for the Hauraki Gulf under any Act specified in Schedule 1 must, in addition to any other requirement specified in those Acts for the exercise of that power or the carrying out of that function, have particular regard to the provisions of sections 7 and 8.

146. The Hauraki Gulf Marine Park includes all the coast and coastal marine area from Mangawhai in the north to an area beyond the Auckland region in the south. The catchment area of the park extends inland to the first ridgeline. A number of sites and places proposed to be included in PPC22 and PPM12 are therefore within the park’s boundaries.

147. The following sections of the HGMPA are of particular relevance to the plan changes:

- section 7 - recognises the national significance of the Hauraki Gulf,
- section 8(b) - the natural, historic and physical resources of the Gulf’s islands and catchments are to be protected and, where appropriate, enhanced,
- section 8(c) - the protection and, where appropriate, the enhancement of those natural, historic, and physical resources (including kaimoana) of the Hauraki Gulf, its islands, and catchments with which tangata whenua have an historic, traditional, cultural, and spiritual relationship,
- section 8(d) - the protection of the cultural and historic associations of people and communities in and around the Hauraki Gulf with its natural, historic, and physical resources

148. The addition of Sites and Places of Significance to Mana Whenua that are within the Hauraki Gulf Island Marine Park as part of the plan changes has particular regard to sections 7 and 8 of the HGMPA, as it will assist protecting, and possibly enhancing, these places. The resource management approach of PPC22 and PPM12 is consistent with the objectives set out in the HGMPA.

Reserves Act 1997

149. The purpose of the Reserves Act is for the Department of Conservation (DOC) or local authorities, where DOC has delegated responsibility, to administer land for the purpose of providing, for the preservation and management for the benefit and enjoyment of the public, areas of New Zealand possessing various values and features, including those that are cultural and historic in nature.

150. Fifteen Sites and Places of Significance to Mana Whenua are located within or partly within reserves managed by Auckland Council and 5 Sites and Places of Significance to Mana Whenua to be included in the plan changes are located within reserves managed by the Department of Conservation. The identification of the sites and places within these reserves, and the proposal to include them in Schedule 12 and Appendix 1f, supports the values of the reserves and has the potential to enhance the benefit and enjoyment of the public of these places, due to the values that are to be identified and protected.

151. The resource management approach of PPC22 and PPM12 is consistent with the Reserve Act 1997.
Heritage New Zealand Pouhere Taonga Act 2014

152. The purpose of the Heritage New Zealand Pouhere Taonga Act is to promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand. Under this Act, Heritage NZ maintains the New Zealand Heritage List/Rārangi Kōrero (NZHL/RK). The heritage list identifies significant and valued historical and cultural heritage places for the purposes of providing information to the public and landowners, and to promote and assist in the protection of the listed places.

153. The list includes historic areas including wāhi tūpuna and wāhi tapu. Places can be nominated by anyone for inclusion on the list, however the NZHL/RK is primarily an advocacy tool and the inclusion of a place on the list does not in itself protect the place. The sites included in PPC22 and PPM12 are not identified in the NZHL/RK.

154. The resource management approach of PPC22 and PPM12 is consistent with the Heritage New Zealand Pouhere Taonga Act.

Other plans

The Auckland Plan 2050

155. Council’s Planning Committee adopted the Auckland Plan 2050 on 5 June 2018. This plan is the council’s long term spatial plan that sets the strategic direction to 2050. The plan includes the outcomes of ‘Māori identity and wellbeing’ and ‘Environment and cultural heritage’. Map 4 in the Māori identity section shows ‘sites of significance to Mana Whenua’, based broadly on CHI records, archaeology and the existing schedule 12 sites. Focus area 5 of this section is to Advance Mana Whenua leadership and decision-making and provide for customary rights, through continuing to identify and protect sites of cultural heritage. Cultural heritage, including Māori cultural heritage is also defined in the Environment and cultural heritage outcome section, where the tangible and intangible qualities and natural heritage component are described.

156. Overall, the wider MCHP and PPC22 and PPM12 are aligned with the Auckland Plan 2050 in relation to the identification and protection of Māori cultural heritage.

Māori Plan for Tāmaki Makaurau 2017

157. The Māori Plan was developed by the Independent Māori Statutory Board with Tāmaki Makaurau Māori (Mana Whenua and Mataawaka). It is non-statutory, long term plan based on Māori values and outcomes and intended to guide how the council and other agencies can act more responsively towards Māori. This includes taking issues of importance to Māori in Tāmaki Makaurau into account and acting in accordance with the principles of Te Tiriti o Waitangi. The Māori Plan also provides a framework to monitor outcomes and measure changes to Māori wellbeing. This will show the Auckland Council and other agencies where they can act more responsively towards Māori. It is a
thirty-year plan based on Māori objectives and is a unique document that complements, but does not replace, strategic and planning documents prepared by Mana Whenua and Mataawaka.

158. Of relevance to PPC22 and PPM12 is the following Māori Plan Issue of Significance, “Mana Whenua are enabled to maintain and protect sites of significance to reaffirm connections to the whenua and preserve for future generations”\(^25\). Adding sites and places to the relevant schedules will ensure that identified sites of cultural significance to Māori will be valued and protected. This is also consistent with a measure of the plan monitoring the number of sites of significance to Māori formally protected or scheduled in the AUP(OIP)\(^26\).

### 9. Analysis Against District Level Objectives (s32(3)(b) of the Act)

159. PPC22 and PPM12 seek to add scheduled sites to the Regional and District level provisions of the AUP(OIP) and HGI. There is no proposal to amend any objectives or policies in either plan as these are already considered the most appropriate to achieve the purpose of the Act.

160. An assessment against the regional level objectives has been included in Section 8 of this report.

161. The following section evaluates relevant objectives contained within D21 Sites and Places of Significance to Mana Whenua Overlay, D10 Outstanding Natural Features and Landscapes Overlay, D17 Historic Heritage Overlay, and Part 7 of the HGI plan.

#### D21 Sites and Places of Significance to Mana Whenua (AUP(OIP))

**Objective D21.2**

1. The tangible and intangible values of scheduled Sites and Places of Significance to Mana Whenua are protected and enhanced.

2. Scheduled Sites and Places of Significance to Mana Whenua are protected from inappropriate subdivision, use and development, including inappropriate modification, demolition or destruction.

162. The proposal is to introduce additional sites to an existing schedule which have been assessed to possess tangible and intangible values of significance to Mana Whenua. The existing provisions will serve to protect these sites thereby being consistent with the objectives of Section D21 of the AUP(OIP).

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\(^{25}\) Māori Plan 2017, p.23  
\(^{26}\) Māori Plan 2017, p.46
D17 Historic Heritage Overlay (AUP(OIP))

Objective D17.2

(1) The protection, maintenance, restoration and conservation of scheduled historic heritage places is supported and enabled.

(2) Scheduled historic heritage places are protected from inappropriate subdivision, use and development, including inappropriate modification, relocation, demolition or destruction. (3) Appropriate subdivision, use and development, including adaptation of scheduled historic heritage places, is enabled.

163. As outlined in Section 8 of this evaluation report, the identification of historic heritage sites includes a criteria recognising the special associations of Mana Whenua. PPC22 seeks to add this criteria to five scheduled sites. This will in turn require consideration of cultural value to be undertaken in the protection and use of sites, which is consistent with Objective D17.2.

D10 Outstanding Natural Features Overlay and Outstanding Natural Landscapes Overlay (AUP(OIP))

Objective D10.2

(2) The ancestral relationships of Mana Whenua with outstanding natural features and outstanding natural landscapes are recognised and provided for

164. Objective D10.2(2) is the most relevant to PPC22, as this seeks add a criteria to nine schedules Outstanding Natural Features to recognise these sites as important to Mana Whenua. This will in turn trigger provisions requiring land use and development to respond to the relationships of Mana Whenua with these identified sites, which is consistent with this objective.

Part 7 Heritage (HGI)

165. The HGI contains the following two objectives in Part 7 Heritage. These are the most relevant to PPM12:

Objective 7.3
To recognise and protect heritage resources of natural, cultural and scientific value

Objective 7.13.2
To recognise and protect sites of spiritual, cultural or tikanga value to Māori.

166. The inclusion of four scheduled sites where none are currently identified in the HGI is consistent with the objective to recognise such sites. Existing rules and standards within Chapter 7 of the HGI will ensure the protection of identified sites, as is consistent with the above objectives.
167. Furthermore, the inclusion of explanatory text into the HGI making explicit the criteria for identifying and evaluating Maori heritage sites is consistent with the above objectives.

10. Section 86B of the RMA

When deciding the date on when a plan change takes effect, the RMA provides in section 86B(3) that:

“A rule in a proposed plan has legal effect only once a decision on submissions relating to the rule is made and publicly notified”

Exceptions are provided for in 86B(3) where:

- A rule in a proposed plan has immediate legal effect if the rule—
  - protects or relates to water, air, or soil (for soil conservation); or
  - protects areas of significant indigenous vegetation; or
  - protects areas of significant habitats of indigenous fauna; or
  - protects historic heritage; or
  - provides for or relates to aquaculture activities.

Historic Heritage is defined in the Act as:

“historic heritage—

(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand’s history and cultures, deriving from any of the following qualities:

(i) archaeological:

(ii) architectural:

(iii) cultural:

(iv) historic:

(v) scientific:

(vi) technological; and

(b) includes—

(i) historic sites, structures, places, and areas; and

(ii) archaeological sites; and

(iii) sites of significance to Māori, including wāhi tapu; and

(iii) surroundings associated with the natural and physical resources

168. In accordance with Section 86B(3) of the RMA, PPC22 and PPM12 should have immediate legal effect. The addition of Sites and Places of Significance to Mana Whenua into Schedule 12 of the AUP(OIP) and Maori heritage sites to Appendix 1f of the HGI protect historic heritage as they are sites of significance to Māori, including wāhi tapu sites.
11. Conclusion

169. The purpose of these plan changes is to recognise the values of the identified Sites and Places of Significance to Mana Whenua by adding them to existing schedules within the AUP(OIP) and HGI. This will afford these sites recognition, protection and enhancement.

170. PPC22 seeks to add 31 Sites and Places of Significance to Mana Whenua to Schedule 12 of the AUP(OIP). In addition, PPC22 seeks to update Schedule 14 (Historic Heritage Sites) and Schedule 6 (Outstanding Natural Features) to recognise Mana Whenua cultural associations and values with five and nine sites respectively.

171. PPM12 adds four sites to Appendix 1f: Schedule of Māori heritage sites – inner islands of the HGI where no sites are currently identified. In addition, text changes to Appendix 1f, Appendix 4 and Part 7.13 are proposed to make explicit in the HGI the criteria which are to be used to identify and evaluate Maori heritage sites. The criteria replicate the region-wide factors identified in the Chapter B6.5.2(2) of the RPS.

172. The main conclusions of the evaluation under Section 32 of the Act are summarised below:

1. The purpose of PPC22 and PPM12 is consistent with the purpose of sustainable management in Section 5 and with the principles in Sections 6, 7 and 8 and Part 2 of the Act. This purpose and principle has been given regional context through the Auckland planning framework of the Auckland Unitary Plan (Operative in Part) and the Auckland Council District Plan - Hauraki and Gulf Islands Section (Operative 2018).

2. PPC22 and PPM12 assists the council in carrying out its functions set out in sections 30 and 31 of the Act.

3. Pursuant to sections 67(3)(c) and 75(3)(c) of the Act, PPC22 and PPM12 are consistent with the objectives and policies of the RPS.

4. The evaluation undertaken in accordance with Section 32 concluded:

   i. the purpose of the plan changes is the most appropriate way to achieve the purpose of the Act.

   ii. The use of the existing objectives, policies and methods of the AUP(OIP) and the HGI would be the most appropriate way to achieve the purpose of the plan changes.