

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

Report to Auckland Council
Hearing topics 016, 017
Changes to the Rural Urban
Boundary; 080, 081 Rezoning
and precincts

Annexure 4
Precincts North

July 2016

Annexure 4 Precincts North

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Part 1 Precincts supported

The Panel recommends the precincts below for inclusion in the Auckland Unitary Plan.

500 Albany 3 Precinct

1. Summary of recommendations

The Panel supports this precinct and notes that no evidence was presented that contested the provisions prepared by the Council.

This precinct was heard in Topic 081.

2. Precinct description

The Albany 3 Precinct is located north of Oteha Valley Road, comprising 13ha of land at 29, 40A and 42 Kewa Road. The underlying zone is the Residential - Single House Zone. The land is mainly hilly and there is an area of regenerating native bush to the south of the site identified as a significant ecological area.

The precinct is based on the provisions of Plan Change 32 (the relevant Environment Court decision was released on 3 May 2012) to the Auckland Council District Plan - Operative North Shore Section 2002 which reviewed the Albany Structure Plan zones.

The purpose of the precinct is to provide for the concept development plan for 29, 40A and 42 Kewa Road which emerged from Plan Change 32

3. Key issues

The Panel accepts the need for a precinct for the reasons contained in the planning evidence on behalf of Council and set out below (paragraph 9.2):

In our view, the Albany 3 precinct gives effect to the purpose of the Act in recognising that specific provisions and development controls should continue to apply to the Kewa Road areas to ensure consistency of development and also recognises that these provisions were developed over an extensive period of time which included public consultation, expert assessment, and an Environment Court hearing (on Plan Change 32). The proposed precinct provisions still represent, in our view, the best method to enable appropriate development at Kewa Road. (Paragraph 9.2.)

The Panel has accepted the majority of the tracked changes recommended in the evidence presented on behalf of the Council, however a number of minor changes are recommended to this precinct to address best practice matters that the Panel seeks to provide across the Plan and to improve their functionality and for clarity.

One matter which is not supported by the Panel is a precinct objective and policy focussed on minimising noise effects from the Auckland Northern Motorway. Such effects are addressed by the Auckland-wide provisions and this precinct provides no additional standards or matters of assessment beyond the Auckland-wide provisions.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the outcomes of mediation, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the amended provisions of the Albany 3 Precinct be adopted. Once amended further by best practice approaches outlined above these provisions are considered the most appropriate way to achieve the purpose of the precinct, give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081c AK Cncl - North Shore - Precincts \(Albany 1 3 4 5 6, Milford 1, Browns Bay\) - \(T Conner, J Jeffries, E Patience\) - Planning \(27 January 2016\)](#)

[081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\) \(3 March 2016\) \(Page 93\)](#)

501 Albany 9 Precinct

1. Summary of recommendations

The Panel supports this precinct and notes both Council and Massey University have agreed that a precinct is appropriate for this land and have also largely agreed on the wording of the precinct provisions.

This precinct was heard in Topic 080.

2. Precinct description

The Albany 9 Precinct covers the Massey University Albany Campus which was established in 1993 and is spread across 67 hectares of land between the Albany Expressway, Albany Highway, Bush Road and the Fernhill Escarpment.

The purpose of the precinct is to enable tertiary education and the development and operation of a range of activities to cater for the diverse requirements of the student population, employees and visitors. Community use of the facilities is also provided for.

It also allows for business, offices, research and laboratory facilities which are increasingly co-locating within these campuses, to the benefit of the tertiary institution, the students and the economic development of Auckland.

3. Key issues

Massey University was the only submitter in relation to this precinct. The Panel noted that there was agreement on the specific provisions to be included within the precinct, except in relation to the wording of the matters for discretion that relate to traffic generation for parking buildings and structures, and buildings greater than 500m² gross floor area. The wording of the introduction to this provision has been amended to make reference to the Auckland-wide provisions as was intended by both Massey University and the Council.

A number of other changes are recommended to this precinct to address best practice matters that the Panel seeks to provide across the Plan, including the removal of framework plans, and more minor changes are made to the provisions to improve their functionality and for clarity.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the outcomes of mediation, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the provisions of the Albany 9 Precinct as largely agreed by Massey University and by Council be adopted. Once amended further by best practice approaches outlined above these provisions are considered the most appropriate way to achieve the purpose of the precinct.

5. Reference documents

Auckland Council

080 Ak Cncl - Massey University Albany, AUT, Albany 9, Akoranga 1, Manukau 2 Precincts (I Bayliss) - Planning (04 December 2015)

080 Ak Cncl - Legal Submissions (POS, Tertiary and Other zones) (15 February 2016)

080 Ak Cncl - Tertiary Education - Massey University Albany, AUT, Albany 9, Akoranga 1, Manukau 2 Precincts (I Bayliss) - Planning - REBUTTAL (26 January 2016)

080 Ak Cncl - Public Open Space, Tertiary (excl Wairaka), Schools, Maori, Major Rec & Coastal - CLOSING REMARKS (18 March 2016) (Reference pages 8 to 13)

Submitters

080 Massey University (J Bray) - Planning (21 December 2015)

502 Albany Centre Precinct

1. Summary of recommendations

The Panel recommends a precinct as generally proposed by Council along with a number of the changes sought by submitters.

This precinct was heard in Topic 081.

2. Precinct description

The Albany Centre Precinct is an existing precinct and comprises some 113ha of the emerging metropolitan centre located to the west of State Highway 1 and contained by Ōteahā Valley Road and Albany Expressway in the northern urban part of the North Shore.

The precinct recognises the component parts of the Business - Metropolitan Centre Zone Albany Centre and the supporting role of the southern section covered by Business - Business Park Zone. It identifies four sub-precincts with different development emphases and requires activities to develop in accordance with Albany Centre: Precinct plan 1 - Albany Centre.

Sub-precinct A is identified for high-density residential apartment living, with limited opportunity for convenience retail at ground level.

Sub-precinct B encourages the establishment of employment-generating activities, such as high-density office development, supported by a limited range of convenience retail activities.

Sub-precinct C is identified for car-orientated commercial and entertainment activities, limiting retail to those formats generally considered unsuitable for other higher-amenity areas of the Albany Centre precincts.

Sub-precinct D is identified for office and light commercial activities and limited retail with particular restrictions on large format retail.

The zoning of land within this precinct is Business - Metropolitan Centre Zone, Business - Business Park Zone, Open Space - Community Zone, Open Space - Informal Recreation Zone.

The purpose of the Albany Centre Precinct is to provide bespoke activity and development provisions that support the central core retail and open space areas.

3. Key issues

The key points of difference between Council and submitter Progressive Enterprises Limited relate to the public vesting of the proposed Main Street and a number of activity status rules. Council did not agree with the submitter that the Main Street should be retained in private ownership, nor that the various activity statuses should be changed.

Having reviewed the evidence the Panel largely agrees with Council for the reasons advanced – especially regarding the public vesting of roads in such centres. The Panel is

not persuaded that the private ownership of key roads in metropolitan centres, on the ground that this better enables the control of parking (without affecting potential trade competitors), is sufficiently well demonstrated or justified.

The key points of difference between Council and submitter Scentre (Westfield New Zealand Limited) concerned amendments to the objectives and policy section, and a number of development controls, most of which had an urban design focus. Council did not generally agree with the submitter.

Having reviewed the evidence the Panel agrees in many respects with the submitter, Scentre (Westfield New Zealand Limited) - except in respect of the 'reverse sensitivity' and some of the street frontage provisions sought. On the former matter the Panel agrees with Council for the reasons advanced in Mr Mackie's rebuttal evidence - namely that it is neither appropriate nor necessary to seek to constrain the activities of the Albany Mall by extending a provision with a completely different (being the control of major public event effects at the adjacent North Harbour Stadium).

The main differences between the Albany Centre Precinct as finally proposed and the relevant overlays, zone, and Auckland-wide rules are:

- i. the inclusion of specific objectives and policies;
- ii. additional activity and development controls that are more appropriate to the surrounding context; and
- iii. reframing of assessment and discretion criteria.

Provisions are significantly more detailed than those otherwise provided, particularly through the Business - Metropolitan Centre Zone core provisions.

In summary, the Council's position in relation to the Albany Centre Precinct is set out in the planning evidence in chief and rebuttal of Mr Trevor Mackie (dated 27 January 2016 and 25 February 2016); and Council's closing remarks volume 1 (pages 93–94).

Progressive Enterprises Limited's position is as stated in Mr Michael Foster's planning evidence in chief (dated 10 February 2016).

Scentre (Westfield New Zealand Limited)'s position is as stated in Mr Craig McGarr's planning evidence in chief of 10 February 2016.

4. Panel recommendations and reasons

The Panel:

- i. supports the precinct and recommends a combination of the changes generally proposed (but not necessarily agreed) by Council and the submitter, Scentre (Westfield New Zealand Limited);
- ii. does not support the amendments sought by Progressive Enterprises Limited; and
- iii. recommends miscellaneous consequential and minor other amendments to the provisions, for the reasons set out above.

5. Reference documents

081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 (19 May 2016) Attachment C, page 87)

081c Ak Cncl - North Shore - Precincts (Albany Centre) - (T Mackie) - Planning (27 January 2016)

081c Ak Cncl - North Shore - Precincts (Albany Centre) - (T Mackie) - Planning - REBUTTAL (25 February 2016)

081 Progressive Enterprises (M Foster) - Planning (11 February 2016)

081 Scentre (C McGarr) - Planning (16 February 2016)

504 Bayswater Marina Precinct

1. Summary of recommendations

The Panel recommends that the Bayswater Marina Precinct is adopted in the Plan as supported by the Council with some amendments. The provisions provide for marine activities and allow for residential development where land is not required for marine activities.

The precinct meets the requirements of section 32 and promotes the purpose of the Resource Management Act 1991.

This precinct was heard in Topic 081.

2. Precinct description

The Bayswater Marina precinct is located at O'Neills Point at the end of Bayswater peninsula in the Waitematā Harbour. The zoning of land within this precinct is Coastal - Marina Zone and Open Space – Informal Recreation Zone.

The precinct includes the coastal marine area and 4.5 hectares of reclaimed land that supports marina users, marine-related activities and the Bayswater ferry service, including providing for parking associated with these activities. The land is also used by the public for recreation, marine sports activities and for access to the coast.

The use of the land has a complex planning and legal history following its reclamation and was the subject of a decision of the Environment Court seven years ago (*Bayswater Marina Holdings v NSCC* [2009] A018). Since that decision some of the land that was previously leased from the Crown by Bayswater Marina Limited has now been purchased by the Marina. The Auckland Council also now supports the provisions in the precinct which are different to the provisions that were previously sought by Bayswater Marina Limited on Plan Variation 65, opposed by North Shore City Council and considered by the Court.

The primary purpose of the Bayswater Marina Precinct is to provide for marina, ferry terminal and marine-related activities, including associated parking and facilities, and for public access, community uses and marine sports uses, open space and recreation. Provision is also made for residential activities and food and beverage, subject to these activities being assessed through a resource consent process to assess the effects of the proposal on the use and function of the precinct for the purposes discussed above. Minimum standards are specified to qualify for discretionary activity status, and proposals then need to be carefully assessed to ascertain whether the proposal appropriately ensures the primary focus of the precinct is achieved.

The precinct is comprised of six sub-precincts as shown on the planning maps:

- i. Sub-precinct A provides for public access and open space, and for marina berth holder parking and marine-structures, around the seaward edge of the precinct land;
- ii. Sub-precinct B provides for marine -related uses, car parking, public pedestrian access and open space areas, food and beverage, and residential development;

- iii. Sub-precinct C provides for the main road into the precinct and a bus stop;
- iv. Sub-precinct D provides for the existing public boat ramp, passive open space activities, marine sports activities, the development of ferry terminal facilities, including on the old wharf, and associated access, manoeuvring and parking for all of these activities;
- v. Sub-precinct E provides for community uses and recreation; and
- vi. Sub-precinct F provides for marina, ferry service, marine and port activities

Mr Nolan for Bayswater Marina Limited clarified the ownership of the sub-precincts as follows:

- i. A - the 15m access strip (owned by Bayswater Marina Limited) adjacent to the water around the edge of the Marina which also at present includes the temporary ferry terminal building;
- ii. B - the internal part of Bayswater Marina Limited 's land;
- iii. C - the strip of Bayswater Marina Limited 's land which provides an access way from Sir Peter Blake Parade and where buses and other vehicles drop off or collect passengers using the temporary ferry terminal;
- iv. D - the old Bayswater wharf and adjacent land owned by the Council and designated by Auckland Transport for the future permanent ferry terminal, which includes a building currently occupied by the Takapuna Grammar Rowing Club, as well as the boat ramp owned by Bayswater Marina Limited;
- v. E - the Takapuna Boating Club; and
- vi. F - the largest part of the precinct, being the location of the 420 marina berths and floating breakwater, as well as the berthage and pedestrian ramps for the temporary ferry terminal.

3. Key issues

The Panel heard from the Council, Bayswater Marina Limited, resident groups in opposition and a number of individual submitters. The Panel was assisted by the expert witnesses called to support the submitters' positions. The issues were relatively polarised, particularly in regard to the extent to which Sub-precinct B should provide for residential development. In summary the key issues identified by the Panel were:

- i. the long-term use of the sub-precincts in terms of the respective demand for different marine related activities;
- ii. ensuring that public open space and access values are retained;
- iii. the extent of parking required to service the marina and other activities;
- iv. providing for boat servicing and boat chandlery;
- v. whether or not a minimum amount of boat storage should be specified;
- vi. public transport linkages; and
- vii. whether or not residential use is appropriate in the precinct.

Bayswater Marina Limited provided an indicative concept plan development in the evidence of Mr Gibbs. Mr Nolan submitted that the residential development illustrated by the concept plan only covered approximately 20 per cent of the land area in Sub-precincts A, B and C (Bayswater Marina's land). Accordingly, he submitted that the residential component is significantly less in the context of the entire precinct, including both land and the coastal marine area. He submitted that such a level of residential development would not dominate all six sub-precincts of the precinct and therefore would not be contrary to Objective 1 of the precinct.

For the Bayswater Community Committee Incorporated residents in opposition, Mr Littlejohn submitted that:

1.2. The submitters oppose future residential development on the Bayswater Marina reclamation area. They say the area should continue to be used solely for marine-related development, which is the primary purpose of the Marina Zone and therefore meets the relevant objectives and policies of the Zone.

For the Council Mr Reaburn in his planning evidence in rebuttal concluded:

4.11. I do not agree that the proposed provisions are weak or that they will compromise the important focus for the precinct as expressed in Objective 1. The following points are relevant:-

- a) Residential activity is not permitted. It would be discretionary only where provided for in a framework plan and meeting the proposed land use controls, otherwise it would be non-complying.
- b) Residential activity would not be possible other than via a deemed publically notified resource consent process.
- c) Any application would need to be shown as being consistent with the objectives and policies, which, as proposed, make it clear that the focus of the precinct is not on residential activity.
- d) The land use controls and thresholds need to be met to allow an application to be processed as a discretionary activity. It is important to understand that they are not permitted activity standards. An applicant would need to demonstrate that whatever provision is made for key activities on the site is sufficient. I expect that future proofing in respect of providing for those key activities will need to be part of the analysis.

4. Panel recommendations and reasons

4.1 General conclusions

The Panel recommends that the Bayswater Marina Precinct is adopted in the Plan as supported by the Council with some amendments. The provisions provide for marine activities and allow for residential development where land is not required for marine activities.

The Panel considers that the precinct:

- i. gives effect to the New Zealand Coastal Policy Statement 2010;

- ii. gives effect to the regional policy statement and coastal plan provisions of the Plan;
- iii. meets the requirements of section 32 of the Resource Management Act 1991; and
- iv. promotes the purpose of the Resource Management Act 1991.

4.1.1 Land ownership

The Panel heard evidence from Bayswater Marina Limited that it had purchased land from the Crown after 2009 and that the focus of the previous Environment Court decision was that because at that time the land was owned by the Crown, the land should be primarily used for 'public purposes' (evidence in chief of Mr Herbert, 18 April 2016, paragraph 2.14). Mr Littlejohn made detailed submissions for the opponents, citing case law, that: "...private ownership of land is not a factor relevant to determining the appropriate provisions to apply to land under the RMA, except in the limited circumstances prescribed by s 85.". The Panel agrees with the general thrust of these submissions by Mr Littlejohn.

However, that is not where the enquiry of the Panel finishes. It was evident from the submissions and the evidence of some of the witnesses opposed to the development that they considered that Bayswater Marina Limited had almost a 'duty' to provide land for the benefit of the 'public' in terms of parking and access. The Panel does not agree.

Firstly, the Panel notes that Land Information New Zealand, prior to selling the land to Bayswater Marina Limited in 2013, had to undertake an assessment of the needs of the public in the future prior to selling the freehold interest. It is understood from a report provided by Mr Stafford-Bush that Land Information New Zealand considered there was no good reason not to grant the freehold title provided that Bayswater Marina Limited enter into a lease to provide land for a ferry terminal and a 15m strip to enable public access. The Panel considers that those requirements are provided for in the Plan provisions and to that extent the public interest has been provided for.

In regard to planning provisions that seek to impose restrictions on the use of private land in the public interest, for example for public open space, the case law indicates that:

- i. on the one hand, private land should not be zoned for open space (public) purposes unless it is incapable of other uses or the land owner agrees; designation or acquisition were the appropriate methods; imposition of zoning which inhibits development controls on private land is a decision which requires particular consideration of site-specific factors as part of the analysis under the former section 32 analysis (and presumably evaluation of the alternatives of designation or acquisition): *Capital Coast Health v Wellington CC* EnvC W101/98 (applying a line of cases under the TCPA 77); and
- ii. the approach above can be contrasted with *Hastings v Auckland CC* EnvC A068/01, where the Court held open space zoning could apply over private land in the face of an owner objecting to such zoning, particularly where the alternative zoning would have significant effects on the environment. The owner's remedies are set out in section 85 of the Resource Management Act 1991. The test is whether the proposed zoning serves the statutory purpose.

Based on the submissions, evidence and the merits of the circumstances that apply at Bayswater, and most importantly how the Panel considers the provisions will work, the Panel's recommendations strike an appropriate balance between the private interests of Bayswater Marina Limited and the broader public interests of the users of the marina facilities and the wider community.

4.1.2 Changes since 2009

The previous decisions of the Environment Court and High Court on Plan Change 65 to the North Shore District Plan were canvassed in detail by submitters, with Bayswater Marina Limited arguing that this was quite a different proposal and opponents arguing that the Panel was still bound by the findings of the Environment Court in the 2009 final decision. Having carefully considered the previous decisions, and comparing the provisions previously proposed and the statutory planning framework that now applies, the Panel concludes that the previous final decision of the Court can be respectfully distinguished from the precinct that is now before the Panel. The reasons for this conclusion include;

- i. matters of 'issue estoppel' and 'precedent' are questionable in the context of decision-making under the Resource Management Act 1991 as noted by the High Court in the leading case of *Guardians of Paku Bay Assn Inc v Waikato Regional Council* [2011] 16 ELRNZ 544;
- ii. the facts of the precinct are different to the previous Plan Change 65;
- iii. the provisions are different in critical areas such as building height and the density of residential development that are now lower than what was previously proposed;
- iv. the higher level statutory instruments have now changed, including the New Zealand Coastal Policy Statement 2010, and it is noted that Policy 7(1)(a) specifically contemplates the identification of areas for future residential development in the coastal environment; and
- v. the Auckland Plan and the Unitary Plan have a consistent, overriding strategy to achieve a quality compact city and the development provided for in the Bayswater Marina Precinct will help to achieve that outcome.

4.1.3 Weight of evidence

After having carefully considered the evidence provided, the Panel prefers the evidence of the Council and Bayswater Marina Limited. This includes the conclusions generally reached in the evidence of:

- i. planners Mr Reaburn and Mr Shearer;
- ii. urban designers Ms Mein and Mr Gibbs (also an architect);
- iii. architect Ms Stout;
- iv. landscape architects Ms Absolum and Mr Goodwin; and
- v. Mr Harris on traffic.

The Panel agrees that the Precinct will enable the activation and revitalisation of this currently under-utilised, but highly valued, reclaimed area. The Precinct will promote a more

efficient use of scarce urban land resources. The Panel relies on the conclusions of the witnesses identified above for its recommendations.

The Panel was also assisted by evidence in opposition to the precinct including from Mr Sergeant and Mr McKenzie. The landscape analysis undertaken by Mr McKenzie was a detailed spatial analysis of the site. However, the Panel agrees with Ms Absolum that Mr McKenzie did not take the next step and convert that analysis into recommended uses for different parts of the precinct.

The Panel heard from various witnesses about the existing and expected future demand for marine services at Bayswater. The Panel prefers the evidence of Mr Akehurst for the Council in this regard and accepts that due to the limited size of the marina, its isolation from other marine industry areas, and the need for critical mass for commercial viability, there is unlikely to be a demand for significant areas for marine-related activities in the future.

In any event the Panel considers that the objectives and policies will work to ensure that residential activity is not approved unless it is proven that the area is not needed for marine activities. This will lead to the most efficient use of this land resource.

4.1.4 Possible provision of a marine services area?

The Panel did consider adjusting the precinct boundaries to try and specifically accommodate marine-related activities, by for example, reducing the shape of Area B as shown in the concept plan attached as Appendix B to Mr Gibbs evidence in chief to reflect the concept in his Appendix C. Such a change would go some way to addressing concerns that boat servicing is properly provided for and this is a logical place near the ramp. It would remove an area from being used for residential development and the easiest way to achieve this would be to lift the precinct altogether so the Coastal - Marina Zone prevails unmodified in the selected part of the zone.

However, the Panel concludes that it does not have sufficient evidence to make such a change. The Gibbs plan is just a concept plan at this stage and following more detailed work a marine services area may, for example, be best located elsewhere. Also, the Panel did not have sufficient evidence to conclude how large any area should be. The precinct maintains the opportunity for marine services if the need arises.

4.2 Precinct provisions

The Panel's amendments to the precinct provisions are summarised below.

4.2.1 Precinct description

- i. Inclusion of 'marine sports activities'. This aligns with concerns raised by the Takapuna Grammar School Rowing Club to include water sport uses within the precinct description.
- ii. Minimum standards for discretionary activities are considered to be within scope and respond to concerns in many submissions relating to provision for residential activity.
- iii. Amendments to Sub-precinct D to ensure that access to parking and the boat ramp is adequately described.

4.2.2 Objectives

- i. The objectives have been amended to better ensure that development is comprehensive and integrated between activities.
- ii. The Panel considers that Objective 1 and 2 working together strongly favour marine activities but if it can be proven on the evidence of an application that residential use can be accommodated as well, then it could be approved. The Panel considers that this will ensure that the land is used efficiently.

4.2.3 Policies

- i. Policy 1 - "minimum" added in front of 15m as the esplanade reserve could be wider.
- ii. Policy 2(a) - the Panel had difficulty with the wording the Council proposed in its reply and considers that Mr Goodwin made a valid point and the Panel wording takes into account the Bayswater Marina Limited relief.
- iii. Policy 2(c) - Previous 2(c) has been deleted as suggested by Mr Goodwin and as was accepted by the Council in its reply.
- iv. Policy 2(e) - "or detract from" is added as identified by Mr Goodwin in his hearings summary.
- v. Policy 5 - "on publicly controlled land" added. Bayswater Marina Limited sought this addition and the Panel agrees. The Unitary Plan should not require public facilities to be located on private land. The Panel recommends "controlled" is a better word than "owned" as proposed by Bayswater Marina Limited because Council or Auckland Transport could obtain a licence or easement to control the use of the land for public transport use while not having to 'own' it *per se*. Such negotiated tenure arrangements are common.
- vi. Policy 10 - framework plan provisions deleted.
- vii. Policy 12 - this is an important policy in the Panel's view. Bayswater Marina Limited had wanted to slightly liberalise this policy as per their amendments shown in green tracked changes. Essentially the Bayswater Marina Limited wording would provide for the marina activities etc then the owner would be free to develop the rest of the sub-precinct. The Panel sees some merit in that position as long as it catered for future growth in marine activities. The Council wording includes the term "sufficient space" which is fairly open-ended and not particularly time-bound. The Panel considers that the final wording recommended is appropriate because "sufficiency" will be a matter of evidence, of the kind Mr Akehurst provided, at the time of application. That evidence should assist in determining a sustainable outcome regarding the mix of future activities.

4.2.4 Activity table

- i. The Panel has only made minor changes to the activity table to be consistent with the Panel's templating protocols.

4.2.5 Discretionary activities

- i. Delete “storage space for 120, 9m length boats”. The Panel was persuaded by the Bayswater Marina Limited evidence that the Plan should not require such a specific rule that has significant commercial consequences for a private landowner. Such usage is best left to agreements between the respective parties.
- ii. Amendments to the assessment criteria to include reference to the coastal edge.

4.2.6 Design statements

This section has been removed because the Panel has not recommended that “design statements” are a requirement in the rest of the Plan. However a design statement may be relevant information that can be provided in accordance with section 88(3) of the Resource Management Act 1991 if/when the assessment of environmental effects is not proportional and calibrated to effects of proposals.

4.2.7 Precinct map

The Panel notes that the precinct map was not attached to the Council closing remarks version, but understands that the map that is agreed between the Council and Bayswater Marina Limited is the one on page 50 of Mr Reaburn’s planning evidence in chief for the Council of January 2016 and labelled Attachment C. The Panel recommends that this map is included in the precinct without modification.

5. Reference documents

Auckland Council

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2015) Attachment C, page 95

[081c Ak Cncl - North Shore - Precinct \(Bayswater Marina\) - \(G Akehurst\) - Economics](#) (29 January 2016)

[081c Ak Cncl - North Shore - Precinct \(Bayswater\) - \(Melean Absolum\) - Landscape](#) (29 January 2016)

[081c Ak Cncl - North Shore - Precincts \(Bayswater Marina\) - \(P Reaburn\) - Planning](#) (29 January 2016)

[081c Ak Cncl - North Shore - Precinct \(Bayswater Marina\) - \(L Mein\) - Urban Design](#) (29 January 2016)

[081c Ak Cncl - North Shore - Precincts \(Bayswater Marina\) - \(P Reaburn\) - Planning - REBUTTAL](#) (25 February 2016)

Bayswater Community Committee

[081 Bayswater Community Committee Inc - Legal submissions](#) (18 April 2016)

Bayswater Marina Limited

[081 Bayswater Marina Ltd - Legal submissions](#) (17 April 2016)

081 Bayswater Marina Ltd (C Shearer) - Planning (15 February 2016)
081 Bayswater Marina Ltd (B Harris) - Traffic (15 February 2016)
081 Bayswater Marina Ltd (D Gibbs) - Architecture (16 February 2016)
081 Bayswater Marina Ltd (J Goodwin, J Jeffcock) - Landscape and Visual (15 February 2016)
081 Bayswater Marina Ltd (J Goodwin) - Landscape and Visual - Summary statement (17 April 2016)
081 Bayswater Marina Ltd (S Herbert) - Corporate (15 February 2016)

Other submitters

081 Brian Stafford-Bush - REBUTTAL (24 February 2016)
081 Michael Kwok and Brianna Parkinson & M & C Lane (D Serjeant) – Planning - Bayswater Marina Precinct (17 February 2016)
081 Michael Kwok and Brianna Parkinson (B McKenzie) – Landscape - Bayswater Marina Precinct (17 February 2016)
081 NZIA, UDF, GenZero (J Stout) - Hearing statement (Bayswater Marina) (17 April 2016)

505 Chelsea Precinct

1. Summary of recommendations

The Panel recommends that the Chelsea precinct be incorporated into the Unitary Plan in accordance with the amendments agreed between the Council and NZ Sugar dated 19 April 2016.

The request by submitters to zone part of the site, the 'Horse Paddock', as public open space is not recommended by the Panel.

This precinct was heard in Topic 081.

2. Precinct description

The Chelsea Sugar Refinery is a unique industrial site that was first established in the 1880s. The site has various scheduled historic heritage places, as shown in the Historic Heritage Overlay, and is also subject to the overlays for High Natural Character, Significant Ecological Areas and Natural Hazards – Coastal Inundation.

The underlying zonings of the land in the precinct are Open Space – Conservation Zone and Business - Light Industry Zone.

The evidence for NZ Sugar Company Limited (NZ Sugar) indicated that there are no current plans to abandon the sugar refining activities on the site. However, the precinct reflects the provisions in Private Plan Change 16 to the Auckland Council District Plan – Operative North Shore Section, to modify the Business - Light Industry Zone in order to provide for residential development should this land no longer be required for industrial use. The Precinct Plan 1: Chelsea Sub-precinct C shows current uses and Precinct Plan 2: Chelsea Sub-precinct C shows future use areas, scheduled buildings, conservation areas, indicative roading and building platforms.

Framework plans were part of the precinct in the notified proposed Auckland Unitary Plan Unitary Plan but these provisions have been deleted by agreement between the parties as reflected in the 19 April 2016 version in the Council's closing remarks.

The objectives, policies and development controls allow for future non-industrial use of the site, predominantly residential use, by modifying the Business - Light Industry Zone.

3. Key issues

As indicated above, the Panel was advised that the provisions dated 19 April 2016 are agreed in their entirety between Council officers and NZ Sugar. The Panel refers to the legal submissions on behalf of NZ Sugar dated 19 April 2016. The provisions attached as Appendix A to those legal submissions are the same as the Council's closing remarks version. Therefore, no issues remain between the Council and NZ Sugar, which is the only landowner subject to the precinct.

The main issue raised by other submitters, particularly Mr Elliott (2242) and Mr Holman (5358) was that Lot 2 DP405428, the 'Horse Paddock' area within Sub-precinct C, should be zoned public open space. The submitters previously appeared in Topic 058 –Public open space, where evidence was provided to the Panel, seeking to secure this land for public use.

Neither Mr Holman nor Mr Elliott presented additional evidence for Topic 081, but their position was well understood by the other parties to the hearing and it was addressed in submissions and evidence.

4. Panel recommendations and reasons

The Panel understands that the primary outcome that the Chelsea Precinct achieves is to enable residential development on the site should the refinery close, without the need for a plan change to change the zoning from Business - Light Industry. The landscape witness for NZ Sugar, Ms De Lambert observed in her evidence that the intensity of residential development provided for by the precinct was arguably now insufficient to best use this important strategically-located brownfields site (should the refinery activity cease). The original outline master plan was developed in 2005 and the policy framework and expectations of residential intensification have changed over the past 10 years e.g. there is a cap of 240 on the number of dwellings in the Horse Paddock area, which is arguably a modest yield.

Therefore, it could be argued that, notwithstanding the precinct, a plan change process, if the refinery activity ceases, may lead to a more efficient use of this high-amenity land.

Nonetheless, the Panel recommends that the Chelsea Precinct be adopted into the Unitary Plan for the reasons set out below.

- i. The precinct futureproofs the residential development of the site should the current refining activity cease to operate.
- ii. The precinct provides an appropriate balance between the use, development and protection of the natural and physical resources on the site. The Panel makes particular note of the scheduled historic heritage places, which Dr Clough addressed in his evidence. He demonstrated that the important industrial heritage buildings would be properly provided for and that while Sub-precinct C provides for exceptions to the Historic Heritage Overlay, this is considered an appropriate mechanism.
- iii. The objectives, policies and development controls that provide for varied heights and a pre-determined layout, as in the Precinct Plan C – Future Use, will achieve a high-quality amenity environment for residents.
- iv. The Panel does not recommend that the Horse Paddock is zoned open space because it would be inappropriate for this large area of developable privately-owned land to be given such a zoning. Public access is well provided for within the precinct and it would in effect be similar to a designation, but without the statutory compensation protections available for a designation.
- v. The Panel notes from the evidence of Mr Ellis for NZ Sugar (paragraph 18) that there is already an existing conditional agreement between a Trust and NZ Sugar that grants the Trust a right of first refusal over the Horse Paddock land in the event that refining ceases and the land is available for sale or development. While it is arguably outside the scope of the Panel's recommendations on the precinct to take into account this arrangement it does appear that there may be an opportunity to secure this land for public use in the future. There may be commercial implications for the right of first refusal that arise from the zoning/precinct provisions but this is also not a matter that is a

key issue for the Panel. For the purpose of the Panel's deliberations the reason that an open space zoning is not recommended and the precinct is confirmed, is that the precinct best promotes the Purpose of the Act and satisfies the requirements of s 32.

The Panel has reformatted this lengthy precinct to reflect the consistent structure adopted in its recommended Plan.

5. Reference documents

Auckland Council

[081c Ak Cncl - North Shore - Precincts \(Chelsea\) - \(E Ip and E Patience\) – Planning](#) (28 January 2016)

[081c Ak Cncl - North Shore - Precincts \(Chelsea\) - \(E Patience\) – Planning - REBUTTAL](#) (26 February 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (REFERENCE Attachment C page 22)

Submitters

[081 NZ Sugar Company Limited – Legal submissions](#) (19 April 2016)

[081 NZ Sugar Company Ltd \(C Clark\) - Planning](#) (13 February 2016)

[081 NZ Sugar Company Limited – Supplementary Evidence](#) (19 April 2016)

[081 NZ Sugar Company Ltd \(J Ellis\) - Corporate](#) (13 February 2016)

[081 NZ Sugar Company Ltd \(R Clough\) - Heritage](#) (13 February 2016)

[081 NZ Sugar Company Ltd \(R de Lambert\) - Landscape](#) (13 February 2016)

[081 NZ Sugar Company Limited – Response to panel question - Agreed amendments between Council officers and planning witness](#) (19 April 2016)

506 Dairy Flat Precinct

1. Summary of recommendations

The Panel recommends that the Dairy Flat Precinct be adopted to ensure that any aero-park residential development that takes place does not compromise the activities of the North Shore Airport now and into the future.

The Panel has adopted most of the relief sought from the North Shore Airport to ensure that the operative district plan obligations on the owner of land within the precinct are carried into the Unitary Plan so that the operations of this strategic transport infrastructure are not compromised.

This precinct was heard in Topic 081.

2. Precinct description

The Dairy Flat Precinct applies to 50ha of land immediately adjoining the North Shore Airport airfield at Dairy Flat. The precinct provides for a residential aero park, and allows for the creation of sites sized between 2,500m² and 8,000m² in area, which will each have sealed aircraft taxiway access to and from the North Shore Airport.

The purpose of the Dairy Flat Precinct is to create an environment for aircraft enthusiasts to live in close proximity to the North Shore Airport, and to provide permanent access for aircraft from all individual properties to the airport. In addition, this precinct provides a buffer of aviation-friendly activities around the North Shore Airport, which will assist its long-term survival. It is intended that the aviation park will be developed in stages to be completed in general accordance with Dairy Flat: Precinct plan 1 - subdivision plan.

3. Key issues

The key issue with the precinct is to establish the appropriate balance between enabling the development of the aero-park, while ensuring that the development and the future residents do not compromise the activities of the North Shore Airport.

The Panel heard evidence from the airport that but for the fairly stringent provisions in the Auckland Council District Plan – Operative Rodney Section, the North Shore Airport would have not approved of the aero-park. It appeared to the Panel that some of the modifications made by the Council from the operative district plan provisions, while arguably subtle, as far as the Airport was concerned, watered down the legacy provisions and had the potential for the aero-park to cause reverse sensitivity effects on the Airport.

The Panel heard submissions and evidence that the Airport has had to engage in litigation in the High Court to ensure that the developer is binding future purchasers with appropriate covenants and restrictions on new titles created that are consistent with the provisions in the precinct.

The Panel has heard during hearings on other topics that the North Shore Airport is arguably not adequately recognised by the Council and Auckland Transport as an important part of the region's strategic transport network. The Panel accepts the general position of the Airport that it would be expensive and difficult to relocate the Airport to another site in the

Rodney area, and that it is appropriate to give protection from reverse sensitivity effects from residential activities and other sensitive activities that are far more flexible in terms of being able to utilise alternative locations

4. Panel recommendations and reasons

The Panel recommends that the Dairy Flat Precinct be included in the Unitary Plan.

The Panel has generally accepted the provisions agreed between the Airport and the Council.

Where there have remained differences the Panel's recommended approach is set out below. Generally the Panel has adopted the more stringent provisions sought by the Airport as they most closely reflect the operative district plan provisions. The Panel makes particular note of the provisions and amendments set out below.

- i. The changes to the precinct description agreed between the Council and the Airport (shown as green tracked changes) are accepted.
- ii. Policy 2 'aviation' included as sought by submitter for further clarification.
- iii. Policy 4 was largely agreed between the Council and the Airport but the Panel recommends that the term 'legal and physical' is added into the policy to strengthen it. The Panel notes that requiring agreement with a third party (the Airport) is not generally encouraged in a plan but this is a unique situation where, but for such agreement, the development opportunity for the neighbouring landowner would not have been created. Therefore the Panel accepts that requiring agreement is not inappropriate. There is a need to protect the integrity of the Airport function. The above policy change is reinforced with a proposed new rule making subdivision without an access agreement non-complying.
- iv. There are some structural changes to the activity table to reflect best practice adopted by the Panel.
- v. New subdivision provisions. This change is to implement Policy 4 and ensure the subdivision is for aviation enthusiasts as intended. It obviously does not mean that you have to own a plane but that there is provision for this and the function of the Airport is preserved;
- vi. A standard for accessory buildings. The Panel agrees with the Council that the wording proposed by the Airport is unworkable as one cannot assess compatibility against a future dwelling that has not been built. The Panel understands that the 'mischief' to be avoided is poor amenity commercial construction (e.g. construction of a small hangar) which may open up the possibility of a future dwelling being constructed out of poor quality commercial materials. The text recommended by the Panel strengthens the provisions to address this risk.
- vii. Some matters of discretion are deleted because they replicate Auckland-wide rules.

- viii. A new reverse sensitivity matter of discretion. The Panel agrees with the Airport that because this may already be a policy does not prevent it being included as a criterion. The criteria should reflect the policies.
- ix. Amendment to assessment criteria I506.8.2(1)(a)(iii) to avoid, remedy and mitigate reverse sensitivity effects. The Panel agrees with the Airport for reasons stated previously and has also added remedy and mitigation as options rather than just relying on avoidance; and
- x. The Panel agrees with the Council that Civil Aviation compliance is required anyway so this does not need to be part of the rules. However, this is information (I506.9.4(2)) that would be helpful to the processing of the application to avoid disconnected consenting outcomes under the respective legislation.

5. Reference documents

Auckland Council

[081b AK Cncl - Rodney - Precincts - \(Dairy Flat\) - \(J Jeffries\) - Planning](#) (02 February 2016)

[081b AK Cncl - Rodney - Precincts - \(Dairy Flat\) - \(J Jeffries\) - Planning - REBUTTAL](#) (24 February 2016)

[081b AK Cncl - Rodney - Precincts \(Dairy Flat\) - amended tracked changes in response to North Shore Aero Club](#) (23 March 2016)

[081b Ak Cncl - Rodney - Rezoning - Dairy Flat - \(E Paul\) - Planning - SUPPLEMENTARY STATEMENT \(11 Feb 2016\)](#) (14 February 2016)

[081b Ak Cncl - Rodney - Rezoning - Dairy Flat - \(E Paul, R Bradley\) - Planning](#) (27 January 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Attachment B, page 3)

North Shore Aero Club

[081 North Shore Aero Club - Legal submissions](#) (15 March 2016)

[081 North Shore Aero Club \(J Smith\) - Corporate](#) (14 February 2016)

[081 North Shore Aero Club \(K Rosser\) - Planning](#) (14 February 2016)

[081 North Shore Aero Club \(K Rosser\) - Planning - amended tracked changes](#) (17 March 2016)

507 Devonport Naval Base Precinct

1. Summary of recommendations

The Devonport Naval Base Precinct is recommended to be included in the Plan as agreed between the New Zealand Defence Force and the Council.

This precinct was heard in Topic 081.

2. Precinct description

The Devonport Naval Base Precinct covers most of the land held by the Crown for the HMNZ Naval Base (south yard) in Devonport. It incorporates the HMNZS Philomel area and part of the Calliope Road frontage containing the hospital and wardroom. This land is subject to a designation for defence purposes.

The precinct provides for non-defence use of the base's facilities and indicates the desired environmental standards for these activities. The precinct has been split into two sub-precincts to recognise the differing environmental characteristics within this area. Devonport Naval Base Sub-precinct A applies to the northern area adjoining Calliope Road, which is used for predominantly health and administration land uses. Devonport Naval Base Sub-precinct B applies to the lower coastal area of the south yard, known as HMNZS Philomel.

The zoning of land within this precinct is the Business - Mixed Use Zone and Coastal - Defence Zone.

The purpose of the precinct is to provide for non-defence use of the base's facilities and indicates the desired environmental standards for these activities.

3. Key issues

There were no issues remaining between the New Zealand Defence Force and the Council.

There were submissions from Devonport Heritage Incorporated about particular buildings but these submissions were addressed by the Panel in the Topic 032 Historic heritage schedule. Because the submitter did not provide sufficient evidence the relief sought was not granted, although the Panel recommended that Council do further work to assess such sites in the future.

4. Panel recommendations and reasons

The Devonport Naval Base Precinct is recommended to be included in the Plan as agreed between the New Zealand Defence Force and the Council.

The precinct is considered necessary rather than just relying on the zones in order to better manage the uses and activities at the Devonport Naval Base that are not defence-related and therefore not covered by the designation for defence purposes. The activity status of these activities is specified in a tailored activity table. A range of desired environmental outcomes specific to the base environment and location are stated in precinct policies and given effect to through specific development controls.

The precinct is appropriate because it satisfies the requirements of section 32 and promotes the purpose of the Resource Management Act 1991.

The main difference between what was presented at the hearings and what the Panel has recommended is that the objectives, policies and provisions are now contained within one section. This is consistent with other changes made by the Panel to the structure of the Plan to improve clarity and usability.

5. Reference documents

[081c Ak Cncl - North Shore - Precincts \(Devonport Naval Base\) - \(R Moffatt\) - Planning \(9 February 2016\)](#)

[081c Ak Cncl - North Shore - Precincts \(Devonport Naval Base & HMNZ Dockyard\)- \(R Moffatt\) - Planning - REBUTTAL \(2 March 2016\)](#)

[081c Ak Cncl - North Shore - Precincts \(Devonport Naval Base & HMNZ Dockyard\) - Memo of counsel - revised precinct provisions \(30 March 2016\)](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 \(19 May 2016\) \(page 109\)](#)

[081 Devonport Heritage Inc - hearing notes \(18 April 2016\)](#)

[081 Devonport Heritage Inc - hearing presentation \(18 April 2016\)](#)

[081 New Zealand Defence Force \(K Baverstock\) – Planning - LATE \(23 February 2016\)](#)

508 Devonport Peninsula Precinct

1. Summary of recommendations

The Panel supports the retention of the Devonport Peninsula Precinct and the various sub-precincts and agrees with the additional height and transition provisions proposed by Ngati Whatua Orakei Whai Rawa Limited.

This precinct was heard in Topic 081.

2. Precinct description

The Devonport Peninsula Precinct collectively covers 27.9 hectares of land and comprises six large land holdings (sub-precincts) of former navy housing in suburban coastal areas of the peninsula. The sub-precincts are:

- i. Sub-precinct A - Marsden Street (4.1 hectares);
- ii. Sub-precinct B - Birchfield Road (1.9 hectares);
- iii. Sub-precinct C - Plymouth Crescent (7.1 hectares);
- iv. Sub-precinct D - Hillary Crescent (7.3 hectares);
- v. Sub-precinct E - Vauxhall Road (3.2 hectares); and
- vi. Sub-precinct F - Wakakura Crescent (4.3 hectares).

Ngati Whatua Orakei Whai Rawa Limited owns almost all of the land in Sub-precincts A to E and no longer owns Sub-precinct F.

The purpose of the precinct is to provide for the comprehensive residential development of the landholdings and to enable additional building height to increase the intensity of development within the sub-precincts. The provisions are designed to ensure that the effects generated as a result of the additional height and intensity are mitigated.

A number of zones apply to the precinct including Residential - Mixed Housing Suburban Zone, Residential - Mixed Housing Urban Zone and Open Space – Conservation Zone.

3. Key issues

3.1 General opposition to the precinct

Of the 196 submitters who lodged submissions on the Devonport Peninsula Precinct, 183 were generally opposed to either all of the precinct, or particular sub-precincts, and sought its deletion or amendment. Submitters opposed to the precinct were concerned about a range of issues, including traffic congestion, transport and infrastructure constraints, impacts on established suburban character and views, and site-specific concerns.

A consistent request by submitters was the rezoning from Residential - Mixed Housing Suburban Zone to Residential - Single House Zone, to reflect the existing nature and character of the surrounding areas. Changes to the zones that apply to the precinct have been addressed in the Panel's Report to Auckland Council – Changes to the Rural Urban Boundary, rezoning and precincts July 2016 (see the section on rezoning).

A number of submitters raised issues regarding the capacity of the wastewater and stormwater networks. Many submitters raised concerns about the effects of additional traffic volumes on an already congested Lake Road, the lack of frequent bus services and safety concerns for pedestrians and cyclists, particularly school children.

3.2 Council and Ngati Whatua Orakei Whai Rawa Limited

Ngati Whatua Orakei Whai Rawa Limited and the Council are largely in agreement as to the rationale for the precinct and the provisions that apply to the sub-precincts. The remaining differences between the parties generally relate to matters of detail and are:

- i. height transition and interface rules;
- ii. height within precincts;
- iii. inclusion of indicative roads and pedestrian linkages on the precinct plan; and
- iv. amendments to streamline and improve the clarity of provisions.

Council's planning witness Mr Moffatt supports a height limit of five storeys (16 metres) in the centre of sub-precincts. He also proposes reducing the notified height limits along the street frontage in some of the sub-precincts to better reflect the scale of and reduce impacts on existing development.

Mr Moffatt supports three height areas to be applied across the sub-precincts, enabling five, three or two-storey buildings.

Ngati Whatua Orakei Whai Rawa Limited's planning witness Mr Roberts and urban design witness Mr McIndoe support a 16 metre height limit in the centre of sub-precincts with a two metre infringement which would be assessed as a non-notified restricted discretionary activity.

Mr Roberts and Mr McIndoe support four height areas to be applied across the sub-precincts, enabling five (with a two-metre infringement), four, three or two-storey buildings.

The Council's witness and Ngati Whatua Orakei Whai Rawa Limited's witnesses disagree on where the height areas should be applied on the various sub-precincts, with Council generally proposing more restrictive height limits and transition areas on the peripheries of the sub-precincts. The differences between the two parties in respect of each sub-precinct are summarised in paragraph 16.10 in the evidence in chief of Mr Moffatt.

Ngati Whatua Orakei Whai Rawa Limited does not support the inclusion of indicative roads and pedestrian connections in the various the sub-precinct plans. This is based on Ngati Whatua Orakei Whai Rawa Limited's experience developing the Hillary Framework Plan. It is Mr Roberts' view that it is inappropriate to provide an expectation that connections will be provided in specific locations, where these may not result in the most appropriate urban design outcome. Mr McIndoe has proposed amendments to the assessment criteria to address access as a consequence of deleting the indicative roads and pedestrian connections from the precinct plans.

4. Panel recommendations and reasons

The Panel supports the retention of the Devonport Peninsula Precinct and the various sub-precincts and agrees with the additional height and transition provisions proposed by Ngati Whatua Orakei Whai Rawa Limited's planning and urban design witnesses.

The Panel acknowledges the concerns raised by many submitters relating to infrastructure capacity. However, it heard evidence from both Watercare and the Council that their networks have the capacity, or have programmed upgrades (in the case of Watercare), to address any constraints.

The Panel heard from Auckland Transport that congestion on Lake Road is not unlike that on other arterial routes in the region and that they will be investigating a programme of improvements identified in the Lake Road Corridor Management Plan to address congestion, including transit lanes and a focus on public transport improvements.

In terms of the suitability of the various sub-precincts for intensification and the effects of the additional height on the surrounding neighbourhoods, the Panel was persuaded by the evidence of Ngati Whatua Orakei Whai Rawa Limited that:

- i. the amenity of neighbouring residential areas has been carefully considered with the height controls precluding higher and more intensive development next to existing residential development;
- ii. the development controls and a range of assessment criteria will both protect amenity and facilitate good quality residential development;
- iii. the sub-precincts typically have a depth that will enable taller structures to be developed in the centre of the area with buffer areas provided adjacent to surrounding residential land; and
- iv. the buffer provisions recognise the circumstances on neighbouring residential sites and ensure that the transition between different height levels is managed appropriately.

The Panel agrees with Ngati Whatua Orakei Whai Rawa Limited's proposal to delete the indicative roads and pedestrian connections in the various the sub-precinct plans. This is consistent with the Panel's recommendations in Topic 028 to delete indicative roads and open space overlays from the Future Urban Zone. In terms of that topic the Panel considered the overlays would not assist land owners to plan for future development of their land and could unnecessarily constrain the development. The Panel considers that there are clear and directive objectives and policies (precinct, zone and Auckland-wide) that will ensure development is well connected and supports the additional assessment criteria proposed by Mr McIndoe to offset the deletion of the indicative roads and pedestrian connections.

As set out in the Panel's Report to Auckland Council – Overview of recommendations July 2016, the Panel is proposing that the framework plan/consent provisions should not be included in the Plan. Consequently, all references to framework plans have been deleted from the Devonport Peninsula Precinct.

The deletion of these provisions and removal of the indicative roads and pedestrian connections has required the redrafting of a number of the precinct objectives, policies and

assessment criteria. These are consequential changes and therefore not considered to be out of scope.

At the close of the hearing the Panel asked Ngati Whatua Orakei Whai Rawa Limited to prepare a version of the precinct provisions with the framework plan provisions removed. The Panel appreciates the work done by Ngati Whatua Orakei Whai Rawa Limited in preparing the amended version and notes it has been most helpful to the Panel.

Changes to the zones that apply to the precinct have been addressed in the Panel's Report to Auckland Council – Changes to the Rural Urban Boundary, rezoning and precincts July 2016 (see the section on rezoning). However, as a result of these rezoning recommendations consequential changes have needed to be made to the precinct provisions. The changes involve amendments to the height areas in Sub-precinct C to reflect the change in zoning from Residential - Mixed Housing Suburban Zone to Residential - Mixed Housing Urban Zone.

5. Reference documents

[081c Ak Cncl - North Shore - Precincts \(Devonport Peninsula\) - \(R Moffatt\) - Planning \(29 January 2016\)](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 \(19 May 2016\) \(Attachment C, page 24\)](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016 \(26 May 2016\) \(Page 345\)](#)

[081 Ngati Whatua Orakei Whai Rawa \(N Roberts\) - Planning - Devonport Peninsula - LATE \(19 February 2016\)](#)

[081 Ngati Whatua Orakei Whai Rawa \(G McIndoe\) - Urban Design - Devonport Peninsula - LATE \(19 February 2016\)](#)

[081 Ngati Whatua Orakei Whai Rawa - Devonport Peninsula - Legal Submissions \(17 March 2016\)](#)

[081 Iain Rea - REBUTTAL - VERY LATE \(11 March 2016\)](#)

[081 Devonport Heritage Inc - hearing notes \(18 April 2016\)](#)

509 Greenhithe Precinct

1. Summary of recommendations

The Panel recommends that the Greenhithe Precinct be included in the Plan with some modifications sought by submitters as set out below:

- i. 84 Laurel Oak Drive - land owned by 3rd Fairway has been removed from the precinct;
- ii. 55 Schnapper Rock Road and 52 Kyle Road - change zoning from Residential - Large Lot Zone to Residential - Single House Zone; and
- iii. Greenhithe Village – the Panel does not recommend a minimum 1000m² lot size. It considers that the current character values are not highly significant, and the large number of existing smaller lots means that a minimum lot size that is different to that provided in other parts of Precinct B (500m²) is not justified.

This precinct was heard in Topic 081.

2. Precinct description

The Greenhithe Precinct originated from the Auckland Council District Plan - Operative North Shore Section.

The precinct has been applied to a portion of the former North Shore City Greenhithe Structure Plan area (those areas zoned Area A: Mixed Environmental and Area B: Residential - Large Lot Zone) and the Rural 2 zone which lies to the north-east and south-east of Greenhithe Village.

The Greenhithe Precinct covers a broad area of the Greenhithe Peninsula and drains in two directions to the upper Waitematā Harbour. The purpose of the precinct is to manage subdivision and development in a sensitive catchment and ensure that new development responds to the natural environment including topography, vegetation, water quality, landform and the visual landscape.

The Greenhithe Precinct comprises two sub-precincts. Sub-precinct A requires larger minimum site sizes than those permitted by the Residential - Large Lot Zone. Sub-precinct B allows smaller minimum site sizes than those permitted by the Residential - Large Lot Zone, subject to specific constraints and opportunities including landscape features, topography, significant vegetation and access to a reticulated wastewater system. Subdivision and development in the precinct is supported where it avoids the removal of significant native vegetation (in order to protect visual landscape, native vegetation and habitat for native fauna), will minimise sedimentation and respond to and integrate with the features of the landscape.

The zoning of land within this precinct is the Residential – Large Lot Zone.

3. Key issues

The precinct covers a wide area and there were a number of submitters seeking changes to the precinct both in terms of the provisions and the precinct boundaries. The Council produced evidence from Ms Conner, Ms Absolum and Mr Hillier.

In her evidence in chief and rebuttal evidence for the Council, Ms Conner recommended the following changes from the notified Plan in response to relief sought by submitters:

- a) amend the Greenhithe Sub-precinct boundaries to:
 - i. include the area north of Schnapper Rock Road in Sub-precinct B;
 - ii. retain Sub-precinct A over the two escarpments – between Kyle Road and Schnapper Rock Road and south of Upper Harbour Drive;
 - iii. include the area bounded by the Upper Harbour Motorway, Albany Highway, Upper Harbour Drive and Blacks Road in Sub-precinct B; and
 - iv. remove the precinct from public open space zoned land south of Upper Harbour Drive;
- b) apply an additional subdivision control to the 'Greenhithe Village' (as shown in Attachment E) applying a minimum lot size of 1000 sqm with an underlying rezoning to SH as proposed in my Evidence Report 081c Rezoning and Precincts (Geographical Areas) Albany and Greenhithe;
- c) amend the Sub-precinct B subdivision controls to introduce a 2500m² minimum site size;
- d) introduce development controls based on the SH including precinct yard controls and a height in relation to boundary control for sites smaller than 4000m²;
- e) change 'Subdivision and development is limited' to 'Subdivision and development is managed' in Objective 1 and omitting the word 'rural' from policy 7 in response to submissions from 3rd Fairways Development Limited; and
- f) make minor changes to the precinct description, objective 1 and policies and rules. These were included for clarification.

The Panel heard evidence from a number of submitters seeking changes to the precinct provisions and boundaries as summarised below:

- i. Y Zhang and HL Developments Limited;
- ii. John Parlane;
- iii. Judith Herbert;
- iv. Gordon and Kim Edginton;
- v. Kotewell Trustees Limited; and
- vi. 3rd Fairways Development Limited

The Panel refers to the evidence and closing remarks of the Council and the evidence of the individual submitters regarding the specific issues identified and relief sought.

4. Panel recommendations and reasons

The Panel recommends that the Greenhithe Precinct be included in the Plan in general accordance with provisions as notified, with the subsequent changes requested by the Council, subject to some modifications sought by submitters as set out below.

The Panel considers that the provisions it is recommending meet the requirements of section 32 and promote the purpose of the Resource Management Act 1991.

4.1 Modifications to provisions

- i. Description - 'minimum site sizes' is proposed to replace the word 'densities' as it is more accurate.
- ii. Policies:
 - a. Policy 3 has been amended to remove (replace with 'minimise') and temper ('where practicable') the use of the term 'avoid' as it is considered too onerous considering the King Salmon decision.
 - b. Policy 4 has been amended to replace with 'managing' which is more consistent with the small lot sizes provided for in Sub-precinct B.
 - c. Policy 5 wording has been clarified.
 - d. Policy 8 has replaced the word with 'Maintain'. The Panel agrees with 3rd Fairway that landscape areas in the precinct not identified as an outstanding natural feature should not be preserved and this is too high a standard and not consistent with the development also provided for.
- iii. Activity table:
 - a. Amendments have been made to be consistent with the Plan structure and standard templating.
 - b. The subdivision rules have been amended to better reflect the objective and policies and to be consistent with the approach to subdivision in the Auckland-wide rules.
- iv. Standards have been made more explicit and cross referenced to other parts of the Plan.
- v. Building Coverage – Table I509.6.3.1 and impervious surfaces
 - a. A new set of building coverage standards has added to provide for the smaller lots that are allowed in Sub-precinct B and to address the issue raised by Mr Tollemache.
 - b. A 60 per cent impervious surface area has been added for similar reasons to the above and this is the same as the standard for the Residential - Single House Zone.
- vi. Minimum site area – Table I509.6.5.1
 - a. The Panel's approach to significant ecological areas is that the overlay rules protect the significant ecological area but otherwise should not determine the zoning. With subdivision of a block with a significant

ecological area at least one of the sites will have a significant ecological area so the Panel is not sure how this rule would work.

- b. The Panel agrees with Dr Bellingham's evidence to strike out parts of the table.
- vii. Controlled activities - the provisions have been amended as per the Panel's standard templating.

4.2 Site-specific relief different to that sought by Council

The Council has proposed mapping changes in accordance with its evidence in chief, evidence in rebuttal and closing remarks. These changes are accepted for the reasons provided by the submitters and the Council, except as recommended by the Panel below:

- i. 84 Laurel Oak Drive - land owned by 3rd Fairway has been removed from the precinct;
- ii. 55 Schnapper Rock Road and 52 Kyle Road - change zoning from Residential - Large Lot Zone to Residential - Single House Zone; and
- iii. Greenhithe Village – the Panel does not recommend a minimum 1000m² lot size. It considers that the current character values are not highly significant and the large number of existing smaller lots, means that a minimum lot size that is different to that provided in other parts of Precinct B (500m²) is not justified.

Relief sought by 3rd Fairway was for its land at 84 Laurel Oak Drive to remain in the precinct but be subject to a Residential - Single House Zone and to amend the whole set of precinct provisions to sit over the top of both Residential - Large Lot and Residential - Single House Zones. The Panel does not recommend this approach, but it does agree with the broad thrust of the submissions and evidence from 3rd Fairway that development should be more enabled on 84 Laurel Oak Drive. The Panel recommends that this land is removed from the precinct and made Residential - Single House Zone for the following reasons:

- i. following a site visit the Panel was able to see that vegetation has been removed and earthworks, roading and stormwater management works have already been undertaken in accordance with the current subdivision consent;
- ii. therefore, the environmental protections that the precinct sets out to achieve have already been largely achieved and the reasons put forward in Council's closing remarks position are out-dated;
- iii. the development consent that has been granted by a relatively recent Environment Court decision provides for densities more similar to Residential - Single House Zone than Residential - Large Lot Zone because the development will be serviced;
- iv. the significant ecological area and riparian areas will be protected as in all Residential - Single House Zones by the general rules in the Plan;
- v. Ms Absolum, the Council's landscape witness, made no comments on landscape concerns for this site and the Panel did not identify any concerns from its site visit;

- vi. the concerns raised by Mr Tollemache in regard to coverage restrictions from the coverage rules for the Residential - Large Lot Zone when applied to the small sites provided for in Sub-precinct B, was not adequately addressed by the Council;
- vii. including this land in the precinct would create an anomaly as it is remote from other areas; and
- viii. the existing developed areas on adjoining land have a zoning of Residential - Single House Zone and the Panel considers that this same zoning for 84 Laurel Oak Drive will therefore be the most appropriate zone.

4.3 Kotewell Trustee

The Panel heard expert evidence from the Kotewell Trustee and the Panel did see some merit in the arguments raised and relief sought. However, the Panel agrees with the Council that it is most appropriate for a resource consent to be sought for the type of developments proposed by Kotewell rather than amending the precinct. If applications for subdivision are made the Council is encouraged to consider how the arrangement of lots, building platforms and site sizes, with appropriate legal instruments, could most sustainably manage the natural and physical resources in the precinct for the particular site.

5. Reference documents

[081c Ak Cncl - North Shore - Precincts \(Greenhithe\) - \(T Conner\) - Planning](#) (29 January 2016)

[081c Ak Cncl - North Shore - Precincts \(Greenhithe\) - \(T Conner\) - Planning - REBUTTAL](#) - (1 March 2016)

[081c Ak Cncl - North Shore - Precincts \(Greenhithe\) - \(M Absolum\) - Landscape - REBUTTAL](#) (1 March 2016)

[081c Ak Cncl - North Shore - Precincts \(Greenhithe\) - \(R Hillier\) - Geotechnical - REBUTTAL](#) (1 March 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (page 114)

[081 Y Zhang and H L Developments Albany Limited \(D Tilley\) - Planning](#) (17 February 2016)

[081 Y Zhang and H L Developments Albany Limited \(D Tilley\) - Planning - Summary statement](#) (22 March 2016)

[John D Parlane](#) (15 February 2016)

[081 John Parlane - Summary statement](#) (28 April 2016)

[081 Judith Herbert \(Mark Bellingham\) - Planning](#) (22 February 2016)

[081 Gordon and Kim Edginton - Greenhithe Precinct](#) (11 February 2016)

[081 3rd Fairway Development Limited - Summary statement](#) (14 February 2016)

[081 3rd Fairway Development Limited - Summary statement](#) (20 April 2016)

[081 Kotewell Trustee Ltd \(C Wedding\) - Ecology](#) (12 February 2016)

[081 Kotewell Trustee Ltd \(M Lockhart\) - Landscape](#) (12 February 2016)

[081 Kotewell Trustee Ltd \(S Lander\) - Geotechnical](#) (12 February 2016)

[081 Kotewell Trustee Ltd \(S Robson\) - Planning](#) (12 February 2016)

510 Gulf Harbour Marina Precinct

1. Summary of recommendations

The Panel supports the changes proposed by Council in response to submissions.

2. Precinct description

The Gulf Harbour Marina Precinct is located at Hobbs Bay on the southern edge of the Whangaparāoa Peninsula. Gulf Harbour was developed as a boat harbour under the Rodney County Council (Gulf Harbour) Vesting and Empowering Act 1977. It includes both the coastal marine area and an area of land to the east of the marina.

The purpose of the precinct is to provide for the marina, ferry service and marine-related services and facilities, including haul-out facilities, boat storage trailer parking, and a range of specialist marine trade services. The precinct also provides for a range of commercial and retail activities on part of the adjoining land. The underlying zoning of land in the precinct is Coastal - Marina Zone, and this zoning applies to both the land and the area of the precinct within the coastal marine area.

The Panel notes the precinct, as stated in the provisions, modifies the Coastal - Marina Zone to recognise and provide for the types of activities operating on the Gulf Harbour marina land and to protect the coastal open space nature and amenity of the Hammerhead area within the precinct.

3. Key issues

The Council proposes to maintain the precinct with some amendments, as detailed below, in response to four submissions received from Gulf Harbour Investments Limited, the Whangaparāoa Residents and Ratepayers Association, Thomas G Parsons and Auckland Transport.

The evidence at the hearing, for both the Council and the submitter who made an appearance (Gulf Harbour Investments Limited), supported the retention of the precinct, but with some amendments.

The evidence for the Council (Mr Robert Scott) supported the retention of Sub-precincts A and B. Sub-precinct A provides for a broad range of marina, ferry service, marine and port activities. Sub-precinct B provides for non-marine related uses such as offices, retail, healthcare services and care centres. The evidence also introduced Sub-precinct C to preserve the area of coastal open space referred to as the 'Hammerhead' with a lower height limit than the remainder of the precinct in order to minimise potential visual impacts of buildings due to the more visually prominent location of this area of land. The new sub-precinct was considered appropriate to distinguish this land from the more marine industrial and commercially-focused land uses in the precinct.

The precinct also modifies the height controls of the underlying Coastal - Marina Zone to specifically provide for marine industry, marine commercial and community/recreation facilities in each sub-precinct.

Agreement was largely reached between the Council and Gulf Harbour Investments Limited. In evidence for Gulf Harbour Investments Limited however, Mr David Hay expressed the view that in introducing Sub-precinct C the concept of protecting the 'coastal open space nature and amenity' could be interpreted as Council seeking to preserve the Hammerhead in its current form, that is, as a mix of open space and car parking. This was seen as being reflected in the restriction of uses within Sub-precinct C. He stated that the area is significantly under-utilised and has the ability to support and host a range of recreational and marine-related activities and other non marine-related activities.

In rebuttal evidence Mr Scott agreed with Mr Hay that the Council's intention is for the Hammerhead to be developed, but at a less intense scale than the other sub-precincts, and for it to provide for a range of marine-related or marine-complementary activities but recognising its coastal location. He recommended the statement in the precinct description be amended as:

The precinct modifies the marina zone to recognise and provide for the types of activities operating on the Gulf harbour Marina land, and to protect the coastal and amenity of the Hammerhead area.

Then, to reflect the above amendment in the description for the sub-precincts, he recommended further changes as below but adding 'complementary' before non-marine activities to protect the preference for marine activities in the sub-precinct. His amendments were:

Sub-precincts B and C provide for a range of both marine and complementary non-marine related activities such as office, retail, healthcare services and care centres.

There remained disagreement regarding office activity on the Hammerhead. The Panel agrees with this exclusion because offices not accessory to marine and port activity are enabled in Sub-precinct B; it is not necessary to complement the range of marine-related activities (and limited non-marine retail) that are enabled in Sub-precinct C; it does not have a functional need to be in a coastal location; and could limit the range of activities otherwise provided for in the sub-precinct. The Panel notes that in his summary statement to the hearing dated 14 March 2016 Mr Hay advised that Gulf Harbour Investments Limited no longer wished to pursue this matter.

The Panel finds agreement with the planning witnesses that the precinct is retained and with the amendments agreed, which provide additional specificity and clarification regarding the future intentions for the precinct. With Gulf Harbour Investments Limited deciding not to pursue its earlier concern regarding office activity on the Hammerhead, the Council and the submitters are largely in agreement with the revised provisions.

No comments were made by Council in its closing remarks.

4. Panel recommendations and reasons

The Panel accepts the position of Council presented in evidence that the precinct be supported largely in the form agreed between Council and the submitters. This is for the reasons set out in section 1.3 above.

In the above respects the Panel, having had regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, agrees that the provisions as

amended by Council in response to the submissions are the most appropriate way to achieve the purpose of the precinct, the regional policy statement and the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Gulf Harbour Marina\) - \(R Scott\) - Planning](#) (26 January 2016)

[081b Ak Cncl - Rodney - Precincts \(Gulf Harbour Marina\) - \(R Scott\) - Planning - REBUTTAL](#) (25 February 2016)

Gulf Harbour Investments Ltd

[081 Gulf Harbour Investments Ltd \(D Hay\) - Planning](#) (12 February 2016)

[081 Gulf Harbour Investments Ltd \(D Hay\) - Summary Statement](#) (21 March 2016)

511 Hatfields Precinct

1. Summary of recommendations

The Panel supports this precinct proposed by the landowner Kauri Orewa Limited (formerly Chin Hill Farm Limited). This precinct was not supported by the Council.

This precinct was heard in Topic 081.

2. Precinct description

The Hatfields Precinct is a contiguous 183.8 hectare block of rural land held in eight freehold titles, located immediately to the north of Hatfields Beach. The precinct is bounded by the Hibiscus Coast Highway on its eastern side, the Waiwera River on its northern side, State Highway 1 on its western side, and the existing Hatfields Beach settlement on its southern side.

The land is characterised by a mix of marginal pastoral farmland and large blocks of native bush, with a series of ridgelines and gullies. The south-western slopes contain stands of pristine native bush, including stands of kauri that stretch downward toward the Hibiscus Coast Highway and adjacent wetland and estuary. The bush area is within a significant ecological area overlay. The upper part of the precinct is within an outstanding natural landscape overlay. Other overlays also apply in this precinct.

The purpose of the precinct is to enable a comprehensively master-planned rural lifestyle development within a natural bush setting, while protecting and enhancing the nature conservation and landscape values of the land. The varied, rolling topography and existing areas of native bush – along with proposed revegetation and enhancement – ensure that the site is capable of absorbing rural lifestyle development in a manner that avoids or mitigates adverse effects on nature conservation, landscape and rural amenity values. This is achieved by setting aside areas within the precinct for protection and enhancement, with ‘clustered’ areas of rural lifestyle development in carefully chosen locations to minimise adverse landscape effects.

The precinct will also enable an off-road walking trail linking Hatfields Beach with Waiwera.

The precinct plan delineates three protection areas, and ten development areas. The protection areas are: the existing significant ecological area on the south-western slopes of the precinct; the gullies and slopes with regenerating bush, and the existing grazing land. It is intended that these protection areas be retired from farming and enhanced with new native revegetation and protected in perpetuity, along with comprehensive plant and pest management programmes.

Rural lifestyle development will be within nine distinct ‘clusters’ within the precinct with one common area which will support recreation amenity facilities for the homeowners.

Development within the precinct will be subject to building design standards and site landscaping standards, including native revegetation, to ensure buildings are in keeping with the landscape character and are not visually prominent. Maximum height levels and building envelopes will be set for each of the cluster areas to minimise adverse landscape effects.

Although sites will generally be within the range of 2000m² to one hectare each, the overall density of the development will achieve an average of one rural lifestyle site per at least three hectares.

The zoning under the notified proposed Auckland Unitary Plan Unitary Plan was Rural - Rural Production Zone and Rural - Rural Coastal Zone. The Council's revised zoning for the land within the proposed precinct is Rural – Rural Coastal Zone consistent with Mr Te Pairi's planning evidence on rezoning dated 28 January 2016.

3. Key issues

In Topic 016/017 the submitter requested an extension to the Rural Urban Boundary north of the existing urban area of Hatfields Beach. Initially the requested extension to the Rural Urban Boundary related to all of the submitter's land, however this was later reduced to relate to a small portion in the south-eastern corner of the land. This revised extension related to a portion of the land originally within the proposed precinct and would cover the rolling pastoral land, ending at the edge of Outstanding Natural Landscape 44 and the significant ecological area and the low-lying ridge to the east of the significant ecological area.

The Panel has recommended an extension to the Rural Urban Boundary north of the existing urban area of Hatfields Beach that includes the south-eastern portion of the submitter's land. This land now recommended to be within the Rural Urban Boundary has been excluded from the Hatfields Precinct.

The submitter requested a rezoning of the land within the proposed precinct from Rural - Rural Coastal Zone to Rural - Countryside Living Zone. This was not supported and the Council sought to retain the zoning of Rural - Rural Coastal Zone.

The Council legal submissions summarised the evidence in relation to the three precincts sought at Hatfields Beach, as set out below.

7. The Council does not support the inclusion of any of the Hatfields Beach Precincts in the PAUP particularly the degree of density of rural subdivision proposed in each of the three precincts. The basis for this is that rural subdivision is strategically managed within the PAUP in order to achieve consistency with a core strategic direction in the RPS – to prevent further sporadic and scattered subdivision in rural Auckland.

8. In addition, Hatfields Beach is a sensitive coastal area, that contains significant natural and landscape character values includes extensive areas of ONL44 and SEA.– which are acknowledged and protected by the RPS and zoning in the PAUP.

9. On the basis of the above issues, Mr Te Pairi, informed by the ecological evidence of Ms Myers, and the landscape evidence of Stephen Brown does not consider that the three Hatfields Beach Precinct proposals meet the Merits Based Assessment for new precincts, outlined in the evidence of Mr John Duguid for the Council on Topic 081 rezoning and precincts.

The Council's closing remarks responded to this specific precinct as set out below.

8. While the Council acknowledges that there are some benefits of the precinct, such as protection of native vegetation and potential public access, the Council considers

that these are not special enough to justify departure from the Council's RPS provisions and Auckland-wide rural subdivision provisions, particularly where SEA on the property will be protected through the PAUP provisions anyway.

10. In addition, the precinct provisions, while providing for clusters of development, would not adequately protect the significant landscape and coastal character values, including on ONL 44, identified by Stephen Brown. Mr Brown indicated to the Panel at the hearing that he considered the Kauri Orewa Precinct would not achieve the RPS policy of avoiding effects on ONL 44.

12. The Council remains of the view that the proposed RC zoning for the land is appropriate and that the proposed precinct provisions would result in an entirely inappropriate level of development which does not give effect to the RPS, the NZCPS or Part 2 of the RMA.

Mr Skelton, the submitter's landscape architect, in his summary statement presented at the hearing set out the differences in opinion between himself and Mr Stephen Brown on behalf of the Council, as set out below.

Pastoral vs natural character

10. Mr Brown states that I have misunderstood the role of the site's open pasture in contributing to ONL44. I have not misunderstood the role of pasture but I offer an alternative opinion on its value. Mr Brown places significant weight on the pasture's role as; A: a counterpoint to the mosaic of remnant bush and B: the legibility of the underlying landform.

11. I agree that the landform is more legible under the cover of pasture. So too are the scars of pastoral farming, the barren slopes eroded by pastoral animals, the land slumps and runoff channels which have resulted from the clearance of vegetation and subsequent erosion. I agree that the complex topography of the site is more legible under the cover of pasture, but it is the case that some of that topography is a result of the site's pastoral history. I consider that the site's complex topography can still be well appreciated under the cover of native bush and that pasture has in some cases, undermined the integrity of the landform.

12. The mosaic of remnant bush Mr Brown refers to is in fact remnant and a mosaic as a result of the pasture, which is entirely a manmade construct. While the patchwork of pasture is considered an important element within the much larger ONL44, throughout ONL44, pastoral lands often reach the edge of native bush and pastoral animals are kept from the bush by fences. In the case of the Chin Hill property, the remnant bush is part of the pasture, is not protected by fencing and is susceptible to further degradation due to pastoral grazing. As I understand the Chin Hill site is not a viable pastoral farm. On my several site visits I have witnessed very limited grazing which has left the pastoral areas overgrown and under grazed.

13. It is my interpretation that the overgrown and under grazed pasture which weaves between the remnant bush has degraded the natural integrity of the hills. I understand Mr Brown's romantic notion that the interplay of bush and pasture goes to the heart of New Zealander's appreciation of quintessential, local, natural landscapes. However in the case of the Chin Hill site, I consider this is an apathetic, old world interpretation. It is my opinion that a large, healthy native ecosystem facilitated by the development of pockets of recessive residential dwellings which

appear subservient to the landscape's naturalness is a progressive and appropriate response to the landscape. It is my opinion that this proposed development will better articulate a positive response to man's impact on the natural values of the landscape and that this response would continue to perpetuate the values which give ONL44 its outstanding character.

14. Furthermore, the existing estuary and its low growing plant life which exists between the Chin Hill site and the Hibiscus Highway and Hatfields Beach Reserve currently acts as the visual frontispiece to the subject land. This natural, mostly open land which is part of the coastal environment will continue to act as the foreground to the site and continue the open character which Mr Brown attributes to the pastoral lands.

15. In summary, I consider the proposed development to be, as Mr Brown has confirmed, restorative design. The Chin Hill site is no longer a productive, pastoral area and I consider the pastoral component of this site in particular to degrade the already marginalised remnant bush. Clustered, appropriately scaled, recessive residential development with strict controls to limit the spread of domestic effects will act as the impetus in a large scale rehabilitation of the landscape's natural values. In 3 – 10 years this transition will replace the manmade constructs of pastoral lands with the manmade constructs of residential and access areas.

However in 10 to 30 years the residential components of the landscape will be set deep within a strong natural landscape and its appreciation as being outstanding will continue.

Mr Jeff Brown in his planning evidence set out his summary of the following key issues.

B. The 183ha Chin Hill property is generally steep land with some flatter areas, and has a range of vegetation types including a significant ecological area (SEA) and high quality but non-SEA vegetation areas through the gully systems and indigenous wetlands, and extensive pasture. The ecological values are significant and are threatened by grazing and by animal and plant pests.

C. The property lies between Hatfields Beach and the Waiwera River, and there is opportunity for a walkway and cycleway linking the Hatfields reserve (on the south side) to Weranui Road near Waiwera (on the north side).

D. The land also has landscape values – it is in part within an outstanding natural landscape (ONL) – and it has particular locational attributes: it is close to the urban area, has various amenities, is close to the Hibiscus Coast Highway which provides a bus service, and has no real farming opportunities. It is appropriate for rural lifestyle development, and I consider that the sustainable management of the resources needs to include all of the following three components:

1. Retirement from farming; and
2. Protection and enhancement of natural values; and
3. Rural lifestyle development that recognises and addresses the significant landscape and coastal values while enabling the achievement of significant beneficial ecological outcomes.

E. I consider that the most appropriate method to achieve these 'sustainable management components' is by way of the bespoke precinct, within an underlying Countryside Living Zone (CLZ).

F. The precinct covers the whole of the Chin Hill property. The ecological benefits will be significant from the adoption of the precinct, including the opportunity to change a fragmented, degraded ecological landscape supporting important values under threat, to one where existing values are legally protected, restored, linked and reconnected, and enhanced such that benefits generated for biodiversity are significant and of local, regional and national significance. The precinct's most distinctive feature is its protection and enhancement of 160ha of native vegetation (including 70ha protection of existing bush and wetlands, and 90ha of revegetation) and covers 87% of the property. This is incentivised by the ability to create up to 58 rural lifestyle sites. The revegetation methodology is part of the precinct rules, to 'lock in' the ecological outcomes. The sites are in 4 separate clusters, located in response to the landscape values of the site and wider area, and development on each site is managed by stringent design controls.

G. The notified Rural Production Zone (RPZ) and the Rural Coastal Zone (RCZ) are not appropriate as the land has no economic value for farming and the adoption of those zones would not enable the protection and development opportunities inherent in the land.

H. I consider that the bespoke Precinct and the CLZ better serve the higher order objectives and policies of the PAUP, and are consistent with and achieve the Panel's interim guidance for best practice approaches to re-zoning and precincts, and that the precinct achieves the Council's merits assessment criteria. The precinct is consistent with the New Zealand Coastal Policy Statement objectives and policies.

I. I disagree with much of Mr Te Pairi's evidence on the zoning and the precinct.

J. I consider that the re-zoning and precinct are consistent with Sections 6(a) and (b) and 7(b), (c), (g) and (i) of the Act, and are the most appropriate way to achieve the Act.

For all of the reasons contained in the evidence presented on behalf of the submitter the Panel recommends that the Hatfields Precinct be adopted.

In relation to the zoning of the land, the Panel recommends the zoning of Rural - Rural Coastal Zone be retained for the reasons contained in the evidence presented on behalf of the Council. This zoning, together with the environmental and development outcomes anticipated by the precinct provisions, appropriately manage this land that abuts the revised Rural Urban Boundary at Hatfields Beach. The submitter's land, together with the surrounding land, is most unlikely to be rezoned for urban purposes and is not suitable for countryside living subdivision and development as contemplated by the Rural - Countryside Living Zone.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the Hatfields Precinct be adopted.

The Panel has concluded that the positive environmental outcomes that will be achieved from the retirement of this land from farming, the protection and enhancement of the natural features, consistent with the precinct provisions that recognise and address the significant landscape and coastal values while enabling the achievement of significant beneficial ecological outcomes, is the most appropriate way to enable the development of the proposed precinct site and to give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Hatfields\) - \(S Myers\) - Ecology](#) (27 January 2016)

[081b Ak Cncl - Rodney - Precincts \(Hatfields\) - \(N Te Pairi\) - Planning - REBUTTAL](#) (1 March 2016)

[081b Ak Cncl - Rodney - Precincts \(Hatfields 1,2 and 3\) - \(N Te Pairi\) – Planning](#) (28 January 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Page 10)

[081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\)](#) (3 March 2016) (Page 24)

Chin Hill Farm

[081 Chin Hill Farm \(J Brown\) - Planning](#) (15 February 2016)

[081 Chin Hill Farm \(S Skelton\) - Landscape](#) (15 February 2016)

[081 Chin Hill Farm \(S Skelton\) - Landscape - summary statement](#) (16 March 2016)

512 HMNZ Dockyard Precinct

1. Summary of recommendations

The HMNZ Dockyard Precinct is recommended to be included in the Plan as agreed between the New Zealand Defence Force and the Council.

This precinct was heard in Topic 081.

2. Precinct description

The HMNZ Dockyard Precinct applies to the dockyard land on the western half of the reclamation along the base of the cliff at Calliope Road, Devonport. This land is subject to a designation for defence purposes.

The dockyard is occupied by wharf buildings, a dry dock, a syncrolift and industrial buildings. The primary use of the dockyard is for the maintenance of vessels. The dockyard is accessed at its eastern end from Philomel Crescent, via Queens Parade, and at its western end from the Stanley Bay gate by a vehicle crossing off Calliope Road, referred to as the Calliope Road service lane.

The purpose of the precinct is to enable the use of the dockyard for non-defence purposes, providing for the efficient use of existing resources and continued employment of a significant workforce.

The zoning of land within this precinct is Business - Light Industry zone.

3. Key issues

There were no issues remaining between the New Zealand Defence Force and the Council.

4. Panel recommendations and reasons

The HMNZ Dockyard Precinct is recommended to be included in the Plan as agreed between the New Zealand Defence Force and the Council.

The precinct is considered necessary rather than just relying on the zone in order to better manage the uses and activities at the Devonport Naval Base that are not defence-related and therefore not covered by the designation for defence purposes. The activity status of these activities is specified in a tailored activity table. A range of desired environmental outcomes specific to the base environment and location are stated in precinct policies and given effect to through specific development controls.

The precinct is appropriate because it satisfies the requirements of section 32 and promotes the purpose of the Resource Management Act 1991.

HMNZ Dockyard Precinct appropriately provides for the integrated management of the area, subject to amendments to the notified Plan to:

- i. ensure consistency of terminology/phrasing and structure with other precincts;
- ii. amend the objective to focus on non-defence use of facilities in the precinct;

- iii. include matters of discretion and assessment criteria for dominance and shading in relation to buildings, as these were missing in the notified Plan version of the precinct provisions; and
- iv. support the removal of the flood-prone area layer across the Calliope dry dock, as shown on the Plan maps.

The main difference between what was presented at the hearings and what the Panel has recommended is that the objectives, policies and provisions are now contained within one section. This is consistent with other changes made by the Panel to the structure of the Plan to improve clarity and usability.

5. Reference documents

Auckland Council

[081c Ak Cncl - North Shore - Precincts \(HMNZ Dockyard\) - \(R Moffatt\) - Planning \(9 February 2016\)](#)

[081c Ak Cncl - North Shore - Precincts \(Devonport Naval Base & HMNZ Dockyard\)- \(R Moffatt\) - Planning - REBUTTAL \(2 March 2016\)](#)

[081c Ak Cncl - North Shore - Precincts \(Devonport Naval Base & HMNZ Dockyard\) - Memo of counsel - revised precinct provisions \(30 March 2016\)](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 \(19 May 2016\) \(Page 109\)](#)

New Zealand Defence Force

[081 New Zealand Defence Force \(K Baverstock\) – Planning \(23 February 2016\)](#)

514 Kakanui Point Precinct and rezoning

1. Summary of recommendations

The Panel recommends a precinct as proposed in the notified and as generally agreed between the submitter (The Gibbs Foundation) and Council and with further amendments to the precinct provisions set out in this report. It is appropriate to enable the continuing development of the sculpture park and its associated environment as an important cultural resource through a suite of land use and development controls designed to recognise its specific characteristics.

This precinct was heard in Topic 081.

2. Precinct description

The property covers approximately 353ha, and is located at Barr Road, Kaukapakapa, adjoining State Highway 16 to the east and the Kaipara Harbour to the west, and adjoins the Araparera River marginal strip. It includes rural and coastal land, and extends into the coastal marine area.

The purpose of the Kakanui Point precinct is to enable the continued operation and development of the sculpture park. The park contains works by sculptors and artists, as well as associated and complementary development and land uses. Together, they provide a unique landscape which reflects the creativity of the people commissioned to undertake the sculptures and artworks. The presence of modified or constructed landforms and waterbodies, extensive native and exotic plantings, and rare and exotic animals, complement and enhance the sculpture park. It is appropriate to enable the continuing development of the sculpture park and its associated environment as an important cultural resource through a suite of land use and development controls designed to recognise its specific characteristics.

3. Key issues

The Kakanui Point Precinct was included in the Plan as notified. The Council in its evidence acknowledged the site is unique as an internationally renowned sculpture park, and should be enabled through a set of plan provisions. The few issues outstanding relate to the appropriateness of the plan provisions, and these issues were further narrowed at the hearing.

The vast majority of proposed precinct provisions for the subject site were agreed between the Gibbs Foundation and the Council. This report largely addresses those matters not resolved.

Prior to the hearing, but after evidence exchange, the issue of subdivision (no longer pursued by the submitter) and the definition of 'artworks' were agreed. The definition of 'artworks' is discussed below, but note that the Panel's recommendation is to delete the Plan's definition of artworks in its entirety.

Immediately prior to the hearing the outstanding issues related to:

- i. amendments to Activity Table 1 and rule 2.2 relating to land disturbance, and vegetation management provisions;
- ii. activity status for further dwellings;
- iii. permitted volume of water take from on-stream dams; and
- iv. control of tourist and visitor activities.

Mr Cross, the Council's expert planner, stated at the hearing that there really was no disagreement; it was only how matters were expressed in the Plan.

There is also an outstanding issue in relation to a submission lodged by the Kaipara District Council challenging the proposed zoning of the site.

4. Panel recommendations and reasons

The Panel acknowledges that the Gibbs Foundation's farm (the Kakanui Point Precinct) is a sculpture park of international significance. From a sculpture park perspective the Panel accepts there is nothing approaching its scale and significance in New Zealand with only a few others like it in the world. In this regard the Gibbs Foundation's farm is a true exception to the norm.

As set out in legal submissions, evidence presented by Mr Gibbs, and a range of expert evidence, of critical importance when considering appropriate planning provisions for the Gibbs Foundation's farm is an understanding that the landscape is integral to the experience and that includes the expanses of the Kaipara Harbour. In terms of the subject property itself, the landscape has been reworked and the sculptures and artwork interact with the landscape.

The Panel had extensive evidence on which to make its recommendations. This was from the Council (Mr Cross, the Council's expert planner), and the following from the Gibbs Foundation:

Mr A Gibbs (owner); Ms S Lagen (art expert); Mr G Lister (landscape); Mr K Cook (Planning); Mr L Hills (traffic); Mr C Robinson (acoustics); Dr G Dumbell (ecology) and Mr P Boardman (structural engineering).

The Kakanui Point Precinct provisions proposed by the Gibbs Foundation include changes to the objectives and policies proposed in the Plan as notified as well as a number of the provisions. Having had regard to all the submissions and evidence the Panel finds that in section 32 and 32AA terms the provisions that facilitate artworks and sculptures, including their establishment and associated land development and the other activities associated with management of the Gibbs Farm, are the most appropriate way to achieve the purpose of the precinct, the regional policy statement and the Resource Management Act 1991.

The specific changes recommended by the Panel are addressed below.

4.1 Zoning

Kaipara District Council sought that the zoning of the Kakanui Precinct be Rural – Rural Coastal Zone rather than Rural – Rural Production Zone. The reasons given were:

- i. Rural – Rural Production zoning is out of alignment with zoning of adjoining and other sites adjacent to the Kaipara Harbour;

- ii. Rural – Rural Coastal zoning provides for the appropriate management of activities where there are land/coastal interface issues; and
- iii. Rural - Rural Production zoning allows for effects in scale and intensity that would be different to those allowed on neighbouring sites under Rural – Rural Coastal zoning.

For the reasons set out below the Panel recommends the Rural – Rural Production Zone as in the notified Plan, and supports the evidence of the Gibbs Foundation. In summary the evidence supports the Rural – Rural Production Zone as more appropriate than the Rural – Rural Coastal because:

- i. the modified landscape of the property and the artworks themselves distinguish its character from that of adjoining Rural – Rural Coastal zoned land;
- ii. the subject property has a history of innovative land development and management that sets it apart from much of the neighbouring land;
- iii. the property as a whole has been remade as a work of landscape art. The land has been recontoured and the grass sward is groomed and mown to provide a smooth surface that accentuates the play of light on the landform; and
- iv. the zoning better reflects the operative plan zoning of the subject site (General Rural) and that of Plan Change 132.

The Panel notes that Kaipara District Council did not present any evidence in support of its submission.

Overall, the Gibbs Foundation's farm is distinctly different to adjoining sites and other sites adjacent to the Kaipara Harbour, but it also includes farming and forestry. The Panel finds that the Rural – Rural Production Zone is the most appropriate zoning for the site.

4.2 Artworks definition

Mr Cook's evidence sought a change to the artworks permitted within the precinct through an amendment to the definition of artwork. This was to capture sensory forms of art which were not included in the Plan's definition – for example smoke, water or vapour. Mr Cross, on behalf of Council, agreed with the wording of the change but suggested the amended definition of artworks should not be limited to the text of the precinct provisions. Instead the revised definition of artworks should apply to the Plan as a whole.

The Panel has, in relation to the hearing on the definition of artworks (see the Panel's Report to Auckland Council – Hearing topic 065 Definitions July 2016), recommended that the definition of artwork be deleted. Based on the evidence at those hearings, and reinforced by the evidence for this precinct, the Panel does not consider it is appropriate or necessary to define 'artwork'. Artwork does not lend itself to a definition and it could be very widely or narrowly defined; however this could result in endless debates about 'what is art'. Artwork is term that needs no definition.

4.3 Land disturbance and vegetation management provisions

Mr Cook set out in his rebuttal evidence why the amendments sought to the activity table and to provisions relating to vegetation management are necessary and appropriate.

The context of this is the interplay of landscape and sculpture at the Gibbs Foundation's farm, and the managed nature of the landscape. In addition the scale of the works is significant. Reworking of the landscape and/or installation of works involving substantial foundations is a fundamental part of the sculpture park, requiring earthworks and vegetation management.

With respect to land disturbance, it was Mr Cook's opinion that if the provisions were not amended as he recommended, this would mean the regional thresholds would still apply and this would severely fetter the purpose of permitting land disturbance in the Kakanui Point Precinct – i.e. to appropriately enable artworks, including landform modification. The changes proposed by Mr Cook would still mean the relevant land use controls would apply such as silt control, the lower thresholds for land disturbance in overlays, and the provisions relating to earthworks in the coastal marine area.

The Panel accepts that a different regime for land disturbance be applied in the precinct. The recommended controls will still ensure environmental protection through regional land use controls and the application of the thresholds for earthworks in overlays and the coastal marine area. The usual land disturbance thresholds have been deleted so that the artworks purpose of the precinct is enabled. It is noted that the earthworks controls in the Plan have been substantially redrafted to essentially separate the regional and district land use rules. The details of this are set out in the Panel's Report to Auckland Council – Hearing topic 041 Earthworks and minerals July 2016.

As with the situation described in relation to land disturbance, the absence of provisions in the Kakanui Point Precinct permitting vegetation alteration or removal would mean that the Auckland-wide rules would apply. Consents would be required to alter or remove the planting around lakes, wetlands and coastal margins within the precinct (not just protected trees). However, all of the planting has been introduced as part of the Gibbs Farm artworks and restoration, and is subject to ongoing management and change.

While the proposed precinct provisions would permit vegetation alteration or removal, land use controls make it clear that the exemption that would apply in the precinct is limited to the general Auckland-wide vegetation management rules. Accordingly, the Plan controls which limit vegetation alteration and removal within overlays would continue to apply.

The Panel finds that to give effect to the objectives and policies of the precinct and its fundamental purpose, the provisions relating to land disturbance and vegetation management as proposed by Mr Cook and supported by Dr Dumbell and other witnesses for the Gibbs Foundation, are the most appropriate. The Panel notes that Mr Cross did not have a fundamental opposition to the provisions, only how they were reflected in the Plan.

4.4 Activity status for further dwellings

The activity status for further dwellings on the site remained an area of disagreement between the parties. Mr Cook identified that the plan provisions he supports will result in the precinct applying the same activity status for additional dwellings as applies in the zone, and that is as a discretionary activity. It is noted that more than three dwellings per site, where the site is equal to or greater than 100ha, is a discretionary activity.

Mr Cross referred to the 'maximum number of 15 dwellings' for the subject site being arrived at in the context of the Plan Change 132 proceedings. It was pointed out to the Panel in legal submissions that Plan Change 132 did not in fact address the appropriateness of 15 dwellings on the Gibbs Farm.

The Panel finds that the discretionary activity proposed by Mr Cook is appropriate and consistent with the zoning of the site.

4.5 Permitted volume of water take from on-stream dams

Activity table 1 as proposed by Mr Cook provides for the taking and use of up to 20m³/day surface water from lawfully established on-stream dams. The basis for this provision was set out in the evidence of Mr Cook and Dr Dumbell.

Mr Cook and Dr Dumbell set out that the effects of this level of take would be minor, and given the purposes of the precinct, in particular the importance of the vegetation and groomed grass sward to the overall sculptural and landscape experience, that the proposed water take is appropriate. It is also noted that streams and lakes on the property have largely been created and designed to have this volume of water taken for the farm purposes.

Mr Cross set out in his evidence that he offered no opinion as to the merits of the water take provisions proposed as he has received no advice from Council's experts. At the hearing Mr Cross accepted the submitter's provisions regarding the use of up to 20m³/day surface water from lawfully established on-stream dams.

4.6 Control of tourist and visitor activities.

The site presently hosts monthly public open days. The Plan provisions, supported by Mr Cross, enabled six such events per year. He modified this to 12 events per year acknowledging the monthly public open days. It was the submitter's view, set out in legal submissions and the evidence of Messrs Cook, Hills (traffic) and Robinson (acoustics) that the number of events event should not be limited, but controlled by a traffic management plan.

The Panel was advised advised by Messrs Cook and Hills that direct discussions had taken place between traffic engineers for the Council (Mr Wong-Toi) and the Gibbs Foundation (Mr Hills). In summary the outcome of discussions involved moving the detailed traffic management measures proposed by Mr Hills to the special information requirements and replacing them with a suite of controls proposed by Mr Wong-Toi (with minor amendments) to ensure consistency with provisions applying to major recreation facilities.

The material difference involves deletion of the maximum six events permitted per calendar year, (which does not reflect the current use of at least one and sometimes two or more events per month). Instead, the frequency of events is to be addressed through traffic management plans.

The Panel heard how traffic has been managed to date, and supports the deletion of the number of events and the use of traffic management plans as set out in the revised provisions provided by Mr Cook.

5. Reference documents

Auckland Council

[081b AK Cncl - Rodney - Precincts – \(Kakanui Point\) - \(B Cross\) - Planning](#) (28 January 2016)

[081b AK Cncl - Rodney - Precincts - \(Kakanui Point\) - \(B Cross\) - Planning - REBUTTAL](#) (25 February 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (page 19)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016](#) (26 May 2016) (page 9)

Refer to [hearings webpage](#) for all evidence documents logged on The Gibbs Foundation (081 Rezoning and Precincts (Geographical Areas) - IHP DOCUMENTS AND SUBMITTERS EVIDENCE)

515 Kawau Island Precinct

1. Summary of recommendations

The Panel supports the changes proposed by Auckland Council and points raised by submitters that are directed toward clarifying the vegetation removal and subdivision provisions by making reference to the Auckland-wide provisions and, in addition, deleting the front yard and coastal protection yard controls for development abutting the foreshore.

This precinct was heard in Topic 081.

2. Precinct description

Kawau Island is located off the east coast 8.4km from Sandspit and 1.5km south of the Tawharanui Peninsula. The significant elements that contribute to the distinctive character of Kawau Island are that it is an island settlement with generally hilly topography, often with steep land or cliffs. The vegetative cover is highly modified, containing large areas of kanuka/manuka and areas of both planted and wilding pine forest. Much of the ground level is depleted of regeneration and plant life as a result of browsing and grazing by wallabies.

There is a long history of maritime use of the sheltered harbours on the western side of the island, and access to and around the island relies on sea transport as there are no roads on the island. Almost all of the settlement is concentrated on the sheltered western side of the island. Most dwellings are located close to the coastal edge as a result of sites often having a limited area for a building platform because of the steep topography close to the foreshore, and because the only means of access to properties is from the sea.

Much of the island, outside of settled areas, is scheduled for its outstanding natural landscape values. The coastal edge on the eastern side is also scheduled for its outstanding natural character values, and other parts of the island are scheduled for their high natural character values. Significant ecological areas have not yet been identified for Kawau Island.

The island has a rich and interesting history which includes Māori occupation and use, copper mining, the former residence of Sir George Grey and his introduction of a number of exotic animals to the island. The Kawau Historic Reserve, including Mansion House, comprises approximately 10 per cent of the island and is administered by the Department of Conservation. Mansion House, the jetty and its surrounds are scheduled for their historic heritage values.

The purpose of the Kawau Island Precinct is to ensure the distinctive character of the island is recognised and provided for, and that regard is given to the non-statutory document Kawau Island Vision 2009.

The precinct comprises two sub-precincts to enable the distinction between the more densely settled area and the remainder of the island to be maintained. Sub-precinct A applies to the most densely settled areas on the western side of the island where the underlying zone is Residential - Rural and Coastal Settlement. Sub-precinct B applies to the eastern side and the underlying zone is the Rural - Rural Conservation Zone. Sub-precinct A enables a greater range of urban-scale activities to be undertaken than in Sub-precinct B.

3. Key issues

Key issues addressed through submissions and at the hearing were the vegetation removal and subdivision provisions and the front yard and coastal protection yard controls abutting the foreshore.

The Council proposed to retain the precinct with some amendments, as detailed below, in response to the submissions. The amendments, as identified by Council through its evidence are:

- i. recognising the importance of water access to sites and removing the requirement for sites to have legal access to a road;
- ii. recognising through permitted activity status the fire risk presented by the vast area of manuka and kanuka and therefore permitting, use of such wood through non-commercial harvesting, recognition of existing forestry activities, protection of native trees over 3m in height and protection of native bush over 500 m² in area; and
- iii. subdivision allowing only larger sites within Sub-precinct A (minimum area 4000m²) to reflect the objectives of the precinct to allow the creation of low intensity development.

Ms Hume, Ms Pardey and Dr Bellingham attended the hearing to address their submissions with Ms Hume also speaking on behalf of Mr Allbon. Ms Hume spoke to concerns regarding vegetation clearance for walking tracks being a permitted activity and sought that such provision should only apply to private property owners on their own land. The concern included the public crossing onto privately-owned land. Mr Allbon's submission sought reinstatement of the allowance for cutting manuka and kanuka for the purpose of reopening the canopy for revegetation with native species.

Ms Pardey spoke on behalf of the Kawau Island Advisory Committee expressing concerns for the precinct being of limited value if its provisions did not override any overlays. This was particularly to allow activities such as the cutting of manuka and kanuka. Her concerns also included the 6m foreshore yard being a problematic rule for building because of the steep topography extending close to the water. Dr Bellingham had concerns regarding rules missing from the precinct provisions for subdivision and sought the transferable rural site subdivision provisions should apply to Kawau Island as a donor area.

Mr Traub addressed the submissions for Council pointing out the Council has no rules that provide for the public to enter onto private land and that Ms Jane Andrews had provided ecological evidence that manuka and kanuka are an effective succession species on Kawau Island. Mr Traub stated the 6m foreshore yard control is as in the operative plan and, apart from addressing the siting of buildings, is concerned with coastal inundation and stability. In addressing Dr Bellingham's concerns he pointed out that some provisions are removed from the activity table because the underlying zone and Auckland-wide provisions adequately address subdivision within the precinct. He presented an amended set of provisions as part of the Council's closing remarks. He stated that the transferable rural site subdivision provisions are only used where necessary to protect significant ecological areas and that issues around incentivised subdivision could be considered as part of the future identification of significant ecological areas on the island.

The Panel notes that Mr Traub, subsequent to the hearing and as recorded in a memorandum from Ms Woolley as counsel, recommended removal of a number of the subdivision provisions from the activity list in response to concerns raised by Dr Bellingham. The Panel accepts those amendments because the underlying zoning and Auckland-wide provisions adequately address subdivision in these respects.

The Panel largely finds agreement with the Council and the amendments made to the provisions to address concerns raised in submissions. The Panel notes the vegetation management and removal provisions provide flexibility for residents with regard to concerns that included being able to clear manuka and kanuka.

Dr Bellingham's concerns are met by some provisions being removed from the activity table because the underlying zone and Auckland-wide provisions adequately address subdivision within the precinct. Further, the rural subdivision provisions in the Unitary Plan now provide for subdivision where a site meets the significant ecological area factors (set out in the regional policy statement and in Schedule 3: Significant Ecological Areas – Terrestrial Schedule) but is not identified as a significant ecological area in the Plan. The resulting site(s) can be in-situ or transferred to a site in the Rural - Countryside Living Zone. The provisions for this type of subdivision are contained in E39 Subdivision - Rural, and the reasoning for this option is explained in the Panel's Report to Auckland Council – Hearing topic 064 Subdivision - rural July 2016.

For Sub-precinct A the Panel supports the retention of the 4000m² minimum lot size, which overrides the underlying Residential - Rural and Coastal Settlement Zone provision for subdivision to 2500m², in order to reflect current lot sizes and to ensure only low-intensity residential development within it. The Panel does not support the introduction of transferable development rights to allow more subdivision where wetlands, native bush and significant ecological areas are protected because these are better considered as consent applications to allow the particulars of a proposal to be assessed in the context of Kawau Island.

In relation to vegetation clearance, the activity rule for track clearance has been redrafted to make it clear this permitted activity only applies to the landowner's property. There is also a need to clarify that the Auckland-wide provisions, as well as underlying zone, need to be considered alongside the precinct provisions. The permitted activities in Chapter E15 Vegetation and biodiversity management apply, and these contain a number of rules that were repeated in the precinct, and have been removed for that reason. There are other rules in Chapter E15 that manage vegetation that are not included in the Kawau Island precinct provisions.

While no significant ecological areas are identified for the island, there are areas subject to overlays for outstanding natural landscapes, outstanding natural character, and high natural character, particularly in Sub-precinct B. The Panel notes that these overlays are not overridden by the precincts, unless there is a sound reason to do so, and that the overlays have the important role of addressing the matters of national importance and other matters under sections 6 and 7 of the Resource Management Act 1991. The objectives, policies and rules for these overlays will need to be considered in respect of subdivision, use and development.

The Panel does not accept that any further provision should be made for clearance of manuka - kanuka than is provided for in the Auckland-wide and precinct rules, as the Panel

accepts the council ecologist's view that these form a natural succession species in regeneration.

The Panel does find agreement with the submitters in relation to the 6m front yard and coastal protection yard being a problematic rule for building because of the steeper topography closer to the water. It can and has resulted in the easier, more level area of a site being left for the purposes of the yard and buildings having to be set back into the rising landform without any clear benefits of doing so. The 7m maximum height control for buildings has also been removed by council which means there is reliance, for height control, on the underlying zone and the outstanding natural landscape provisions. This ensures the precinct provisions do not trump the outstanding natural landscape overlay, which has a height limit of 5m, and the Rural and Coastal Settlement Zone provides for a height limit of 8m which meets the concern of Mr Coleman.

Other provisions that are not necessary have been deleted because they are covered by the Auckland-wide provisions or alternatively are not required. Wording changes have also been made to ensure the provisions are readily understood.

The Panel records that the provisions in relation to managing vegetation on Kawau Island are consistent with allowing for native vegetation removal to support natural regeneration whilst still achieving the objective of re-establishing the island's ecology.

4. Panel recommendations and reasons

The Panel, having had regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, agrees that the precinct provisions as amended by Council, and further by the Panel, in response to the submissions are the most appropriate way to achieve the purpose of the precinct, the regional policy statement and the Resource Management Act 1991.

More specifically the vegetation removal and subdivision provisions are clarified by making reference to the Auckland-wide provisions and the front yard and coastal protection yard controls are deleted for development abutting the foreshore.

5. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Kawau Island\) - \(J Andrews\) - Ecology - REBUTTAL \(25 February 2016\)](#)

[081b Ak Cncl - Rodney - Precincts \(Kawau Island\) - \(A Traub\) - Planning \(26 January 2016\)](#)

[081b Ak Cncl - Rodney - Precincts \(Kawau Island\) - Response to Zakara Investments Ltd \(06 April 2016\)](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 \(19 May 2016\) \(Page 19\)](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016 \(26 May 2016\) \(Page 20\)](#)

Submitters

081 Godwit Trust (P Allbon) - LATE (7 March 2016)
081 Peter Albon - Hearing Summary (31 March 2016)
081 Kawau Island Advisory Committee (L Pardey) - Hearing statement (31 March 2016)
081 Lyn Hume - Hearing Statement (24 March 2016)
081 Zakara Investments Limited (M Bellingham) – Planning - Kawau Island Precinct (16 February 2016)
081b Ak Cncl - Rodney - Precincts (Kawau Island) - (J Andrews) - Ecology - REBUTTAL (25 February 2016)
081b Ak Cncl - Rodney - Precincts (Kawau Island) - (A Traub) - Planning (26 January 2016)

516 Kumeū Precinct and Rural Urban Boundary

1. Summary of recommendations

The Panel supports the changes proposed by Auckland Council and points raised by submitters to clarify the precinct provisions.

This precinct was heard in Topic 081.

2. Precinct description

The Kumeū Precinct applies to 12.2ha of land located at the centre of Kumeū. It lies adjacent to the Kumeū Village and extends northward from State Highway 16 to the Kumeū River. The purpose of the precinct is to enable the establishment of a town centre for the Kumeū-Huapai area with a strong commercial core and associated residential and recreational areas.

The precinct provisions require good urban design outcomes, an appropriate level of amenity, and provide for a mix of activities consistent with a town centre, while recognising the particular opportunities and constraints of the open areas alongside the Kumeū River.

The Kumeū Precinct is divided into the following sub-precincts, as identified on Kumeū Precinct Plan 1.

i. Sub-precinct A

To primarily accommodate large format retail to act as a transition between industrial activities to the west and the commercial/retail core of the town centre.

ii. Sub-precinct B

To provide for residential activities above ground level to increase the vitality of the commercial/retail core of the town centre.

iii. Sub-precinct C

To provide for single dwellings or multiple units.

iv. Sub-precinct D

To provide for the open area alongside the Kumeū River to be retained in order to enhance amenity for residents and visitors. Part of the area is traversed by high-voltage transmission power lines.

The zone for Sub-precincts A and B is Business – Town Centre Zone; the zone for Sub-precinct C is Residential – Mixed Housing Urban Zone and the zone for Sub-precinct D is Open Space – Conservation Zone.

The precinct provisions require development in Sub-precincts B and C to integrate visually and functionally with Sub-precinct D.

3. Key issues

A hearing of the issues raised in the submissions was not sought or required by the submitters or by Council. The submissions were from Maddren Property (5734), Auckland Council (5716), Transpower (3766) and Jennifer Mein (5089). The matters raised in submissions included: seeking detailed changes to the objectives, policies and rules and changing the precinct boundary to include a further site now occupied by a supermarket; the inclusion of transport-related provisions; permitted activity status for works relating to the National Grid; and Sub-precinct C being zoned Residential - Mixed Housing Urban Zone rather than Residential - Single House Zone.

A discussion regarding the submissions is included in the evidence dated 26 January 2016 from Ms Buckingham for the Council. Ms Buckingham considers the precinct should be retained because the provisions are based on local circumstances and arise out of an earlier plan change to the Auckland Council District Plan – Operative Rodney Section and further, are sufficiently different from the standard zone and Auckland-wide controls in the Plan to support a precinct approach.

Following the Panel's considerations of the submissions and the evidence from Ms Buckingham the precinct provisions are amended to include:

- i. splitting the precinct activity table into sub-precinct tables and removing those activities where the activity status is the same as the underlying zone;
- ii. removing the 12.5m height limit from the precinct provisions to allow an 18m height limit in accordance with the additional zone height control overlay and to be consistent with the height limits applying to the remainder of the Kumeū centre in the Plan;
- iii. rezoning Sub-precinct C to Residential – Mixed Housing Urban Zone, as more closely reflecting the type of development expected in the sub-precinct;
- iv. rezoning Sub-precinct D to Open Space – Conservation Zone, which is the most appropriate zoning consistent with the open space function of this area and reflecting the expectation that it is to be left undeveloped and available for public access, stormwater management and flood mitigation as required;
- v. amending the precinct boundary to include the New World supermarket development in Sub-precinct A as functionally being part of the precinct; and
- vi. deleting reference to framework plans for reasons including that the intent of those plans can be met by other Plan provisions and to be consistent with the approach adopted in other parts of the Plan.

Other amendments are made to the provisions in relation to the submissions and further, to address duplication and to achieve consistency on the provisions across all the precincts.

Although not raised directly in submissions, the Panel has moved the Rural Urban Boundary, and consequently the northern and eastern boundaries of Sub-precinct D, to extend it to the river. This is consistent with the Panel's best practice on changes to the Rural Urban Boundary and will better meet the purpose of the precinct. Accordingly the boundaries of the precinct and the Rural Urban Boundary now align with cadastral boundaries, rather than dividing individual sites.

4. Panel recommendations and reasons

The Panel, having had regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, agrees that the precinct provisions, as amended by Council, and further by the Panel, in response to the submissions, are the most appropriate way to achieve the purpose of the precinct, the regional policy statement and the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Kumeu\) - \(E Buckingham\) - Planning](#) (26 January 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016](#) (26 May 2016) (Page 30)

517 Kumeū Showgrounds Precinct

1. Summary of recommendations

The Panel supports a number of the changes proposed by Council in response to the submission from the Kumeū District Agricultural and Horticultural Society but disagrees with other points raised in the submission.

This precinct was heard in Topic 081.

2. Precinct description

The Kumeū Showgrounds Precinct comprises 17ha of land at the southern edge of Kumeū-Huapai. The Kumeū District Agricultural and Horticultural Society Act 1991 provides specifically for the activities undertaken by the Kumeū District Agricultural and Horticultural Society (the Society) at the showgrounds and the activities provided for in the precinct are closely aligned to the activities provided for in section 4 of this act.

The underlying zoning of the land within the Kumeū Showgrounds Precinct is the Rural – Countryside Living Zone.

The objectives and policies for the precinct include providing for the activities of the Society, as set out in the Kumeū District Agricultural and Horticultural Society Act 1991, minimising any associated adverse effects of the activities on the community and providing for a range of recreational, commercial, community and related activities at the showgrounds.

3. Key issues

The evidence at the hearing, for both the Council and the submitter (the Kumeū District Agricultural and Horticultural Society), supported the new precinct on the basis of it providing for the continuing use of the area for showgrounds and other related purposes, in particular because these activities are not specifically provided for in the underlying zoning. The precinct would also allow the Society to provide for the well-being of the wider community while providing suitable protection of neighbourhood amenity.

There were however some differences between Council and the submitter in terms of the activities and related controls. Some of these differences were resolved during the hearing process. The remaining differences are:

- i. whether to include reference to the Kumeū District Agricultural and Horticultural Society Act 1991 in the activity table;
- ii. whether to include tourism or visitor accommodation in the activity table; and
- iii. whether to require a 6m yard setback rather than 12m.

The Panel is supportive of the precinct providing for the activities enabled by the Kumeū District Agricultural and Horticultural Society Act 1991 but considers this should be in a manner that uses the language of the proposed Auckland Unitary Plan Unitary Plan for consistency. Similarly, much of what may be sought under the term ‘tourism or visitor accommodation’, such as concerts, festivals and exhibitions, can be achieved under the existing definition of ‘showgrounds’. Otherwise ‘tourism or visitor accommodation’ is an undefined term which potentially goes beyond what the precinct seeks to provide for in terms

of activities. The Panel notes further that activities such as visitor information centres would be considered to be accessory to other activities permitted by the activity table.

The Panel does not support a reduction in the yard setbacks for the site boundaries to 6m as sufficient reason for this was not provided by the submitter. The Panel notes this setback applies to buildings of any size and not only to smaller buildings of 100m².

A number of amendments are made to the activity table in order to provide clarity regarding what activities are permitted or require consent.

4. Panel recommendations and reasons

The Panel accepts the position of Council presented in evidence that the precinct be supported largely in the form agreed between Council and the submitter but, for the reasons set out above, the Panel does not support:

- i. including a reference to the Kumeū District Agricultural and Horticultural Society Act 1991 in the activity table;
- ii. listing 'tourism or visitor accommodation' in the activity table; and
- iii. reducing the 12m yard setback to 6m – the Panel recommends retaining the 12m setback of the zone.

5. Reference documents

Auckland Council

[081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\)](#) (3 March 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Attachment B, page 22)

[081b Ak Cncl - Rodney - Precincts \(Kumeū Showgrounds\) - \(R Bradley\) – Planning](#) (26 January 2016)

[081b Ak Cncl - Rodney - Precincts \(Kumeū Showgrounds\) - \(R Bradley\) - Planning - REBUTTAL](#) (24 February 2016)

Kumeū Agricultural and Horticultural Society

[081 Kumeū Agricultural and Horticultural Society Inc \(D Wren\) - Planning](#) (11 February 2016)

[081 Kumeū Ag and Hort Society Inc \(D Wren\) - Planning - Summary statement](#) (12 April 2016)

518 Leigh Marine Laboratory Precinct

1. Summary of recommendations

The Panel supports the Leigh Marine Laboratory Precinct and notes that both Council and the University of Auckland have agreed that a precinct is appropriate for this land.

There were differences between the parties as to the precinct provisions and the Panel has recommended some of the provisions sought by the Council and some of the provisions requested by the university.

This precinct was heard in Topic 080.

2. Precinct description

The Leigh Marine Laboratory Precinct applies to approximately 18,150m² of land on the northern side of Cape Rodney Road and adjoining the Cape Rodney Okakari Point Marine Reserve.

The precinct formed part of the Special 13 (Leigh Marine Laboratory) zone in the Auckland Council District Plan - Operative Rodney Section.

The precinct is located within an area subject to the following overlays: D10 Outstanding Natural Features Overlay and Outstanding Natural Landscapes Overlay (ONL 28; ONF: Feature 30); and D11 Outstanding Natural Character and High Natural Character (HNC 48). The precinct provisions seek to protect the intention of the overlays, however, some allowance for development is provided for within the Outstanding Natural Landscape 28 and High Natural Character 48.

The precinct is to enable the continuation of existing research, teaching and public education activities with a focus on marine ecology and to enable the use and expansion of these operations. Provision for staff and student accommodation and accessory uses are provided for, together with the construction of buildings, structures or facilities required for the activities.

The underlying zoning of land within this precinct is Rural - Rural Coastal Zone.

3. Key issues

The Panel supports the precinct in this particularly sensitive coastal environment, primarily because the University of Auckland has had a presence on this site since 1962 and as set out below in the evidence of Mr Arthur Cozens, the Business and Operations Manager of the Leigh Marine Laboratory, while the university has upgraded facilities it anticipates further development in the future.

The Leigh Marine Laboratory Centre is effectively the 'marine campus' of the University of Auckland. It provides world-class facilities for undergraduate and postgraduate teaching and research at its location beside the Goat Island Marine Reserve north of Warkworth.

The University of Auckland has progressively expanded and upgraded the buildings and facilities at the Centre. This includes a recently completed multi-million dollar

investment in new buildings. Part of this expansion is the Goat Island Marine Discovery Centre, providing an inter-active visitor experience about the marine environment and the research activities at Leigh.

Further development of new buildings and facilities is anticipated in the future. (Paragraphs 3-5.)

The Panel supports the uncontested evidence of both the university and the Council that it is appropriate for the precinct provisions to override the landscape, character and natural feature overlays that would otherwise unreasonably limit the further development opportunities for this long-established research facility.

In this regard the Panel supports the approach signalled in the evidence of Mr John Duguid on behalf of the Council that there would need to be careful justification for a precinct to override overlay provisions.

While I support the need to carefully justify a precinct overriding one of the overlays in the proposed Auckland Unitary Plan Unitary Plan, particularly where matters of national importance are being considered, in my opinion there is a benefit in enabling precincts to deal with site-specific issues that do not fit the general approach prescribed within an overlay. The alternative, of course, is for the overlays to address these site-specific matters. In terms of the overall usability of the proposed Auckland Unitary Plan Unitary Plan, I tend to the view that it is more appropriate for precincts to deal with these sorts of issues, rather than cluttering the overlays with additional content. (Paragraph 6.2.)

The evidence on behalf of the University of Auckland, together with the planning evidence of Nathan Te Pairi on behalf of the Council, provide justification of a precinct approach for this specific site where the entire site is subject to overlays.

Given the agreement by the end of the hearing that a precinct was appropriate for this land the key issues in contention related to the wording of the precinct provisions.

Consistent with the approach the Panel has recommended in relation to other tertiary education precincts, the Panel has provided for accessory activities but not complementary activities. In this regard the Panel has supported the evidence of Mr Te Pairi, as set out below, and legal submissions on behalf of the Council.

In the absence of any substantive justification or supporting information as to why these uses should be provided for, or how any intensity effects will be avoided, remedied or mitigated, I cannot support all the potential uses envisaged by the provisions proposed by Mr Cook on behalf of University Of Auckland.

My opinion is consistent with the Council's position on 'complementary activities' in other Tertiary sites as outlined in the closing statement for Topic 055 (Social Infrastructure).

In particular, I do not consider that a sensitive rural-coastal location is an appropriate setting for any complementary activities. In my view, these activities should be considered on a case-by-case basis so that the full range of adverse effects can be considered as a non-complying activity.

Therefore, in my view, it is appropriate that 'non-essential' uses remain non-complying to ensure that a rigorous test is applied to further intensification of the activities within the precinct. (Paragraphs 3.15-3.18.)

There were differences of opinion as to what yards should apply within the precinct. Mr Cook concluded that a 6 metre yard setback be required from the precinct boundary, whereas Mr Te Pairi concluded a 10 metre yard setback and that the proposed coastal protection yard within the precinct be reduced from 50 metres to 25 metres.

The Panel acknowledges that the Special 13 (Leigh Marine Laboratory) zone in the Auckland Council District Plan - Operative Rodney Section required only a 6 metre yard on the land now within the precinct and that a shoreline yard of 50 metres applied to the balance of the land owned by the university. The Panel notes however that the existing development within the precinct is set back from the coastal precinct boundary considerably more than 6 metres. Existing buildings are sited approximately 20 metres from this most sensitive boundary.

The Panel has, in reaching its recommendation, placed considerable weight on the characteristics of the site, including the overlays, the reduced size of the precinct from that originally sought, the physical siting of the existing consented development and the opportunities that exist within the precinct site for future development. Consideration has also been given to the provisions of the operative Special 13 (Leigh Marine Laboratory) zone.

The Panel recommends that no new buildings, or extensions to buildings, be sited closer to the coastal boundary of the precinct than the existing consented buildings. The Panel also recommends that the existing foreshore pump house and accessory structures and the pump house and any upgrading of these buildings that does not increase their footprint would be exempt from this yard standard. Rule I518.6.2 Yards has been amended accordingly.

With respect to the yard setback for the remaining boundaries of the precinct it is noted that the Special 13 (Leigh Marine Laboratory) zone contained two separate yard provisions. A minimum 6 metre yard for the portion of the university land now the subject of this precinct, with a 10 metre yard for the remaining portion of the university land that was approximately 58 hectares in area. The Panel notes that the underlying Rural - Rural Coastal Zone provides for a 12 metre yard.

Given the sensitivity of this coastal environment the Panel agrees with Mr Te Pairi that a 10 metre yard is appropriate rather than a 6 metre yard. Coupled with the height, coastal yard and building coverage standards, a 10 metre yard will enable further development within the precinct that could be located to the south of the existing buildings. The Panel notes that the precinct provisions provide for proposals that infringe these standards to be considered on their merits as a restricted discretionary activity.

With respect to building coverage and maximum height these matters were agreed in the planning evidence at 50 per cent and 10 metres respectively.

Overall the Panel recommends the amended precinct provisions as being appropriate to sustainably manage the existing and future physical resources of the university and the natural resources of this coastal environment.

A number of minor changes are recommended to this precinct to address best practice matters that the Panel seeks to provide across the Plan and to improve their functionality and for clarity.

4. Panel recommendations and reasons

The Panel having regard to the submissions, the outcomes of mediation, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the amended provisions of the Leigh Marine Laboratory Precinct be adopted. Once amended further by best practice approaches outlined above these provisions are considered the most appropriate way to achieve the purpose of the precinct, give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

Auckland Council

[080 Ak Cncl - Leigh Marine Laboratory \(N Te Pairi\) - Planning](#) (4 December 2015)

[080 Ak Cncl - Leigh Marine Laboratory \(N Te Pairi\) - Planning - REBUTTAL](#) (29 January 2016)

[080 Ak Cncl - Legal Submissions \(POS, Tertiary and Other zones\)](#) (15 February 2016) (Page 28)

[080 Ak Cncl - Public Open Space, Tertiary \(excl Wairaka\), Schools, Maori, Major Rec & Coastal - CLOSING REMARKS](#) (18 March 2016) (Page 13)

[080 Ak Cncl - Precincts \(J Duguid\) - General statement](#) (5 December 2015)

University of Auckland

[080 University of Auckland - Leigh Marine Laboratory \(K Cook\) – Planning – Supplementary Evidence - final proposed revisions - precinct provisions](#) (19 December 2015)

[080 University of Auckland - Leigh Marine Laboratory \(K Cook\) – Planning – Supplementary Evidence - final proposed revisions - precinct provisions](#) (24 February 2016)

[080 University of Auckland – Leigh Precinct \(K Cook\) – Planning – Supplementary Evidence – final proposed revisions – Post hearing](#) (1 March 2016)

[080 University of Auckland - Leigh Laboratory \(A Cozens\) - Corporate](#) (19 December 2015)

[080 University of Auckland - Leigh Laboratory \(P Osborne\) - Economics](#) (23 December 2015)

519 Long Bay Precinct

1. Summary of recommendations

The Panel supports this precinct and recommends the precinct provisions proposed by Mr Mead on behalf of the Council, with a number of further minor changes to this precinct to address best practice matters that the Panel seeks to provide across the Plan and to improve their functionality and for clarity.

There was a significant degree of agreement between the submitters and the Council given the recent history in relation to this land and the fact that development is currently taking place within the precinct.

This precinct was heard in Topic 081.

2. Precinct description

The Long Bay Precinct is located in the Vaughan Stream catchment at Long Bay and comprises approximately 360 hectares. The precinct is bordered by Glenvar Road to the south, Vaughans Road to the north, and the Long Bay Regional Park to the east. To the west, the precinct extends most of the way up the Vaughan Stream catchment. The headwaters were not included in the structure plan due to landowner wishes to be excluded. The northern boundary of the precinct marks the operative Metropolitan Urban Limit line in the Auckland Regional Policy Statement as well as the proposed Rural Urban Boundary as set out in the notified proposed Auckland Unitary Plan Unitary Plan.

The precinct originates from Plan Change 66 (often referred to as the Long Bay Structure Plan) to the Auckland Council District Plan – Operative North Shore Section, which was made operative in 2010. The Long Bay Structure Plan was incorporated into section 17B of the North Shore Plan.

The Long Bay area has been subject to detailed consideration through the development of the Long Bay Structure Plan, the subsequent plan change process and as a result of an extensive Environment Court hearing. The tailored provisions in the operative plan are being retained through the precinct where they are sufficiently different from any of the standard zones and Auckland-wide controls in the Unitary Plan and also where they override any overlay provisions.

The purpose of the precinct is to enable the establishment of a new suburb of up to 2,500 to 3,000 dwellings while maintaining the high quality environment of the area. Valued and sensitive environments in the area include the Long Bay Regional Park, the Long Bay-Okura Marine Reserve and the Vaughan Stream. There is also a significant cluster of heritage resources in the area, on the Awaruku headland.

Development is currently being undertaken in the precinct and Long Bay Communities (part of Todd Property Group Ltd) is a major landowner in the precinct. In very broad terms the precinct provides for the urbanisation of the lower catchment, with the upper part identified for rural-residential development. The precinct includes extensive controls on earthworks, landscapes, heritage resources and streams.

The purpose of the precinct is to enable the establishment of a new suburb in the Long Bay area of North Shore, including associated rural-residential, residential, local centre, heritage and recreational areas.

3. Key issues

There was a significant degree of agreement between the submitters and the Council given the recent history in relation to this land and the fact that development is currently taking place within the precinct.

The Panel agrees with the Council's closing remarks in Topic 081 as set out below.

Both Mr Donnelly for Long Bay Communities and Ms McLaughlin for Long Bay-Okura Great Park Society stated at the hearings that they each preferred specific Long Bay Precinct provisions proposed by Mr Mead in his evidence-in-chief and rebuttal evidence. However they also indicated that they could accept the amended provisions put forward by Mr Mead in his supplementary statement in relation to the height of buildings and earthworks in the North Vaughans Area, if the Panel accepted these changes.' (Volume 1, page 124.)

The Panel acknowledges that the Council's evidence regarding the Long Bay Precinct was prepared by Mr Mead and he was involved in the drafting of the operative plan provisions that apply to this area and in the Environment Court process by which they were settled. The Panel accepts that Mr Mead was therefore well placed to provide planning advice in relation to the precinct provisions and the Panel has relied upon and adopted his evidence, particularly in relation to the further amendments he recommended in his supplementary evidence dated 19 April 2016. The Panel notes the provisions are of a complexity that several amendments to the provisions were provided through the proposed Auckland Unitary Plan Unitary Plan process (evidence in chief, rebuttal, supplementary, closing) and the Panel appreciates the way Council was flexible in considering its position to achieve the clearest set of provisions.

As a consequence of the Panel recommending that the Green Infrastructure Zone be removed from the Unitary Plan the land zoned Green Infrastructure within the precinct has been rezoned to Open Space – Informal Recreation.

With respect to the specific concerns raised by Mr Donnelly in relation to the inclusion of prohibited activity status for a number of activities within the precinct, the Panel recommends accepting Mr Mead's approach to retain the prohibited activity status approach which was supported by the Environment Court. The Panel however notes and supports the provisions where Mr Mead has recommended non-complying activity status to replace some of the prohibited activities that were previously operative.

The Panel has accepted the majority of the tracked changes recommended in the evidence presented on behalf of the Council by Mr Mead, however in addition to the abovementioned changes, a number of further minor changes are recommended to this precinct to address best practice matters that the Panel seeks to provide across the Plan and to improve their functionality and for clarity.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the outcomes of mediation, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the amended provisions of the Long Bay Precinct be adopted. Once amended further by best practice approaches outlined above these provisions are considered the most appropriate way to achieve the purpose of the precinct, give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081c Ak Cncl - North Shore - Precincts \(Long Bay\) - \(D Mead\) - Planning](#) (2 February 2016)

[081c Ak Cncl - North Shore - Precincts - \(Long Bay\) - \(D Mead\) - Planning - REBUTTAL](#) (26 February 2016)

[081c Ak Cncl - North Shore - Precincts \(Long Bay\) - \(D Mead\) - Planning - Supplementary Evidence](#) (19 April 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (page 122)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016](#) (26 May 2016) (page 254)

Submitters

[081 Long Bay - Okura Great Park Society \(F McLaughlin\)](#) (15 February 2016)

[081 Long Bay - Okura Great Park Society \(F Mclaughin\) - Property Consultant - REBUTTAL - LONG BAY](#) (28 February 2016)

[081 Long Bay - Okura Great Park Society AND Okura Environment Group \(A Webb\) - Legal Submissions](#) (21 April 2016)

[081 Long Bay Communities Limited \(N Donnelly\) - Corporate](#) (16 February 2016)

520 Martins Bay Precinct

1. Summary of recommendations

The Panel supports expanding the precinct by the creation of Sub-precinct B, as proposed by the submitter and supported by Council, but does not support the additional changes sought by the submitter to increase the number of dwellings provided for in Sub-precinct B and for the seaward boundary to be extended.

This precinct was heard in Topic 081.

2. Precinct description

Martins Bay Precinct is located adjacent to the beach at Martins Bay and to the entrance to Scandrett Regional Park. Its purpose is to maintain and enhance the existing development and character of this established coastal bach settlement. The existing 58 dwellings are provided for in Sub-precinct A and a maximum of six additional dwellings in Sub-precinct B. New dwellings will require resource consent and be subject to controls to maintain the scale of the coastal landscape character and the integrity of the upper slopes of the site. This will be by locating and limiting the visual impact of buildings, roads and earthworks to retain the landscape values, and unique character in Martins Bay, and its coastal bach settlement.

The precinct also provides for the establishment of an esplanade reserve that includes the trees along the foreshore of the site and for a significant area of communal open space to be maintained.

The underlying zone for the precinct is Residential - Rural and Coastal Settlement Zone. As notified it was Rural - Rural Coastal Zone.

3. Key issues

The key issues addressed through the submission and at the hearing were whether to retain the precinct, the extent of the precinct and the amount of future development that should be provided for in the precinct.

The evidence for Council supports the precinct for reasons including its unique character, the Residential - Rural and Coastal Settlement Zone not containing appropriate development controls to manage modifications to existing development, and the need to provide such controls in order to manage future development in the extended precinct area (Sub-precinct B). In that respect the extension of Sub-precinct B to the south, as sought by the submitter (being the owners S G Noyer and K A Anderson), reflects the extent of land zoned Future Urban Zone in the Auckland Council District Plan - Operative Rodney Section 2011. The extension covers part of an adjoining site but its development is limited to six dwellings consistent with the minimum net site area of 3000m² in the underlying zone.

The extension of the precinct into this area to the south will also serve to link the existing development in Sub-precinct A with the Martins Bay holiday park, effectively providing some consolidation of development in this location. The Panel notes there is a further small pocket of houses further south in Martins Bay.

The submitter seeks that the precinct be extended as above but also seawards to cover land that was not zoned future urban in the operative district plan. In addition, the submitter seeks that 12 dwellings be provided for as being more in line with expectations under the operative district plan. The submitter attended the hearing to speak to the submission points.

The Panel is of the view that development in the coastal area should be managed in a way that maintains, as far as is practicable, the coastal values which include the absence of built development, the retention of open space and public access. In these respects it is preferable to see future development limited and set back from the coastal frontage. That is achieved by limiting the extended area of the precinct to the land zoned Future Urban in the operative district plan. There is insufficient justification to extend the precinct beyond that existing land zoned Future Urban in the operative district plan. In addition, limiting future development in the extended precinct to six dwellings is consistent with the minimum site area for the underlying Residential - Rural and Coastal Zone and is therefore appropriate.

The Panel notes further, in supporting this precinct, the settlement of 58 dwellings has existed for a long period and is currently identified in the operative district plan as a precinct. It is also of a larger scale than other settlements that may seek to be included in a precinct. In addition, it is part of wider development that has occurred at Martins Bay that includes a motor camp, with an assortment of semi-permanent structures, and some more dwellings. In these respects it is distinguishable from other coastal settlements and warrants a precinct being applied to it.

4. Panel recommendations and reasons

The Panel accepts the position of Council presented in evidence that the precinct be retained with an extension to the south (Sub-precinct B), and amendments limiting the extended area of the precinct to the land zoned Future Urban Zone in the Auckland Council District Plan - Operative Rodney Section 2011 and limiting future development in the extended precinct to six dwellings.

5. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Martins Bay\) - \(A Fox\) - Planning](#) (27 January 2016)

[081b Ak Cncl - Rodney - Precincts \(Martins Bay\) - \(A Fox\) - Planning - REBUTTAL](#) (24 February 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (page 26)

Submitters

[081 S G Noyer and K A Anderson - Statement of Evidence](#) (10 February 2016)

[081 S G Noyer and K A Anderson - Summary Statement](#) (29 March 2016)

521 Matakana 1 Precinct

1. Summary of recommendations

The Matakana 1 Precinct is recommended to be included in the Plan because it provides for the maintenance and enhancement of the character of Matakana more effectively than the zones as the village grows. However, the recommendation about whether or not to include or delete the precinct in the proposed Auckland Unitary Plan Unitary Plan was finely balanced.

The Precinct has had to be modified to ensure that it is compatible with the structure and content of the proposed Auckland Unitary Plan Unitary Plan.

This precinct was heard in Topic 081.

2. Precinct description

The purpose of the Matakana 1 Precinct is to incorporate Plan Change 64 to the Auckland Council District Plan – Operative Rodney Section into the proposed Auckland Unitary Plan Unitary Plan and give effect to the Matakana Village Sustainable Development Plan. The Matakana Village Sustainable Development Plan identified local community aspirations and values, and set out a land use approach for different areas in and around Matakana, and measures to ensure activities do not adversely affect stormwater runoff patterns. The precinct gives effect to the Matakana Village Sustainable Development Plan by providing for activities that specifically relate to the unique characteristics of the village.

To manage the variations in land uses and development controls which affect the sites subject to these zones, there are four sub-precincts located in the Matakana 1 Precinct.

- i. Sub-precinct A. This sub-precinct allows greater flexibility around the number of persons involved in home occupations, and introduces new matters for discretion and assessment criteria relating to home occupations. The zone for this sub-precinct is the Rural - Countryside Living Zone.
- ii. Sub-precinct B. This sub-precinct provides greater flexibility around the permitted number of people involved in home occupations, and also enables two or more dwellings within 200m of a Business - Local Centre Zone to allow for a range of living options. The zone for this sub-precinct is the Residential - Single House Zone.
- iii. Sub-precinct C. The purpose of this sub-precinct is to provide for light industrial activities which service the local catchment. The zone for this precinct is the Business - Light Industry Zone.
- iv. Sub-precinct D. The purpose of this sub-precinct is to ensure that a pedestrian-friendly environment is maintained. New objectives and policies have also been introduced which seek to protect and enhance the rural village character of the sub-precinct. The zone for this precinct is the Business - Local Centre Zone.

The key elements that the precinct provides for in the rules are:

- i. the maintenance of existing rural village character;

- ii. providing for two dwellings on a site within 200m of the village centre;
- iii. enabling home occupation up to 15 persons;
- iv. enabling visitor accommodation up to 15 guests;
- v. restricting bulk retail, drive-through restaurants and petrol stations;
- vi. some site specific relaxation on the building height to boundary control;
- vii. an indicative roading pattern; and
- viii. enhanced stormwater management.

The Matakana 1 Precinct originated as part of a suite of three plan changes to the Rodney District Plan as set out below:

- i. Plan Change 64 – Matakana 1 – Matakana Village;
- ii. Plan Change 148 – Matakana 2 – Matakana Country Park; and
- iii. Plan Change 163 – Matakana 3 – Morris and James Pottery.

3. Key issues

There were only a small number of submissions to the precinct that included the Council. Evidence for the Council was provided by Ms Ford. Ms Shelbourne presented evidence at the hearing in regard to building coverage issues.

The main issue for the Panel was to adapt the provisions to fit the structure and content of the Plan in terms of the relationship of the precinct with the zone rules and the Auckland-wide rules.

4. Panel recommendations and reasons

The Matakana 1 Precinct is recommended to be included in the Plan because it provides for the maintenance and enhancement of the character of Matakana more effectively than the zones as the village grows.

Having recommended that the precinct be adopted with modifications, the Panel is concerned that there is detailed control in the precinct over how development is to occur that may prevent the 'organic' growth of Matakana. Attempting to overly control design and urban form can stifle innovation and creativity and unnecessarily impede development. The Panel records that the Matakana 1 Precinct was finely balanced in terms of whether or not the Panel recommended it for inclusion in the Plan or deleted it.

Therefore the Panel recommends that the Council carefully monitor the implementation of the precinct to ensure that it is sufficiently enabling and is achieving what the community desires. The Panel is aware of community meetings that the Council has held where concern has been expressed about the overly prescriptive nature of the rules. Such monitoring is required under section 35 of the Resource Management Act 1991 and will assist the Council to meet the purpose of the act.

The precinct has had to be modified to ensure that it is compatible with the structure and content of the Unitary Plan. The Panel tabulated all of the relevant recommended rules from the four zonings and checked them against the precinct rules to ensure that there was

proper integration and that the precinct rules were only included when necessary to achieve the objectives and policies of the precinct.

The main changes from the notified Plan version of the precinct provisions are:

- i. taking into account the Matakana Village Sustainable Development Plan rather than giving effect to it because it is not a document that has been developed under the Resource Management Act 1991;
- ii. removal of provisions relating to outlook space and outdoor living space to maintain consistency with the zone provisions which removed these provisions as the sites are considered large enough to accommodate these provisions without controls;
- iii. providing for heights within the Sub-precinct D area to be consistent with Sub-precinct C. This allows for greater height 40 metres from Matakana Valley Road which will provide consistency and allow for greater floor area.

5. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Matakana 1\) - \(M Ford\) - Planning \(27 January 2016\)](#)

[081b Ak Cncl - Rodney - Precincts \(Matakana 1\) - \(M Ford\) - Planning - Supplementary Evidence \(18 March 2016\)](#)

[081b Ak Cncl - Rodney - Precincts \(Matakana 1\) - Response to submitter - Penelope Shelbourne and Timothy Smyth \(30 March 2016\)](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 \(19 May 2016\) \(page 28\)](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016 \(26 May 2016\) \(page 54\)](#)

522 Matakana 2 Precinct

1. Summary of recommendations

The Panel recommends that the Matakana 2 Precinct is included in the Unitary Plan with some modifications to the provisions to further enable development of this site as a tourist facility and to provide visitor accommodation. The Matakana Country Park is an important tourist resource and the Panel recommends that a clearly defined subdivision opportunity to create visitor accommodation will promote the purpose of the Resource Management Act 1991.

This precinct was heard in Topic 081.

2. Precinct description

The Matakana 2 Precinct was incorporated into the proposed Auckland Unitary Plan Unitary Plan after notification and following Plan Change 148 to the Auckland Council District Plan – Operative Rodney Section. A decision of the Environment Court regarding the Matakana Country Park was released on 9 December 2015 (*Matakana Museum Limited v Auckland Council* [2015] NZEnvC 118) (the Museum Decision). The submitters at the hearing referred to this decision in some detail and it was attached to the planning evidence of Mr Bradley for the Council dated 26 January 2016 as Attachment C.

Therefore, the Council and Matakana Country Park acknowledged that this was an out of scope change to the notified Auckland Unitary Plan. The Council sought to include the outcomes of the Court decision on Plan Change 148 into the Unitary Plan, and as set out in the Summary Legal Submissions of Mr Webb, dated 5 April 2016 (paragraph 25 and 26), the Matakana Country Park did not oppose the Council seeking this relief as long as his clients had the right to make submissions. The Panel accepts that this relief is out of scope of any original submissions.

The underlying zone in the proposed Auckland Unitary Plan Unitary Plan is the Mixed Rural Zone. The precinct enables the activities that have been established through resource consents to continue to operate and to expand, which would otherwise be contrary to the Mixed Rural Zone. This appears to be the reason that the proposed precinct provisions are very prescriptive which would not normally be appropriate in a district plan.

The facilities at the Matakana Country Park include a museum, historic church, restaurant and café, Sunday market, petting zoo, riding area, craft shop and other tourist-related activities.

The provisions in the precinct include:

- i. objectives and policies to enable tourist and visitor activities while maintaining a rural character and appearance;
- ii. permitting restaurants, cafes, markets and some retail activities, as well as public, community and tourist amenities;
- iii. enabling visitors' accommodation as a restricted discretionary activity;

- iv. allowing for subdivision of the separate Activity Areas from the main underlying title;
- v. controlling subdivision within Activity Areas beyond that provided in the previous bullet point; and
- vi. specifying separate Activity Areas in the precinct plan.

3. Key issues

The main submitters on the precinct were the Matakana Museum Limited and the Council. It is understood that during the process for Plan Change 148 to the operative plan, most of the provisions were agreed between the Council and Matakana Museum because they are understood to largely reflect the existing resource consent conditions. Those provisions are essentially the same as proposed in the precinct, with some notable exceptions as discussed below that were not agreed.

In the evidence from its planner, Mr Bradley, and in its closing remarks, the Council position was that the precinct should replicate the provisions from the Museum Decision without any amendments.

The key issues raised with the Panel by the submitters were:

- i. whether or not the Panel should recommend the precinct as per the Museum Decision or should change it to reflect the relief sought from Matakana Museum;
- ii. the degree to which subdivision within the precinct is enabled generally;
- iii. the most appropriate form of land ownership for planned visitor accommodation in Activity Area 9 of the precinct for up to 60 guests;
- iv. whether or not subdivision under the Unit Titles Act 2010 should be allowed; and
- v. the management and use of accommodation built within the precinct by visitors rather than permanent residents (excepting the manager's accommodation).

The Panel heard various allegations from both the Council and Matakana Museum in regard to procedural issues in the Museum Decision hearing, including about the admission/exclusion of evidence. The Panel is not in a position to comment further on the various claims made and does not consider that those matters are issues that are important to its recommendations.

4. Panel recommendations and reasons

4.1 Key recommendations

The Panel recommends in summary that:

- i. the Matakana 2 Precinct is included in the Unitary Plan;
- ii. the objectives and policies are amended to better guide any subdivision and to be consistent with the Panel drafting protocols;
- iii. visitor accommodation is a restricted discretionary activity;
- iv. there are new matters for assessment and criteria for tourist and visitor activities that do not meet the standard and would default to restricted discretionary activities in accordance with the general rules in the Unitary Plan;
- v. subdivision around the Activity Areas is a restricted discretionary activity;
- vi. further general subdivision (including unit title) is a non-complying activity in accordance with the general rules for the Rural - Mixed Rural Zone; and
- vii. subdivision for visitor accommodation is a discretionary activity in Activity Area 9 but matters to be considered in the exercise of that discretion are provided.

4.2 Panel's independence

In paragraph 12 of the Council's closing remarks the Council appropriately refers to the Panel's Interim Guidance - [Best practice approaches to rezoning, precincts and changes to the Rural Urban Boundary](#) dated 31 July 2015, which stated that parties seeking changes to zoning should take into account the issues debated in recent plan changes (paragraph 1.4). In accordance with that guidance, the Panel also has very carefully considered the Museum Decision before making its recommendations.

The Council in paragraph 12 of its closing remarks then went on to say:

Judge Kirkpatrick has also provided further direction to the submitters and the Council by stating that the Panel considers itself bound by recent Environment Court decisions.

The footnote in the closing remarks then refers to that part of the hearings during the Council's legal submissions on precincts on 3 March 2016.

The Panel has gone back to the recording of the hearing for that day and had it transcribed. The closest that Judge Kirkpatrick comes to the relationship between Panel recommendations and decisions of the Environment Court is the statement in discussion with counsel for the Council that "We are still in precincts informed by recent Environment Court decisions. Silverdale 1." The Panel considers that the use of the word 'informed' by his Honour was appropriate.

The Panel understands that its jurisdiction is independent of that of the Environment Court and the Court's decisions are not binding on the Panel. The Panel is constituted under its own act of Parliament designed specifically for the development of Auckland's first unitary plan.

Regarding the role of the Panel and its respectful relationship with the Environment Court, this was set out more fully in the letter that Judge Kirkpatrick wrote to the Minister for the Environment in regard to the private plan change for the Three Kings quarry on 16 March 2016. The Panel affirms the position stated in that letter as properly setting out the

relationship between its recommendations and processes/decisions of the Environment Court.

This is not a situation where the principles of *res judicata* or 'issue estoppel' apply to the Panel recommendations, to the extent that those principles apply in resource management law in any event (*Guardians of Paku Bay Association Inc v Waikato Regional Council* CIV-2010-404-8097; (2011) 16 ELRNZ 544; [2012] 1 NZLR 271; [2012] NZRMA 61). The Paku Bay decision made it clear that issue estoppel and the doctrine of *res judicata* are primarily concerned with ensuring finality of litigation as a matter of public policy. However, they had limited or no application in the resource management context and must yield to the fundamental principle of public law that statutory duties and powers could not be fettered. This finding applies to the Panel's statutory duties and powers.

4.3 Panel recommendations

The issue of how to provide for visitor accommodation was the main matter that the Panel read and heard evidence about. It was agreed that there was a demand for visitor accommodation in the Matakana area and that it could be provided in this location but the main concerns were in regard to the tenure arrangements for the accommodation. The Panel notes that it is required to have regard to the Auckland Plan and in that plan strategic direction 9 states:

Increase the value added to the Auckland economy by rural sectors (including rural production, complementary rural enterprises, tourism and visitor experiences in rural areas) by 50% by 2040.

The Panel considers that this directive requires the Panel to take a broad view of rural economies and not just focus on what may traditionally be considered 'primary production'. Matakana has a developing reputation as an area that offers a wide range of visitor and tourist experiences, including a sculpture trail (Brick Bay), pottery (Morris and James), Saturday market and wineries. The Panel considers that enabling activities at the Country Park will help to give effect to the Auckland Plan and be a more efficient use of the land than the underlying Mixed Rural zone. A summary of the provisions is:

- i. visitor accommodation is restricted discretionary activity;
- ii. subdivision for visitor accommodation in the Matakana 2 Precinct generally is non-complying as with the underlying Rural - Mixed Rural Zone;
- iii. subdivision for visitor accommodation in Activity Area 9 for up to 60 guests is a discretionary activity but with;
 - a. a policy framework that does not provide for subdivision for permanent residential occupation but only for visitor accommodation;
 - b. guidance about matters that may be taken into account in the exercise of discretion, particularly about covenants/consent notices etc; and
- iv. subdivision is provided for in this way generally, which includes unit title, but unit title is not mentioned separately.

In summary the main reasons for this approach include:

- i. the precinct is confirmed as appropriate because it provides for the activities that are established and activities planned for the future, which are not

- compatible with the underlying Rural - Mixed Rural Zone (in future the zone could be changed to one that better reflects the activities taking place);
- ii. discretionary activity for subdivision in Activity Area 9 is a neutral starting point which is a compromise between restricted discretionary activity being too enabling and non-complying activity signalling that any subdivision is inappropriate i.e. it will be up to the applicant to put a robust application together with appropriate long term controls on use;
 - iii. discretionary activity for subdivision with guidance considerations (not criteria as with a restricted discretionary activity) does fill a gap that exists if subdivision is simply a discretionary activity or non-complying in terms of being clear about the Unitary Plan expectations regarding the tenure limitations on use;
 - iv. providing for subdivision generally, rather than singling out unit title subdivision, allows for other collective ownership models that are not unit titles that could be viable and still offer appropriate tenure protections; and
 - v. the Panel does not consider that the recommended provisions set a legal 'precedent' to the extent that precedent is a proper consideration for plan provisions and more generally under the Resource Management Act 1991 (*Gould* and *Dye* decisions for example).

In making its recommendations on the Matakana 2 Precinct, the Panel has taken into account the Museum Decision and has based its recommendations on its own statutory and policy context and the evidence that it heard. In regard to any attempt to compare the Matakana Museum decision and the Panel recommendations, the Panel comments as follows.

- i. The Panel recommendation is within the context of a whole plan review, as distinct from Plan Change 148 to the operative plan for one part of the Auckland Council territorial area.
- ii. The higher-level statutory policy framework for the Panel, including the regional policy statement, is quite different to the operative planning instruments that the Court considered. In summary, the Panel is recommending strong protection for land containing elite soils (and prime soils where practicable), while generally enabling development in rural areas more than under the operative plans.
- iii. The Panel is required to make its recommendations based on the evidence that it has heard in regard to the hearings for this precinct. The Panel is not able to speculate or make assumptions on evidence that was presented in a different forum notwithstanding submitters' claims regarding the same. For example, of note in the hearing for this precinct, as distinct from what the Panel understands from the Museum Decision:
 - a. the Council changed its planning expert from Mr Scott in the Environment Court to Mr Bradley in the Unitary Plan hearings. The Court appears to have placed some weight on Mr Scott's evidence in its proceeding, but the Panel did not hear from Mr Scott;
 - b. the Panel heard from witnesses that did not appear in the Environment Court, including Mr Hampson, a surveyor, and Mr Equab, an experienced and well-qualified economist. The Panel was persuaded by the evidence of Mr Equab, Mr Hampson and Mr Baker (and the letters attached to his

evidence) that a leasehold structure is unattractive to investors in comparison to a unit title form of ownership; and

- c. the Panel considers that a limited subdivision opportunity, with robust title covenants about use of the accommodation, body corporate rules and management agreements etc, approved by the Council as part of any subdivision consent application, will ensure that the accommodation is used appropriately.

4.4 Matakana Riverside

The Matakana Riverside development was briefly referred to the Panel during the hearing. However, in a manner that was essentially late evidence, it is used as an example in the Council's closing remarks of an undesirable outcome because it allegedly:

gained resource consent as a visitor accommodation complex, but were [sic] subsequently unit titled and advertised as separate household units, thus circumventing the rural subdivisions rules, which limited the establishment of rural residential sites in the general rural areas. (Refer to paragraph 14.)

Being raised in this manner, there was no opportunity for other parties to make submissions and bring evidence on this point. The Matakana Riverside development does appear to have had some difficulties and was the subject of enforcement proceedings in regard to the use of a manager's unit as per the 2013 case *J&K Sinclair v Gosling Trust Limited* [2013] NZEnvC 226. However, the Panel also notes that:

- i. the Court in its final decision granting consent to Matakana Riverside did not support a condition making future unit title subdivision non-complying, but accepted this condition as it was promoted by the applicant (paragraph 2);
- ii. the Court went on to state at paragraph 6 that "...the relevant possible adverse effects arise out of the number of people being accommodated at any one time. Who those people are, in terms of having an interest in the property or not, and for how long any one person might be there at a time, are completely irrelevant." (*REM Developments Limited v RDC* [2005] W0075/2005);
- iii. Matakana Riverside does not appear to be a unit titled property as the Council alleges in its closing remarks. It is understood that the owners of the dwellings occupy them pursuant to a particular form of leasehold interest and own a fractional share of the interest in the freehold title of the entire 14 hectare site. It is quite a complex form of ownership;
- iv. most importantly, a quick Google search of 'Quest Riverside Matakana' reveals that visitor accommodation is offered in a development that appears to be attractive, with apparently favourable visitor experiences from ratings provided;
- v. whether or not units are transacted in the property market is of no consequence as long as the use remains for visitor accommodation;
- vi. the Panel heard that another arm of the Council, Auckland Tourism Events and Economic Development, supports the creation of strata titles to allow the Country Park to further develop to meet the demand for visitor accommodation in the area; and

- vii. the Panel was also persuaded by the letter from Hampton Downs, which indicated that strata titling was a key reason that its development was successful (Refer to the attachments to the evidence in chief of Mr Baker of 18 February 2016).

4.5 Subdivision for visitor accommodation

The Panel notes that the Council has quoted passages from the Museum Decision in its closing remarks. As outlined above, the Panel has very carefully considered that decision in the light of the evidence that it has heard and the wider policy framework that the Panel is recommending.

In regard to the Museum Decision, and in response to the points raised by the Council in closing remarks, the Panel observes that:

- i. the Court supported visitor accommodation being provided for up to 60 guests in Activity Area 9;
- ii. the Court recognised the way in which subdivision on the site to release capital to further develop the Country Park is appropriate, providing it does not compromise the overall objective of enabling the tourist facility (paragraphs 38 and 46);
- iii. the Court indicated in paragraph 62 that it did not think that unit titling was necessary at this stage (in the sense of being desirable or expedient) and that it was very much a last resort for this site; and
- iv. the Court's main concern with unit titling appears to have been the ability to cater for large groups and providing a uniform standard of accommodation throughout the entire building, as set out in paragraph 62.

The Panel was persuaded by the evidence it heard, and in particular by the evidence that was not presented in the Museum Decision, that the ability to subdivide in a carefully controlled manner will better facilitate the development of the visitor accommodation than other ownership structures.

Subdivision is a well-established and accepted method to raise capital for development and spread the income risk of low occupancy of visitor accommodation. For example, unit titles are widely used in New Zealand, Australia (e.g. strata titles on the Gold Coast) and other parts of the world. The Panel heard that over six million dollars would be required to build the visitor accommodation and there was no evidence before the Panel to suggest that a single investor was willing to invest this amount with the risks of low occupancy creating an uncertain return on investment.

Title covenants can be imposed on any new titles created in Activity Area 9 to avoid permanent occupancy by owners or other occupants. The Panel does not consider it inappropriate that owners may stay for short periods in their own units, so the definition of 'visitor accommodation' needs to be considered in this context. The definition contemplates unit titling but excludes owners occupying their own units. It appears to be an unusual policy outcome that if an owner were to stay in their neighbour's unit they are a 'visitor', but they should be prevented from using their own unit for short stays. The resource management reason for this recommendation is supported by the quotation above from the Matakana Riverside decision (*REM Developments Limited v RDC* [2005] W0075/2005).

It is important to note that there was general agreement between submitters that visitor accommodation was a very desirable outcome in the precinct to support growth in tourism in the Matakana area. Therefore the issue is not one of 'if' but 'how'. The Panel was persuaded that the accommodation would be unlikely to be built, at least in the near future, without the ability to subdivide in some form and subject to the outcome of a consent application process.

In regard to the concerns raised about the management of the accommodation, the Panel considers Council has control of what management and tenure arrangements are put in place through the consenting process. The Council also has a full range of enforcement powers to ensure that the conditions of consent are complied with. Covenants on the titles, which may limit the duration of occupation by owners or other persons, would be permanent and enforceable, and would not be able to be removed without the consent of the Council.

In conclusion, the Panel considers that its recommendations will promote the sustainable management of natural and physical resources in accordance with Part 2 of the Resource Management Act 1991. The precinct is also appropriate in regard to assessments under section 32 of the Resource Management Act 1991, in particular, because it will enable economic growth to occur and also generate employment opportunities. The precinct will enable a far more productive use of this land than the Rural - Mixed Rural Zone and will enable people to provide for their social and economic well-being. The adverse effects on natural and physical resources arising from the precinct will be no more than minor.

5. Reference documents

Panel guidance

[Interim guidance released on best practice approaches to rezoning, precincts and changes to the RUB \(PDF 190KB\)](#) (31 July 2015)

Auckland Council

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (page 26)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016](#) (26 May 2016) (Attachment 2, page 73)

[081b Ak Cncl - Rodney - Precincts \(Matakana 2\) - \(R Bradley\) - Planning](#) (26 January 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016 page 26)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016](#) (26 May 2016 Attachment 2, page 73)

Matakana Museum Ltd

[081 Matakana Museum Ltd \(J Baker\) - Corporate](#) (18 February 2016)

[081 Matakana Museum Ltd \(R Hampson\) - Surveying](#) (19 February 2016)

[081 Matakana Museum Ltd \(S Equab\) - Economics](#) (18 February 2016)

523 Matakana 3 Precinct

1. Summary of recommendations

The Panel recommends that the Matakana 3 Precinct is included in the Unitary Plan in accordance with the Auckland Council's closing remarks. The precinct is necessary in order to enable Morris and James Pottery to continue and to expand its activities on the site.

This precinct was heard in Topic 081.

2. Precinct description

The Matakana 3 Precinct provides for the clay extraction and pottery business of Morris and James, which is a longstanding valued local business. The Precinct modifies the underlying zoning which has been changed from Rural - Mixed Rural Zone to Rural - Rural Coastal Zone. The significance of that zoning change is that, for example, clay mineral extraction would be a non-complying activity in the Rural - Rural Coastal zone.

The origin of the Matakana 3 Precinct was as part of a suite of plan changes to the operative district plan as follows:

- i. Plan change 64 – Matakana 1 – Matakana Village
- ii. Plan change 148 – Matakana 2 – Matakana Country Park
- iii. Plan change 163 – Matakana 3 – Morris and James Pottery

The provisions in the precinct include:

- i. permitting retail activities that would otherwise be non-complying;
- ii. permitting rural tourist and visitor activities that would otherwise be discretionary;
- iii. permitting mineral extraction that would otherwise be non-complying;
- iv. permitting new buildings within the areas specified in the precinct; and
- v. managing dust and pollution effects on the Matakana River.

3. Key issues

The Council was the main submitter in the hearings on the precinct.

There were no contentious issues in the hearing. There were some submissions from Morris and James Pottery, which were generally in support, but did seek some amendments to the wording and also the precinct plan to recognise future changes in the clay extraction area. The Council had addressed these submission points in its reply version of the precinct.

4. Panel recommendations and reasons

The Panel recommends that the Matakana 3 Precinct is included in the Unitary Plan to provide for the continued operation and expansion of Morris and James Pottery. The Panel considers that the precinct is necessary to modify the underlying Rural - Rural Coastal Zone that would, in some cases, make the current activities non-complying e.g. clay mineral extraction.

The Panel is mindful that the current level of activity could no doubt rely on existing use rights and/or existing resource consents. However, such reliance probably would not enable changes to the nature and scale of the pottery activities on the site in the manner that the precinct can.

The Morris and James Pottery business is a valued and popular visitor destination and generates economic activity and employment for the Matakana area. The distinctive locally-made pottery also contributes to the identity of Matakana itself. Therefore the Panel considers that enabling this activity to continue and flourish will promote the purpose in Part 2 of the Resource Management Act 1991. It also meets the tests for section 32 and the precinct will achieve a more productive use of the natural and physical resources on the site than the Rural - Rural Coastal Zone would allow.

The Council attached a tracked change version of the Matakana 3 Precinct to the rebuttal evidence of Ms Ford dated 24 February 2016. There is also a precinct plan which shows the driveway, buildings and indicative clay extraction area and planting areas. This version has taken into account the submission points raised by Morris and James Pottery and the Panel recommends that this version of the precinct be incorporated into the Unitary Plan. The Panel agrees with the reasons for accepting and rejecting the relief sought by other submitters as set out in the evidence in chief of Ms Ford dated 26 January 2016 and her rebuttal evidence dated 24 February 2016.

Various amendments have been made to present the precinct in standard format and to improve workability, for example separating activity status from the relevant standards.

5. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Matakana 3\) - \(M Ford\) - Planning](#) (evidence dated 26 January; date placed on website 27 January 2016)

[081b Ak Cncl - Rodney - Precincts \(Matakana 3\) - \(M Ford\) - Planning - REBUTTAL](#) (24 February 2016)

527 Ōkura Precinct, Rural Urban Boundary and rezoning

1. Summary of recommendations

The Panel supports this precinct as requested by Ōkura Holdings Limited. The precinct is however amended to only relate to the 130 hectares of land owned by Ōkura Holdings Limited and to exclude the 20 hectares of land not owned by Ōkura Holdings Limited.

Key issues in relation to the Ōkura Holdings Limited land were firstly, whether or not the land should be included within the Rural Urban Boundary, and secondly, if it were to be within the Rural Urban Boundary, whether the land should be zoned Future Urban Zone or whether 'live urban' zonings should be applied.

The Council, the Long Bay-Ōkura Great Park Society and the Ōkura Environmental Group did not support a shift in the Rural Urban Boundary, nor did they support any 'live urban' zonings for the proposed Ōkura Precinct.

The Panel agrees with Ōkura Holdings Limited that it is appropriate to relocate the Rural Urban Boundary and also recommends 'live urban' zonings that include approximately 75 hectares of Residential – Large Lot and Residential – Mixed Housing Suburban zoned land and approximately 55 hectares of Open Space – Conservation and Open Space – Informal Recreation zoned land.

This precinct was heard in Topic 081.

2. Precinct description

The Ōkura Precinct applies to 130 hectares of land to the north of Vaughan's Road, generally bound by Long Bay Regional Park and Piripiri Point to the east, the Ōkura Estuary to the north and a tributary to the Ōkura Estuary to the west. The amended precinct excludes approximately 20 hectares of land not owned by Ōkura Holdings Limited because the detailed structure planning undertaken by Ōkura Holdings Limited, and the evidence in support of the proposed precinct, related only to the Ōkura Holdings Limited land. There was insufficient evidence presented to the Panel in relation to the additional 20 hectares of land to support it being included in the precinct or rezoning.

The precinct reflects the opportunity offered by the land being held by a single landowner, combined with the opportunity for a substantial waterfront reserve that will extend the Long Bay Regional Park to within 150 metres of the Ōkura Village with esplanade reserves of between 70 and 170 metres in width that connect with the Ōkura Estuary Scenic Reserve.

The Ōkura Precinct comprises land zoned Open Space – Conservation Zone, Open Space – Informal Recreation Zone, Residential – Large Lot Zone, and Residential – Mixed Housing Suburban Zone. The spatial application of these zones has been informed by a structure planning process that has taken into account the natural, physical, cultural, and historic characteristics of the site and surrounds, with the aspiration to facilitate medium-density, comprehensive residential development that achieves a high level of protection and enhancement of the environment within the site and site surrounds.

The purpose of the Ōkura Precinct is to introduce additional provisions to enable the stream management approach developed through the structure plan process to be implemented; to

require additional stormwater and earthworks management measures; to ensure the establishment and master planning of land zoned open space; to provide flexibility for limited commercial development and informal public open space within the residential area; and to enable construction of the primary road network.

3. Key issues

The zoning of this land was the key issue in contention. The Panel was fully aware of the earlier Environment Court decisions in relation to the Ōkura and Long Bay area and previous proposals seeking more intensive zoning within the Ōkura catchment.

As discussed in the Council's opening legal submissions, a number of new precincts have been proposed by submitters within the Ōkura catchment. The precincts are in the vicinity of the Ōkura Estuary which forms part of the Long Bay-Ōkura Marine Reserve. None of the proposed Ōkura precincts were included in the proposed Auckland Unitary Plan Unitary Plan as notified and none of these precincts was supported by the Council for inclusion following the hearing of evidence presented by submitters.

Mr Fox in his evidence on behalf of the Council for Topic 016 set out the background to the location of the Ōkura/Long Bay Rural Urban Boundary as follows:

8.1 The RUB in the PAUP as notified is in the same location as the Metropolitan Urban Limit (**MUL**) in the operative RPS which runs along East Coast Road, Ōkura River Road and Vaughans Road as shown in **Figure 1**. In 1996 the Environment Court considered appeals on the position of the MUL in the locality of Long Bay/Ōkura (North Shore City Council & Ors v Auckland Regional Council Decision No A86/96), and in 2003 (Keep Ōkura Green Society Inc & Ors v North Shore City Council Decision No A95/03) the Environment Court considered appeals on the subdivision provisions that should apply for subdivision and associated development within the Ōkura Catchment. The location of the MUL and the type of rural development in the Ōkura Catchment to the north of this limit follows this history of litigation.

8.2 The Ōkura/Long Bay area sits at the northern edge of the former North Shore City Council district. Long Bay is home to the popular coastal Long Bay Regional Park and Long Bay-Ōkura Marine Reserve, shown in **Figure 2**, with an adjacent large scale residential and commercial development by Todd Property Limited, which is currently under development. This development area has a number of urban zones under the PAUP along with a precinct to reflect the comprehensive and mixed use nature of the Long Bay development.

8.3 The Vaughans Road ridge forms the catchment boundary between Long Bay and Ōkura. Ōkura is a rural area of largely lifestyle blocks and also includes the small village of Ōkura (135 existing dwellings). The Ōkura Catchment drains into the Ōkura Estuary which forms part of the Long Bay-Ōkura Marine Reserve. The Ōkura village has a Rural and Coastal Settlement zoning and the surrounding area is zoned Countryside Living in the PAUP as notified.

The Council's position was that the Rural Urban Boundary should remain in its notified location and Ōkura should not therefore be urbanised. The primary reasons for this were, in the Council's view, that the Ōkura urbanisation proposals:

- i. will not give effect to the New Zealand Coastal Policy Statement 2010 due to the likely adverse effects of stormwater contaminants on the indigenous biodiversity in the Long-Bay Ōkura Marine Reserve;
- ii. will not give effect to the National Policy Statement for Freshwater Management 2014; and
- iii. do not provide a defensible boundary of the Rural Urban Boundary for future urban expansion.

The Council also submitted that even if it was appropriate to include the Ōkura land within the Rural Urban Boundary, it would be premature to live zone the Ōkura Holdings Limited land and a Future Urban Zone would be the most appropriate zoning in this circumstance. It was the Council's submission that the joint statement of Mr Peake and Mr Clark dated 20 April 2016 in relation to transport upgrades demonstrated that significant roading upgrades will be required to service the level of development proposed by Ōkura Holdings Limited. These upgrades are listed in table 1 of the joint statement. The joint statement also clearly states that no committed funding is available for these upgrade works.

The Council sought the retention of the notified Countryside Living zoning. The Long Bay-Ōkura Great Park Society and the Ōkura Environmental Group proposed a new countryside living development precinct that would apply to the Ōkura Holdings Limited land and the land zoned Countryside Living Zone further to the west. The notified Countryside Living Zone enabled 4 hectare site sizes and the proposed new countryside living development precinct also enabled 4 hectare sites for the Ōkura Holdings Limited land with 2 hectare average site sizes, with a minimum 0.5 hectare lot sizes for the land further to the west. The Council did not support this proposed countryside living development precinct.

The key conclusions of the evidence presented by Ms Brigid Kelly, on behalf of Ōkura Holdings Limited, were that:

- (a) The proposal is based on a well-researched Structure Plan that provides for a functional, sustainable new residential neighbourhood and community that offers the opportunity for a better outcome than developing the site merely into separate 4 hectare lots. It has high amenity value and protects cultural, ecological and historic attributes of the site and is highly sympathetic to its context.
- (b) Having undertaken a full statutory assessment, Mr Cook considered the Ōkura Holdings Limited proposal is the most appropriate.
- (c) Dr Green was confident in the accuracy of the NIWA modelling work and that it is fit for purpose.
- (d) Drs Lohrer, Townsend and De Luca considered the model is robust and confirmed at the Topic 016 hearing that they have undertaken a dispassionate and robust assessment using the best information available. They considered there will be no effects on biodiversity of the Marine Reserve as a result of Ōkura Holdings Limited's proposal:
 ...the size of the potentially impacted area is predicted to be very small, and as such, **will not have any detectable adverse effects** on the biodiversity of the Ōkura Estuary as a whole or on the functioning of the Marine Reserve.

(e) Overall, from an ecological perspective, the Ōkura Holdings Limited proposal will have a significantly positive and far better outcome than the likely outcomes of the present Countryside Living use.

(f) Stormwater infrastructure will incorporate Water Sensitive Design principles. Ōkura Holdings Limited's experts were confident that, subject to detailed engineering design, matters such as providing base flow for streams can readily be incorporated. Ōkura Holdings Limited and its experts were confident that medium density is realistic. Similarly, appropriate erosion and sediment control can be readily incorporated.

(g) Ms de Lambert considered that the values and attributes that make the Ōkura Estuary an ONL will not be affected by the proposal and that the Estuary will remain an ONL post development. Furthermore, she recognised the potential for an improvement to the Regional Park as a result of the public open space network and coastal park Ōkura Holdings Limited proposes to vest in Council.

(h) Transportation and other infrastructure capacity issues have been addressed and there is sufficient capacity and no feasibility issues.

(i) The proposal will result in a net gain in both public access and recreational opportunities that will be significant at the local, regional and potentially national level. The proposal for public access to the coastal margin is supported by the Te Araroa Trust (New Zealand Trail) and the NZ Walking Access Commission. (Paragraph number 2.2.)

The Panel notes in particular the evidence of Mr Neil Donnelly in Topic 016 in relation to the experience gained from the development of the adjoining Long Bay land. Mr Donnelly states as follows:

7. The Long Bay Ōkura Marine Reserve was established in the mid 1990's and includes the receiving environments for both the Long Bay and Ōkura land. In this respect many of the considerations relating to the development of the Long Bay Structure Plan are applicable to Ōkura. This includes risk to receiving environments, the importance of stream retention and the impact of creating impervious surfaces through urbanisation and how to mitigate and minimise this.

8. A key factor in taking the risk, including time, cost and uncertainty of outcome in seeking a development outcome different from the sell down scenario once the coastal property market returned was the knowledge and experience gained from earthworking at Long Bay and the years of monitoring results we have observed there. In essence, the design and management of Long Bay as an earthworking site has led to outcomes that exceeded our expectations and given Todd Property the confidence that the Ōkura land can be developed while retaining the ecological values and functioning of the Ōkura Estuary. The ecological protection of the estuary was, and is, a bottom line for Todd Property. Simply put, we do not want to be known as an organisation that is responsible for the degradation of a national Marine Reserve.

9. Long Bay is one of, if not the, most heavily monitored earthworking sites in Auckland. In this regard the knowledge base of earthworking similar soil types, ground conditions and Marine Reserve receiving environment as Ōkura is large and allows informed decision making. Continuous monitoring and testing at Long Bay has proven that efficiencies of greater than 95% (ie less than 5% of

sediment generated during earthworks is discharged) are continually achieved. This compares to the 60-70% efficiency estimates used in the Environment Court proceedings when determining the initial location of the Metropolitan Urban Limit some twenty years ago (Env A86/96). More importantly than the actual quantum of sediment being generated, the effects of this are well understood through monitoring and observation with no discernible impact on the Marine Reserve as I understand it.

10. The Long Bay experience has also provided us with significant knowledge and understanding of Water Sensitive Urban Design (WSUD) principles, and of greater relevance, how to implement these. This includes measures such as stream retention, peak flow mitigation at a household level, bio-treatment of contaminant discharge at source and polishing through 'end of pipe' devices also designed to provide amenity and aesthetic benefit. It was always anticipated that a similar range of measures will be used at Ōkura and Todd Property is at the forefront of the implementation of these in greenfields areas. I would expect even better results to be achieved at Ōkura than at Long Bay with respect to post development run-off as we are constantly improving and learning as we develop Long Bay in small technical areas that makes a difference such a filtration media in rain gardens and relative effectiveness of different planting species.

Mr Donnelly's evidence was supported by the erosion and sediment control evidence of Mr Graeme Ridley, the estuarine modelling evidence of Dr Malcolm Green (the Principal Scientist for Coastal and Estuarine Physical Processes at the National Institute of Water and Atmospheric Research), the marine ecology evidence of Dr Sharon De Luca, Dr Andrew Lohrer and Dr Michael Townsend and the freshwater ecology evidence of Mr Edward Sides.

The Panel heard extensive and detailed evidence on behalf of the Council, Ōkura Holdings Limited, the Long Bay-Ōkura Great Park Society and the Ōkura Environmental Group. The Panel notes that there were other submitters who did not present evidence who had similar concerns to the Council and the submitters opposing any zoning of land within the Ōkura catchment. Apart from those submitters like Ōkura Holdings Limited and the Ōkura Rural Landowners Group who sought an extension to the Rural Urban Boundary, the other submitters were seeking the retention of the Rural Urban Boundary as notified and the retention of countryside living zonings.

4. Panel recommendations and reasons

The Panel, after carefully considering all of the evidence for and against any changes to the Rural Urban Boundary and zoning of land at Ōkura, recommends rezoning and a precinct for the Ōkura Holdings Limited land.

The primary reason for this recommendation is that the structure planning undertaken and the evidence supporting the proposal have been comprehensive and consistent with the approach contemplated by the regional policy statement.

With respect to the most contentious issue, being the extent of adverse effects on the biodiversity of the Ōkura Estuary as a whole or on the functioning of the Marine Reserve, the evidence on behalf of Ōkura Holdings Limited was preferred to the evidence presented by other parties. The primary reasons for this are that the Ōkura Holdings Limited evidence has been based on the specific National Institute of Water and Atmospheric Research modelling

work for the Ōkura Holdings Limited land and the erosion and sediment control experience gained from the recent Long Bay development. In addition specific provisions have been included within the Ōkura Precinct to enable the stream management approach developed through the structure plan process to be implemented and to require additional stormwater and earthworks management measures over and above the Auckland-wide standards contained within the proposed Auckland Unitary Plan Unitary Plan.

In relation to the location of the Rural Urban Boundary the Panel accepts a tributary to the Ōkura Estuary as the recommended western edge of the Rural Urban Boundary at Ōkura. With respect to the Ōkura Precinct, the Panel recommends a zoning of Future Urban for the land within the Rural Urban Boundary that is not owned by Ōkura Holdings Limited that has not been structure planned to the same level of detail as the Ōkura Holdings Limited land. Additionally, instead of following cadastral boundaries, the Future Urban zoning is recommended in relation to the southernmost portions of the Ōkura Holdings Limited land that had been identified through the structure planning process for Residential - Mixed Housing Suburban zoning. The Panel recommends that this land be structure planned in association with the remaining land within the Rural Urban Boundary to enable the integrated development of all of this land.

With respect to the transportation and other infrastructure capacity issues, in this case the Panel envisages that the upgrades and appropriate funding can be reprioritised once the Unitary Plan is operative and the Council's Long-term Plan is reviewed. The Panel has noted in the legal submissions on behalf of Ōkura Holdings Limited that "Mr Donnelly is in ongoing discussions with Auckland Transport in relation to possible funding arrangements."

In terms of an overall broad judgement, and weighing the positive outcomes of the proposed precinct against any adverse effects on the existing environment, including both the land and marine environments, the Panel agrees with the conclusions reached by Mr Karl Cook as set out below.

Inclusion of the Ōkura land within the RUB would be the most appropriate way, in my view, to achieve the RPS objectives relating to quality urban growth, protecting historic heritage, historic character and natural heritage, addressing issues of significance to tangata whenua, and sustainably managing the coastal environment.

This relates primarily to the extent to which the subject land is contiguous with the urbanised area at Long Bay, can be adequately serviced by infrastructure, is free of identified ecological, natural or heritage features while providing a waterfront park of 70-170m depth from the estuary boundary and enabling the protection of the ecological and tangata whenua features that exist in this margin. (Paragraph 8).

A number of other changes are recommended to this precinct to address best practice matters that the Panel seeks to provide across the Plan and more minor changes are made to the provisions to improve their functionality and for clarity.

The Panel, having regard to the submissions, the outcomes of mediation, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the provisions of the Ōkura Precinct be adopted, the Rural Urban Boundary be relocated to include the Ōkura Precinct and land within the precinct be rezoned as described in Section 1.2 above. Once amended further by best practice approaches outlined above these

provisions are considered the most appropriate way to achieve the purpose of the precinct, give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

- [081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\) \(3 March 2016\) \(page 40\)](#)
- [081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 \(19 May 2016\) \(Attachment B, page 33\)](#)
- [081b Ak Cncl - Rodney - Precincts \(Ōkura\) - \(A Fox\) - Planning \(2 February 2016\)](#)
- [081b Ak Cncl - Rodney - Precincts \(Ōkura\) - \(A Fox\) - Planning - REBUTTAL \(2 March 2016\)](#)
- [016&017 Hrg - Auckland Council - Ōkura - \(Austin Fox\) - Planning \(3 November 2015\)](#)
- [016&017 Hrg - Auckland Council - 016 Area Specific Evidence - Austin Fox - Planning - Ōkura - REBUTTAL \(23 December 2015\)](#)
- [081b Ak Cncl - Rodney - Precincts \(Ōkura\) - \(M Peake\) - Transport - REBUTTAL \(1 March 2016\)](#)
- [016&017 Hrg – Ōkura Holdings Limited - Legal Submissions \(26 January 2016\)](#)
- [016&017 Hrg - Ōkura Holdings Ltd \(Andrew Lohrer & Michael Townsend\) - Marine Ecology \(27 November 2015\)](#)
- [016&017 Hrg - Ōkura Holdings Ltd \(Edward Sides\) - Freshwater Ecology \(27 November 2015\)](#)
- [016&017 Hrg - Ōkura Holdings Ltd \(Karl Cook\) - Planning \(27 November 2015\)](#)
- [016&017 Hrg - Ōkura Holdings Ltd \(M Green\) - Supplementary Evidence - Summary Statement Estuarine Modelling \(27 January 2016\)](#)
- [016&017 Hrg - Ōkura Holdings Ltd \(Malcolm Greene\) - Estuary Modelling \(27 November 2015\)](#)
- [016&017 Hrg - Ōkura Holdings Ltd \(Neil Donnelly\) - Corporate \(27 November 2015\)](#)
- [016&017 Hrg - Ōkura Holdings Ltd \(Rachel Lambert\) - Landscape \(27 November 2015\)](#)
- [016&017 Hrg - Ōkura Holdings Ltd \(Sharon de Luca\) - Marine Ecology \(27 November 2015\)](#)
- [081 Okura Holdings Limited \(B Kelly\) - Legal Submissions \(21 April 2016\)](#)
- [081 Ōkura Holdings Limited and Auckland Council \(I Clarke, M Peake\) - Transportation - Joint hearing statement \(20 April 2016\)](#)

As well as the evidence listed above, the extensive evidence and legal submissions of the Long Bay Ōkura Great Park Society and Ōkura Environmental Group to Topic 081 and Topic 016 were relied on by the Panel and can be viewed on the Panel's website under each of these topics.

528 Ōmaha South Precinct

1. Summary of recommendations

The Panel supports this precinct.

The Panel recommends the precinct provisions sought by Omaha Beach Community Incorporated in preference to the provisions proposed by the Council.

The Panel recommends no change to the zoning of the property within the precinct at 5 Matariki Street, and notes that the Council supported the retention of the Business - Neighbourhood Centre Zone for this property.

This precinct was heard in Topic 081.

2. Precinct description

The Ōmaha South precinct applies to land south of Broadlands Drive at Ōmaha.

The purpose of the precinct is to manage residential and small-scale commercial development to ensure it is sustainable and complements the coastal character and landscape values of the area. It caps the total number of dwellings because of wastewater infrastructure and on-site stormwater soakage constraints and manages stormwater discharge effects from development to minimise adverse effects on the Ōmaha groundwater aquifer and the adjacent kahikatea forest/wetland. In particular, minimum site size and density controls apply across the five sub-precincts and development in close proximity to the fore dune area of Ōmaha Beach is limited.

The precinct is intended to carry forward the Special Purpose - Special 16 (Ōmaha South) zone in the Auckland Council District Plan - Operative Rodney Section 2011 into the proposed Auckland Unitary Plan Unitary Plan.

The underlying zoning of land within this precinct is Business - Neighbourhood Centre Zone, Residential - Single House Zone and Residential - Mixed Housing Suburban Zone.

3. Key issues

The Council and Omaha Beach Community Incorporated agreed that a precinct was required for Ōmaha South in order to carry forward the Special 16 Ōmaha South Zone provisions.

The key issue in contention was the extent to which the precinct provisions reflected the operative zone provisions and would be appropriate in managing the continued development of Ōmaha South.

Ms Kurzeja for the submitter at paragraph 9(d) of her planning evidence in chief stated that:

As discussed in the OBCI submission, substantial development has already taken place under the current Operative Plan provisions. Approximately 80% of all residential sections have had building construction completed. All the remaining residential sections are privately owned, and any development of them is controlled through covenants and the rules of the OBRS which state that development is to be

undertaken in accordance with Variation 76 - now the Operative Plan Special 16 zone. I consider that these are special circumstances where it is better that the consistency of these existing plan provisions is carried over, as they are inextricably linked to the land covenants and the design approval process.

Mr Brabant in his legal submissions, together with Mr Allan in his evidence, supported Ms Kurzeja's conclusions and the need to replicate in their entirety the special zone provisions, except where these are no longer relevant.

The Panel accepts the legal submissions and evidence on behalf of the submitter and recommends Ms Kurzeja's precinct provisions to those of those recommended on behalf of the Council.

With respect to the remaining outstanding issue Ms Kurzeja did not support the retention of the archaeological sites on the precinct plan. In her paragraphs 21(n) and (o) she stated that:

(n) Before development of Omaha South began, all archaeological sites were investigated by Clough and Associates, and iwi (Ngāti Manuhiri) were consulted. Those sites that the parties agreed were to be retained and protected from development were surveyed, and the extent of the cultural sites to be protected were incorporated into subdivision plans and recorded on the titles of the property or properties affected. In some cases, these midden sites are located within public reserves or road reserves vested in the Council. Since then, the covenant provisions registered against the titles affected by these survey midden sites, and the design control guidelines applying to all new development have ensured the protection of these midden sites to the satisfaction of the local iwi.

(o) The Omaha South Outline Plan for the Special 16 zone identifies known archaeological sites. These identified sites were identified on relevant parcel titles as part of the subdivision process. They are also recorded in the CHI and NZAA records and are in turn protected by the Historic Places Act. I acknowledge that Omaha South has a number of sites of value to mana whenua. This matter was addressed by the OBCI in submissions and evidence on Topic 037. Confirmed sites or places of value to iwi identified in Appendix 4.2 of the Operative Unitary Plan will be identified by a historic heritage overlay. I consider that the Historic Heritage overlay is the appropriate place for these sites of value to be mapped and therefore there is no need to replicate the location of these sites on the Omaha South

Precinct Plan. In addition, the original recorded archaeological sites considered to be of value to local iwi are protected through other means, such as by land covenants, as mentioned above.

The Panel recommends that Ms Kurzeja's approach be adopted given the extent of earthworks, subdivision and development that has occurred at Ōmaha South, together with the relevant operative planning provisions that have assessed, recorded, and where appropriate registered covenants against titles in order to protect middens and other places of significance to Ngāti Manuhiri.

A number of minor changes are recommended to this precinct to address best practice matters that the Panel seeks to provide across the Plan and to improve their functionality and for clarity. None of these changes alter the intent of the precinct provisions as requested by Omaha Beach Community Incorporated.

References to the adjoining golf course have also been deleted because although the golf course had been included with the operative Special 16 zoning, the golf course land is not included within the Ōmaha South Precinct. The Panel notes that the precinct plan identifies the six separate sub-precincts and that the five residential Sub-precincts A to E are separated by reserve development areas that lie outside the boundaries of these sub-precincts. The reserve development areas are an integral component of the established Ōmaha South development and reference to these areas is contained within the precinct provisions to provide context to the environmental outcomes anticipated within each of the sub-precincts.

In addition to the precinct provisions themselves the Panel also considered a rezoning request from Sandee Investments Limited which sought that the land at 5 Matariki Street, Ōmaha within the Ōmaha South Precinct, be rezoned from Business - Neighbourhood Centre Zone to Residential - Single House Zone. This rezoning request was opposed by the Omaha Surf Club Incorporated, Omaha Beach Community Incorporated and the Council.

The primary issue in contention by Sandee Investments Limited was that the provisions of the proposed Business - Neighbourhood Centre zoning would be inappropriate for the site and its land uses given the existing and proposed surrounding land uses, the locality of the site; and lack of commercial demand in this area.

The Omaha Surf Club was concerned that if the land was to be rezoned residential then there would be potentially be conflicts between a residential owner wanting quiet enjoyment of their home and the ongoing activities of the surf club. This conflict would not exist with a commercial development of the site as envisioned by the existing zoning.

Mr Bradley in his planning evidence in relation to the proposed rezoning on behalf of the Council stated in his Attachment C that:

Do not support rezoning from NC to SH zone. The NC zone has been identified as the commercial hub for Omaha. The area provides for limited small scale commercial activities to meet local and tourist needs. The zone is to service the settlement now and into the future. It would be premature to remove the zoning at this point in time as Omaha is still a growing settlement. It is noted that many sites in Omaha have yet to be built on and that as transport links improve (e.g. RoNS) Omaha will become a more attractive place to live and commute from. This will increase the population (both seasonal and permanent) that rely on this commercial area for local needs. It is also noted that residential use is available in the zone. The retention of the NC zone also avoids a split zoning on the property. It is noted that the precinct evidence of Deborah Yan supports retaining the SH zone.

The Panel recommends the zoning of Business - Neighbourhood Centre Zone be retained for the property at 5 Matariki Street, Ōmaha, for the reasons set out in the evidence on behalf of the Council and those submitters opposing the proposed rezoning.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the amended provisions of the Ōmaha South Precinct be adopted. Once amended further by best practice approaches outlined above these provisions are considered the most appropriate way to achieve the purpose of

the precinct, give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

Auckland Council

- [081b Ak Cncl - Rodney - Precincts \(Omaha South\) - \(D Yan\) - Planning \(26 January 2016\)](#)
- [081b Ak Cncl - Rodney - Precincts \(Omaha South\) - \(D Yan\) - Planning - REBUTTAL \(24 February 2016\)](#)
- [081b Ak Cncl - Rodney - Precincts \(Omaha South\) - \(D Yan\) - Planning - TABLED AT HEARING \(21 March 2016\)](#)
- [081b Ak Cncl – Rodney – Rezoning - Rural – \(R Bradley, K Edmonds\) - Planning \(28 January 2016\)](#)
- [081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\) \(3 March 2016\) \(page 44\)](#)
- [081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 \(19 May 2016\) \(page 40\)](#)
- [081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016 \(26 May 2016\) \(page 87\)](#)
- [081 Omaha Beach Community Inc \(K Kurzeja\) - Planning \(14 February 2016\)](#)
- [081 Omaha Beach Community Inc \(K Kurzeja\) - Summary Statement \(21 March 2016\)](#)
- [081 Omaha Beach Community Inc \(C Allan\) \(14 February 2016\)](#)
- [081 Omaha Beach Community Incorporated \(C Allan\) – TABLED \(17 March 2016\)](#)
- [081 Omaha Beach Community Inc \(R Brabant\) – Legal Submission \(21 March 2016\)](#)
- [081 Omaha Surf Club Inc \(C Campbell\) - REBUTTAL \(24 February 2016\)](#)
- [081 Sandee Investments Limited \(H Firth\) - Planning \(15 February 2016\)](#)
- [081 Sandee Investments Limited \(C Leuschke & D Winstone\) - Summary Statement \(21 March 2016\)](#)
- [081 Sandee Investments Limited \(C Leuschke & D Winstone\) - Supplementary Evidence \(21 March 2016\)](#)

529 Ōrewa 1 Precinct

1. Summary of recommendations

The Panel's recommendation is to retain the precinct but with amendments to the building height control and the street frontage control as requested in the submission from Kensington Park Holdings Limited.

This precinct was heard in Topic 081.

2. Precinct description

The Ōrewa 1 Precinct is located at the corner of Centreway Road and Puriri Avenue at the northern end of Ōrewa and covers a development known as Kensington Park. It sits within a natural bowl including significant stands of puriri trees at its core. The perimeter is bounded by:

- i. the Nukumea Stream and Alice Eaves Scenic Reserve to the north;
- ii. the Ōrewa North Primary School to the south; and
- iii. single dwelling residential development and Puriri Bush reserve to the east.

The sub-precincts respectively provide for a range of development and include specific provision for a retirement village, some shops and a communal activity area. Higher buildings are allowed centrally on the site with lower heights of buildings adjacent to the eastern and western boundaries.

Ōrewa 1: Precinct Plan 1 shows the layout of development across the precinct.

The purpose of the precinct is to enable the completion of a comprehensive residential community that will incorporate a range of housing typologies, complemented by community facilities, a network of public open spaces, and accessory commercial activity. Future built form and layout will be progressed in a manner that is complementary to the character of the substantial development progressed on-site to date, and provide the landowner and neighbouring properties with suitable certainty as to the overall outcome.

The zoning of land within the precinct is Residential – Mixed Housing Urban Zone, Open Space – Community Zone and Open Space – Informal Recreation Zone.

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

3. Key issues

The Panel notes that the precinct covers land that is partially developed as a planned residential development comprising single houses, terrace houses and apartment buildings together with open space and communal facilities. The precinct provisions are intended to implement a planning approach to the development that incorporates a master plan and design guidelines to ensure the precinct remains a high-quality environment.

The Panel finds that a precinct is appropriate in providing for different types of development in the precinct, particularly with respect to different building heights and with a retirement village and some commercial development to the south.

In its submission, Kensington Park Holdings Limited sought to continue the provisions from the operative district plan and to alter these provisions to take into account the policy direction for land use intensification and quality compact urban form in the proposed Auckland Unitary Plan Unitary Plan. Kensington Park Holdings Limited also sought to reduce the number of precincts from six to four. The Council agrees with the approach of Kensington Park Holdings Limited. The key issues raised at the hearing related to: whether a Residential - Terrace Housing and Apartment Buildings Zone over part of the site was appropriate; and the development controls for building height and street frontages.

The Panel finds that the Residential - Mixed Housing Urban Zone provides sufficiently to guide the remainder of the development within the precinct and does not therefore agree with Kensington Park Holdings Limited's request for a Residential - Terrace Housing and Apartment Buildings zoning.

After hearing the evidence the Panel asked the Kensington Park Holdings Limited representative, Mr McGarr, and the Council planner, Mr Wren, to meet regarding the building height control. Agreement was reached and the amended provision is included in the precinct provisions.

In relation to the street frontage controls, the Panel agrees with Kensington Park Holdings Limited that the provisions are unnecessarily prescriptive, requiring development in Sub-precinct B to contain commercial activities at ground floor. The Panel is of the view that the provisions are not intended to require commercial activity but to enable it and to ensure it addresses the streetscape. This is best achieved by deleting the rules and requiring any commercial development in this precinct to be subject to specific assessment criteria. This also provides flexibility to address other matters relating to built form, active frontages and cohesive design. The resultant provision is provided below.

Other amendments are made to the provisions in relation to the submissions and to address duplication and to achieve consistency in the provisions across all the precincts.

4. Panel recommendations and reasons

The Panel, having had regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, agrees that the precinct provisions partly as amended by Council in agreement with submitters, and further by the Panel, in response to the submissions are the most appropriate way to achieve the purpose of the precinct, the Regional Policy Statement and the Resource Management Act 1991.

The precinct provisions are amended by amending the building height development control to read:

- (1) Buildings must not exceed the maximum height shown on Precinct Plan 2: Ōrewa 1 Precinct where:
 - (a) For the purpose of determining the height of a building with a 9m maximum height, height is measured by either;

- (i) the vertical distance between ground level at any point and the highest part of the building immediately above that point (rolling height)
 - (ii) the vertical distance between the highest part of the building and average ground level, being the average level of the ground at the external foundations of the building walls, calculated around the external foundation of the building walls by measuring the ground level at 1m intervals, then adding these ground levels and dividing the total by the total number of ground levels that have been measured (average height).
- (b) For the purpose of determining height:
- (i) basement/semi-excavated car parking is not included in the building height
 - (ii) a building may include a roof space with a maximum height of 4m in addition to the allowable building height.
- (2) Buildings exceeding the heights shown in Precinct Plan 2: Ōrewa 1 Precinct will be a discretionary activity.

Note: The above also requires Precinct Plan 2: Ōrewa 1 Precinct as set out in the evidence of Sharon Dines to be included in the proposed Auckland Unitary Plan Unitary Plan.

The precinct provisions are amended by deleting the street frontage (mixed use area) provisions and inserting:

Matter of discretion

The nature and extent of built form accommodating commercial activities and retail.

Assessment criteria

The extent to which any commercial or retail activity in the ground floor of buildings provides for an active frontage and cohesive design including such components as glazing, verandas, building materials and pedestrian amenities.

5. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Ōrewa 1\) - \(E Wren\) - Planning](#) (26 January 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (page 42)

Kensington Park Holdings Ltd

[081 Kensington Park Holdings Ltd \(S Dines\) - Planning](#) (14 February 2016)

[081 Kensington Park Holdings Ltd \(C McGarr\) - Planning - JOINT MEMO with AC - Ōrewa 1 Precinct](#) (1 April 2016)

530 Ōrewa 2 Precinct

1. Summary of recommendations

The Panel supports this precinct and notes that the two submitters, Orewa Developments Limited and Auckland Council, supported the precinct provisions.

This precinct was heard in Topic 081.

2. Precinct description

The Ōrewa 2 Precinct is approximately 240ha of greenfields land bounded by Ōrewa River estuary to the south; Nukumea Stream to the north; State Highway 1 to the west; and the established Ōrewa urban area to the east. The precinct incorporates the following natural and physical values:

- i. the ecological and amenity value of Ōrewa Estuary and Nukumea Stream;
- ii. a number of native vegetation areas of ecological value; and
- iii. riparian vegetation and wetlands of ecological value.

The purpose of the precinct is to develop a new residential community on greenfield land in accordance with Precinct Plan 1 and Precinct Plan 2 while protecting and enhancing the ecological and amenity value of the receiving environment. A flexible range of residential densities is provided for.

The zoning of the land within the Ōrewa 2 Precinct is Residential - Single House Zone, Business - Neighbourhood Centre Zone and Open Space - Conservation Zone.

3. Key issues

The Panel has accepted the tracked changes recommended in the evidence presented on behalf of the Council, noting that these provisions were not contested. A number of minor changes are recommended to this precinct to address best practice matters that the Panel seeks to provide across the Plan and to improve their functionality and for clarity. None of these changes alter the agreed intent of the precinct provisions.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the amended provisions of the Ōrewa 2 Precinct be adopted. Once amended further by best practice approaches outlined above these provisions are considered the most appropriate way to achieve the purpose of the precinct, give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Orewa 2\) - \(E Wren\) - Planning \(27 January 2016\)](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016 \(26 May 2016\) \(Page 89\)](#)

[081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\) \(03 March 2016\) \(Page 48\)](#)

531 Ōrewa 3 Precinct

1. Summary of recommendations

The Panel supports this precinct and notes that the landowner Changda International New Zealand Limited supported the precinct provisions, but requested an alternative development concept and layout for the precinct.

The Panel recommends that the alternative concept and layout sought by the landowner be adopted.

This precinct was heard in Topic 081.

2. Precinct description

The Ōrewa 3 Precinct is located off West Hoe Heights Road, Ōrewa.

The precinct is constrained by on-site features including geotechnical instability and native biodiversity. To respond to, and manage these constraints, a more intensive form of development is enabled by the precinct in areas free from constraints. The precinct contains eight sub-precincts which control the maximum number of dwellings.

The zoning of land within the Ōrewa 3 Precinct is Residential - Single House Zone.

3. Key issues

There was a large degree of agreement between the submitter and the Council and the Panel supports the agreed provisions.

The primary point of difference between the parties related to the size and location of building platforms within the precinct, road connections and the provision of open space.

For Auckland Council Mr Wren concluded in paragraph 6.1 of his planning evidence in rebuttal that:

The alternative precinct plan building platforms as proposed by the submitter are practicable from a geotechnical perspective. I have reservations about the extent to which open space is diminished by the proposal and consider that the connectivity through the site provided by roads A1 and A2 in the notified precinct plan should be retained.

For the reasons set out in the urban design evidence of Kester Ko and the planning evidence of Roger McDonald the Panel supports the revised precinct plan proposed by the submitter.

With respect to the remaining concerns of Mr Wren on behalf of the Council the Panel sought the agreement of the parties to amend the physical extent of the precinct to enable a new connector road to be provided in the southern portion of the site, and for the precinct plan to indicate that additional open space would be provided in this locality.

The Panel has accepted the agreed tracked changes and has replaced the precinct plan as requested by the submitter. A number of minor changes are recommended to this precinct to address best practice matters that the Panel seeks to provide across the Plan and to

improve their functionality and for clarity. None of these changes alter the agreed intent of the precinct provisions.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the amended provisions of the Ōrewa 3 Precinct be adopted. Once amended further by best practice approaches outlined above these provisions are considered the most appropriate way to achieve the purpose of the precinct, give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Orewa 3\) - \(E Wren\) - Planning](#) (26 January 2016)

[081b Ak Cncl - Rodney - Precincts \(Orewa 3\) - \(D Wren\) - Planning - REBUTTAL](#) (24 February 2016)

[081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\)](#) (3 March 2016) (page 49)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Attachment B, page 41)

Submitter

[081 Changda International New Zealand Ltd \(R McDonald\) - Planning](#) (15 February 2016)

[081 Changda International NZ Ltd \(R McDonald\) - Summary statement](#) (29 March 2016)

[081 Changda International New Zealand Ltd \(K Ko\) - Urban Design](#) (15 February 2016)

[081 Changda International NZ Ltd \(K Ko\) - Presentation](#) (24 March 2016)

[081 Changda International New Zealand Ltd - Legal submissions](#) (24 March 2016)

[081 Changda International NZ Ltd - Legal submissions \(with provisions\)](#) (24 March 2016)

532 Pinewoods Precinct

1. Summary of recommendations

The Panel supports a precinct as generally proposed by the principal submitter, Pinewoods Motor Park Limited.

This precinct was heard in Topic 081.

2. Precinct description

The Pinewoods Precinct occupies approximately 13.3ha of coastal land on the southern side of the Orewa Estuary, legally described as Lot 2 Deposited Plan 209844, owned and managed by a single-purpose entity - Pinewoods Motor Park Limited - located at 23 Marie Avenue, Red Beach, Rodney.

A camping ground was formally established within the site in 1949 and has since evolved into an estate comprising a mixture of dwellings (many of which are occupied on a continuous basis), cabins, caravan, mobile camping vehicles and tenting sites, communal facilities, administrative buildings, and associated amenities. Pinewoods contains 245 shareholder baches and 150 casual camping sites (around 80 of these camping sites are occupied by site holders and year-round caravan/leisure units). The number of shareholders is limited to 250 under its constitution.

The purpose of the Pinewoods Precinct is to enable the ongoing use and development of the Pinewoods Precinct while protecting the amenity of adjoining sites.

The zoning of land within this precinct is Residential - Single House Zone.

The site is affected by the following overlays: the Notable Trees Overlay; the Outstanding Natural Features Overlay; and the Significant Ecological Areas Overlay.

The precinct is divided into 5 areas:

- i. Camping Ground (but not new dwellings);
- ii. Administration;
- iii. Temporary Events;
- iv. Dwellings (but not camping ground); and
- v. Dwellings and Camping Ground.

3. Key issues

The key issue of difference between Council and Pinewoods Motor Park Limited related to whether a precinct is necessary or, as Council preferred, the activity should continue to rely upon the Residential – Single House Zone along with regulation under the Camping-Grounds Regulations 1985.

Pinewoods Motor Park Limited submitted that because this is a unique situation combining long-term occupation with temporary (the rules and regulations set a 50-day continuous occupation upper threshold for camping-grounds), which had been recognised and provided

for specifically in the Auckland Council District Plan – Operative Rodney Section, it was appropriate to translate a similar set of bespoke provisions into the Unitary Plan by way of a precinct. Furthermore it is evident that the present spatial arrangement would not comply in all respects with the Residential – Single House Zone provisions, creating issues for future developments even of a relatively minor kind.

While Pinewoods Motor Park Limited has existing use rights, and could seek further development rights by way of resource consent applications, the Panel accepts that, as this ‘facility’ has endured in one form or another for some 67 years, and that the basic management structure is not planned to change, it merits bespoke consideration. A precinct does not mean that resource consents may not be required for the additional rental dwelling development indicated at the hearing (and which seemed to be a concern to Council) – as reflected in the activity table provisions.

The main differences between the Pinewoods Precinct as finally proposed and the relevant overlays, zone, and Auckland-wide rules are:

- i. inclusion of a tailored suite of objectives and policies;
- ii. additional activity and development controls; and
- iii. additional assessment criteria and discretion matter.

Council’s review of and conclusions on camping grounds generally, and Pinewoods Motor Park Limited specifically, are included in Attachment C to Mr Ewan David Paul’s Rodney – Hibiscus Coast planning evidence in chief. No additional comment was provided in Council’s closing remarks.

Pinewoods Motor Park Limited’s overall submissions are contained in the planning evidence in chief and supplementary statement of Mr Alistair White (dated 9 February 2016 and 14 April 2016 respectively).

4. Panel recommendations and reasons

The Panel supports the precinct and recommends the changes generally agreed between Council and the principal submitter, Pinewoods Motor Park Limited; and miscellaneous consequential and other minor amendments to the provisions for the reasons set out in section 1.3 above.

5. Reference documents

Auckland Council

[081b Ak Cncl – Rodney – Rezoning - Orewa, Silverdale, Whangaparaoa – \(E Paul\) - Planning](#) (28 January 2016)

[081 Bob Lack \(Alistair White\) - Statement of Evidence](#) (09 February 2016)

[081 Bob Lack and Pinewoods Motor Park Limited - Legal Submissions](#) (23 March 2016)

[081 Bob Lack \(Alistair White\) Supplementary Statement](#) (14 April 2016)

533 Red Beach Precinct

1. Summary of recommendations

The Panel supports the precinct applying to this land (as described below) but providing for 570 dwellings, as compared with 520 dwellings as earlier proposed, and making it clear that the precinct provides for one dwelling per site as a permitted activity. Two additional assessment criteria are added relating to stormwater when considering subdivision and there is also a mapping correction.

The precinct was heard in Topic 081.

2. Precinct description

The Red Beach Precinct comprises approximately 44.6ha of land accessed off Hibiscus Coast Highway and Red Beach Road. It is applied to land previously occupied by the Peninsula Golf Course.

The purpose of the precinct is to provide for comprehensive and integrated residential development with a variety of residential housing options. Larger sites than allowed for by the zoning are required around the edge of the site. Development will be integrated with key road links, recreational resources and stormwater infrastructure.

The precinct includes three sub-precincts:

- i. Sub-precinct A provides for large lots with a minimum lot size of 600m²;
- ii. Sub-precinct B provides for medium lots with a minimum lot size of 450m²; and
- iii. Sub-precinct C provides for small lots, as for the Residential - Mixed Housing Suburban Zone.

The controls within the sub-precincts enable a moderate level of intensification, while retaining a relatively spacious quality consistent with the existing surrounding suburban residential character. Specific controls within the identified development control area also ensure a transition in both height and intensity of development around the periphery of the precinct where it abuts areas zoned Residential - Single House Zone.

3. Key issues

The key issue addressed through submissions and at the hearing was the maximum number of sites provided for by the precinct. The submitter, PLDL Limited, sought the maximum be increased from 520 sites to 570 sites. The Council sought to retain the lower limit. There was some apparent confusion in the respective statements from the witnesses and in draft precinct provisions regarding the number of dwellings being provided for in the precinct. It was implicit in the evidence and draft precinct provisions that the expectation was for one dwelling per site as a permitted activity. The Panel has now made this clear in the precinct provisions and particularly in the activity table.

The Council planner, Mr Paul, did not support the increase sought to the maximum number of sites due to the lack of assessment of the traffic effects on the wider network. Neither did he support moving the development cap rules to the subdivision section of the provisions. He agreed in evidence that the increase would not adversely affect the character of the

development, provided the additional sites occurred within Sub-precincts B or C and not within Sub-precinct A, the larger lot zone around the periphery of the development.

For the submitter, Mr McAlley and Mr Craig both indicated that the additional sites sought are likely to occur in Sub-precincts B and C. Mr Paul supported the rezoning of an adjacent area of land to the north-west of the site to Residential - Mixed Housing Urban Zone and its inclusion in the precinct to correct a mapping error. He also supported the addition of assessment criteria relating to stormwater in order to strengthen the criteria and to better align these criteria with the operative provisions.

Mr McAlley highlighted that the precinct provisions had been developed by Mr Paul for the Council and by Mr Craig and himself for PLDL Limited but that they disagreed on the cap now proposed by PLDL. The cap had been based on an assessment of the potential yield available under the operative plan subdivision provisions. Mr McAlley explained that the revised cap now sought was due to the significant change that had occurred since development of the plan provisions for the land in 2008, particularly with respect to the demand for housing in the region and the resultant need to provide for greater density within urban developments. He referred to the regional policy statement objectives and policies in the Plan relating to urban growth to support his views. He considered there would be no negative effects on the amenity of the surrounding properties.

Evidence on behalf of PLDL Limited from Mr Chryssafis relating to wastewater and water supply, Mr Clark relating to traffic and Dr Fisher relating to stormwater supported the revised cap at 570 sites. They concluded that all the associated effects from the increase were acceptable and would in any case be further considered in the context of restricted discretionary activity for any future subdivision.

The Panel agrees with the inclusion of the land to the north-west of the precinct on the basis of it being omitted as a mapping error and noting it relates logically to being part of the land comprising the precinct. It also agrees with the two additional restricted discretionary activity assessment criteria relating to stormwater when considering subdivision and to ensure particular regard to matters including water quality, flood storage and overland flow paths.

In relation to the development cap being increased the Panel notes the large size of the site and the potential it has for greater intensification consistent with the regional policy statement objectives and policies associated with providing for growth and quality compact urban form. In general terms the Plan provisions seek to focus residential intensification on land within and adjacent to centres, in close proximity to public transport and urban facilities and to enable a range of housing choices and densities.

The additional development provided for by increasing the cap is appropriately located within Sub-precincts B and C. In those locations the minimum net site area provides for a greater density of development than in Sub-precinct A, which is generally located in proximity to existing lower density accommodation.

In this case the precinct site is large, adjacent to an established shopping centre and in close proximity to public transport and urban facilities. The site is located within easy reach of bus stops and in proximity to local facilities that include the Red Beach shopping centre and primary school such that it will allow a reasonable proportion of trips by modes other than the private car. The traffic generation from the additional sites is not considered to be adverse

to the degree that the additional dwellings should be denied with that view being balanced by the need to provide for additional intensification where the opportunity is available.

The Panel notes that the further intensification that is now sought for the site will be subject to the bulk and location controls of the precinct, can be carried out without impacts on infrastructure and will enable a wider range of housing choices and densities.

4. Panel recommendations and reasons

The Panel, having had regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, agrees that the precinct provisions as amended by Council, and further by the Panel, in response to the submissions are the most appropriate way to achieve the purpose of the precinct, the regional policy statement and the Resource Management Act 1991.

The Panel supports the precinct applying to this land and providing for 570 dwellings with the additional 50 dwellings being provided within Sub-precincts B and C, and further, making it clear that the precinct provides for one dwelling per site as a permitted activity. Two additional assessment criteria are added relating to stormwater when considering subdivision and there is also a mapping correction. The Red Beach: Precinct plan 3 which shows trees for possible relocation and possible retention is deleted because it is considered to be unnecessary and is not referred to in the precinct provisions.

5. Reference documents

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Attachment B, page 45)

[081b Ak Cncl - Rodney - Precincts \(Red Beach\) - \(E Paul\) - Planning](#) (27 January 2016)

[081b Ak Cncl - Rodney - Precincts \(Red Beach\) - \(E Paul\) - Planning - REBUTTAL](#) (26 February 2016)

[081b Ak Cncl - Rodney - Precincts \(Red Beach\) - \(A Murray\) - Transport - REBUTTAL](#) (26 February 2016)

[081 PLDL Ltd \(I McAlley\) - Planning - Peninsula Golf Course](#) (13 February 2016)

[081 Fletcher Residential Ltd and PLDL Ltd \(I McAlley\) - Planning - Peninsula Golf Course - Supplementary Statement](#) (15 March 2016)

[081 PLDL Ltd \(C Chryssafis\) - Water and Wastewater - Peninsula Golf Course](#) (13 February 2016)

[081 PLDL Ltd \(I Clark\) - Traffic - Peninsula Golf Course](#) (13 February 2016)

[081 PLDL Ltd \(I Craig\) - Urban Design - Peninsula Golf Course](#) (13 February 2016)

[081 PLDL Ltd \(T Fisher\) - Stormwater - Peninsula Golf Course](#) (13 February 2016)

534 Riverhead 3 Precinct

1. Summary of recommendations

The Panel's recommendation is to retain the precinct as in the notified proposed Auckland Unitary Plan Unitary Plan but to rezone to Rural - Rural Conservation Zone as better reflecting the future use of the land.

This precinct was heard in Topic 081.

2. Precinct description

The site comprises 82ha of land in Cobblers Lane at the northern end of Riverhead. Bordered to the south by the Wautaiti and Rangitopuni Streams, the site is covered in regenerating native bush and pockets of pine trees.

Submissions were received from Anne Power, Farington Power and Roger Power (#3578) seeking retention of the precinct but with increasing subdivision potential from 50 to 62 sites, with 26 of these as restricted discretionary activities and 36 as discretionary activities. A Significant Ecological Area Overlay covers the extent of the site.

The purpose of the precinct "is to allow for a holistic and integrated approach to future subdivision and development whilst allowing for the protection of the high quality indigenous vegetation". It identifies the development capacity of the land and directs where development can occur in response to the natural characteristics of the land.

3. Key issues

Council's evidence supports the precinct but without the increased number of lots sought by the submitter. The precinct is in the Auckland Council District Plan – Operative Rodney section and is based on earlier Environment Court decisions.

There was no evidence and no appearance from the submitters.

4. Panel recommendations and reasons

To be able to consider the development capacity of the land in the context of the Significant Ecological Area notation affecting the land and to implement the earlier Environment Court decisions.

The submission is accepted to the extent that the precinct is retained but without increasing the total number of sites provided for by it.

The Panel recommends retaining the precinct as in the notified Plan but to rezone the area to Rural - Rural Conservation Zone as better reflecting the future use of the land.

5. Reference documents

Auckland Council

[081b AK Cncl - Rodney - Precincts \(Riverhead 3\) - \(K Morrissey\) - Planning](#) (26 January 2016)

535 Rodney Landscape Precinct

1. Summary of recommendations

The Panel supports the changes proposed by Auckland Council in response to submitters but disagrees with other points raised in the submissions. It removes Sub-precinct H, Silverdale, in response to a submission.

This precinct was heard in Topic 081.

2. Precinct description

The Rodney Landscape Precinct applies to various inland towns and coastal areas on and to the north of Whangaparāoa Peninsula. The purpose of the precinct is to vary zone land use, development and subdivision standards to protect significant ecological features, including significant ecological areas, native vegetation, notable ridgelines, natural gullies and water courses, and areas of high natural character. In addition, it includes controls on siting and design of buildings to reduce their visual prominence when viewed from public places and to account for land with physical constraints. It is made up of 10 sub-precincts which are described in the precinct provisions and identified on the planning maps.

3. Key issues

The Council proposes to maintain the precinct with some amendments, as detailed below, in response to the submissions. At the hearings for the precinct evidence was received from Mark Bellingham and Jan Woodhouse on behalf of Todd Sylvester, Ashala Enterprises, Peter Snell Youth Village (New Zealand Sunday School Union), Pauline Fudge and Silvertown Group Ltd; from Chris Dickson; from Fiona Flay; and from Burnette McNicol and Melean Absolum on behalf of D A Aley Estate. Planner Mr Paul had reported on the submissions for Council with landscape and ecological support respectively from Ms Gilbert and Ms Myers.

Sub-precinct A, Wellsford is deleted because the land has no greater landscape values than the surrounding land. This was agreed prior to the hearing between Dr Bellingham and Council. That sub-precinct is replaced in the provisions by Sub-precinct A, Chenery Road. This acknowledges this coastal land can be developed at a higher density than allowed by the Residential - Large Lot Zone provisions, which would otherwise apply to it, without compromising landscape character. This action accepts the submission by Chris Dickson.

In relation to Sub-precinct C, Sandspit, discussion at the hearing confirmed for Ms Flay that the properties neighbouring her had the same zoning and that any proposal for subdivision would require resource consent consideration. Ms McNicol and Ms Absolum provided evidence in which amendments were sought to the assessment criteria for development. The Panel accepts some amendment for clarity but otherwise retains the provisions as being consistent with the objectives for the precinct.

Two further sites at the road entry or western edge of Sandspit are included in the sub-precinct. The site closest to the road entry is included as a consequential amendment to the addition of the adjoining site into the precinct. If not included it would be the only site on this part of the hillside with a different zoning. The inclusion of both these sites is because they

are part of the ridgeline above Sandspit and logically and physically form part of the sub-precinct along with other sites across this eastern side of the hill.

Sub-precinct F Coal Mine Bay is retained because it is considered by the Panel to be necessary to sufficiently protect the landscape and ecological values of these areas. This is supported by the Environment Court decision, *New Zealand Sunday School v Auckland Council (2012) EnvC 268*, and by the landscape and ecological evidence from Council. The Panel does, however, agree to some amendments to the provisions and to reduce the limit of the significant ecological area at Coal Mine Bay, based on the evidence for the submitters and for Council.

Sub-precinct H Silverdale was sought to be retained by Council, given it contains a large significant ecological area and is an area that is steep and readily visible from the south, including from the Hibiscus Coast Highway and the Silverdale Town Centre. This action is supported by the evidence of Ms Gilbert and Ms Woodhouse. Dr Bellingham, however, highlighted the small extent of the sub-precinct that covers seven properties bounded by different urban zones and lacking the landscape character and quality of vegetative cover in other areas within the precinct. In relation to the latter he pointed to the removal of the significant ecological area from part of the land, that being at 32 Curley Avenue. Further, the landscape and development context of this locality has changed in the 20 years since a local landscape precinct was placed on the site.

The Panel agrees with the evidence for the submitters and notes the local landscape values and the significant ecological area can be protected, while providing for development through the provisions of the proposed Auckland Unitary Plan Unitary Plan. The sub-precinct is therefore removed from the precinct. The appropriate zoning to then be applied to the site is Residential - Large Lot Zone in recognition of its steeper topography, proximity to commercial activities and it having some visual prominence.

The Panel notes that the purpose of the precinct is to provide for a lower intensity of subdivision than permitted in the underlying zones (Residential -Large Lot Zone and Residential - Rural and Coastal Settlement Zone) in order to protect significant landscape features. In addition, it includes controls on siting and design of buildings to reduce their visual prominence when viewed from public places. The Panel notes that these reasons for the precinct were not contested through submissions, other than in the context of a few of the ten sub-precincts.

Two consequential amendments have been made to this precinct. The first is to introduce provision for new buildings and structures accessory to pastoral farming, cropping and other non-intensive forms of land production, and additions to existing structures, up to 50m² as a permitted activity. This is to align the activity listing for this precinct with other parts of the Plan, and particularly the overlays applying to large parts of this precinct that offer the highest levels of landscape and character value protection within the Plan.

The second amendment is to remove consideration of the physical constraints of land from the precinct provisions. That matter is addressed elsewhere in the Plan, and is also covered by section 106 of the Resource Management Act 1991.

Other more minor changes are made to the provisions to improve their functionality and clarity.

4. Panel recommendations and reasons

The Panel, having had regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, agrees that the precinct provisions as amended by Council in response to the submissions, and amended further by the deletion of Sub-precinct H Silverdale, the provision for buildings up to 50m² as a permitted activity, and by the removal of physical constraints considerations, are the most appropriate way to achieve the purpose of the precinct, the regional policy statement and the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081b AK Cncl - Rodney - Precincts \(Rodney Landscape\) - \(E Paul\) - Planning](#) (26 January 2016)

[081b Ak Cncl - Rodney - Precincts \(Rodney Landscape\) - \(B Gilbert\) - Landscape - REBUTTAL](#) (28 February 2016)

[081b Ak Cncl - Rodney - Precincts \(Rodney Landscape\) - \(S Myers\) - Ecology - REBUTTAL](#) (26 February 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Attachment B, page 49-53)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 19 May 2016](#) (19 May 2016) (Attachment A, pages 122-129)

Ashala Enterprises Ltd and others

[081 Ashala Enterprises Ltd \(M Bellingham\) - Planning - Updated 23 Feb 2016](#) (23 February 2016)

Estate DA Aley

[081 Estate DA Aley \(Melean Absolum\) - Landscape](#) (14 February 2016)

[081 Estate DA Aley \(B Micnicol\) - Planning](#) (14 February 2016)

Other submitters

[081 Chris Dickson \(S Peake\) - Landscape](#) (12 February 2016)

[081 Fiona G Flay](#) (24 February 2016)

536 Silverdale 2 Precinct

1. Summary of recommendations

The Panel recommends that the Silverdale 2 Precinct be adopted to ensure that the special nature of the recreational facilities on the site are appropriately provided for.

The Panel has adopted most of the relief sought by the Council and Snowplanet. This will ensure that the operative Rodney District Plan provisions are carried into the Unitary Plan so that this area continues to develop as previously intended.

This precinct was heard in Topic 081.

2. Precinct description

The Silverdale 2 Precinct applies to approximately 47ha of land located between East Coast Road and the motorway (State Highway 1). The precinct is bounded by the motorway to the west, East Coast Road to the east and the Snowplanet site to the south as shown in the Silverdale 2 - Precinct plan 1. It is highly visible from the motorway because the land slopes up significantly from the motorway to East Coast Road.

The purpose of the precinct is to facilitate the development of an entertainment cluster. Activities are limited to entertainment and recreation activities and accessory activities.

The zoning of land within this precinct is Business – General Business Zone.

3. Key issues

The Silverdale Precinct was largely settled by the time of the hearing for Topic 081. Snowplanet has sought a change in the zoning from General Business to Major Recreation but withdrew this relief at the hearing.

4. Panel recommendations and reasons

The Panel recommends that the Silverdale 2 Precinct be included in the Unitary Plan.

The Panel has generally accepted the agreed provisions between Snowplanet and the Council as attached to the evidence of Mr Paul.

The Panel recommends the following provisions and amendments.

- i. 'Ancillary' is changed to 'accessory' which is the Panel's preferred word.
- ii. Objective 4 – the reference to 'rural land' is deleted as the surrounding area is to be developed for urban use in the future.
- iii. Removal of Objective 7 and Policy 13 as it is to be expected that development will need to comply with the existing consents and retention would prompt the need for similar provisions for consistency across the entire Plan.
- iv. Amendments to the activity table to remove major recreation facility (which is undefined and covered within activity of recreation facilities).

- v. Lifting restricted discretionary activity and discretionary standards into activity table to make the determination of activity status simpler.
- vi. Clarifying subdivision to relate to vacant lot subdivision to avoid inappropriate capture of minor subdivision applications like unit titling and boundary adjustments.
- vii. That applications be subject to normal tests for notification.
- viii. Yard infringements have been amended to be discretionary for the standard being breached by more than 50 per cent rather than non-complying as the step change of activity status was considered too onerous.
- ix. Deleting the earthworks standard because it was worded as an assessment criterion, not a standard. The provision has been worked into assessment matters and criteria so that the intent is still met. The focus of the provisions on landform is different to the standard land disturbance rules so this provision is appropriate.
- x. The two sets of cumulative effect assessment criteria have been deleted as they are speculative about the future, not consistent with case law (*Dye v Auckland Regional Council* CA86/01(2001) 7 ELRNZ 209 and *Rodney District Council v Gould* CIV2003-485-2182 (2004) 11 ELRNZ 165) and that the Plan provisions themselves set the level of development.
- xi. The precinct plan is to be amended to show the landscape buffer area in a different colour to the precinct boundary red colour.

The Panel carefully considered the provisions about the use of galvanised steel roofing. Such provisions have not been adopted in other parts of the Plan. The Panel is aware that conditions and provisions in regard to restricting the use of galvanised steel due to the contamination of zinc from runoff have been endorsed in previous decisions of the Environment Court so the use of materials is not just considered to be only a Building Act 2004 matter. For example in the *Living Earth v Auckland Regional Council* [2007] A086/07 Puketutu Island case and the *Green and McCahill v Rodney District Council* [2010] NZEnvC 183 Weiti plan change decision. There is a risk that large recreation buildings could potentially use galvanised steel so the Panel considers that the provisions are appropriate.

The precinct meets the requirements of section 32 and will promote the purpose of Part 2 of the Resource Management Act 1991.

5. Reference documents

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 may 2016)

[081b AK Cncl - Rodney - Precincts \(Silverdale 2\) - \(E Paul\) - Planning](#) (26 January 2016)

[081b AK Cncl - Rodney - Precincts \(Silverdale 2\) - \(E Paul\) - Planning - REBUTTAL](#) (24 February 2016)

[081 Snowplanet \(Alistair White\) - Statement of Evidence](#) (9 February 2016)

[081 Snowplanet \(Alistair White\) - Memorandum](#) (26 February 2016)

537 Silverdale 3 Precinct

1. Summary of recommendations

The Panel supports this precinct. There was a significant degree of agreement between the submitters and the Council given the recent consent order in relation to this land and the Panel has largely supported the agreed provisions.

This precinct was heard in Topic 081.

2. Precinct description

The Silverdale 3 Precinct is applied to approximately 41ha of land located between East Coast Road and the motorway (State Highway 1) known as the Hibiscus Coast Gateway.

The purpose of the proposed precinct is to manage the traffic effects of activities on the Hibiscus Coast Highway. It is also to achieve a high-quality urban design outcome within a visually strong 'vegetated framework'. All development within the precinct will require careful management to assist in creating a high quality gateway to the Hibiscus Coast.

3. Key issues

The Panel notes that this precinct is based on Plan Change 123 to the Auckland Council District Plan – Operative Rodney Section 2011 and the subsequent Environment Court Consent Order (*LM Painton Estate, Silverdale Golf Driving Range Limited and Runwild Trust v Auckland Council 2015*).

There was a significant degree of agreement between the submitters and the Council given the recent consent order in relation to this land and the Panel has largely supported the agreed provisions. It has been considered necessary however to recommend a number of changes to the agreed provisions in order for the precinct provisions to be consistent with other Panel recommendations. Framework consent provisions have been deleted, however compliance with the precinct plan will ensure the outcomes envisaged for this precinct are still met. Also precinct specific provisions have been deleted where the provisions of the recommended Auckland-wide provisions will appropriately manage earthwork activities.

The Panel has accepted the majority of the tracked changes recommended in the evidence presented on behalf of the Council, however in addition to the above changes, a number of further minor changes are recommended to this precinct to address best practice matters that the Panel seeks to provide across the Plan and to improve their functionality and for clarity.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the outcomes of mediation, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the amended provisions of the Silverdale 3 Precinct be adopted. Once amended further by best practice approaches outlined above these provisions are considered the most appropriate way to achieve the purpose of the precinct, give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

081b Ak Cncl - Rodney - Precincts (Silverdale 3) - (E Paul) - Planning (26 January 2016)

081b Ak Cncl - Rodney - Precincts (Silverdale 3) - (D Paul) - Planning - REBUTTAL (25 February 2016)

081 Ak Cncl – LEGAL SUBMISSIONS (PRECINCTS ONLY) (3 March 2016) (Page 68)

081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 (19 May 2016) (page 59)

081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016 (26 May 2016) (page 132)

081 LM Painton Estate, Silverdale Golf Driving Range Limited and Runwild Trust (B Macnicol) - Planning (14 February 2016)

081 Snowplanet (Alistair White) - Statement of Evidence (9 February 2016)

538 Smales 1 Precinct

1. Summary of recommendations

The Panel recommends that the Smales 1 Precinct be included in the Unitary Plan with some modifications to the provisions to further enable development of this site in accordance with the outcomes sought by Northcote RD1. The reasons for that enablement include giving effect to the compact city strategy in the regional policy statement, the site's location adjacent to the northern busway and State Highway 1, and its close proximity to existing residential and commercial development.

This precinct was heard in Topic 081.

2. Precinct description

The Smales 1 Precinct reflects provisions in the Auckland Council District Plan – Operative North Shore Section and contains relatively few provisions. The origin of the provisions was to attempt to ensure that office development on the site did not detract from the City Centre Zone or Takapuna, or cause adverse traffic effects.

The subject land is zoned as Business – Business Park Zone in the proposed Auckland Unitary Plan and is in the process of being developed with large office buildings occupied by high profile corporate entities. The development is characterised by circular-shaped office blocks interspersed with landscaping and car parking, some areas of which are intended to be occupied by buildings in the future.

The site is strategically very well located adjoining the northern motorway (State Highway 1) and now has a significant public transport connection provided by the northern busway which has a bus station adjoining the precinct. It is understood that development is occurring in accordance with demand and approximately 44,000 square metres of gross floor area has been built to-date and a further 15,000 square metres has been consented and is currently being constructed (refer to the evidence in chief and summary statement of Mr Smith for Northcote RD1).

The key components of the precinct are:

- i. enablement of office development providing the adverse effects of traffic, and on the amenity values of other centres, are managed;
- ii. restrictions on some commercial and retail activities that could otherwise take place in the zone that are high traffic-generating activities;
- iii. controls on gross floor area with caps;
- iv. a height control for buildings of RL48.5 which is more permissive than the Business - Business Park Zone; and
- v. less parking than would otherwise be allowed in the Business - Business Park Zone.

3. Key issues

The Panel heard evidence from planning and landscape experts for Northcote RD1 (refer to evidence of Mr Smith and Mr Goodwin) and from a planning witness for the Council (refer to evidence of Mr Mackie). The Panel was also assisted by legal submissions with tracked changes from Northcote RD1. The main two submitters were the land owner and the Council.

The key issues the Panel heard in regard to the precinct are:

- i. the type and the scale of activities that are appropriate for Smales Farm and the extent to which those activities should be managed with gross floor area caps;
- ii. the potential adverse effects of development at Smales Farm on the transport network and the amenity of neighbouring zones, the Business - City Centre Zone and other Business - Metropolitan and Business - Town Centre Zones;
- iii. the height limit for the precinct; and

the extent to which non-office commercial activities should be controlled.

4. Panel recommendations and reasons

The Panel appreciates that the Council and Northcote RD1 worked hard to largely reach agreement on the provisions in the precinct, including providing further revisions after the hearing (refer to agreed objectives and policies provided by Mr Mackie dated 28 April 2016). After weighing the evidence from the hearing the Panel recommends enabling development of this site beyond that provided for in the Council's closing remarks by:

- i. introducing a threshold for the management of adverse effects on the transport network and on the amenity of centres that they need to be 'significant'; and
- ii. making activities that exceed the thresholds for gross floor area in the activity table discretionary rather than non-complying.

The additional height limit sought is confirmed.

In summary the Panel has recommended what it considers to be appropriate, but arguably modest, changes to the provisions to further enable development. Future plan revisions may well increase the overall level of development provided for Smales Farm to achieve a more efficient use of this scarce urban land resource.

The Panel considers that the provisions will promote the purpose of Part 2 of the Resource Management Act 1991. The provisions also meet the requirements of section 32 of the Resource Management Act 1991 because they will allow economic and employment growth and provide significant benefits to enable people to provide for their social and economic well-being.

Various amendments have been made to present the precinct in standard format and to improve workability, for example separating activity status from the relevant standards.

4.1 Growth at Smales Farm enabled

The reason that the Panel agrees with greater enablement for development at Smales Farm, as put to it in the evidence of Mr Smith, is to implement the 'centres-plus' and quality compact city strategy in the Auckland Plan and the regional policy statement section of the proposed Auckland Unitary Plan Unitary Plan. The restrictions on the development of Smales Farm arise from the history of planning in North Shore City which was trying to reinforce Takapuna as a town centre by restricting office development through gross floor area controls and non-office commercial activities at Smales Farm.

It is important to note that these historical provisions pre-date the completion of the northern busway and the bus station that adjoins Smales Farm. As noted in the evidence of Mr Mackie, many of the other busway stations have limited opportunities for growth because they are constrained by existing land uses (paragraph 9.12) and the precinct could take on the characteristics of a town centre in the future (paragraph 7.7).

The Panel's recommendation is also based on recognising that employment growth on the North Shore has the potential to reduce the traffic demand for workers to travel to other centres, particularly the Business - City Centre Zone.

Furthermore, the Panel considers that due to its proximity to existing centres and business and residential areas, Smales Farm is an appropriate location to encourage office development in preference to areas that are more remote and have inferior public transport connections. The Panel is applying a region-wide approach to the management of growth and development which may differ to the manner in which policies were previously developed within each individual legacy territorial authority.

The Panel recommends a 'significance' threshold in regard to traffic effects and adverse effects on the amenity on other zones and centres because it is only when those effects are significant that they need to be managed (see for example paragraphs 10-12 and 25 of *Landco Mt Wellington v ACC* [2007] EnvC A 035-2007). As the Panel heard in evidence from Mr Smith, it is likely that office development on the site will generate adverse effects that are likely to be more than minor. Within an existing urban area the generation of adverse effects from growth and development is to be expected and unless those effects reach an appropriate threshold, they are to be tolerated as part of an urban environment.

The Panel was persuaded by the evidence of Mr Smith that trying to control development at Smales Farm by attempting to measure adverse effects on the function and the amenity of the City Centre Zone and Metropolitan and Town Centre Zones would be technically very difficult. The merits of such an exercise are also questionable, as it is difficult to envisage circumstances in which office development at Smales Farm would have a measurable and significant enough adverse effect on, for example, the Business - City Centre Zone to warrant planning interventions to prevent such development from occurring.

The threshold under the Resource Management Act 1991, and established in case law, for when an effect on amenity values, as a result of economic competition between commercial activities, warrants consideration is relatively high ('significant' in the Landco decision for example). The Business - City Centre Zone is growing rapidly and is not under threat from a lack of development in the foreseeable future. Takapuna, while it may not be growing as rapidly as some parties desire, is clearly not in decline.

In regard to how the above conclusions of the Panel affect the recommended provisions:

- i. the original relief sought by Northcote RD1 to delete any reference to the effects on traffic and other centres from the objective has not been recommended because the regional policy statement growth strategy is still centres-based and, at this stage at least, Smales 2 is not a centre;
- ii. however, the Council closing remarks text has been amended to reflect the thrust of the submissions, evidence and relief, from Northcote RD1 by raising the effects thresholds for planning controls to be triggered to one of 'significant'.

4.2 Discretionary activity recommended

The Panel recommends that activities not complying with the gross floor area in the activity table be assessed as discretionary activities rather than non-complying activities. The reason for this recommendation is that the Plan must be read as a whole and it has a clear strategic direction promoting a quality compact city and intensification around public transport nodes. As recognised in paragraph 7.7 of Mr Mackie's evidence for the Council (26 Jan 2016), as the precinct grows and develops it will take on more of the characteristics of a centre in its own right.

Therefore, considering that a non-complying activity starts from a presumption of being contrary to the Plan, the Panel does not consider that breaches of office gross floor area, or gross floor area for non-office activities, warrant non-complying activity status. Discretionary activity status is a neutral starting point, from which consent can, of course, be refused. Any application can be assessed in accordance with the objectives and policies in the Plan read as a whole.

4.3 Height exceedance recommended

In regard to the RL48.5 metre building height control, the Panel was assisted by comprehensive evidence from Mr Goodwin for Northcote RD1. He had undertaken a detailed modelling analysis of gross floor area from development enabled by the precinct which included three-dimensional models. This work persuaded the Panel that the RL sought would not have significant adverse effects in terms of amenity values. Indeed, the Panel considers that taking into account the strategic transport and proximity advantages of this site, it could be argued that the combination of the gross floor area provided for and the relatively modest height increase, means that the site risks not being developed to its full potential.

5. Reference documents

Auckland Council

[081c Ak Cncl - North Shore - Precincts \(Smales 1\) - \(T Mackie\) – Planning](#) (26 January 2016)

[081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\)](#) (3 March 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (REFERENCE Attachment B pages 61 and 62)

081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016 (REFERENCE Attachment A pages 194 to 197)

Submitters

081 Northcote Rd 1 Ltd (D Allan) - Legal Submissions (18 April 2016)

081 Northcote Rd 1 Ltd (V Smith) - Planning - Smales 1 precinct (13 February 2016)

081 Northcote Rd 1 Ltd (V Smith) - Planning - Smales 1 precinct - Summary statement (18 April 2016)

081 Northcote Rd 1 Ltd (J Goodwin) - Landscape - Smales 1 precinct (19 February 2016)

081 Northcote Rd 1 Ltd - Agreed Obs and Pols for Smales 1 precinct (28 April 2016)

539 Smales 2 Precinct

1. Summary of recommendations

The Panel recommends that the Smales 2 Precinct is included in the Unitary Plan. The precinct is appropriate because it provides for specific standards in regard to the outstanding natural feature and Lake Pupuke while also providing for additional development opportunities, including a taller building within the precinct, than would otherwise be provided for in the underlying zones (Business – Mixed Use Zone and Residential – Mixed Housing Suburban Zone).

The Panel recommends that the agreed controlled activity status for up to two vehicle accessways and associated earthworks, is provided through the outstanding natural feature from Northcote Road to Sub-precinct B.

In accordance with other parts of the Plan the Panel does not recommend the inclusion of the framework plan/consent mechanism. The Panel recommends acceptance of the relief sought by W Smale Limited to provide 'concept plans' as information when consents are assessed.

This precinct was heard in Topic 081.

2. Precinct description

The Smales 2 Precinct consists of two sub-precincts, A and B, and they adjoin Northcote Road and Sub-precinct A also adjoins Rangatira Avenue. Sub-precinct B has frontage to Lake Pupuke and the site was subject to an outstanding natural feature in the notified proposed Auckland Unitary Plan Unitary Plan. The precinct was formerly used as a quarry.

As part of Topic 019 Outstanding natural features, agreement was reached between the Council advisors (Mr Raeburn and Mr Jamieson) and Mr Smith, on behalf of the landowner, refining the outstanding natural feature notation to reduce its extent so that only a 'tongue' remained adjoining Northcote Road (refer to Joint Statement– Reaburn, Jamieson, Smith – Hearing 019 – 26 August 2015). That agreement also provided for access through the outstanding natural feature from Northcote Road and associated earthworks. A map showing the reduced outstanding natural feature, Northcote Road and the Smales 2 Precinct is provided below. This agreement is implemented in the Plan with the controlled activity provisions proposed by Smale Limited, and agreed to by the Council, as recorded in paragraph 6(c) of its closing remarks.



This brownfield site provides a valuable opportunity for future development in an accessible area to enable people to provide for their social and economic well-being. The particular features of the Smales 2 Precinct that justify a departure from the underlying respective zonings include:

- i. ensuring that development does not have adverse effects on the water quality of Lake Pupuke and the outstanding natural feature;
- ii. achieving a high-quality development outcome, including increased protection for adjoining residential sites;
- iii. providing for a landmark building to be located within a defined area close to Northcote Road and providing a landscape buffer with Northcote Road;
- iv. focussing on medical activities in Sub-precinct A; and
- v. providing for cycle and pedestrian linkages and a landscape buffer

3. Key issues

The key objectives, policies and development controls were largely agreed between the Council and the landowner (W Smale Limited). The bespoke provisions provide for improved environmental outcomes unique to the site that would otherwise not be achieved

under the generic zoning. They also provide for additional development opportunities and additional controls on development at the interface with adjoining residential zones.

The key issues arising from the hearing are summarised below.

- i. The use of framework plans. This is a precinct that had framework plans in the notified proposed Auckland Unitary Plan Unitary Plan. When the Panel questioned the *vires* of these provisions the Council sought declarations from the Environment Court (*Auckland Council* [2016] NZENV65).
- ii. The use of 'concept plans' as an alternative to the framework plan provisions.
- iii. Provision or not of a vehicular connection through the precinct and an accessway with associated earthworks through the outstanding natural feature.

Notification provisions. Neighbouring property owners A J and T L Field sought relief that would have required notification of any framework plan on a limited basis unless written approval had been provided (refer to evidence in chief of Mr Hartley dated 10 February 2016 and statement of Ms Field dated 18 April 2016).

4. Panel recommendations and reasons

The Panel recommends that the Smales 2 Precinct, with its Sub-precincts A and B, be incorporated into the Unitary Plan for the following reasons:

- i. the precinct will provide for higher quality environmental and development outcomes than are provided for with the underlying zonings (this will promote the purpose of Part 2 of the Resource Management Act 1991);
- ii. the precinct will better protect the outstanding natural feature and the amenity and water quality of Lake Pupuke;
- iii. additional development capacity will be provided within the precinct than would otherwise be available and the location of a taller landmark building has been appropriately determined within Sub-precinct A;
- iv. the precinct provides additional boundary setbacks and height to boundary controls to maintain the amenity values of neighbouring properties;
- v. providing vehicle access between Northcote Road and Sub-precinct B will not adversely affect the outstanding natural feature because its form varies in height and there is an opportunity to create accessways with minor adverse effects; and
- vi. the provision of 'concept plans' as information for processing consents can promote integrated and comprehensive development, and protection, within the precinct.

Various amendments have been made to present the precinct in standard format and to improve workability, for example separating activity status from the relevant standards.

The Panel has recommended deleting a restricted discretionary activity (A13) that sought to make non-compliance with standards in other Unitary Plan provisions all restricted discretionary activities. The Panel has also recommended deleting a subdivision activity status in the activity table because it considers that the subdivision section of the Unitary Plan adequately provides for subdivision within the precinct. These deletions are

recommended based on principles of good planning practice and ensuring that there is a consistent approach across the Unitary Plan. These changes could be considered out of scope.

4.1 Vehicle access through the outstanding natural feature

As outlined in the precinct description above, agreement was reached between the Council and Smale Limited experts to reduce the extent of the outstanding natural feature, and also provide for up to two vehicle accessways and associated earthworks between Northcote Road and Sub-precinct B through the outstanding natural feature 'tongue'. Smale Limited proposed controlled activity criteria to create the road access and undertake associated earthworks. These criteria were attached to the legal submissions of Mr Allan and were agreed to by the Council in its closing remarks.

After considering the evidence of the parties and undertaking a site visit, the Panel recommends that the provisions agreed to by the parties are adopted. The Panel understands from its site visit that the height and composition of the outstanding natural feature varies over its length and at low points access can potentially be created with minor adverse effects on the outstanding natural feature.

The overall policy thrust in the Plan is to protect outstanding natural features and avoid modification, as reflected in the non-complying activity status for earthworks greater than 2m³. However, the Panel defers to the expert evidence of Mr Jamieson for the Council and is satisfied that the assessment criteria provide sufficient control to ensure that any adverse effects of the accessways on the outstanding natural feature are minimised.

The Panel recommends a new policy 5 to provide policy support for the controlled activity status for the accessways and earthworks through the outstanding natural feature. This is considered necessary as a counterbalance to the objectives and policies protecting outstanding natural landscapes in the Unitary Plan and for the assessment of consent applications. This is an out of scope recommendation and is also a consequential amendment in response to accepting the relief sought in the rule.

4.2 Through vehicular access not recommended

The Council had sought to require provision for the movement of vehicles 'through' the site. W Smale Limited had requested that the word 'through' is deleted from Policy 6(g). The Panel recommends that a vehicular link through the precinct, presumably between Rangitira and Northcote Road, i.e. effectively extending Lake Pupuke Drive, should not be required.

The reason for this recommendation is that the site has extensive frontage and access to the existing roading network. Any new through-vehicle link may adversely compromise the efficient development of the site and, in particular, the development of the area for the taller landmark building. Not requiring a through-vehicular connection does not preclude that one could be formed and the Council has designation powers if it considered that a new connection is a necessary public work.

4.3 Framework consents not recommended

The Council had sought to amend the precinct in its closing remarks in accordance with its interpretation of the *Auckland Council* [2016] NZENVC65 decision on framework plans. As has been discussed elsewhere in the Panel's recommendations, the Panel has determined

not to include framework plan provisions as originally notified or as modified (framework consents) by the Council in its closing remarks on Topic 081. (See the Panel's Report to Auckland Council – Overview of recommendations July 2016.)

In regard to this precinct the Panel was not persuaded that the proposed framework consents had overcome all of the concerns raised in previous decisions of the Courts. An example is the framework consent provisions in 5.2 Part B: Sub-precinct B of Council's closing remarks for this precinct.

The Panel has also determined not to recommend the inclusion of framework plans/consents in the Plan because of their questionable merit as a rule/method.

In the legal submissions of the landowner, W Smale Limited (18 April 2016), counsel referred the Panel to the, at that time, very recent *Auckland Council* [2016] NZEnvC65 decision which was released on 15 April 2016. In anticipation that the framework plan provisions may not be accepted by the Panel, counsel helpfully provided a tracked change version with blue highlights that recorded amendments suggested to remove reference to framework plans entirely. The Panel accepts that relief.

4.4 Concept plans recommended

The same tracked change version from W Smale Limited also sought relief that 'encouraged' the use of concept plans as information for obtaining consents to promote broad-scale comprehensive and integrated planning for the whole area of each precinct. Because the concept plan is not a resource consent itself, it does not:

- i. change activity status in the Unitary Plan;
- ii. become a requirement against which future consents are assessed (a criteria);
or
- iii. have to be given effect to.

Therefore, the Panel considers that the proposed concept plan provisions are within the scope of the Resource Management Act 1991 and such spatial plans have been endorsed by the Environment Court as information that can be required for the granting of consent.

The Panel recommends that the preparation of concept plans to promote integrated and comprehensive development, becomes an information requirement at the time that resource consents for activities are applied for. It is not inappropriate to have an objective and policy framework that seeks to improve the quality of information regarding a large area when consents for only a part of the whole area have been applied for.

The Panel would like to highlight that staged consenting processes are available under the resource Management Act 1991 and may also achieve what appears to be the intent of framework consents and concept plans. The Panel also notes that the Court in the Auckland Council decision declared that 'bundled' resource consents were also lawful.

Based on the legal submissions and planning evidence from W Smale Limited regarding the positive merits of concept plans the Panel has recommended that they be 'required' rather than merely 'encouraged'. Amendments have been made to the provisions to make concept plans mandatory information when consents are applied for and these are out of scope changes.

4.5 Field notification relief not recommended

Mr Hartley, in his primary statement of evidence for the Fields (10 February 2016) requested an amended notification provision that, unless written approval was obtained from adjoining landowners, then limited notification was required. The Panel was not persuaded to recommend that relief for the following reasons:

- i. the precinct and zone development controls are intended to manage the adverse effects of development within the precinct on the amenity of adjoining residential zones;
- ii. the proposed amendment would apply to applications with only minor adverse effects and this would not be consistent with the provisions in the Resource Management Act 1991; and
- iii. the relief would place an inappropriate approval and notification burden on the applicant.

5. Reference documents

Auckland Council

[081c Ak Cncl - North Shore - Precincts \(Smales 2\) - \(T Mackie\) – Planning](#) (26 January 2016)

[081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\)](#) (3 March 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (REFERENCE Attachment B pages 63 to 65)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016](#) (REFERENCE Attachment A pages 198 to 220)

[019 - Hrg - Auckland Council and W Smale Ltd - Joint Statement \(Peter Reaburn, Alastair Jamieson and Vaughan Smith\)](#) (26 August 2015)

Submitters

A J and T L Field

[081 AJ and T L Field \(S Hartley\) - Planning](#) (12 February 2016)

[081 AJ and T L Field \(T Field\) - hearing statement](#) (18 April 2016)

[081 AJ and T L Field \(S Hartley\) - Planning - Summary Statement](#) (18 April 2016)

W Smale Ltd

[081 W Smale Ltd \(D Allan\) - Legal Submissions](#) (18 April 2016)

[081 W Smale Ltd \(V Smith\) - Planning - Smales 2 precinct](#) (13 February 2016)

[081 W Smale Ltd \(V Smith\) - Planning - Smales 2 precinct - REBUTTAL](#) (24 February 2016)

[081 W Smale Ltd \(V Smith\) - Planning - Smales 2 precinct - Summary statement](#) (18 April 2016)

540 Takapuna 1 Precinct

1. Summary of recommendations

The Takapuna 1 Precinct is recommended to be included in the Plan because it provides for a more nuanced building height outcome that will avoid, remedy and mitigate adverse effects on the amenity Business - Metropolitan Centre Zone.

The increase in height sought by Pioneer Shore City is not recommended.

The bonus height incentives for the creation of pedestrian through-site links and exemption from the building setback rule, sought by Crown/Wilshire, are recommended.

This precinct was heard in Topic 081.

2. Precinct description

The zoning of land within the precinct is the Business - Metropolitan Centre Zone. The Takapuna 1 Precinct incorporates the central area of Takapuna.

Takapuna benefits from a coastal setting and includes a mix of commercial and residential activities. The built form is characterised by human-scale building frontages along the main shopping streets and large towers set away from the coast. The purpose of the precinct is to enable development that creates a quality built environment that complements coastal character and supports the revitalisation of the beachfront environment.

The precinct comprises sub-precincts A to D. A variety of building heights is provided across each of the sub-precincts, ranging from an unlimited building height in the area west of Lake Road from mid-block, down to three and five-storey development closer to the beachfront. This precinct also includes frontage and buildings setbacks and encourages through-site links.

3. Key issues

There was a small number of submitters on this Precinct and the Panel was assisted by most of the provisions being agreed by the parties. The main issues that the Panel had to address were:

- i. the appropriate height on the Pioneer site to the west of Lake Road;
- ii. the extent to which new through-site links between Hurstmere Road and The Strand/Channel View Road were desirable as a linkage to the coastal edge of Takapuna Beach;
- iii. the extent to which the creation of new pedestrian through-site links should be incentivised with height bonuses and over which sites any bonus provisions should apply; and

whether or not a building setback exemption should be allowed on the corners of Lake/Hurstmere/Strand/Northcroft Streets intersection for urban design and building utility reasons.

4. Panel recommendations and reasons

The Precinct is considered appropriate because it provides for an urban design outcome in regard to building heights that will better maintain the amenity values of the coastal environment and the existing developments than the default heights in the underlying Business - Metropolitan Centre Zone. The precinct will provide for a graduated increase in building heights from four to five storeys on the coastal edge to unlimited heights mid-block to the west of Lake Road. The Panel relies on the modelling evidence of Mr Sills for the Council that demonstrated that the shadowing and dominance effects of the precinct heights on the coastal reserve would be acceptable.

In terms of the specific relief sought the Panel recommendations and reasons are as set out below:

4.1 Pioneer Shore City

Pioneer Shore City sought relief of increased height for part of its block bounded by Como Street, Lake Road and Anzac Street. Mr McLean provided legal submissions and Mr Nobilo evidence for Pioneer. This relief was opposed by Mr Mackie for the Council.

The Panel does not recommend that the relief sought by Pioneer Shore City be accepted for the following reasons:

- i. the heights along Lake Road form a continuum to maintain amenity values at the street level and to allow higher buildings to the street frontage on the northern end of Lake Road would reduce the amenity values to the south and at street level;
- ii. Pioneer Shore City did not undertake a sufficiently robust analysis of shadowing and amenity effects of what it was proposing for the Panel to be confident to grant the relief sought;
- iii. the Panel considers that it is more appropriate for Pioneer Shore City to seek a resource consent for any departure from the building height in the precinct. The activity status is restricted discretionary, which is not an onerous activity status, and there are clear assessment criteria that can be applied to the particular development proposal sought to properly determine the nature and extent of any adverse effects; and
- iv. therefore the Panel considers that the Council position best meets the requirement of section 32 and promotes the purpose in Part 2 of the Resource Management Act 1991.

4.2 Crown Group and Wilshire Group

The Panel generally accepts the relief sought by the Crown/Wilshire Groups as outlined in the evidence of Mr Lala and Mr Falconer. The relief was in regard to through-site links/bonus provisions and an exemption from the standard Business - Metropolitan Centre Zone setback rule.

4.3 Through-site links

The Panel recommends that the through-site link opportunity should be extended all the way to Channel View Road and over the Colmar Brunton area, rather than stop mid-block as proposed by the Council (refer Mackie evidence or provisions attached). The Panel refers to the reasons in support of this extension in the evidence of Mr Lala. Those reasons include:

- i. Hurstmere Road will benefit from improved connections with Takapuna Beach;
- ii. the stopping of the mapped link incentive area mid-block as proposed by the Council is not a practical planning approach;
- iii. while there are some public access areas that currently exist, additional linkages will provide additional amenity and planning benefits for property owners and their customers and visitors; and
- iv. development scenarios undertaken by Ignite for the sites indicate that the linkage/bonus option is more likely to lead to viable developments and benefits such as the location of car parking underground.

The Panel considers that the relief that Crown Group is seeking will enable people and communities to better provide for their social and economic well-being and achieve a higher quality urban design and amenity outcome.

4.4 Building setback rule

The Panel recommends that there is an exemption from the 4m setback rule after five storeys for the corners of Lake/Hurstmere/Strand/Northcroft Streets as sought by Crown/Wiltshire Group. The Panel refers to the evidence of Mr Lala and Mr Falconer in making this recommendation. The Panel recommends that the plan attached to Mr Lala's evidence be included in the Unitary Plan.

Witnesses for Crown/Wiltshire stated that the exemption would mean that:

- i. there would be better urban design outcomes in terms of enclosure and framing the street, 'bookends etc (refer to model simulations).
- ii. columns to support the setbacks, which interfere with retail footplates, would not be required.
- iii. developments would be more viable commercially if no setback.

For the Council Mr Mackie indicated that:

- i. any infringements should be assessed as restricted discretionary activities on their merits;
- ii. the exemption may lead to a better urban design outcome;
- iii. but to grant an exemption would be inconsistent with the generic rules for other Metropolitan Centres.

The Panel was persuaded that the urban design outcomes justified departing from the standard approach based on the evidence of Mr Falconer. The Panel accepts that the multi-tiered 'wedding cake' building forms of the past have not always led to good urban design outcomes and the efficient use of the urban land resource.

The Panel notes that all new buildings in the Business - Metropolitan Centre Zone are restricted discretionary activities in any event and the amenity criteria address issues such as dominance and shading so, even with the exemption, any particular building development will have to be properly assessed on a case-by-case basis.

The Panel has changed Precinct Plan 3 and added Precinct Plan 4 to implement its recommendations in the Plan maps.

5. Reference documents

Auckland Council

[081c Ak Cncl - North Shore - Precincts \(Takapuna 1\) - \(T Mackie\) – Planning](#) (26 January 2016)

[081c Ak Cncl - North Shore - Precincts \(Takapuna 1\) - \(T Mackie\) - Planning - REBUTTAL](#) (24 February 2016)

[081c Ak Cncl - North Shore - Precincts \(Takapuna 1\) - \(A Sills\) - Shading Diagrams](#) (26 January 2016)

[081 Pioneer Shore City \(B Nobilo\) - Planning](#) (12 February 2016)

[081 Pioneer Shore City \(B Nobilo\) - Planning - Summary Statement](#) (19 April 2016)

[081 Pioneer Shore City \(M Maclean\) - Legal Submissions](#) (19 April 2016)

[081 Crown Property Group, Monaro Properties Ltd. & Takapuna Properties Ltd. and Wiltshire Property Group \(V Lala\) - Planning](#) (15 February 2016)

[081 Crown Mutual Ltd. and Crown Pacific Finance Limited and State Advances Corporation Ltd. \(G Falconer\) - Urban Design](#) (15 February 2016)

[081 Crown Property Group, Monaro Properties Ltd. & Takapuna Properties Ltd. and Wiltshire Property Group \(V Lala\) - Planning - Hearing Presentation](#) (26 April 2016)

541 Te Arai North Precinct

1. Summary of recommendations

The Panel supports retention of the precinct subject to the addition of an objective and policy relating to the proposed reserve and wording and formatting amendments for alignment with the whole Plan.

This precinct was heard in Topic 081.

2. Precinct description

The Te Arai North Precinct provisions carry over into the proposed Auckland Unitary Plan. The relevant provisions of Private Plan Change 166 from the Auckland Council District Plan – Operative Rodney Section. These were approved by an Environment Court consent order in 2014. The precinct forms part of the Treaty settlement between the Crown and Te Uri o Hau under the Te Uri o Hau Claims Settlement Act 2002.

The purpose of the Te Arai North Precinct is to enable the creation of 46 sites in exchange for a large public reserve.

The zoning of land in the precinct is Rural – Rural Coastal Zone and there are four overlays applicable.

Panel-assisted mediation with the Council and various parties took place on 10 December 2015 and 15 January 2016. The parties agreed to a set of precinct provisions for Te Arai North to reflect the provisions in Private Plan Change 166.

The Council's position is set out in the evidence in chief of Mr Ryan Bradley (planning), Dr Manu Bird (ecology), Mr Simon Cocker (landscape) and Mr Andrew Beer (open space). For Te Uri o Hau Settlement Trust (866, FS3728), Ngāti Manuhiri Settlement Trust (5805) and others (864, FS3142; 6440, FS3136; 861, FS3151), Mr Peter Hall (planner) and Mr Peter Whiting (landscape) supported the Council's position. All expert witnesses supported the mediated version of the precinct provisions (see evidence in chief, Mr Bradley).

3. Key issues

There were no significant issues raised by submitters.

The Te Arai Beach Preservation Society Incorporated (4167, FS1762) confirmed that the Society had taken part in mediation. Ms Marie Alpe, speaking for the Society, endorsed the precinct provisions as set out in the evidence of Mr Bradley for the Council.

Two late further submissions were received from Mr Gregory McDonald on behalf of the Mangawhai Pakiri Environmental Kaitiaki Protection Trust (FS3903) and Mr Roi McCabe, Chairman of the Ōmaha Marae (3913). The submitters' concerns primarily relate to the Te Arai South Precinct. The submitters did not identify any relevant resource management issues nor did they propose any amendments to the Te Arai North Precinct provisions. The Panel agrees with Mr Paul Majurey, counsel for Te Uri o Hau Settlement Trust and others, that it does not have jurisdiction to consider these late further submissions. This is due to the lateness of the submissions which disadvantaged other parties, the submissions raising

matters that are not resource management issues and it was not clear who is able to speak on behalf of the groups with interests in the area.

4. Panel recommendations and reasons

The Panel agrees that the precinct is necessary to carry forward the provisions of the proposed Auckland Unitary Plan Unitary Plan – Operative Rodney Section for the reasons set out in the evidence of chief of Mr Peter Hall. The Panel supports the agreed mediation version of the precinct provisions because they reflect Private Plan Change 166 as settled in the Environment Court. The Panel has added an objective and some policies recognising the importance of the substantial reserve and amended the wording of the assessment criteria to align with the approach to these provisions throughout the Plan. Other than formatting for consistency with the whole Plan, the Panel has adopted the agreed provisions unchanged.

5. Reference documents

[081b Ak Cncl - Rodney - Precincts \(Te Arai North\) - \(R Bradley\) - Planning](#) (12 February 2016)

[081b Ak Cncl - Rodney - Precincts \(Te Arai North\) - \(R Bradley\) - Planning](#) (12 February 2016)

[081b Ak Cncl - Rodney - Precincts \(Te Arai North, Te Arai South\) - \(M Bird\) - Ecology](#) (12 February 2016)

[081b Ak Cncl - Rodney - Precincts \(Te Arai North, Te Arai South\) - \(S Cocker\) - Landscape](#) (12 February 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Page 69)

[081 Te Uri o Hau Settlement Trust \(M Hohneck\) - Corporate - Te Arai North & South](#) (25 February 2016)

[081 Te Uri o Hau Settlement Trust \(P Whiting\) - Landscape - Te Arai North & South](#) (25 February 2016)

[081 Ngati Manuhiri Settlement Trust et al - legal submissions](#) (24 March 2016)

[081 Te Arai Beach Preservation Society \(M Alpe\) - Te Arai North](#) (25 February 2016)

[081 Te Arai Beach Preservation Society \(M Alpe\) - Hearing Summary](#) (24 March 2016)

542 Te Arai South Precinct

1. Summary of recommendations

The Panel supports retention of the precinct subject to wording and formatting amendments for alignment with the whole Plan.

This precinct was heard in Topic 081.

2. Precinct description

The original purpose of the Te Arai South Precinct provisions was to carry over into the proposed Auckland Unitary Plan Unitary Plan the relevant provisions of Plan Change 166 from the Auckland Council District Plan – Operative Rodney Section. These were approved by an Environment Court consent order in 2014. The land was purchased by Ngāti Manuhiri as part of the commercial redress component of their Treaty settlement (Ngāti Manuhiri Claims Settlement Act 2012).

Specifically, the notified provisions carry forward the rural subdivision provisions which are generally more enabling than the notified proposed Auckland Unitary Plan Unitary Plan provisions. The Te Arai South Precinct as notified provides for subdivision, for the protection of natural areas, the creation of additional public reserve land, and significant enhancement planting. The precinct also carries forward some land use rules, notably providing for outdoor recreation and motorsport activities as permitted activities (as these were permitted activities in the plantation forest land in Rodney).

The zoning of land in the precinct is Rural – Rural Coastal Zone and several overlays are applicable.

Panel-assisted mediation with the Council and various parties took place on 10 December 2015 and 15 January 2016. The parties agreed to a set of precinct provisions for Te Arai South to reflect the provisions in Plan Change 166. A pragmatic approach was taken when adopting the development, conservation and public open space approach in Plan Change 166. Notably, the purpose of the precinct was extended to enable the continued and further utilisation of a large onshore sand resource. Accordingly, sand extraction and associated structures and infrastructure were added to the activity table as Restricted Discretionary activities.

Consequently Mr Bradley, for Council, said that the provisions had changed completely from the notified version and identified the scope for these changes (evidence in chief, paragraph 10.5). Mr Bradley noted that, since mediation, he had made minor changes to the agreed provisions for consistency with the proposed Auckland Unitary Plan Unitary Plan (evidence in chief, paragraph 10.4).

The Council's position is set out in the evidence in chief of Mr Ryan Bradley (planning), Dr Manu Bird (ecology), Mr Simon Cocker (landscape) and Mr Andrew Beer (open space). For Te Uri o Hau Settlement Trust (866, FS3728), Ngāti Manuhiri Settlement Trust (5805) and others (864, FS3142; 6440, FS3136; 861, FS3151), Mr Peter Hall (planner) and Mr Peter Whiting (landscape) supported the Council's position. All expert witnesses supported the mediated version of the precinct provisions as amended by Mr Bradley (see evidence in chief, Ryan Bradley, Attachment B).

3. Key issues

There were no significant issues raised by submitters.

The Te Arai Beach Preservation Society Incorporated (4167, FS1762) confirmed that the Society had taken part in mediation. During the hearing, several of the Society's concerns were canvassed including configuration of the proposed reserve adjacent to Slipper Lake and whether linkages to other reserves would be achieved, easement width, and the activity status of various land uses (hearing summary, Ms Marie Alpe, paragraph 9). These matters are recorded here because the parties agreed to continue their discussions after the hearing. However, the Panel has not made any changes in response because Ms Marie Alpe, speaking for the Society, endorsed the precinct provisions as set out in the evidence of Mr Bradley for the Council (hearing summary, paragraph 20).

Two late further submissions were received from Mr Gregory McDonald on behalf of the Mangawhai Pakiri Environmental Kaitiaki Protection Trust (FS3903) and Mr Roi McCabe, Chairman of the Omaha Marae (3913).

Mr McCabe described three pā and gave examples of the many wāhi tūpuna within the precinct. Archaeological evidence of Māori occupation includes middens distributed throughout the property. He told the Panel that he has met Mr Castiglione, who represents the joint venture responsible for undertaking development, seeking protection of these heritage sites. No specific changes to the precinct provisions were requested.

The submitters did not identify any additional resource management issues, nor did they propose any amendments to the Te Arai South Precinct provisions. The Panel agrees with Mr Paul Majurey, counsel for Te Uri o Hau Settlement Trust, Ngāti Manuhiri Settlement Trust and others, that it does not have jurisdiction to consider these late further submissions. This is due to the lateness of the submissions which disadvantaged other parties, the submissions raising matters that are not resource management issues, and because it was not clear who is able to speak on behalf of the groups with interests in the area.

In the circumstances, the Panel records receipt of this information and notes there is protection afforded to archaeological sites by the Heritage New Zealand Pouhere Taonga Act 2014 and the accidental discovery rules in the Plan (E 11.6.1 and E12.6.1).

4. Panel recommendations and reasons

The Panel agrees that the precinct is necessary because there are too many different elements within the Te Arai South Precinct to appropriately use other methods such as a zone or overlay (evidence in chief, Mr Bradley, paragraph 12.3). The Panel supports the agreed mediation version of the precinct provisions because they enable the social, economic and cultural well-being of Ngāti Manuhiri, while providing significant public benefits such as open space and improved environmental management. Other than formatting for consistency with the whole Plan, the Panel has adopted the agreed provisions unchanged.

5. Reference documents

081b Ak Cncl - Rodney - Precincts (Te Arai South) - (R Bradley) - Planning (12 February 2016)

081b Ak Cncl - Rodney - Precincts (Te Arai North, Te Arai South) - (M Bird) - Ecology (12 February 2016)

081b Ak Cncl - Rodney - Precincts (Te Arai North, Te Arai South) - (S Cocker) - Landscape (12 February 2016)

081b Ak Cncl - Rodney - Precincts (Te Arai North, Te Arai South) - (A Beer) - Open Space (12 February 2016)

081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 (19 May 2016) (Attachment B, page 67)

081 - Mediation Joint Statement (Te Arai South and Te Arai North) - 10 December 2015 (14 December 2015)

081 - Mediation Joint Statement (Te Arai South and Te Arai North) – 15 January 2016 (12 February 2016)

081 Ngati Manuhiri Settlement Trust (M Hohneck) - Corporate - Te Arai North & South (25 February 2016)

081 Te Uri o Hau Settlement Trust (M Hohneck) - Corporate - Te Arai North & South (25 February 2016)

081 Te Uri o Hau Settlement Trust (P Whiting) - Landscape - Te Arai North & South (25 February 2016)

081 Te Uri o Hau Settlement Trust (P Hall) - Planning - Te Arai North & South (25 February 2016)

081 Te Arai Beach Preservation Society (M Alpe) - Te Arai South (26 February 2016)

081 Te Arai Beach Preservation Society (M Alpe) - Hearing Summary (24 March 2016)

543 Waimana Point Precinct

1. Summary of recommendations

The Panel supports this precinct and notes both Council and the landowners have agreed that a precinct is appropriate for this land and have also agreed on the wording of the precinct provisions, except for the 6 metre height standard for buildings within 50 metres of the ridgeline. The Panel supports the Council's position that this standard sets a clear expectation for plan users of what constitutes appropriate development.

This precinct was heard in Topic 081.

2. Precinct description

The Waimana Point Precinct is located at the northern end of the Mahurangi Peninsula, between Algies Bay and Goldsworthy Bay. The purpose of the precinct is to ensure that development will not compromise the landscape values of this prominent point and to provide opportunities for public access. This precinct originates from scheduled activity 329 in the Auckland Council District Plan – Operative Rodney Section.

3. Key issues

At the hearing, it was submitted to the Panel that all but one of the proposed precinct provisions had been agreed between the parties prior to the hearing. The outstanding issue related to a six metre height restriction for buildings within 50 metres of a prominent ridgeline within the precinct. These distances were the starting point for any assessment of the visual effects of buildings on this prominent landscape feature.

The landowners stated that specifying these heights and distances within the rules was unnecessary as these are arbitrary figures and that assessment matters were sufficient to address the potential visual impacts of buildings on the ridgeline.

In this instance, the Panel preferred the evidence of the Council, which stated that by specifying distances within the rules, this sets a clear expectation for plan users of what constitutes appropriate development. The assessment matters then provide the ability for Council to consider the potential visual effects of buildings on a case-by-case basis.

The Panel agrees with the Council that the 6 metre height standard for buildings within 50 metres of the ridgeline is appropriate as a starting point for any assessment. The Panel also agrees that the assessment matters proposed by the Council will enable the visual effects of any proposed building to be appropriately considered.

4. Panel recommendations and reasons

Having regard to all the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, the Panel agrees that the provisions of the Waimana Point Precinct, as proposed by the Council, are the most appropriate way to achieve the purpose of the precinct, the regional policy statement and the Resource Management Act 1991. The recommended precinct provisions have been modified to improve their functionality and clarity.

5. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Waimana Point\) - \(L Clarke\) - Planning \(26 January 2016\)](#)

[081b Ak Cncl - Rodney - Precincts \(Waimana Point\) - \(L Clarke\) - Planning - REBUTTAL \(25 February 2016\)](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 \(19 May 2016\) \(Page 69\)](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 19 May 2016 \(19 May 2016\) \(Attachment A, page 228\)](#)

544 Wainui Precinct

1. Summary of recommendations

The Panel supports this precinct. The Panel recommends that the precinct provisions requested by Redvale Quarry Limited be adopted with modifications.

This precinct was heard in Topic 081.

2. Precinct description

The Wainui Precinct is located to the west of Millwater, Silverdale, Ōrewa and the Northern Motorway. The precinct includes the Wainui East (Argent Lane) special housing area that was established by Order in Council dated January 2016, together with the surrounding land that has been purchased since the special housing area was established. The single ownership of all of the land within the precinct provides logical and defensible boundaries based on the location of roads and physical constraints and also enables the integrated development of the entire area.

The precinct applies to a master-planned community designed to offer a variety of residential activities and housing typologies to be established around public open space areas, neighbourhood centres and reserves.

The zonings of the land within the Wainui Precinct are Residential - Single House Zone, Residential - Mixed Housing Suburban Zone, Residential - Mixed Housing Urban Zone, Residential - Terrace Housing and Apartment Buildings Zone, Business - Neighbourhood Centre Zone, Business - Local Centre Zone, Open Space - Informal Recreation Zone and Open Space - Conservation Zone.

3. Key issues

The land at Wainui was zoned future urban in the notified version of the proposed Auckland Unitary Plan. The Council sought to retain the future urban zoning whereas the submitter, Redvale Quarry Limited (a subsidiary of Fulton Hogan Limited), sought live urban zonings to enable the subdivision and development of the land.

The Council did not support this precinct, or the proposed rezoning, and the Council's position in relation to the rezoning of land at Wainui East and Silverdale West was set out in the legal submissions as quoted below.

Council position

1.62 A range of expert evidence on behalf of Wilks Road 2014 Limited and Redvale Quarry Ltd has been lodged in support of a proposal to live urban zone and apply precincts to land in Wainui East and Silverdale West. The Council does not support the rezoning and precincts proposal.

Reasons

1.63 Expert rebuttal evidence has been lodged by the Council in respect of this proposal from Claudia Hellberg and Katja Huls (stormwater), Andrew Beer (open space), Alastair Lovell (AT) and Chris Allen (Watercare).

1.64 The Council's evidence indicates that the submitters' structure plans have not had adequate input from the Council, AT or Watercare. Given the breadth of concerns raised in the Council's evidence, it cannot be said that the potential adverse effects of the proposals have been adequately addressed and that they are aligned with the provision of infrastructure that is planned and has identified funding as anticipated by Chapter B2.3 of the RPS.

Mr Graeme Causer, Chief Executive Officer - Land at Fulton Hogan Limited in his evidence described the past and current development being undertaken in the vicinity of the Wainui Precinct and how Fulton Hogan has worked with infrastructure providers, as set out below.

2.2 Fulton Hogan's resources and experience mean that we are able to include the delivery of key public infrastructure beyond that normally required by the Council to make development possible. For example, at Millwater, works included the Wainui Road Interchange, Arran Drive, the main transport link between Millwater and Orewa, and the Route J network watermain. Fulton Hogan frequently works closely with infrastructure providers to deliver these projects, frequently entering into infrastructure funding agreements with Council service providers.

2.3 The Millwater development has been hugely successful, creating and selling on average 330 house lots per year. The development will be completed in 2019. Fulton Hogan has identified the land at Silverdale West and Wainui East as the ideal location for its focus once Millwater is complete, due to its reasonably flat topography and its proximity to major infrastructure and local centres.

The key differences between this zoning and precinct request and other similar requests to the Panel, including the Silverdale West Precinct which is not supported by the Panel, are summarised below.

- i. The large Wainui East special housing area which is supported by the Council, Watercare Services and Auckland Transport.
- ii. The submitter currently has a total landholding of 223 hectares at Wainui consisting of the Wainui East special housing area and surrounding properties.
- iii. The precinct has road access to State Highway 1 through the Wainui Road interchange, which was recently constructed by Fulton Hogan in conjunction with the Millwater development on the eastern side of the motorway. This interchange has south facing on and off ramps and an upgraded over bridge.
- iv. The precinct is well served by the Wainui Road interchange and is not as reliant on the Silverdale interchange as the proposed Silverdale West Precinct.
- v. The remaining infrastructure issues in relation to roading, waste water, water, stormwater, open space, pedestrian links and the like have been appropriately considered through the structure planning undertaken by Redvale Quarry Limited.
- vi. Any deficiencies that have been raised by the Council in relation to the structure planning process and the application of 'live zonings' can be resolved through the staging of subdivision and development and the application of the relevant zone and Auckland-wide provisions.
- vii. Apart from the infrastructure issues to be resolved before subdivision and development can occur, the precinct relies on the standard zoning provisions

and will not depart from the environmental outcomes anticipated by these zones.

- viii. The opportunity exists to build upon the Wainui East (Argent Lane) special housing area and enable the further expansion of the developing urban area on the eastern side of the motorway, within a timeframe that will meet the expected demand for future development in this locality and as the required infrastructure can be funded and constructed.

The key considerations to be addressed through the Wainui Precinct are the servicing of the development, including water, wastewater and integration with the wider transport network, and details on how servicing will be staged and funded and provided in a timely manner.

The precinct envisages that future subdivision consents will be staged according to the provision of infrastructure as agreed by infrastructure providers. The precinct requires that subdivision and development occur in a comprehensive and integrated manner in line with infrastructure by restricting any urban subdivision or development until such time as wastewater, water and transport services are provided to service the subdivision.

The Panel's recommendation in relation to the Wainui Precinct is consistent with the recommendation relating to the Redhills Precinct at Westgate and the approach that has been taken to coordinating infrastructure provision around a proposed special housing area to enable future urban development to occur in a timely manner where appropriate structure planning has been undertaken with only limited participation from the Council.

The Panel recommends a number of changes to the precinct as drafted by Redvale Quarry Limited to address best practice matters that the Panel seeks to provide across the Plan and to improve their functionality and for clarity.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the provisions of the Wainui Precinct be adopted. These provisions are considered the most appropriate way to achieve the purpose of the precinct, give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081 Ak Cncl - Rezoning - LEGAL SUBMISSIONS \(8 March 2016\) \(page 39\)](#)

[081b Ak Cncl - Rodney - Precincts \(Wainui East and Silverdale West\) - \(A Beer\) - Open Space - REBUTTAL \(7 March 2016\)](#)

[081b Ak Cncl - Rodney - Precincts \(Wainui East and Silverdale West\) - \(A Lovell\) - Auckland Transport - REBUTTAL \(7 March 2016\)](#)

[081b Ak Cncl - Rodney - Precincts \(Wainui East and Silverdale West\) - \(C Allen\) - Watercare - REBUTTAL \(7 March 2016\)](#)

[081b Ak Cncl - Rodney - Precincts \(Wainui East and Silverdale West\) - \(C Hellberg and K Huls\) - Stormwater - REBUTTAL \(7 March 2016\)](#)

081 Ak Cncl - Rezoning - CLOSING REMARKS – Including Attachments A-F (16 May 2016),
page 39/285

Submitter

081 Wilks Road 2014 Ltd - Legal submissions (21 March 2016)

081 Wilks Road 2014 Ltd - Memorandum of counsel - Interim Guidance (2 March 2016)

081 Wilks Road 2014 Ltd (A Zhu-Grant) - Urban Design (15 February 2016)

081 Wilks Road 2014 Ltd (A Zhu-Grant) - Urban Design – Supplementary Evidence (18
March 2016)

081 Wilks Road 2014 Ltd (B McKenzie) - Planning (15 February 2016)

081 Wilks Road 2014 Ltd (B McKenzie) - Planning – Supplementary Evidence (18 March
2016)

081 Wilks Road 2014 Ltd (F Colegrave) - Economist (15 February 2016)

081 Wilks Road 2014 Ltd (G Causer) - Corporate (15 February 2016)

081 Wilks Road 2014 Ltd (G Salmon) - Water and Wastewater (15 February 2016)

081 Wilks Road 2014 Ltd (G Salmon) - Water and Wastewater – Supplementary Evidence
(18 March 2016)

081 Wilks Road 2014 Ltd (P Battersby) - Ecology (15 February 2016)

081 Wilks Road 2014 Ltd (P Battersby) - Ecology– Supplementary Evidence (18 March
2016)

081 Wilks Road 2014 Ltd (P Wadan) - Stormwater (15 February 2016)

081 Wilks Road 2014 Ltd (T Fraser) - Civil Engineering (18 March 2016)

081 Wilks Road 2014 Ltd (T Lee-Joe) - Traffic (15 February 2016)

081 Wilks Road 2014 Ltd (T Lee-Joe) - Traffic – Supplementary Evidence (18 March 2016)

081 Wilks Road 2014 Ltd and Redvale Quarries Ltd (T Fraser) - Civil Engineering –
Summary Statement (18 March 2016)

081 Wilks Road 2014 Ltd and Redvale Quarries Ltd (T Lee-Joe) - Traffic – Supplementary
statement in response to AT (27 April 2016)

545 Waiwera Precinct

1. Summary of recommendations

The Panel supports this precinct. The Panel recommends that the precinct provisions proposed by the Council and generally supported by Waiwera Properties Limited and UP Management Limited be adopted with modifications.

This precinct was heard in Topic 081.

2. Precinct description

This precinct recognises the importance of Waiwera as a regional tourist attraction.

The Waiwera Precinct applies to land on the southern side of Waiwera Road extending through to the eastern side of Waiwera Place and at the southern end of Waiwera Place, and includes the site of a potential future hotel (Sub-precinct A), the land occupied by the geothermal hot pools complex (Sub-precinct B) and the former camping ground site at 37 Waiwera Place (Sub-precinct C).

The purpose of the precinct was intended to:

- i. provide for the continued operation of the Waiwera hot pool complex, supporting recreational and tourist activities as well as a range of complementary activities;
- ii. ensure development responds to Waiwera's sense of place, including its natural coastal and landscape values; and
- iii. ensure development maintains the amenity values of surrounding residential land.

The Waiwera Precinct allows for the development of existing commercial activities in the area to include a wide variety of tourist, recreational, and conference activities and the development of residential and supporting commercial activities. This approach:

- i. supports the efficient use of the area's natural resources and its function as a regional tourist attraction; and
- ii. provides opportunities for residential living in a high-amenity coastal environment.

The precinct sits within an area that includes a mix of residential-zoned land, roads, reserves and a neighbourhood centre. Activities that include night-time gatherings, including those involving music, with noise generated by people and vehicles leaving late at night, generally require resource consent so that effects on the amenity values of adjoining residential sites can be considered.

The precinct manages the scale and form of development to recognise the built and landscape character of wider Waiwera, which is formed by the predominantly low scale of buildings (one to three storeys) within a generally spacious setting, in which the coastal and landscape environment is a strong visual feature. The coastal and landscape environment primarily comprises Waiwera Beach at the eastern extent of the settlement, Waiwera Hill to the south and the Wenderholm Headland to the north.

There is potential for new development within Sub-precinct A and B that could form a focus of the Waiwera settlement and enhance the amenity and vitality of the area. Greater height and building coverage is therefore possible within Sub-precinct A and B, provided the development positively responds to, and integrates with Waiwera's built and landscape character. The precinct provides for the comprehensive redevelopment of sites and recognises that this character will evolve over time, while respecting its defining features.

The precinct also gives particular emphasis to maintaining the amenity values of surrounding residential sites.

The zoning of land within the precinct is the Business - Mixed Use Zone and Residential - Mixed Housing Suburban Zone.

3. Key issues

All parties agreed for the need for the Waiwera Precinct, however the submissions received fell into two broad categories: those seeking to provide greater flexibility to provide for a wider range of activities and development within the precinct; and those seeking to limit activities and development in order to protect the amenity, character and tourist function of Waiwera.

The key issues in contention related to:

- i. the zoning of the land within the precinct;
- ii. activity status of residential activities, the mineral water bottling plant and potentially noisy and/or night-time activities;
- iii. building height, scale, form and yard standards; and
- iv. car parking requirements.

These issues were the subject of extensive evidence from all parties at the hearing. There were significant differences between the parties on most issues, however these differences were narrowed following further discussions and a meeting held after the presentation of evidence to the Panel.

While there was no agreement on the zoning for Sub-precincts A and B, there was been agreement between Waiwera Properties Limited and UP Management Limited and the Council witnesses on amendments to the precinct description and to the activity status of some activities in Sub-precincts A and B, and consequential amendments to the matters of discretion and assessment criteria for restricted discretionary activities.

The Panel was not advised by the other main submitter group (Waiwera Property Owners and Resident's Association Limited, Brian and Pamela Bolton, C Zambucka) if they supported the above agreed provisions.

3.1 Zoning

The Panel notes from Ms Morgan's planning evidence dated 26 January 2016 the zoning and resource consent history in relation to this land.

7.4 The planning provisions applying in Waiwera have a long history. I understand that a planning approval was granted for a hotel development within Sub-Precinct A in

1989. This was carried over to the Special 9 (Waiwera Tourist and Entertainment) zone of the Operative Rodney District Plan in 1993, which specifically provided for this development and a limited range of recreation and related activities within Sub-Precinct A and B. Resource consent was granted for a new hotel development within Sub-Precinct A in 2007 by the Environment Court (refer Attachment D) and this is the resource consent that Waiwera Properties Limited and Retail Holdings Limited (WPL and RHL) is seeking to specifically provide for as a permitted activity within Sub-Precinct A.

The Panel also notes Ms Morgan's zoning comments in her evidence in rebuttal, particularly her acknowledgement in paragraph 5.3 that none of the business zones is a perfect fit for the Waiwera Precinct.

Underlying zone of Sub-Precinct A and B

5.2 Peter Neeve for Waiwera Properties Limited and UP Management Limited and Diana Bell for Waiwera Thermal Resort support applying the Mixed Use zone to Sub-Precinct A and B. Raewyn Catlow for Waiwera Property Owners and Residents Association, Oasis Apartments and C Zambucka supports applying the Neighbourhood Centre zone.

5.3 I acknowledge that none of the business zones, including the Neighbourhood Centre zone, are a perfect fit for the Waiwera Precinct. As outlined in my EIC, the task is therefore to identify the underlying zone that is the 'best fit' in terms of Waiwera's locational characteristics and the mix of activities and scale of development that the precinct provides for.

5.4 Mr Neeve and Ms Bell support the Mixed Use zone applying to Sub-Precinct A and B primarily on the basis that the zone description provides for the Mixed Use zone to be applied to areas where there is a need for a compatible mix of residential and employment activities. They state that Waiwera is an area that requires a compatible mix of residential and employment activities and conclude that the precinct is therefore consistent with the locational objectives and policies of the Mixed Use zone.

5.5 I disagree with this conclusion on the basis that the sentence in the zone description that Mr Neeve and Ms Bell rely on, when read in the context of Objective 1 and Policy 1, is identifying which sections of land around the rapid and frequent service network it is appropriate to apply the Mixed Use zone to. This is reinforced by Policy 1 in particular, which states that the Mixed Use zone is located in suitable locations within a close walk of the City Centre, Metropolitan and Town Centre zones and rapid and frequent service network. When the zone description, Objective 1 and Policy 1 are read together, in my view, they indicate that the zone is only applied around the higher order centres and those parts of the rapid and frequent service network where there is a need for a compatible mix of residential and employment activities. Waiwera is not within any of these locations.

5.6 Mr Neeve and Ms Bell state that the precinct is also consistent with several of the other objectives and policies of the Mixed Use zone and I generally agree with their analysis. The same can be said for the other objectives and policies of the Neighbourhood Centre zone that do not relate its location and extent. Under the Neighbourhood Centre zone or the Mixed Use zone, Objective 1 and Policy 1 would be amended by the more specific objectives and policies of the Waiwera Precinct.

5.7 Accepting that amendments to Objective 1 and Policy 1 of the Neighbourhood Centre zone and the Mixed Use zone would be required under either scenario, it is important to also consider the mix of activities and scale of development that the zone rules provide for in determining the most appropriate underlying zone. Included at Attachment B is a comparison of the Neighbourhood Centre zone and Mixed Use zone rules with the Waiwera Precinct. This in my view illustrates that the Neighbourhood Centre zone is a better fit for the Waiwera Precinct.

While agreeing that none of the Unitary Plan business zones is a perfect fit for Waiwera, the Panel recommends the Business - Mixed Use Zone be applied to Sub-precincts A and B, primarily for the reasons contained in the evidence presented by Mr Neeve and Ms Bell.

3.2 Activity status

There was a significant degree of agreement between the Council and Waiwera Properties Limited and UP Management Limited and the Panel generally has supported this approach, as opposed to the alternative more restrictive approach sought on behalf of Waiwera Property Owners and Resident's Association Limited, Brian and Pamela Bolton, C Zambucka.

An exception to this relates to the request for permitted activity status for a hotel comprising 215 units, a restaurant and a shop at 41-51 Waiwera Road, Waiwera as approved by the Environment Court on 6 August 2007. The Panel was informed that the submitters (Waiwera Properties Management Limited and UP Management Limited) have an extant resource consent which has already been extended once and is valid until 7 August 2017. This consent enables a hotel development with a height of 16.5m increasing to 18m over part of the proposed development.

While acknowledging that the submitter has a resource consent that can be implemented, the Panel recommends that if that consent lapses any new development should be considered in terms of the precinct provisions. The evidence on behalf of the Council is supported in this regard.

3.3 Building height, scale, form and yard standards

The Panel recommends the relevant provisions supported by Mr Falconer for the reasons set out in his summary statement of evidence as set out below.

1.1 The settlement of Waiwera occupies a magnificent coastal setting framed by two large scale headlands. But rather than an attractive settlement renowned for its hot springs Waiwera is looking increasingly like a tired backwater. It has a very small permanent population of 285 people and a total of 297 dwellings, half of which were unoccupied at the time of the 2013 census. Historically Waiwera has been a significant destination that caters for large visitor numbers in the hundreds of thousands, both local and international throughout the year. However largely due to a lack of investment and upkeep these visits are fast declining, halving in the last twelve years.

1.2 The hotel and camping ground sites have been central historically as integral features of a spa resort destination, though they are currently vacant and underutilised commercial sites. The Submitters support the proposed zonings but

are seeking a relatively small increase in allowable maximum height of 16m plus 2m for roof form across the hotel and pool sites and 12.5m across the camping ground site to optimise the development potential of these sites whilst maintaining their fit within the context.

- 1.3 In my opinion submitters against the proposal who argue for a low rise coastal village have not sufficiently taken into account the specific historical role of the two sites, how they are integral to the spa resort town function of Waiwera or the physical dominance of the surrounding headlands and the scale of the established mature tree network. They also assume that the present vacant nature of the two sites forms part of a small coastal village character.
- 1.4 Our landscape and visual assessment has demonstrated that the proposed increase in building height within the hotel and former camping ground site that is set back from the coastal edge can be successfully integrated within the built form of Waiwera.
- 1.5 I conclude that the development of the hotel and camping ground sites is integral to maintaining Waiwera as a successful and vibrant small coastal settlement, which is focused around the thermal springs. These represent an opportunity to provide for a broader range of accommodation and services to visitors within Waiwera. Through establishing new height limits development can make efficient use of the land available thus re-establishing buildings on the sites and re-establishing the settlement as a spa town.

3.4 Car parking

For the reasons set out in the evidence of Ms Morgan and Mr Gratton on behalf of the Council, the Panel agrees that Waiwera is a special case and warrants a more restrictive parking minimum, given the lack of available on-street parking and low accessibility of the area by other transport modes.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the provisions of the Waiwera Precinct be adopted. These provisions are considered the most appropriate way to achieve the purpose of the precinct, give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

Auckland Council

Refer to [hearings webpage](#) for all evidence documents logged on behalf of Auckland Council for Rodney – Precincts (Waiwera) (081b Rezoning and Precincts (Geographical Areas) - Auckland Council Evidence - RODNEY)

[081b Ak Cncl - Rodney - Precincts \(Waiwera\) - \(R Morgan\) - Planning](#) (27 January 2016)

[081b Ak Cncl - Rodney - Precincts \(Waiwera\) - \(R Morgan\) - Planning - REBUTTAL](#) (26 February 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (page 73)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016 \(26 May 2016\) \(page 238\)](#)

[081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\) \(3 March 2016\) \(page 80\)](#)

Refer to [hearings webpage](#) for all evidence documents logged on behalf of Waiwera Properties Limited and Retail Holdings Limited (081 Rezoning and Precincts (Geographical Areas) - IHP DOCUMENTS AND SUBMITTERS EVIDENCE)

[081 Waiwera Property Owners and Resident's Association Inc \(R Catlow\) - Planning - Waipora \(12 February 2016\)](#)

[081 Waiwera Property Owners and Res, B & P Bolton, C Zambucka \(R Catlow\) - Planning - Hearing Presentation \(29 March 2016\)](#)

[081 Waiwera Property Owners and Resident's Association Inc \(R Catlow\) - Planning - REBUTTAL \(22 February 2016\)](#)

[081 Waiwera Properties Ltd and UP Management Ltd \(G Falconer\) - Urban Design \(14 February 2016\)](#)

[081 Waiwera Thermal Resort and Spa \(P Neeve, D Bell\) - Planning \(15 February 2016\)](#)

546 Warkworth 3 Precinct

1. Summary of recommendations

The Panel supports this precinct and notes that the two submitters, National Trading Company and Progressive Enterprises Limited, supported the final wording of the provisions prepared by the Council.

This precinct was heard in Topic 081.

2. Precinct description

This precinct is located at Warkworth and comprises the entire Warkworth Business – Town Centre Zone on the southern bank of the Mahurangi River.

The precinct was introduced to the Auckland Council District Plan – Operative Rodney Section 2011 through Variation 125, which was made operative in 2010 following an Environment Court consent order.

The purpose of the precinct is to protect the character of the older parts of the Warkworth Town Centre by requiring new development to be of a compatible scale. In effect, this means that any large scale new activities require a resource consent that assesses the development against some specific criteria that have been developed for Warkworth.

The precinct has been split into four sub-precincts:

- i. Sub-precinct A (Core Area) contains the core of the town centre's retailing and related commercial activities and lies in the older areas near the Mahurangi River;
- ii. Sub-precinct B (Fringe Area) includes the balance of the existing retail area on the fringe of the Warkworth Town Centre where activities such as offices, visitor accommodation and smaller scale retail activities are considered appropriate;
- iii. Sub-precinct C (Core Expansion) has been identified to provide the opportunity for the establishment of larger format, high pedestrian-generating stores, that have the potential to enhance the economic vitality of the adjoining core area (Sub-precinct A) in order to support the fine-grained retail activities that contribute significantly to the character of the town centre; and

Sub-precinct D is part of the Fringe Area but less restrictive rules apply to this site than to the rest of the Fringe Area due to it being the site of an existing supermarket.

3. Key issues

The Panel has accepted the tracked changes recommended in the evidence presented on behalf of the Council, which were supported by the submitters, however a number of minor changes are recommended to this precinct to address best practice matters that the Panel seeks to provide across the Plan and to improve their functionality and for clarity. None of these changes alter the agreed intent of the precinct provisions.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the outcomes of mediation, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the amended provisions of the Warkworth 3 Precinct be adopted. Once amended further by best practice approaches outlined above, these provisions are considered the most appropriate way to achieve the purpose of the precinct, give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Warkworth 3\) - \(R Bradley\) – Planning](#) (26 January 2016)

[081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\)](#) (3 March 2016) (Page 85)

[081 National Trading Company of NZ Ltd \(V Smith\) - Planning - Warkworth](#) (13 February 2016)

[081 Progressive Enterprises \(M Foster\) - Planning](#) (11 February 2016)

547 Wēiti Precinct

1. Summary of recommendations

The Panel supports the precinct applying to this land but providing for 550 dwellings in two parts of the precinct, as in the operative Auckland Council District Plan - Rodney Section 2011, rather than the larger number of dwellings sought by Wēiti Development LP in three parts of the precinct. In this respect the Panel agrees with Council. It does not meet all of the concerns of the Long Bay - Okura Great Park Society and the Okura Environmental Group who supported no increase above what they stated was the 327 dwellings that currently have consent.

This precinct was heard in Topic 081.

2. Precinct description

The Wēiti Precinct applies to land located between the Wēiti (Wade) River to the north, Okura River to the south and East Coast Road to the west. The land also bounds a portion of the Penlink road designation in the north-west. It comprises some 860ha. The precinct is an important landscape area which contributes to achieving the maintenance of a greenbelt between the North Shore and the urban extent of the Hibiscus Coast.

The purpose of the precinct is to provide for both clustered residential development and an intensive village settlement in specific locations while protecting the greenbelt and open space character of the area. The precinct controls also protect the landscape, skyline and coast from development when viewed from the Long Bay Regional Park, East Coast Road and Whangaparāoa Peninsula. It contains significant ecological areas that are to be enhanced by additional planting.

There are three sub-precincts:

- i. Sub-precinct A - Karepiro, which has larger site sizes and provides for residential activities. It is zoned Residential - Rural and Coastal Settlement Zone;
- ii. Sub-precinct B - Village, which provides for a mix of commercial and residential activities in close proximity at its centre, with lower intensity residential activities towards its edges. It is zoned Residential - Rural and Coastal Settlement Zone; and
- iii. Sub-precinct C - Conservation and forestry, which forms the balance of the area. It provides for activities that are consistent with the open space character including conservation, outdoor recreation and small scale forestry activities. It is zoned Rural - Rural Conservation Zone.

The objectives and policies of the respective Residential - Rural and Coastal Settlement Zone and Rural - Rural Conservation Zone apply in the precinct unless otherwise specified.

3. Key issues

The key issue at the hearing was the number of dwellings that are provided for in the precinct; that is the level of development that could reasonably be accommodated without having adverse effects on the local environment. The Auckland Council District Plan - Rodney Section 2011 provides for 550 dwellings (150 in Sub-precinct A1) in two villages near the centre of Wēiti.

Wēiti Development LP sought 1750 dwellings in three defined areas, with 1600 of those dwellings in Sub-precinct B. The other submitters and the Council sought to retain provision for 550 dwellings in two defined areas. The Council was of the view that further work needed to be carried out in order to support a greater number.

At the hearing the position of Wēiti Development LP, Ms Carruthers, legal counsel for the submitter, was to seek an expanded inland village area through the extension of Sub-precinct B to provide for the construction of three villages providing for a combined total of 1450 dwellings and the introduction of a new area for large lot development in the north, near Stillwater, in a new Sub-precinct A2. Wēiti Development LP also highlighted three key changes it had made to the precinct provisions, those being reference to high contaminant yielding building materials, restricting the area of office and retail activity within Sub-precinct B to 10,000m² and, restricting farming activities within those parts of the Wēiti Precinct that are within the Okura catchment.

Ms McLaughlin appeared for the Long Bay - Okura Great Park Society as a member of the Long Bay - Okura Great Park Society with experience in property related matters. She was supported by Mr Morgan, a coastal scientist. They were concerned about the uncertainty associated with the scientific evidence advanced in support of a greater number of dwellings and the cumulative effects arising from additional development rights. Mr Morgan discussed coastal processes and the areas of uncertainty. Ms McLaughlin and Mr Morgan considered there was not an adequate level of information to ascertain the full impact of the expanded proposal on the intertidal flats of Karepiro Bay and that the issue of cumulative effects of future development and intensification within the wider catchment needed to be addressed.

Ms Reid appeared for the East Coast Bays Coastal Protection Society which is a member of the Okura Environmental Group. She is not an ecologist but has particular knowledge of the area from work for the protection society. Ms Reid addressed the ecological significance of the area, the bush reserve area, the estuary and shorebirds and expressed the view that there should be no development at Wēiti beyond that currently approved.

For the Council, the evidence covered concerns for uncertainty regarding the effects particularly in the inter-tidal and sub-tidal regions of Karepiro Bay. The evidence did not support the proposed expansion because of inconsistency with the New Zealand Coastal Policy Statement; adverse visual effects; adverse ecological effects from increased catchment runoff and water and sediment discharge during the earthworks phase and contaminant loads as development proceeds; and, impact on the greenbelt buffer provided by the site.

A supplementary statement was presented for the Council from Dr Hellberg, Dr Carbines and Mr Vigar in which they reported on the effects that could be expected in Karepiro Bay as a consequence of the proposed development at Wēiti and particularly their position following the consideration of technical information provided by Mr Reinen-Hamill. That information

had supplied a more satisfactory understanding of the sediment dynamics of the intertidal and sub-tidal regions of Karepiro Bay. The Council witnesses were however of the view that the cumulative impact from all proposed developments had not been established and needed to be better understood. They pointed out that with increased urbanisation there will be less dilution of contaminants and higher potential for accumulation.

Evidence pointed to the total load of contaminants from the Wēiti Estuary, Okura Estuary and Karepiro Bay as being of consequence when considering the effects from heavy metal accumulation resulting from development in Karepiro Bay. These effects need to be fully understood along with the cumulative impact from all proposed developments that are planned in the locality. The evidence was that the associated coastal processes and resultant effects from development have not been fully addressed.

The Panel agrees with the evidence for the Council and the submitters seeking to limit development to the currently approved 550 dwellings. The Panel finds that there remain unresolved concerns with respect to the impacts associated with a greater amount of development. The wide ranging investigations carried out by Wēiti Development LP are acknowledged and are necessary in the context of the coastal environment at Wēiti. However, it is a sensitive environment given the coastal location, and with two rivers discharging to it, and there is a need to have particular regard to the physical, coastal, ecological, landscape and other considerations. In this location these matters are of either regional or national significance.

The Panel's view is that the combination of these regional and nationally significant values gives this locality a special status that could be sufficient to exclude the area from any greater urbanisation but certainly sufficient to justify a precautionary approach to development in the precinct. That precautionary approach demands that all potential effects of further development beyond that approved need to be identified and for it to be demonstrated those effects can be managed appropriately.

The provisions of the regional policy statement, the New Zealand Coastal Policy Statement and the Resource Management Act 1991 collectively support and require the above considerations.

The Panel was not satisfied on the evidence that the precinct can be amended in the manner sought by Wēiti Development LP to provide for additional development without having significant adverse effects on the environment.

The Panel has made other amendments to the provisions in order to be in accord with other parts of the Plan and with general practice.

4. Panel recommendations and reasons

The Panel accepts the position of the Council presented in evidence that the precinct be retained with some amendments to the provisions to clarify the extent of and number of dwellings, that being 550 dwellings, provided for in the precinct. The Panel accepts the evidence of submitters and Council regarding the need to carry out further investigations regarding contaminant loads and the cumulative impact from all developments that are planned in the locality and until satisfactory results are reported to adopt a precautionary approach and limit development to that currently approved.

In the above respects the Panel, having had regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, agrees that the provisions as amended by Council in response to the submissions are the most appropriate way to achieve the purpose of the precinct, the regional policy statement and the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Weiti\) - \(C Hellberg, M Carbines, N Vigar\) - Stormwater Supplementary statement \(26 April 2016\)](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 \(19 May 2016\) \(page 77\)](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016 \(26 May 2016\) \(page 142\)](#)

Submitters

[081 Weiti Development LP and Green and McCahill Holdings Ltd \(E Williams\) - Corporate \(26 February 2016\)](#)

[081 Weiti Development LP and Green and McCahill Holdings Ltd \(S Grace\) - Planning \(26 February 2016\)](#)

[081 Long Bay- Okura Great Park Society - Fiona McLaughlin - Hearing summary - 26 April 2016 \(28 April 2016\)](#)

[081 Long Bay- Okura Great Park Society - Sam Morgan - Supplementary hearing evidence \(28 April 2016\)](#)

[081 The East Coast Bays Coastal Protection Society \(Lezette Reid\)- Hearing summary \(31 May 2016\)](#)

548 Whangaparāoa Precinct

1. Summary of recommendations

The Panel supports this precinct as requested by the Peter Snell Youth Village.

The Panel notes both Auckland Council and the Peter Snell Youth Village have agreed that a precinct is appropriate for this land and have also agreed on the wording of the precinct provisions except in relation to two of the assessment criteria.

This precinct was heard in Topic 081.

2. Precinct description

The Whangaparāoa Precinct is located at 1212 Whangaparāoa Road, Coal Mine Bay. The precinct is comprised of approximately 11.4 hectares. The site is bounded by Coal Mine Bay to the north, Whangaparāoa Road to the south and an established residential development to the east.

The purpose of the Whangaparāoa Precinct is to enable the ongoing operation of the Peter Snell Youth Village camp facility and to provide for its expansion while safeguarding significant coastal landscape values.

3. Key issues

The Panel accepts the need for a precinct to enable ongoing functioning and expansion of the Peter Snell Youth Camp while safeguarding significant coastal landscape values.

The precinct has been developed to provide for the outcomes of Plan Change 130 which was recently litigated, with Plan Change 130 becoming operative in April 2015. The site provides for the coastal outdoor education centre that was established in 1950, and in 1964 Peter Snell permitted his name to be used in association with the youth camp.

The precinct also meaningfully departs from the provisions of the underlying Residential - Large Lot Zone and the zoning does not contain activity or development controls appropriate to manage the existing or future development proposed for this site.

The Panel agrees with the Council that assessment criteria I1.8.2 (e) and (g) should be retained, rather than being deleted as requested by the submitter. The Panel recommends amendments to the wording of I1.8.2 (g) to address the specific concerns raised by Mr Hessell on behalf of the submitter.

A number of other changes are recommended to this precinct to address best practice matters that the Panel seeks to provide across the Plan and more minor changes are made to the provisions to improve their functionality and for clarity.

4. Panel recommendations and reasons

The Panel having regard to the submissions, the outcomes of mediation, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the amended provisions of the Whangaparāoa Precinct be adopted. Once amended further by best practice approaches outlined above these provisions are considered the most appropriate way to achieve the purpose of the precinct, give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081b Ak Cncl - Precincts \(Whangaparaoa\) - \(A Fox\) - Planning](#) (3 February 2016)

[081b Ak Cncl - Rodney - Precincts \(Whangaparaoa\) - \(A Fox\) - Planning - REBUTTAL](#) (1 March 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Page 55)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016](#) (26 May 2016) (page 122)

Submitters

[081 Peter Snell Youth Village \(L Hessel\) - Planning](#) (12 February 2016)

[081 Peter Snell Youth Village \(L Hessel\) - Planning - REBUTTAL](#) (4 March 2016)

[081 Peter Snell Youth Village \(L Hessel\) - Planning - Summary statement](#) (17 March 2016)

Part 2 Precincts unsupported

Akoranga 1 Precinct

1. Summary of recommendations

The Panel does not support this precinct.

This precinct was heard in Topic 080.

2. Precinct description

The Akoranga 1 Precinct encompasses the Auckland University of Technology campus located at Akoranga Drive, Northcote.

The purpose of the precinct was to enable the development and operation of a range of activities to cater for the diverse requirements of the student population, employees and visitors. Community use of the facilities is also provided for.

It also allows for business, offices, research and laboratory facilities which are increasingly co-locating within these campuses, to the benefit of the tertiary institution, the students and the economic development of Auckland.

The campus was zoned Special Purpose - Tertiary Education Zone in the notified version of the proposed Auckland Unitary Plan Unitary Plan and is recommended by the Panel to be zoned Business – Mixed Use Zone consistent with the agreement reached between the Council and the Auckland University of Technology during the hearing process.

3. Key issues

The zoning of the campus site had been agreed between the Council and Auckland University of Technology during the hearing process. The precinct provisions had also been largely agreed.

In the Panel's Report to Auckland Council - Hearing topic 074 Designations May 2016 (Minister for Tertiary Education, Skills and Employment – Minor matters and errors), the Panel has recommended that Designation 6101 for this campus be confirmed and notes that this designation is very general and provides for the:

construction, undertaking, establishment, management, operation and maintenance of a tertiary education facility and every use of the land for educational and ancillary purposes.

The Panel also notes that 'ancillary activities' in relation to Designation 6101 specifically:

includes activities, structures, and buildings supporting tertiary education such as (but not limited to) administration, research, and development needs, accommodation, meeting and assembly area, commercial retail and services.

The combination of the rezoning of the campus to Business – Mixed Use Zone, together with Designation 6101, in effect results in the proposed precinct being a regulatory duplication.

The Panel recommends that the precinct not be adopted as it is not required to enable the outcomes sought by the submitter for this land.

4. Panel recommendations and reasons

The Panel having regard to the submissions, the outcomes of mediation, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the Akoranga 1 Precinct not be adopted.

The rezoning of the land within the proposed precinct to Business – Mixed Use Zone, together with Designation 6101 of the site is considered the most appropriate way to enable the development of the proposed precinct site and to give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

[080 Ak Cncl - Massey University Albany, AUT, Albany 9, Akoranga 1, Manukau 2 Precincts \(I Bayliss\) - Planning \(01 June 2016\)](#)

[080 Ak Cncl - Tertiary Education - Massey University Albany, AUT, Albany 9, Akoranga 1, Manukau 2 Precincts \(I Bayliss\) - Planning - REBUTTAL \(26 January 2016\)](#)

[080 Ak Cncl - Legal Submissions \(POS, Tertiary and Other zones\) \(15 February 2016\)](#)

[080 Ak Cncl - Public Open Space, Tertiary \(excl Wairaka\), Schools, Maori, Major Rec & Coastal - CLOSING REMARKS \(18 March 2016\)](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016 \(26 May 2016\) \(Page 285\)](#)

[080 Auckland University of Technology - 15 Apollo Drive \(J Bray\) - Planning \(19 December 2015\)](#)

[080 Auckland University of Technology \(J Bray & C Freke\) - Joint Summary Statement - Planning & Transport \(23 February 2016\)](#)

Albany 5 Precinct

1. Summary of recommendations

The Panel does not support this precinct.

The Panel notes that the precinct proposed by the landowner, North Eastern Investments Limited, was not supported by the Council.

This precinct was heard in Topic 081.

2. Precinct description

The proposed Albany 5 precinct is located at 56 Fairview Ave and 129/131 and 135 Oteha Valley Road.

The purpose of the precinct was to establish a policy and rule framework for the land that recognised its potential for intensive residential development to a higher intensity and height than that set as the benchmark for the Residential - Terrace Housing and Apartment Buildings Zone and for a mixed use development fronting Oteha Valley Road.

The precinct sought the inclusion of three sub-precincts to provide for differing building heights as follows:

- i. Sub-precinct A: 27m. This is the major, more elevated part of the site fronting Fairview Avenue;
- ii. Sub-precinct B: 23m. This is the Mixed Use area along Oteha Valley Road; and
- iii. Sub-precinct C: 34m or 60m through the Residential - Terrace Housing and Apartment Buildings Zone. This is the southernmost and lowest area of the site.

The zoning of the land in the notified proposed Auckland Unitary Plan Unitary Plan was predominantly Mixed Housing Urban Zone and in a small part, Mixed Housing Suburban Zone.

3. Key issues

The key issue between the Council and North Eastern Investments Limited related to the zoning of the land and the height and intensity of future development.

The Council's position was summarised in the joint planning evidence on precincts (Albany 1, 3, 4, 5 etc) dated 26 January 2016 in the table at paragraph 7.9, as set out below:

The underlying zone of the proposed new precinct under the notified PAUP is MHS and MHU. The MHS and MHU zones provide for a maximum building height of 8m and 11m respectively, and yard controls ranging from 1.3m to 2.5m.

The proposed new precinct would more than double the maximum building height limits from those proposed in the underlying zones. The zone controls for building height and yards are set at levels that are appropriate for the zone.

A proposal to exceed the height limits can be pursued through a resource consent application. The resource consent process would involve assessment of any dominance, privacy and shading effects on the surrounding neighbourhood.

The evidence of Terry Conner (Topic 081) explains why the change of zoning sought by the submitter from MHS and MHU to THAB is not supported. In summary, it is inappropriate to encourage more intensive residential development in this area without appropriate assessment of the effects.

Ms Conner's evidence also dated 26 January 2016 on Rezoning - North Shore – Albany and Greenhithe on page 32, as set out below.

Do not support change to THAB of either site, due to access concerns but support an alternative change for 39 Fairview Ave from SH/MHS to solely MHS to avoid split zoning. MHS is an appropriate zone for properties not close to centres and the RFN to recognise the planned suburban built character of the area. MHU is proposed to be retained on 56 Fairview. Access to much of this area is constrained by a 1 lane bridge and is not conducive to a safe pedestrian walk to public transport. Retention of the respective zones and the proposed change to MHS are the most appropriate ways to achieve the objectives of the MHS and MHU zones and gives effect to the RPS.

- The outcome of the Environment Court hearing of the proposed AT requirement for improvements at the Medallion Road, currently underway, may have a material impact on this issue.

The evidence on behalf of both parties set out the relevant history in relation to the earlier resource consent application and the Auckland Transport notice of requirement, both matters having been considered by the Environment Court.

The Panel agrees with the submitter that this site has considerable potential for residential development but was not convinced by the evidence that a precinct as proposed is necessary or appropriate. The Panel supports the evidence on behalf of the Council in opposing the precinct provisions.

The Panel has instead agreed with the submitter that a more intensive zoning is appropriate and has recommended that the entire eight hectare site be rezoned Residential - Terrace Housing and Apartment Buildings Zone. The proposed Business - Mixed Use Zone for a portion of the land is not supported in this location which is relatively close to but physically separated from the nearby metropolitan centre at Albany. If any future specific proposal seeks to exceed the height provisions of that zoning the Panel considers that such a proposal would need to be tested by way of a resource consent application.

The Panel is confident that the Auckland-wide provisions, together with the provisions of the Residential - Terrace Housing and Apartment Buildings Zone, will appropriately enable the future development of this site, give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

4. Panel recommendations and reasons

The Panel having regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the Albany 5 Precinct not be adopted. The rezoning of the land within the proposed precinct to Residential - Terrace Housing and Apartment Buildings Zone is considered the most appropriate way to enable the development of the proposed precinct site and to give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

081c AK Cncl - North Shore - Precincts (Albany 1 3 4 5 6, Milford 1, Browns Bay) - (T Conner, J Jeffries, E Patience) - Planning (27 January 2016)

081c Ak Cncl – North Shore – Rezoning – Albany and Greenhithe (T Conner) - Planning (28 January 2016)

081 Ak Cncl – LEGAL SUBMISSIONS (PRECINCTS ONLY) (3 March 2016)

081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 (19 May 2016) (Attachment C, page 4)

081 North Eastern Investments Limited and Heritage Land Limited - Legal Submissions (20 April 2016)

081 North Eastern Investments Limited and Heritage Land Limited - Hearing presentation (21 April 2016)

081 North Eastern Investments Limited and Heritage Land Limited - Hearing submissions - Appendix 1 (20 April 2016)

081 North Eastern Investments Limited and Heritage Land Limited (A Coats) – Architecture – Albany precinct 5 (17 February 2016)

081 North Eastern Investments Limited and Heritage Land Limited (B Harries) - Engineering – Albany precinct 5 (17 February 2016)

081 North Eastern Investments Limited and Heritage Land Limited (J Farquhar) - Submitter (15 February 2016)

081 North Eastern Investments Limited and Heritage Land Limited (P Thomas) - Planning (15 February 2016)

081 North Eastern Investments Limited and Heritage Land Limited - Further information post hearing (29 June 2016)

081 North Eastern Investments Limited and Heritage Land Limited - Further information post hearing - Attachment 2 - Albany 5 Precinct Provisions (29 June 2016)

Albany 6 Precinct

1. Summary of recommendations

The Panel does not support this precinct. The Panel notes that the precinct proposed by the Prema Charitable Trust, was not supported by the Council.

This precinct was heard in Topic 081.

2. Precinct description

The proposed Albany 6 precinct is located at 14 Mills Lane at a site approximately 7.62 hectares in area. The submission of the Prema Charitable Trust sought the precinct in order to:

- i. provide for 'tertiary education facilities' as a permitted activity;
- ii. provide for a range of activities accessory to tertiary education, including dwellings, student accommodation, community facilities, retail, and pastoral farming as permitted activities; and
- iii. provide for new buildings for a permitted activity, greater than 50m² where located on an indicative building platform as a restricted discretionary activity.

The zoning is Residential – Large Lot Zone and the site was subject to overlays for significant ecological areas, flooding constraints, and Stormwater Management Area – Flow 1 in the notified proposed Auckland Unitary Plan Unitary Plan.

3. Key issues

No evidence was presented on behalf of the submitter.

The Council's position was summarised in the legal submissions on precincts dated 3 March 2016 as follows:

3. The Council's evidence regarding this precinct is contained in the joint evidence report of Terry Conner, Joseph Jeffries, and Ewen Patience dated 26 January 2016. The Council officers do not support the proposed precinct.
4. In particular, the Council officers refer to Mr Roberts' evidence for the Council in relation to Topic 059-063 which amended the provisions for the Large Lot zone. As a result of those amendments, tertiary institutions are now provided for as a Discretionary activity in the Large Lot zone. A precinct is therefore unnecessary as the activity can be more appropriately managed through the resource consent process.
5. Accordingly, the precinct is not supported on the basis that it does not align with the strategic direction of the PAUP and to support the precinct would be inconsistent with the Panel's Interim Guidance on best practice.

The Panel has recommended that education facilities and tertiary education facilities be provided for as discretionary activities in the Residential - Large Lot Zone, consistent with the Council's evidence on Topic 059-063. The Panel is confident that the provisions of the Residential - Large Lot Zone will appropriately enable the future development of this site, give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

4. Panel recommendations and reasons

The Panel having regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the Albany 6 Precinct not be adopted. The provisions of the Residential - Large Lot Zone are considered to be the most appropriate way to enable the development of the proposed precinct site and to give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081c AK Cncl - North Shore - Precincts \(Albany 1 3 4 5 6, Milford 1, Browns Bay\) - \(T Conner, J Jeffries, E Patience\) - Planning \(27 January 2016\)](#)

[081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\) \(3 March 2016\) \(Page 97\)](#)

Gulf Harbour Precinct

1. Summary of recommendations

The Panel's recommendation is to delete the precinct from the Plan as notified.

The majority of the precinct is now developed or has resource consents for development and the development cap and the associated standards are no longer required. The zones and the Auckland-wide provisions applicable to the sites in the precinct are considered sufficient to manage subdivision, use and development.

This precinct was heard in Topic 081.

2. Precinct description

The Gulf Harbour Precinct is a 350 ha master-planned development located at Hobbs Bay on the Whangaparāoa Peninsula.

The precinct regulates the following standards for development:

- i. a development cap including the total number of dwellings that could be established within the precinct;
- ii. maximum density in terms of net site area for Sub-precincts B, C and D;
- iii. discouraging the conversion of existing houses into two by imposing a non-complying activity status;
- iv. ensuring Sub-precinct F is open space in perpetuity and ensuring the area is used for a golf course; and
- v. ensuring the site coverage in Sub-precinct A at 50 per cent of net site area.

All other standards in the precinct revert to the zones and Auckland-wide provisions.

3. Key issues

Auckland Council's planning evidence supports the retention of the development cap provision due to wastewater and transport constraints. Top Harbour Limited requests the development cap be deleted.

Watercare evidence on behalf of Auckland Council from Mr Bourne confirmed that there is a project underway to upgrade the outfall pipe from the Army Bay Treatment Plant at the end of the Whangaparāoa Peninsula. This will increase the capacity of the flows able to be discharged, reducing the need to throttle flows in the network. This is programmed for completion in 2019. This is referenced in paragraphs 9.19–9.22 on page 23 of Mr Bourne's evidence.

In relation to transport, although the Penlink road connection is not yet constructed, the deletion of the precinct will not have any significant change to the development capacity at Gulf Harbour given that it is largely developed or there are consents in place for development.

Mr Peter Reaburn's evidence on behalf of Top Harbour Limited was that the maximum number of dwellings that could be established within the precinct was based on operative

district plan residential zone provisions. It is not related to the capacity of the wastewater network. This is referenced in paragraph 4.17 on page 9 of his evidence.

Mr Reaburn confirmed there were resource consents in place for Sub-Precincts B, C and D either side of The Anchorage and for Sub-precinct D north of Pinehurst Drive.

Accordingly, for the above reasons, it is not considered necessary to retain the development cap.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the precinct be deleted.

As the development cap is considered unnecessary, the following are also unnecessary to limit the amount of development in the precinct:

- i. the maximum density in terms of net site area of Sub-precincts B, C and D;
- ii. the discouraging of the conversion of existing houses into two by imposing a non-complying activity status;
- iii. the modification to the minimum site area required for subdivision; and
- iv. the limit on the conversion of existing houses into two dwellings.

In addition, site coverage requirements in Sub-precinct A were to be limited to 50 per cent of net site area. This is considered unnecessary as there is no robust reason provided to adopt this standard. Stormwater is not raised as an issue for the precinct, and there are no site coverage requirements in the Panel's recommendation provisions for the Business – Local Centre Zone.

The retention of Sub-precinct F is also unnecessary. This sub-precinct was to have a standard stating that the purpose of the land was for a golf course. However, the golf course is privately owned and such a standard is considered unnecessary as the landowner would not be able to use the area for any other purpose without consideration being given to a change to the Plan or obtaining a resource consent or similar approval.

5. Reference documents

[081b Ak Cncl - Rodney - Precincts \(Gulf Harbour\) - \(J Jeffries\) - Planning](#) (26 January 2016)

[081b AK Cncl - Rodney - Precincts - \(Gulf Harbour\) - \(J Jeffries\) - Planning - REBUTTAL](#) (26 February 2016)

[081a Ak Cncl - General - Watercare Services \(M Bourne\) - Water Supply, Wastewater Networks, Transmission Infrastructure](#) (5 December 2015)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Attachment B, page 5)

[081 Top Harbour Limited \(Peter Reaburn\) - Planning](#) (11 February 2016)

Hatfields Beach 1 Precinct

1. Summary of recommendations

The Panel does not support this precinct.

The Panel notes that the precinct was proposed by a number of the landowners within the precinct and was not supported by the Council.

This precinct was heard in Topic 081.

2. Precinct description

The following description of the proposed precinct was set out in Attachment C to the planning evidence of Mr Jeff Brown:

The Seaforth Peninsula Precinct is located immediately north of Hatfields Beach and east of the Hibiscus Coast Highway. It contains 61 ha in 20 existing titles, used mainly for rural lifestyle purposes as well as visitor accommodation and a rest home. Much of the southern part of the peninsula is in native bush and is within the Significant Ecological Area overlay. Vegetation throughout the rest of the peninsula is predominantly exotic forest with native undergrowth.

The land has varied, rolling topography with a central east to west ridgeline, and is capable of absorbing a greater level of development without adverse effects on landscape values, coastal values or rural amenities. The land is very close to the urban area of Orewa and there is a regular bus route on the Hibiscus Coast Highway. Reticulated water supply on Hibiscus Coast Highway currently services some properties on the Peninsula.

The purpose of the Seaforth Peninsula Precinct is to enable rural lifestyle activities while avoiding, remedying and mitigating adverse effects on, and enhancing, nature conservation values, landscape and coastal values and rural amenities. This is achieved by setting aside areas within the Precinct for ecological protection, removal of exotic tree species, implementing an effective, long term strategy for plant and animal pest removal and management to enable natural, indigenous revegetation, enabling new rural lifestyle development in locations and densities that are appropriate to the local topography and aspect, and requiring amenity planting and building location and design controls to avoid or mitigate adverse visual effects when viewed from the coast and the Hibiscus Coast Highway.

The areas for protection and development are set out on the Seaforth Peninsula Precinct Plan. The protection areas and the protection methods promoted are:

- The **Significant Ecological Area** (SEA) on the southern slopes of the Precinct which will be protected by avoiding any new development and by the plant and animal pest management strategy;
- The **Native Vegetation Area**, on the eastern coastal periphery and in the centre of the Precinct, of the which contains regenerating native forest and shrub land but which is not within the SEA, and which will be protected by locating any new development only within low ecological value areas within this vegetation type, by removal of exotic species and by the plant and animal pest management strategy;

The areas for development comprise the balance of the Precinct. They are characterised by exotic grassland and other exotic scrub and trees, with patches of native understorey of varying quality, or bare land, and are ideal for low density rural lifestyle development, with suitable controls to avoid or mitigate potential adverse effects on local landscape and ecological values. The development areas are:

- The **Bush Residential 1 Area** is on the northern (highway) side of the ridge line. Development in this area is potentially visible when viewed from the Hibiscus Coast Highway. With appropriate separation from the highway, and with native landscaping planting within the separation buffer to screen the development from the highway, the Bush Residential 1 Area is capable of absorbing rural lifestyle development at an average density of 1 household per 0.8 ha. At this density, dwellings can be adequately separated for privacy and rural lifestyle amenity. Development will be subject to site and building design controls and landscaping controls, to ensure that development is not visually prominent and provides space and privacy for residents;
- The **Bush Residential 2 Area** is on the southern (coastal) side of the ridgeline. Development in this area is potentially visible from Hatfields Beach and the residential area to the south and from the ocean. The appropriate location of development within discrete pockets of land and on flatter areas where disruption to landform is minimised, along with site and building design controls, and landscaping controls, potential adverse effects on landscape values will be avoided or adequately mitigated. Landscaping controls will include native planting to complement the existing native vegetation within the SEA and Native Vegetation 1 and 2 Areas, to appropriately screen or soften the visibility of development when viewed from outside the Precinct, and to provide space and privacy for residents. With these controls the Bush Residential 2 Area is capable of absorbing a rural lifestyle density of 1 household per 1.5 hectares.

Both the Bush Residential 1 and 2 Areas will be enhanced by avoiding development where the native understorey is of moderate or high ecological quality, removal of the exotic species, and by the plant and animal pest management strategy, to enable natural regeneration of native vegetation. Access to the Precinct will be from existing access points. The additional development potential is capable of being serviced.

The zoning of this land under the notified proposed Auckland Unitary Plan Unitary Plan is Rural - Rural Coastal Zone and the submitter sought a zoning of Rural - Countryside Living Zone.

3. Key issues

The key issues between the Council and the submitter are set out below.

The Council in legal submissions dated 3 March 2016 summarised its evidence in relation to the three precincts sought at Hatfields Beach as set out below.

7. The Council does not support the inclusion of any of the Hatfields Beach precincts in the PAUP particularly the degree of density of rural subdivision proposed in each of the three precincts. The basis for this is that rural subdivision is strategically managed within the PAUP in order to achieve consistency with a core strategic direction in the RPS – to prevent further sporadic and scattered subdivision in rural Auckland.

8. In addition, Hatfields Beach is a sensitive coastal area, that contains significant natural and landscape character values includes extensive areas of ONL44 and SEA.– which are acknowledged and protected by the RPS and zoning in the PAUP.

9. On the basis of the above issues, Mr Te Pairi, informed by the ecological evidence of Ms Myers, and the landscape evidence of Stephen Brown does not consider that the three Hatfields Beach precinct proposals meet the Merits Based Assessment for new precincts, outlined in the evidence of Mr John Duguid for the Council on Topic 081 Rezoning and Precincts. (Page 24, paragraphs 7-9.)

The Council, in its closing remarks, responded to this specific precinct as set out below.

14. The Council notes that this land currently has 17 dwellings, plus ancillary buildings. CL zoning would provide for 32 sites, while the precinct provisions increase intensity to 54 sites. The CL zoning and precinct therefore significantly increase the development potential for this land. The Council does not consider that the existing intensity on the land is a valid basis to apply CL and significant additional development.

15. The Council considers that the same strategic planning and ecological issues apply here as in the Kauri Orewa precinct. The Council continues to rely on its expert witnesses who oppose the new precinct and the rezoning from RC to CL given the inconsistency with the Council's view that the RC zone best gives effect to the integrated management of the significant and landscape coastal values, including ONL44.

16. The Council's view is that there is nothing unique about the Seaforth land that justifies the level of intensity proposed by the submitter. (Volume 1, page 13, paragraphs 14-16.)

Mr Jeff Brown in his planning evidence set out his summary of the following key issues.

A. I support the Seaforth Precinct and in my evidence I discuss the Precinct in the context of the wider environs of Hatfields North, the relevant PAUP zonings and overlays, the higher order objectives and policies, the New Zealand Coastal Policy Statement, and section 32 and Part 2 of the Act.

B. The 61ha Seaforth peninsula area is immediately north of Hatfields Beach on the coastal side of the Hibiscus Coast Highway. The land has natural values – it is in part covered by the SEA and has other non-SEA native bush areas, all of which are threatened by plant and animal pests. It is not productive land and has no real farming opportunities. It has particular locational attributes: it is close to the urban area and the existing bus service from Waiwera to Orewa; it has various coastal and bush amenities; and it already has a rural lifestyle character, being in multiple ownerships with 17 existing dwellings (at an average density of around 1 dwelling per 3.6ha), and a rest home.

C. The land is appropriate for further rural lifestyle development, and I consider that the sustainable management of the resources needs to include all of the following three components:

1. Retention and development of its existing rural lifestyle character; and
2. Protection and enhancement of natural values; and

3. Rural lifestyle development that recognises and addresses the significant landscape and coastal values while enabling the achievement of significant beneficial ecological outcomes.

D. I consider that the most appropriate method to achieve these “sustainable management components” is by way of the bespoke Precinct, within an underlying Countryside Living Zone (**CLZ**).

The purpose of the Seaforth Precinct is to enable rural lifestyle activities while avoiding, remedying and mitigating adverse effects on, and enhancing, nature conservation values, landscape and coastal values and rural amenities. In summary this is achieved by setting aside areas within the Precinct for ecological protection, implementing an effective, long term strategy for plant and animal pest removal and management throughout the Precinct, arranging new rural lifestyle development in locations and densities that are appropriate to the local topography and aspect, and requiring amenity planting and building location and design controls to avoid or mitigate adverse visual effects when viewed from the coast and the Hibiscus Coast Highway.

E. The Precinct provides for a total of 54 rural lifestyle lots (including the existing development) in two densities: one per 8000m² in the northern part of the Peninsula and one per 1.5 ha in the southern part, and the average density would be approximately one dwelling per 1.1ha.

F. The notified Rural Coastal Zone (**RCZ**) is not appropriate as the land has no economic value for farming and the adoption of this zone would not enable the development and protection opportunities inherent in the land.

G. I consider that the bespoke Precinct and the CLZ better serve the higher order objectives and policies of the PAUP, and are consistent with and achieve the Panel's interim guidance for best practice approaches to re-zoning and precincts, and that the Precinct achieves the Council's merits assessment criteria. The Precinct is consistent with the New Zealand Coastal Policy Statement objectives and policies.

H. I disagree with much of Mr Te Pairi's evidence on the zoning and the Precinct.

I. I consider that the re-zoning and Precinct are consistent with Sections 6(a) and (b) and 7(b), (c), (g) and (i) of the Act, and are the most appropriate way to achieve the Act.

Mr Te Pairi in his planning evidence dated 28 January 2016 provided his views on this proposed precinct as set out below.

Seaforth

10.51 Almost the same area of land (and some of the same submitters) was the subject of an appeal to the Environment Court (EC) to the legacy Rodney District Plan (notified in 2000) (see **Figure 3**). After lengthy litigation, the appeal was resolved in 2010.

10.52 Mr Jeffrey Brown on behalf of Seaforth Ltd considers this decision is no longer relevant. I agree in so far as the provisions that resulted from that decision were based on a different set of circumstances and the policy framework of the day and, in my view 6 years has been a sufficient period to implement those development rights granted by the EC in 2010.

10.53 However, in reaching their decision (see **Attachment B**), the EC noted that the special provisions (that allowed multiple household units) that were included in the notified version of Rodney District Plan in 2000, did already compromise to some extent the objectives and policies of the East Coast Rural zone of the operative (Rodney) District Plan. Notwithstanding this, the EC granted some further minor development rights.

10.54 Neither the special provisions that were included in notified Rodney Plan nor the further development rights granted by the EC in 2010 have been rolled over into the PAUP. I support their exclusion from the PAUP for the reasons stated above in 10.52 and elsewhere in this report.

10.55 The relevance of this decision is the EC's observation that provisions in the Rodney Plan that was notified in 2000 already to compromised the objectives and policies of East Coast zone of the Hatfields North Peninsula. I take this to mean that further development opportunities are limited.

10.56 Stephen Brown has also reviewed the decision and is familiar with the Hatfields North Peninsula. He considers that additional development would exacerbate the situation of what is an unusually high density for the Rural Coastal zone. Therefore, in his view, further intensification would be inappropriate. I agree with Mr Brown.

10.57 On this basis, I do not support the scale and intensity (see 9.15) proposed by the Seaforth Precinct at the Hatfields North Peninsula. (Pages 29-30, paragraphs 10.51-10.57.)

4. Panel recommendations and reasons

The Panel has preferred the evidence on behalf of the Council in relation to this proposed precinct.

Overall the Panel's recommendation, to retain the Rural - Rural Coastal Zone and not rezone this and surrounding coastal land to Rural - Countryside Living Zone, is consistent with the Council's approach to coastal land along the eastern coastline, particularly in relation to land adjacent to urban areas such as Warkworth.

The Panel has concluded that in recommending that this proposed precinct not be adopted, the following factors distinguish this proposed precinct from the Hatfields Precinct (Kauri Orewa Limited/Chin Hill Farm Limited) that the Panel has recommended to be adopted:

- i. the location of the land within this proposed precinct is to the east of the Hibiscus Coast Highway and there is a closer relationship with the coastal environment;
- ii. the relatively limited opportunities for environmental enhancement within the proposed precinct;
- iii. the fragmented ownership of the land which would have caused difficulties in achieving the environmental outcomes for the proposed precinct; and
- iv. the existing pattern of subdivision and intensity of settlement of the land within the proposed precinct.

The Panel, having regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the Hatfields Beach 1 Precinct not be adopted. The retention of the Rural - Rural Coastal Zoning of the land within the proposed precinct is considered the most appropriate way to enable the development of the proposed precinct site and to give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

[081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\)](#) (03 March 2016) (Page 24)

[081b Ak Cncl - Rodney - Precincts \(Hatfields 1,2 and 3\) - \(N Te Pairi\) – Planning](#) (28 January 2016)

[081b Ak Cncl - Rodney - Precincts \(Hatfields\) - \(S Myers\) - Ecology](#) (27 January 2016)

[081a Ak Cncl - General \(S Brown\) - Landscape](#) (29 January 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Attachment B, page 9)

[081 Chin Hill Farm \(J Brown\) - Planning](#) (15 February 2016)

[081 James B Mackenzie - Legal submissions](#) (17 March 2016)

Refer to [hearings webpage](#) for all evidence documents logged on behalf of James B Mackenzie (081 Rezoning and Precincts (Geographical Areas) - IHP DOCUMENTS AND SUBMITTERS EVIDENCE)

Hatfields Beach 2 Precinct

1. Summary of recommendations

The Panel does not support this precinct.

The Panel notes that the precinct proposed by the landowner, Objective Holdings Limited, was not supported by the Council.

This precinct was heard in Topic 081.

2. Precinct description

The following description of the proposed precinct was set out in Attachment B to the planning evidence of Ms Kate Madsen, as set out below.

The Hatfields Beach 2 New precinct applies to land north-west of the Hibiscus Coast Highway (Waiwera) as identified on the Hatfields Beach 2 NEW Precinct Plan. The underlying zone for the precinct is Single House (sub- precinct A & sub- precinct B) and Rural Coastal (sub- precinct C). The precinct is ideally located between two establishing and regenerating medium to high density residential areas (Hatfields Beach and Waiwera).

This 53.23ha precinct is characterised by a high degree of naturalness, including a large bush block in the north-west and two regenerating wetlands to the south. The land has a rolling coastal topography that is predominately south facing with spectacular views towards Hatfields Beach, Orewa and the Hauraki Gulf. The precinct levels out at the southern end, with an additional east/west ridgeline providing visual relief from the adjoining Hibiscus Coast Highway. The Hibiscus Coast Highway itself offers an established high capacity transport link for the precinct, with an existing public transport network. The intent of the zone is to provide a unique sense of place by allowing natural New Zealand ecological features to become the dominant reference point and encouraging urban development to be recessive, both visually and in scale and dominance.

Sub-precinct A (approximately 22.656ha) provides for development consistent with the Single House Zone, creating a sheltered coastal subdivision with native bush views to the west and north.

Sub-precinct B (approximately 4.0167ha) respects areas of steeper topography with larger lot sizes and a sensitive response to the ecological features of the land and views towards the Hauraki Gulf.

Sub-precinct C (approximately 26.887ha) has been created to allow for restoration and rehabilitation wetland and bush planting, and the establishment of environmentally sensitive infrastructure such as a stormwater pond. These precinct provisions do not envisage any additional structures in sub- precinct C, apart from those related to pedestrian access. A small degree of development will be present in this area, being the result of previously approved resource consents.

Whilst the provisions of the Single House Zone provide the mechanisms for residential development within sub precincts A & B, the vision of the precinct aligns with the overarching vision of the Rural Coastal Zone wherever possible.

It is also highlighted that the use of a Framework Plan is essential to realising the vision of the precinct, with a high value placed on collaborating with Council for best outcomes at the early stages of development, particularly in relation to ecological enhancement, provision of key infrastructure and urban design with a kiwi vernacular.

Objective Holdings Limited also sought an extension to the Rural Urban Boundary to include the land within the proposed precinct, along with the rezoning of the land as described within the precinct provisions quoted above.

The zoning under the notified proposed Auckland Unitary Plan Unitary Plan is Rural - Rural Coastal Zone.

3. Key issues

The key issues between the Council and the submitter related to the proposed relocation of the Rural Urban Boundary, the proposed rezoning to Residential - Single House Zone and Residential - Large Lot Zone, the intensity and visual impact of the proposed development and the extent to which the proposed precinct is consistent with the regional policy statement.

The Panel has recommended a minor extension to the Rural Urban Boundary where the notified Rural Urban Boundary adjoins the existing urban-zoned land at Hatfields Beach. The submitter requested an extension of the Rural Urban Boundary to include the land owned by Objective Holdings Limited. The plan received on 29 March 2016 requested a new Rural Urban Boundary that followed the property boundaries and then either side of the Hibiscus Coast Highway to link the property back to the notified Rural Urban Boundary at Hatfields Beach.

The Council in legal submissions summarised the council's evidence in relation to the three precincts sought at Hatfields Beach, as set out below.

7. The Council does not support the inclusion of any of the Hatfields Beach precincts in the PAUP particularly the degree of density of rural subdivision proposed in each of the three precincts. The basis for this is that rural subdivision is strategically managed within the PAUP in order to achieve consistency with a core strategic direction in the RPS – to prevent further sporadic and scattered subdivision in rural Auckland.

8. In addition, Hatfields Beach is a sensitive coastal area, that contains significant natural and landscape character values includes extensive areas of ONL44 and SEA.– which are acknowledged and protected by the RPS and zoning in the PAUP.

9. On the basis of the above issues, Mr Te Pairi, informed by the ecological evidence of Ms Myers, and the landscape evidence of Stephen Brown does not consider that the three Hatfields Beach precinct proposals meet the Merits Based Assessment for new precincts, outlined in the evidence of Mr John Duguid for the Council on Topic 081 Rezoning and Precincts.

The Council's Closing Remarks responded to this specific precinct, as set out below.

21. Mr Te Pairi considers that the proposed RUB does not have a strong defensible boundary because it relies on land ownership boundaries and the Hibiscus Coast Highway (HCH) and despite the submitter including the HCH within the RUB, (as

shown on Figure 1 below) this would not overcome its separation from the existing Hatfields Beach settlement by 0.5 kilometres. He does not support the proposed revision to RPS Objective 4 and Policy 1 to include the words generally to enable the Objective land to come within the RPS Policy framework.

The Panel agrees with Mr Te Pairi's response and does not recommend any relocation of the Rural Urban Boundary to include the submitter's land.

As a consequence of the above recommendation on the Rural Urban Boundary the Panel does not support the proposed Residential - Single House Zone and Residential - Large Lot Zone urban zonings for portions of the land within the proposed precinct. In this regard the Panel agrees with the evidence presented on behalf of the council.

The nature, intensity and visual impact of the development within the proposed precinct was summarised in the evidence of Ms Madsen, as set out below.

Summary of Updated Precinct HB2

3.1. Precinct HB2 (objectives and policies, activity controls, matters for discretion and assessment criteria) is attached as Attachment B. In brief:

- The precinct boundaries is as identified in the Precinct Plan in Attachment B
- The underlying zone is Rural Coastal, with an overlay of Single House
- The size of Precinct HB2 is approximately 73ha, with 22ha proposed for development consistent with the Single House Zone (sub-precinct A), 4ha providing lower density (1500m² sites (Sub-Precinct B), and 47ha allowing for protection of existing natural features and enhancement planting (Sub-Precinct C).
- The Precinct approach is to be 'Landscape Led', with protection and enhancement of the landscape being prioritised over and before development outcomes.
- Residential development is capped at 320 dwellings.
- Access is via two existing vehicle crossings from Hibiscus Coast Highway, the alternate northern route with capacity to absorb additional traffic and in addition has an existing public transport service.
- Precinct HB2 (Sub-Precincts A & B) has low visibility impact from all public vantage points, including the State Highway.
- On-site stormwater and wastewater servicing can be achieved, with WSL in agreement to a potential future connection to an upgraded wastewater network pipe between Waiwera and Hatfields.

On page 3 of her evidence Ms Madsen summarised her evidence in relation to the relevant provisions of the regional policy statement, as set out below.

In regard to aligning with the objectives and policies contained in the Regional Policy Statement (RPS), overall it is considered that the identity and sense of place inherent

with the land subject to the precinct will be maintained and enhanced, allowing natural features on the site to mature and add to the underlying character of the Rural Coastal Zone without subjecting it to any visible change in character.

The Council's closing remarks responded to these matters, as set out below.

Precinct Intensity

22. The Objective precinct provides for 320 urban dwellings and healthcare facilities and is considered to be a new village which is contrary to Objective 2, Policy 1 and Policy 1A of RPS Urban Growth Chapter 2.1 which aims to avoid new urban villages or towns outside of RUB to achieve a compact quality urban city. The intent of the policy is to prevent the proliferation of ad hoc settlements that would undermine the ability to plan, coordinate and fund infrastructure in strategic locations that have been identified for future growth.

23. The proposed RUB extension and underlying SH zone sought by Objective would result in an incoherent zoning pattern that is at odds with both the Council's preferred zoning of RC and, the requested zoning by other submitters at Hatfields of CL. The SH zone would incorrectly signal that urban development is appropriate in this location.

Intensity of Development and Visual Impact

24. There was discussion at the hearing as to the visual impacts of the proposed urban development within the proposed Objective precinct. Mr Brown stated to the Panel that urban development would have a significant effect on the landscape blurring the edge between fully urban and Waiwera. As outlined on the map below showing the location of Mr Brown's annexures 8 and 10 the Green Shed, discussed in detail at the hearing, is visible along with the kanuka behind it. There is no second shed which could be mistaken for the Green Shed which clearly lies within sub-precinct A designed for 600m² lots.

RPS for Urban-Growth

25. From a strategic planning perspective, the Objective precinct is not supported as an 'urban' destination.

27. The proposed precinct also fails to protect the significant landscape, including ONL 44, and natural character values in the coastal environment that were identified in the evidence of Mr Brown. The above map provided by Mr Brown reinforces the location and potential impact of the proposed urbanisation of the submitter's land.

28. The Council experts remain of the view that the most appropriate zone is Rural Coastal to give effect to RPS Chapters 4.3.2 (natural heritage) and Chapter 7.1 (sustainably managing our coastal environment).

The Panel has preferred the evidence of the Council in relation to the above matters.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the Hatfields Beach 2 Precinct not be adopted. The retention of the zoning of Rural - Rural Coastal Zone for the land within the proposed precinct is considered the most appropriate way to enable the development of the

proposed precinct site and to give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

[081b Ak Cncl - Rodney - Precincts \(Hatfields\) - \(S Myers\) - Ecology](#) (27 January 2016)

[081b Ak Cncl - Rodney - Precincts \(Hatfields Beach\) - \(S Myers\) - Ecology - REBUTTAL](#) (26 February 2016)

[081b Ak Cncl - Rodney - Precincts \(Hatfields 1,2 and 3\) - \(N Te Pairi\) – Planning](#) (28 January 2016)

[081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\)](#) (3 March 2016) (page 24)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (page 10)

[081 Objective Holdings Ltd \(K Madsen\) - Planning](#) (15 February 2016)

Refer to [hearings webpage](#) for other evidence documents logged on behalf of Objective Holdings Limited (081 Rezoning and Precincts (Geographical Areas) - IHP DOCUMENTS AND SUBMITTERS EVIDENCE)

Milford 2 Precinct

1. Summary of recommendations

The Panel's recommendation is to delete the precinct from the Plan as notified.

This precinct was heard in Topic 081.

2. Precinct description

The proposed Milford precinct is located at the Milford shopping centre and comprises the northern portion of the commercial area at Milford. It makes up close to one half of the Business - Town Centre Zone for Milford and includes both existing shops developed as a mall and an open car parking area. Access to the precinct is from Kitchener Road and it also has frontage to Milford Road, Ihumata Road and Omana Road.

The purpose of the precinct is to provide for a special intensive residential overlay for the Milford shopping centre. This is the Milford Intensive Residential Overlay as approved by an earlier plan change that was the subject of Environment Court proceedings.

The key element of the precinct relates to building height. The precinct contains nine identified building platforms, each with individual maximum permitted height controls and specific assessment criteria. The provisions complement those in the Business - Town Centre Zone applying to the shopping centre.

The surrounding area is a mix of commercial and residential development with the land to the north and east being occupied by mainly residential uses.

3. Key issues

The building height provisions to apply to the precinct were a significant matter raised in the submissions as a balance was sought to be achieved between providing for residential intensification and recognising the potential effects from the height of buildings on the neighbouring residential environment.

4. Panel recommendations and reasons

The Panel notes that the Council through the evidence of Mr Lala supported the precinct whereas the Milford Centre Limited, which appeared as a further submitter, did not support it and provided evidence through Messrs Barbour and Reaburn.

The Panel considers that in managing the height of buildings there is a need to enable development by providing for additional building height where this can be achieved without having significant adverse effects on the surrounding residential environment. At the Milford centre additional height beyond that provided for by the zoning can be achieved in parts of the centre that:

- i. are removed from the residential areas;
- ii. over the northern parts of the centre where any impacts from additional height are on or within the centre rather than on neighbours; and

- iii. where there is ample size and depth in the extent of the centre to similarly contain the effects within the centre.

These factors all apply at the Milford centre which can then provide for the intensification at the centres that is sought to be provided by the Plan. The additional height is specifically provided for through the height variation control in the Plan. In these respects the evidence of Mr Reaburn regarding the proposed Milford 2 Precinct is accepted by the Panel. His evidence records supporting reasons for the 18m/23.5m height regime to apply at the Milford centre that relate to:

- i. efficient use of land;
- ii. support to public transport and infrastructure;
- iii. support to vitality and vibrancy of the centre;
- iv. the large size and depth of the centre having limited effects on adjacent residential zones; and
- v. recognising the status of this centre in the centres hierarchy.

The Panel recommends that that the precinct be deleted from the Plan as notified, because additional height for buildings at the Milford centre can be achieved through the height variation control in the Plan without a precinct.

Additionally, the Panel considers that other aspects of future development at Milford can similarly be managed through the Plan provisions. These include the additional height assisting with the intensification sought and being provided for in those parts of the centre that are largely removed from the local residential neighbourhood.

5. Reference documents

[081c Ak Cncl - North Shore - Precincts \(Milford 2\) - \(V Lala\) - Planning](#) (16 February 2016)

[081 NZRPG and Milford Centre Limited \(C Barbour\) - Planning](#) (11 February 2016)

[081 NZRPG and Milford Centre Limited \(P Raeburn\) - Planning](#) (11 February 2016)

[081 Milford Residents Association \(D Dunsford & N Bott\)](#) (18 February 2016)

[081 - Milford Village Forum \(Peter Carter\) - Statement of Evidence](#) (17 February 2016)

Ōrewa Countryside Precinct

1. Summary of recommendations

The Panel recommends that the proposed Ōrewa Countryside Precinct is deleted due to the Panel's recommendations on the location of the Rural Urban Boundary and the provision of a Future Urban Zone for this land.

This precinct was heard in Topic 081.

2. Precinct description

The Ōrewa Countryside Precinct covers an area of 85ha on the western edge of Ōrewa situated within the Rural - Countryside Living Zone in the notified Plan. The purpose of the precinct was to provide for rural-residential activities in a cluster subdivision layout that has already been consented.

The purpose of the precinct is to provide for rural-residential activities in a cluster subdivision layout while preserving open space for farming and recreation, significant vegetation and unstable land.

3. Key issues

The Panel is recommending that the area of land that is subject to the precinct is brought within the Rural Urban Boundary and is zoned as a Future Urban Zone to enable urban development following structure planning.

Therefore, the key issue for the Panel is, taking into account its recommendations on the Rural Urban Boundary, whether there was still a need for the Ōrewa Countryside Precinct.

4. Panel recommendations and reasons

The Panel recommends that the Ōrewa Countryside Precinct be deleted for the following reasons:

- i. the landowner sought that the land be brought within the Rural Urban Boundary and provided with a Future Urban Zone classification as their primary relief (Topic 016 and 017);
- ii. the Ōrewa Countryside Precinct was to modify the underlying Rural - Countryside Living Zone to enable more development but this was very much alternative relief to what the land owner primarily wanted; and
- iii. the Panel agrees with the landowner that the most efficient use of the land is for urban use at appropriate densities following a structure planning exercise. This outcome satisfies the requirements of section 32 and promotes the purpose of Part 2 of the Resource Management Act 1991.

Therefore the proposed precinct is no longer appropriate.

5. Reference documents

081b Ak Cncl - Rodney - Precincts (Orewa Countryside) - (D Paul) - Planning (27 January 2016)

081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 (19 May 2016) (Page 43)

081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016 (26 May 2016) (Page 112)

081 Orewa West Investments (C Shearer) - Planning (11 February 2016)

Puhoi Precinct

1. Summary of recommendations

The Panel recommends that the proposed Puhoi Precinct is deleted because the Panel's recommendations on the Special Character Areas Overlay – Residential and Business and the Historic Heritage Overlay controls already satisfy the primary purpose of the precinct.

This precinct was heard in Topic 081.

2. Precinct description

The proposed precinct was intended to protect the significant heritage values of the historical Puhoi area, as Puhoi has a regionally and nationally important heritage dating back to the 1860s. Puhoi Village has a significant sense of place and character, manifested in its remaining historic buildings and in its strong community. The links to the Bohemian past continue to be celebrated and maintained by the community. The village character results from a combination of features such as topography and vegetation, the scattered nature of development, the style and nature of the existing buildings and their unique history.

3. Key issues

The Special Character Areas Overlay – Residential and Business and the Historic Heritage Overlay controls largely cover the same area as the proposed precinct. Therefore, the key issue for the Panel is whether there was still a need for the Puhoi Precinct, taking into account its recommendations on the Special Character Areas Overlay – Residential and Business and the Historic Heritage Overlay controls for the area.

The respective provisions, including subdivision controls, are addressed below.

3.1. Land use

Activity	Precinct	Rural- Rural Coastal Settlement Zone	Business - Neighbourhood Centre Zone	Special Character Areas Overlay – Residential and Business	Historic Heritage Overlay extent of place. Covers 4 buildings in Sub-precinct A
New builds	RD	P	RD	RD	D
Adds and Alts	RD	P	P (if <25m ²) otherwise RD	RD – if character defining otherwise C	RD

The mapped Special Character Areas Overlay – Residential and Business covers all of Sub-precinct A.

Taking the above table into account overlay provisions cover most of the rules for the proposed precinct and the objectives/policies are similar.

Subdivision

Area	Precinct	Rural – Rural Coastal Settlement Zone	Business - Neighbourhood Centre Zone	Special Character Areas Overlay – Residential and Business	Historic Heritage Overlay extent of place. Covers 4 buildings in precinct
Sub-precinct A	4 ha	2500m ²		NA	D
Precinct	4000m ²	2500m ²		NA	NA

The precinct controls are more restrictive than the zone rules in regard to subdivision.

However, following a review of existing site sizes the Panel recommends that there are not enough sites of sufficient size that could be subdivided under the zone rules that would adversely affect the special character and heritage values to justify the precinct. Zone-sized subdivisions could only occur if multiple properties applied for consent, which is not a common occurrence.

4. Panel recommendations and reasons

The Panel recommends that the precinct is deleted for the following reasons:

- i. the heritage and special character values of Puhoi are adequately protected by the Special Character Areas Overlay – Residential and Business and Historic Heritage Overlay, which renders the primary purpose of the precinct redundant;
- ii. the tighter controls on subdivision (compared to the zones) are not considered necessary because the parcel sizes that currently exist are of a size that the control would be of negligible benefit; and
- iii. the precinct does not meet the requirements of section 32 and promote the purpose in Part 2 of the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081b AK Cncl - Rodney - Precincts \(Puhoi\) - \(R Freeman\) - Heritage](#) (27 January 2016)

[081b AK Cncl - Rodney - Precincts \(Puhoi\) - \(R Sanders\) - Planning](#) (27 January 2016)

Riverhead 1 Precinct

1. Summary of recommendations

The Panel's recommendation is to delete the precinct from the Plan as notified.

This precinct was heard in Topic 081.

2. Precinct description

This is a former 14ha sawmill site located at Deacon Road and Forestry Road, Kumeū. Riverhead Forest is directly to the north and west. The underlying zoning of the site is Business - Light Industry Zone.

The purpose of the precinct is to enable development and land uses that are appropriate given the historic use of the site, limitations on the infrastructure (stormwater, water and wastewater) and neighbouring rural uses.

The precinct is supported by Council's evidence.

3. Panel recommendations and reasons

The Panel's recommendation is to delete the precinct from the Plan as notified due to the fact that the current and future activities on the site can be managed by the zone controls.

4. Reference documents

Auckland Council

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Attachment B, page 46)

Riverhead 2 Precinct

1. Summary of recommendations

The Panel's recommendation is to delete the precinct from the Plan as notified but to rezone part of the land (389ha) as Rural - Countryside Living. The rezoning recognises that the zoning in the proposed Auckland Unitary Plan is not appropriate for the anticipated future use of the land, based on the evidence.

This precinct was heard in Topic 081.

2. Precinct description

This is an extensive area of land, 3252ha to the north of Riverhead. The land forms part of the Treaty of Waitangi Settlement Agreement between the Crown and Te Kawerau a Maki. The underlying zoning is Rural - Rural Production Zone.

The purpose of the precinct is not clearly stated in the Plan provisions but it is "to maintain existing subdivision and land use development opportunities" and to manage development "in a way that continues to protect and enhance the particular values of the land". The provisions show it is to protect the subdivision and development potential of the land and in particular the ability to develop housing for Māori.

Te Kawerau a Maki sought more intensive subdivision than provided for by the precinct and for it to be split into two sub-precincts. This was not supported by Council because of insufficient information justifying the scale and nature of development sought.

3. Panel recommendations and reasons

The Panel considered that the land use provisions need more attention before it could confirm any particular approach in the Plan. Insufficient information was provided to assess the effects on the environment of the future development sought, in particular how the density of development could fit with the landscape servicing and transport-related considerations. Current forestry and future activities on the site are appropriately addressed through a structure plan. The Panel acknowledges that the area is Treaty Settlement Land and considers that a future plan change should be pursued to develop specific provisions that are consistent with the enabling provisions in Chapter B6 Mana Whenua of the regional policy statement.

The Panel recommends that the precinct be deleted from the Plan as notified, but recommends rezoning part of the land (389ha) as Rural - Countryside Living Zone. The rezoning recognises that the zoning in the proposed Auckland Unitary Plan is not appropriate for the anticipated future use of the land, based on the evidence.

4. Reference documents

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Attachment B, page 47)

[081 Te Kawerau Iwi Tribal Authority - Legal Submissions](#) (5 April 2016)

Riverhead 4 Precinct

1. Summary of recommendations

The Panel's recommendation is to delete the precinct from the Plan as notified.

This precinct was heard in Topic 081.

2. Precinct description

The site comprises 533ha of the Riverhead Forest to the north of Huapai and east of Helensville. The land forms part of the Treaty of Waitangi Settlement Agreement between the Crown and Te Kawerau-a-Maki.

The purpose of the precinct is to protect the development potential of the land as at the time of settlement with the Crown, particularly with regard to the ability to develop the land for Māori housing. A precinct provides for protection of natural areas, additional reserves land, enhancement planting and also outdoor activities and motorsport activities.

Submissions were received from Norman Disney and Young Limited (5992-30) seeking clarification of the noise and vibration provisions, the Northern Region Equestrian Trust (5992-30) seeking to add tourist uses and facilities and Ngāti Whātua o Kaipara (4558-63) seeking amendments to the objectives and policies.

Council's evidence supports the precinct.

3. Panel recommendations and reasons

The Panel considered that the land use provisions need more attention before it could confirm any particular approach in the Plan. Insufficient information was provided to assess the effects on the environment of the future development sought, in particular how the density of development could fit with the landscape servicing and transport-related considerations. Current forestry and future activities on the site are appropriately addressed through a structure plan. The Panel acknowledges that the area is Treaty Settlement Land and considers that a future plan change should be pursued to develop specific provisions that are consistent with the enabling provisions in Chapter B6 Mana Whenua of the regional policy statement.

The Panel recommends that the precinct be deleted from the Plan as notified, but recommends rezoning part of the land (389ha) as Rural - Countryside Living Zone. The rezoning recognises that the zoning in the proposed Auckland Unitary Plan Unitary Plan is not appropriate for the anticipated future use of the land, based on the evidence.

The Panel recommends that the precinct be deleted from the Plan as notified.

4. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Riverhead 4\) - \(D Hookway\) - Planning](#) (12 February 2016)

Riverhead South Precinct

1. Summary of recommendations

The Panel's recommendation is to delete the precinct from the Plan as notified.

This precinct was heard in Topic 081.

2. Precinct description

The precinct applies to land located between Kaipara-Portage Road, the Coatesville-Riverhead Highway and the Rangitopuni Stream, immediately south of Riverhead. The purpose of the precinct is to provide for the expansion of the town to the south.

The evidence from Council was that most of the land within the precinct has been developed or is in the process of being developed. While that evidence seeks the precinct be retained until development is completed, the Panel's view is that the precinct is no longer needed.

3. Panel recommendations and reasons

The land has been largely developed, meaning the need for a precinct to guide that development is no longer required.

The Panel recommends that the precinct be deleted from the Plan as notified.

4. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Riverhead South\) - \(M Ford\) - Planning](#) (26 January 2016)

Silverdale 1 Precinct

1. Summary of recommendations

The Panel does not support the need for a precinct for this area and accordingly does not accept the submission seeking it be included in the Plan.

The Panel notes that associated with its recommendation on the delineation of the Rural Urban Boundary through this site the submitter (BAA Land Holdings Limited) also seeks amendments to the zoning pattern to reduce the industrial zoning to apply only to the lower (northern-most) part of the site with the balance left as Residential - Large Lot Zone. That is intended to respond to the concerns raised in the related submission from the Auckland Memorial Park as a potentially affected neighbour.

This precinct was heard in Topic 081.

2. Precinct description

The proposed Silverdale 1 Precinct comprises land off Peters Way and lies immediately east of the Auckland Memorial Park at Silverdale. It is located to the north of a ridge that lies generally in an east-west direction and which descends to the industrial area along Peters Way. To the south of the ridge, and outside the proposed precinct, the land is zoned Rural – Countryside Living Zone.

The proposed precinct provides for zoning of Business - Light Industry Zone over the northern part of the site (approximately 3.8ha) with a zoning of Residential - Large Lot Zone over the rear (approximately 5.3ha) and extending to the ridgeline. The balance of the site, which has an aspect to the south and lies outside the proposed precinct, is zoned Rural - Countryside Living Zone (approximately 3.8ha).

The purpose of the proposed precinct is stated, in the amended form presented by BAA Land Holdings Limited in evidence, as being to provide for light industrial development and large lot residential development in a comprehensive and integrated manner with specific controls that manage the effects of earthworks and buildings on the locality and the adjoining properties. The provisions impose additional controls that also manage building height, landscaping and density of development on the southern portion of the proposed precinct.

The amended provisions from BAA Land Holdings Limited also state, in addressing the neighbouring activities, that the location of large lot residential activities on the southern portion of the site will retain an open spacious nature and provide an appropriate transition to the Rural - Countryside Living Zone to the south and the cemetery to the west.

3. Key issues

The key issue addressed through the submissions and at the hearing was the potential impact of the activities provided for in the proposed precinct upon the neighbouring sites, principally the Auckland Memorial Park.

The Panel notes that the Council adopted a neutral position to the amendments sought by the submitter rather than perhaps responding to the submission by the landowner and/or the earlier Environment Court decision concerning the zoning of the site that had addressed the amenity of the site and of the neighbouring area.

Mr Lala, appearing for BAA Land Holdings Limited, supported the proposed precinct but with amended provisions he had prepared having taken into account the evidence of Mr Rae for BAA Land Holdings Limited and the Environment Court decision. He considered there is no specific zone in the Plan that would achieve the same outcomes as the proposed precinct. He said that it provides a combination of activity rules and development controls that will enable the comprehensive and integrated development of the site in a manner that is complementary to the immediate environment.

Evidence opposing the proposed precinct was presented on behalf of Auckland Memorial Park from Messrs Hessell and Pryor in relation to planning and landscape matters respectively. They highlighted that building platforms and buildings on the site would potentially be visible from and intrude on the visual amenity of the neighbouring cemetery.

Messrs Lala and Rae pointed out that these concerns are addressed by the reduction in the area available for industrial development from that originally proposed and its replacement by the Residential - Large Lot Zone over the elevated part of the site. This was seen as meeting the concern of the neighbour and to be complemented by the zone provisions relating to the creation of building platforms and maximum building heights along with landscape planting.

The Panel does not consider there is a need for a precinct to provide for the development of the site and future activities upon it but does acknowledge that regard needs to be given to the concerns raised by the Auckland Memorial Park in that future development of it. These concerns are addressed by removing the proposed industrial zoning off the higher parts of the site and replacing it with the Large Lot Zone in the manner as sought by BAA Land Holdings Limited. This means the range of future residential uses are more compatible with the neighbour's activity. In addition, the controls in the Plan provide for control to be exercised over the site development matters that are of concern to the neighbouring property owner.

In these respects the Panel does not see a need for a precinct to apply to this single site.

4. Panel recommendations and reasons

The Panel, having had regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, considers that the precinct is not necessary and that the Plan provisions sufficiently provide for future activities on the site and the potential effects of such development upon neighbouring properties.

5. Reference documents

- 081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 (19 May 2016) (Attachment B, page 54)
- 081 BAA Land Holdings Ltd formally Silverdale Estates Ltd (V Lala) - Planning (15 February 2016)
- 081 BAA Land Holdings Ltd formally Silverdale Estates Ltd (V Lala) - Planning - REBUTTAL (26 February 2016)
- 081 BAA Land Holdings Ltd formally Silverdale Estates Ltd (N Rae) - Urban Design (15 February 2016)
- 081 BAA Land Holdings Ltd formally Silverdale Estates Ltd (N Rae) - Urban Design - REBUTTAL (26 February 2016)
- 081 Auckland Memorial Park Ltd (L Hessel) - Planning (15 February 2016)
- 081 Auckland Memorial Park Ltd (L Hessel) - Planning - REBUTTAL - LATE (01 March 2016)
- 081 Auckland Memorial Park Ltd (R Pryor) - Landscape (15 February 2016)
- 081 Auckland Memorial Park Ltd (R Pryor) - Landscape - REBUTTAL - LATE (01 March 2016)
- 081 Auckland Memorial Park Ltd (L Hessel) - Planning - Supplementary Statement (18 July 2016)

Silverdale North Precinct and rezoning

1. Summary of recommendations

The Panel does not support this precinct. The precinct was proposed by Council in order to incorporate the provisions of Special 19 (Silverdale North) Zone of the Auckland Council District Plan - Operative Rodney Section 2011 into the proposed Auckland Unitary Plan Unitary Plan.

This precinct was heard in Topic 081.

2. Precinct description

The Silverdale North Precinct comprises approximately 490ha of land to the north of the original town of Silverdale. The precinct is bounded by State Highway 1 to the west, Ōrewa Estuary to the north, Jelas Road to the east and Hibiscus Coast Highway to the south.

The purpose of the proposed precinct is to ensure that the development of Silverdale North is carried out in an integrated way, and that urban development is restricted ahead of necessary improvements being made to the primary roads network. The provisions ensure that development in advance of infrastructure does not create significant adverse effects on the primary road network and connections to that network.

The underlying zoning under the notified proposed Auckland Unitary Plan Unitary Plan was Business - General Business Zone, Residential - Single House Zone, Business - Town Centre Zone and Business - Neighbourhood Centre Zone.

3. Key issues

The key issues between the Council and the various submitters were firstly if a precinct should be retained and, secondly, what zone provisions should be applied to the land within the proposed precincts.

3.1. Should the precinct be retained?

The Council supported the proposed precinct for the reason set out in legal submissions dated 3 March 2016 that summarised the Council's evidence in relation to the proposed Silverdale North Precinct.

5. The Council's evidence regarding the precinct is contained in the evidence report of Ewan Paul dated 26 January 2016 and rebuttal evidence report dated 24 February 2016. Mr Paul supports the proposed precinct, which is sought to incorporate the provisions of Special 19 (Silverdale North) zone of the Auckland Council District Plan Operative Rodney Section 2011 (**Operative Plan**) into the PAUP. These provisions were the result of a complex plan change (Plan Change 52), and were the subject of Environment Court consent orders in 2008 and 2009.

6. The precinct is divided into sub-precincts as follows:

a. Sub-precinct A: (General Business) - enables and encourages the establishment of land use activities that will attract knowledge and people based businesses and a more limited or different range of business activities than might expect to be found in

an industrial zone. Industrial activities that could compromise the campus like appearance of sub-precinct A are discouraged.

b. Sub-precinct B: (Single House) – provides for medium density residential with a limited percentage of higher density.

c. Sub-precinct C: (Town Centre) – limits on larger scale retail and industry.

d. Sub-precincts D1 and D2 (Neighbourhood Centre) and D3 (Local Centre) – limits on large scale retail.

7. The main differences between the precinct provisions and the underlying zones are set out at **Table 1** in the evidence report of Mr Paul, at paragraph 1.5. Those variations reflect the previous plan changes and judicial process relating to the precinct area.

Mr Alistair White in his planning evidence on behalf of Highgate Business Park Limited, the owners of a significant portion of the land within the proposed precinct, did not support the need for the precinct. In his paragraph 2.6 he stated that:

Council's evidence concerning Silverdale north recommends the retention of the precinct structure for HBPL's land and the balance of Silverdale North. I do not share the view that the precinct structure now needs to be retained for all of Silverdale North because circumstances have overtaken the substantial benefit of same. The legacy staging provisions (pacing development relative to roading improvements and capacities) are now satisfied for large tracts of Silverdale North and the development of significant areas are now completed, under construction or consented, to the extent that the remaining areas will now follow the establishing pattern which will ensure the objective of integrated development. In most cases the precinct structure is an unnecessarily heavier regulatory hand when compared to the underlying zoning, without consequential benefit. I would prefer to collapse much of the precinct structure to instead rely upon underlying zonings and remnants of the precincts where relevant. My evidence recommends removing the precinct structure at least from the HBPL's land, changes to the zonings of HBPL's land, whilst also providing recommendations on what changes I consider are necessary should the precinct structure remain, so that those remaining precinct provisions better meet the purposes and principles of the Resource Management Act 1991 and the PAUP Regional Policy Statement.

Mr Paul in his evidence in rebuttal on behalf of Council dated 24 February 2016 responded to Mr White's evidence as set out below.

4.1 The planning evidence of Alistair White on behalf of Highgate Business Park (Highgate) (5736) addresses three main issues:

(a) The removal of the precinct from the Highgate land, because in his opinion, the provisions are largely redundant as circumstances have overtaken them, a Development Concept Plan has been approved for the substantive part of the Highgate land, earthworks have commenced, much of the balance of the land is SHA and the traffic staging provisions for much of the land have been addressed.

(b) Amendments to the activity status of various activities to generally relax the provisions.

(c) Miscellaneous rule changes.

Removal of the precinct

4.3 Removing the precinct was not sought in Highgate's submission. However, I do not support the removal of the precinct. I consider that there are provisions within the precinct that are necessary to achieve the outcomes intended for the area.

Removing the precinct and relying on the underlying zone, or alternative zones, as suggested by Mr White, would not in my opinion result in the completion of the development of the Silverdale North area as contemplated by the Silverdale North precinct.

4.4 Mr White suggests that the granting of a resource consent for a Development Concept Plan (**DCP**) for the land owned by Highgate means that the provisions are no longer necessary. In my opinion I do not consider that the granting of such a resource consent necessarily guarantees an outcome. An amendment to a DCP or new resource consents could be sought if the precinct provisions were removed before the consented DCP was implemented. Also, a DCP is high level and may not address all the matters that the precinct provisions cover, eg the management of retail activity.

4.5 Also, an approved **DCP** does not manage the development of particular activities, or limit or require particular activities to obtain resource consent to achieve the objectives of the precinct, such as for example creating a quality campus like environment and limiting retail activity. Within the Highgate area earthworks are currently being completed but the establishment of specific activities has not yet started.

4.6 Therefore, in my opinion, it is still appropriate to retain the precinct. I do not support changes to the underlying zones as suggested by Mr White while the precinct is still in place. To change the zonings while retaining the precinct would necessitate the creation of new sub-precincts for the Light Industry and Business Park zones, if these were accepted, as suggested by Mr White, to achieve the intended outcomes of the precinct.

4.7 As set out in my primary evidence report I do support amendments to the precinct where provisions have been overtaken, namely the amendment of the staging provisions to reflect that granting of resource consents and the completion of roading projects that have made the provisions redundant.

The Panel has preferred the evidence of Mr White and for the reasons contained in his evidence the Panel recommends that the Silverdale North Precinct not be adopted.

The Panel has concluded that the zonings that have been recommended below are the most appropriate way to enable the development of the proposed precinct land and to give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

3.2. Zoning

A number of submitters presented evidence in relation to the zoning of land within the proposed precinct, or lodged submissions in relation to zoning, including:

- i. Highgate Business Park Limited;
- ii. Stride Property Limited (Formerly DNZ Property Fund);

- iii. Richard and Tracey Lee Martin;
- iv. Colin Chester;
- v. Johns Creek Holdings Limited; and
- vi. WFH Properties Limited.

Each of these submitters had either specific concerns with the proposed zoning of their land, or had more general concern with the wider approach to zoning of land within the proposed precinct.

The Panel has carefully considered all of the submissions and the evidence presented on behalf of submitters and recommends the zoning of land within the proposed precinct as contained in the relevant planning maps. In summary the recommended zonings are as follows.

- i. Precinct excluding Highgate area:
 - re-zone Residential - Single House Zone areas to Residential - Mixed House Suburban Zone, retain Business - Neighbourhood Centre Zone and Open Space – Informal Recreation Zone or Open Space – Conservation Zone.
- ii. Highgate Area (Development Areas 8 and 9C on Precinct Plan 3):
 - a. rezone the Business - General Business Zone to Business - Light Industry Zone;
 - b. retain the zoning of the Business - Neighbourhood Centre Zone but reduce its area to 1ha. That is to be comprised in a more or less rectangular area 75m by 133m with the centre of the rectangle located 170m southwest of the centre of the intersection of Ridgedale Road and Wainui Road. This will result in the centre of the reduced zone being approximately in the same position as the centre of the zone as notified;
 - c. re-zone the areas shown as Residential - Single House Zone:
 - between Wainui Road and the eastern edge of the Business - Light Industry Zone boundary to Residential - Mixed Housing Urban Zone;
 - the area shown as Development Area 9C on Precinct Plan 3 to Residential - Mixed Housing Urban Zone; and
 - amend the boundary between the Business - Light Industry Zone and the Residential - Mixed Housing Urban Zone on the western side of Wainui Road so that the zone encompasses all of the subdivided land at the northern end of the Residential - Mixed Housing Urban Zone and position the interface between these two zones at 50 metres from and parallel to the western edge of Wainui Road.
- iii. Other submissions:
 - a. 2278-1 Richard and Tracy-Lee Martin land at 129 Wainui Road be rezoned from Residential - Large Lot Zone to Residential - Single House Zone as requested and supported by Council;

- b. 6592-1 Colin Chester land at 165 Wainui Road be re-zoned from General Business and Residential - Single House Zone to Residential - Mixed Housing Suburban Zone as requested;
- c. 6105-1 Johns Creek Holdings Limited land at Lots 3 and 4 DP 336198 from General Business to Residential - Mixed Housing Suburban Zone as requested and supported by Council; and
- d. 6488-1 WFH Properties Limited land at 177 Millwater Drive to Neighbourhood Centre as requested and supported by Council.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the Silverdale North Precinct not be adopted. The rezoning of the land within the proposed precinct as recommended by the Panel is considered the most appropriate way to enable the development of the proposed precinct land and to give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

[081 Ak Cncl – LEGAL SUBMISSIONS \(PRECINCTS ONLY\)](#) (3 March 2016) (Page 70)

[081b Ak Cncl - Rodney - Precincts \(Silverdale North\) - \(E Paul\) - Planning](#) (27 January 2016)

[081b Ak Cncl - Rodney - Precincts \(Silverdale North\) - \(E Paul\) - Planning - REBUTTAL](#) (24 February 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Page 62)

[081 Highgate Business Park Limited - Legal submissions](#) (16 March 2016)

[081 Highgate Business Park Limited \(A White\) - Planning](#) (12 February 2016)

[081 Highgate Business Park Limited \(Alistair White\) - Planning - REBUTTAL](#) (25 February 2016)

Takapuna 2 Precinct

1. Summary of recommendations

The Panel does not support the precinct proposed by Council and recommends its deletion.

This precinct was heard in Topic 081.

2. Precinct description

The Takapuna 2 Precinct is an existing precinct located on the western fringe of the Takapuna Metropolitan Centre and applies to approximately 12.4ha of land bounded by Auburn Street, Huron Street, the upper reaches of Shoal Bay, Lake Pupuke Drive and Killarney Street.

The precinct results from appeals to Plan Change 37 to the Auckland Council District Plan – Operative North Shore Section and a consent order by the Environment Court dated 9 October 2013.

The purpose of the Takapuna 2 Precinct is to:

- i. promote high quality 'perimeter block'-style residential and mixed-use development;
- ii. incentivise the provision of a laneway connecting Auburn Reserve to Killarney Park, which in turn connects upper Shoal Bay with Killarney Park and Lake Pupuke; and
- iii. provide a wider front yard along Anzac Street to assist its function as a principal gateway to the Takapuna Metropolitan Centre, and mitigate the effects of increased height and residential intensity in the precinct.

The Takapuna 2 Precinct is divided into four development areas (Areas A to D). Specific controls apply to each development area to reflect their relationship to Anzac Street, the Takapuna Metropolitan Centre, or to the lower-height residential areas further west.

- i. Area A is a four-storey only area at the western end of the precinct. It flanks Residential - Mixed Housing Urban Zone and Residential - Mixed Housing Suburban Zone land to the north.
- ii. Area B is a four-storey area, but six storeys is provided for as a 'bonus' height where the 'through-site' laneway is achieved, in favour of public access in a north-south alignment, from Auburn Reserve to Killarney Park.
- iii. Area C is a six-storey area on Anzac Street, with 'bonus' height up to eight storeys where certain prerequisites are met.
- iv. Area D is an eight-storey area on Auburn Street, with no site frontage (width) control, recognising the immediate proximity to the metropolitan centre.

The precinct is zoned residential - Terrace Housing and Apartment Buildings Zone.

The relief sought by submitters covered the spectrum from adoption to deletion of the precinct.

3. Key issues

The Council proposes to maintain the precinct with some amendments in response to submissions.

The main differences between the Takapuna 2 Precinct as proposed and the relevant overlays, zone, and Auckland-wide rules are:

- i. a comprehensive set of policies and assessment criteria to address local needs and desired future outcomes;
- i. more prescriptive controls to address building forms, to achieve a 'laneway', to enable non-residential uses, and to improve the busy Anzac Street arterial street environment;
- ii. more building height, and less, in certain circumstances; some of this is as 'bonus' height to achieve the laneway;
- iii. greater provision for non-residential uses, given its close proximity to the Takapuna Metropolitan Centre, so as to add interest and functionality for residents and visitors as well as employment options; and
- iv. a 'laneway' running north-south, mid-block and street to street, creating an important pedestrian link between the inner harbour (and Auburn Reserve) and Killarney Park and Lake Pupuke to the north.

In summary, the Council's position in relation to the Takapuna 2 Precinct is set out in the planning evidence in chief of Mr Ewen Patience, and Council's closing remarks Volume 1.

Having reviewed the evidence, the Panel finds that the precinct is no longer necessary with the changes recommended to the general provisions for the Residential - Terrace Housing and Apartment Buildings Zone and the associated Business - Metropolitan Zone, along with other Auckland-wide requirements. It agrees with those submitters (for example, El Callao Limited) who recognised that Takapuna is a key metropolitan centre around which intensification must follow in order to give effect to the compact quality urban form principle. Concerns regarding urban design and spatial form can and will be addressed through the relevant provisions.

4. Panel recommendations and reasons

The Panel does not support the precinct proposed by Council and recommends its deletion for the reasons set out in section 3 above.

5. Reference documents

Auckland Council

[081c Ak Cncl - North Shore - Precincts \(Takapuna 2\) - \(E Patience\) - Planning](#) (27 January 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Page 130)

Waikauri Bay Precinct

1. Summary of recommendations

The Panel does not support the precinct proposed by the submitter and supported by Council.

This precinct was heard in Topic 081.

2. Precinct description

Waikauri Bay Precinct is a proposed new precinct which is intended to ensure the scale and intensity of the existing development is maintained while providing for reasonable replacement or alteration of existing buildings. The precinct does not seek to enable new development on the site beyond the existing 25 dwellings.

The site lies in the Rural - Rural Coastal Zone of the Unitary Plan. The existing dwellings are not provided for in the zone provisions.

3. Key issues

The submitter (Waikauri Bay Reserve Limited) seeks a precinct because otherwise the existing dwellings and any additions are non-complying in the Rural - Rural Coastal Zone. It states it would be prohibitively difficult to make reasonable additions and alterations unless existing use rights are proved, which is seen to be a complex process.

The evidence for Council was a precinct is appropriate because Waikauri Bay is unique in character within the Rural - Rural Coastal Zone as an example of an existing small coastal bach settlement. It points out the coastal settlement is a departure from the Rural - Rural Coastal Zone, which does not provide for such settlement nor contain development controls that are appropriate to manage the existing development. The evidence states the precinct would simplify the process of replacing or altering the existing dwellings which would otherwise need an application for a non-complying activity. That evidence reflected much of what was advanced by the submitter, represented by Mr Richard Burton, in seeking the proposed precinct. Council's closing remarks confirmed agreement with the precinct.

The Panel notes the precinct is based on provisions in the Auckland Council District Plan - Operative Rodney Section. This includes the settlement as a scheduled activity which allows for alterations to existing dwellings as a restricted discretionary activity, additions or reconstruction as discretionary and any increase in the number of dwellings as non-complying. That is, however, not necessary given that existing use rights apply to the development on the site in terms of section 10 of the Resource Management Act 1991. That provides for reconstruction or alteration of the existing dwellings as sought by the precinct provisions. Any additional development would be a non-complying activity just as it would be with the precinct provisions.

In these respects the Panel does not consider the precinct is necessary and that existing and any future development on the site in the coastal environment can be suitably managed by the zone provisions in the Unitary Plan and the relevant provisions of the Resource Management Act 1991.

4. Panel recommendations and reasons

The Panel does not support the request for a precinct for the reasons set out in section 1.3 above.

In this respect the Panel, having had regard to the submission, the evidence and sections 32 and 32AA of the Resource Management Act 1991, considers this is the most appropriate way to achieve the purpose of the regional policy statement and the Resource Management Act 1991. The existing and future development can be suitably managed by the zone provisions in the Unitary Plan and the relevant provisions of the Resource Management Act 1991.

5. Reference documents

Auckland Council

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 \(19 May 2016\) p 68](#)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 2 – Revised Precinct Provisions and Maps – Attachments A-E - Updated - 26 May 2016 \(26 May 2016\) Attachment A, p 222](#)

Wēiti 2 Precinct

1. Summary of recommendations

The Panel agrees with Council and does not support the precinct proposed by Hugh Green Limited and recommends its deletion.

This precinct was heard in Topic 081.

2. Precinct description

The Wēiti 2 Precinct is a request by submitter Hugh Green Limited for a new precinct over some 250ha of land at 1695-1697 East Coast Road, Redvale. The precinct seeks the inclusion of the Wēiti Station Structure Plan from the Auckland Council District Plan - Operative Rodney Section which was developed through a plan change and settled by consent order of the Environment Court.

The purpose of the Wēiti 2 Precinct is to provide for a 224-lot clustered subdivision with an average density of one dwelling per 1.5 hectares, retaining large balance areas of over 25 hectares.

The precinct is zoned Rural - Countryside Living Zone.

3. Key issues

Council does not support the precinct and submitted the following reasons why the precinct was not necessary through the evidence of Mr Scott (planning evidence in rebuttal, page 4, paragraph 1.7):

- (a) The underlying CSL zone enables a similar level of development to that proposed by HGL, which is 1 dwelling per 2 ha.
- (b) Should the TRSS provisions be utilised, the density of development increases to 1 dwelling per ha.
- (c) To enable the new precinct the ASC would need to be removed from the land and this may have the adverse consequence of reducing the available land for receiver sites under the TRSS process. This in turn could undermine the effectiveness of the TRSS method in this area and have an adverse impact on the PAUP's rural strategy in this locality.
- (d) The opportunity for cluster-style subdivision, as sought by HGL in the new precinct, has some support at RPS and rural zone policy level and could be established through an application for resource consent (as a non-complying activity).
- (e) The proposed precinct enables a Village Centre and Green which is considered to be unacceptably urban in scale relative to the surrounding locality and the rural strategy under the PAUP.

Those concerns were addressed in Ms Bayley's planning evidence. In short she submitted, among other things, that proceeding under the standard zone provisions would result in a less satisfactory resource management outcome – and a resource consent application for the proposal could not be guaranteed as it would be a non-complying activity.

After considering the evidence the Panel was inclined to agree with the submitter. However on reviewing the provisions proposed, the Panel was unable to support a precinct because:

- i. the density permitted by the zone, regardless of any potential to use the Transferable Rural Site Subdivision provisions, would be similar, and under the Transferable Rural Site Subdivision provisions would potentially be greater;
- ii. the surrounding area is in transition and will experience further significant change once the location and construction of the Penlink Wēiti crossing occurs – which may herald a different land use future (or at least require adjustments);
- iii. no objectives or policies specific to the precinct were advanced; and
- iv. while the operative district plan provisions deal with a wider site, the provisions have not been modified to reflect the smaller site.

The Panel was therefore left in a situation where it could not itself amend the precinct provisions sufficiently to enable it.

The Panel considers there is no good reason why this area should not be a receiver area under the Transferable Rural Site Subdivision provisions.

In summary, the Council's position in relation to the Wēiti 2 Precinct is set out in the planning rebuttal evidence of Mr Robert Scott (dated 24 February 2016) and Council's Closing Remarks Volume 1 (pages 80 – 81).

Hugh Green Limited's position is as stated in the planning evidence in chief and hearing statement of Ms Emma Bayley (dated 10 February 2016 and 14 March 2016) and the legal submissions of Ms Asher Davidson (dated 14 March 2016).

Having reviewed the evidence from parties, the Panel agrees with the concept proposed by the submitter but has residual concerns over the adequacy of the provisions, matters that in the time available are unable to be resolved. The Panel is therefore unable to support the precinct at this time.

4. Panel recommendations and reasons

The Panel does not support the precinct proposed by Hugh Green Limited and recommends its deletion for the reasons set out in section 3 above.

The Panel recommends this area be a receiver area under the Transferable Rural Site Subdivision provisions.

5. Reference documents

Auckland Council

[081b Ak Cncl - Rodney - Precincts \(Weiti 2\) - \(R Scott\) - Planning - REBUTTAL](#) (26 February 2016)

[081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016](#) (19 May 2016) (Attachment B, page 76)

Hugh Green Ltd

[081 Hugh Green Ltd \(E Bayly\) - Planning - Redvale](#) (13 February 2016)

081 Hugh Green Ltd (E Bayly) - Planning - Redhills - Cultural Impact Statement (14 March 2016)

081 Hugh Green Ltd - Legal submissions - Weiti (14 March 2016)