

I hereby give notice that a hearing by commissioners will be held on:

Date: Tuesday 19 November
Wednesday 20 November
Thursday 21 November 2019
Time: 9.30am
Meeting Room: Council Chambers
Venue: Ground Floor, Auckland Town Hall
301-303 Queen Street, Auckland

HEARING REPORT
**PLAN MODIFICATION 20 - RURAL ACTIVITY
STATUS**
AUCKLAND COUNCIL

COMMISSIONERS

Chairperson	Robert Scott
Commissioners	Juliane Chetham
	William Smith

Paulette Kenihan
SENIOR HEARINGS ADVISOR

Telephone: 09 890 8148 or 021 706 729
Email: Paulette.kenihan@aucklandcouncil.govt.nz
Website: www.aucklandcouncil.govt.nz

Note: The reports contained within this document are for consideration and should not be construed as a decision of Council. Should commissioners require further information relating to any reports, please contact the hearings advisor.

WHAT HAPPENS AT A HEARING

At the start of the hearing, the Chairperson will introduce the commissioners and council staff and will briefly outline the procedure. The Chairperson may then call upon the parties present to introduce themselves to the panel. The Chairperson is addressed as Mr Chairman or Madam Chair.

Any party intending to give written or spoken evidence in Māori or speak in sign language should advise the hearings advisor at least five working days before the hearing so that a qualified interpreter can be provided.

Catering is not provided at the hearing. Please note that the hearing may be audio recorded.

Scheduling submitters to be heard

A timetable will be prepared approximately one week before the hearing for all submitters who have returned their hearing attendance form. Please note that during the course of the hearing changing circumstances may mean the proposed timetable is delayed or brought forward. Submitters wishing to be heard are requested to ensure they are available to attend the hearing and present their evidence when required. The hearings advisor will advise submitters of any changes to the timetable at the earliest possible opportunity.

The Hearing Procedure

The usual hearing procedure (as specified in the Resource Management Act) is:

- The reporting officer may be asked to provide a brief overview of the plan change. After the applicant has presented their case, members of the hearing panel may ask questions to clarify the information presented.
- Submitters (for and against the application) are then called upon to speak. Submitters may also be represented by legal counsel or consultants and may call witnesses on their behalf. The hearing panel may then question each speaker. The council officer's report will identify any submissions received outside of the submission period. At the hearing, late submitters may be asked to address the panel on why their submission should be accepted. Late submitters can speak only if the hearing panel accepts the late submission.
- Should you wish to present written information (evidence) in support of your application or your submission please ensure you provide the number of copies indicated in the notification letter.
- Only members of the hearing panel can ask questions about submissions or evidence. Attendees may suggest questions for the panel to ask but it does not have to ask them. No cross-examination - either by the applicant or by those who have lodged submissions – is permitted at the hearing.
- After the applicant and submitters have presented their cases, the chairperson may call upon council officers to comment on any matters of fact or clarification.
- The chairperson then generally closes the hearing and the applicant, submitters and their representatives leave the room. The hearing panel will then deliberate "in committee" and make its decision by way of formal resolution. You will be informed in writing of the decision and the reasons for it.

A NOTIFIED PLAN CHANGE TO THE AUCKLAND COUNCIL UNITARY PLAN BY AUCKLAND COUNCIL

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Reporting officer, David Wren

Reporting on proposed Plan Modification 20 - Rural Activity Status to amend the activity table for the rural zones so that any activity not specifically listed in the table becomes a non-complying activity and amend the reference to "residential activities" in specific rural policies and zone descriptions to "dwellings"

APPLICANT: AUCKLAND COUNCIL

SUBMITTERS:

The submissions can be found under separate cover.

Plan Modification 20 - Rural Activity Status
Date: Tuesday 19, Wednesday 20 and Thursday 21 NOVEMBER 2019
(Thursday, 21 November if required)



Hearing Report for Proposed Plan Change 20: Rural Activity Status to the Auckland Unitary Plan (Operative in part)

Section 42A Hearing Report under the Resource Management Act 1991

Report to: Hearing Commissioners

Hearing Date/s:

File No:

File Reference

Report Author David Wren; Consultant

Report Approvers Peter Vari, Team Leader Planning North, West and Islands

Report produced

Summary of Proposed Plan Change 20 (Rural Activity Status)

Plan subject to change	Auckland Unitary Plan (Operative in part), 2016
Number and name of change	Proposed Plan Change 20 – (Rural Activity Status) to the Auckland Unitary Plan
Status of Plan	Operative in part
Type of change	Council-initiated proposed plan change.
Committee date of approval (or adoption) for notification	2 October 2018
Parts of the Auckland Unitary Plan affected by the proposed plan change	Rural Zones
Date draft proposed plan change was sent to iwi for feedback	10 July 2018
Date of notification of the proposed plan change and whether it was publicly notified or limited notified	Publicly notified – 21 March 2019
Plan development process used – collaborative, streamlined or normal	Normal
Submissions received (excluding withdrawals)	231 Submissions received
Date summary of submissions notified	20 June 2019
Number of further submissions received (numbers)	10
Legal Effect at Notification	None
Main issues or topics emerging from all submissions	Activity status of activities not provided for and use of the term 'residential activities'.

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Abbreviations

Abbreviations in this report include:

Abbreviation	Meaning
PC20	Proposed Plan Change 20
RMA	Resource Management Act 1991
AUP	Auckland Unitary Plan

Attachments	
Appendix 1	Plan Change 20
Appendix 2	Section 32 Report
Appendix 3	Relevant Policy
Appendix 4	Submissions and Further Submissions
Appendix 5	Recommended Changes
Other	

EXECUTIVE SUMMARY

1. Proposed Plan Change 20 (**PC20**) seeks to add to the rural activity tables an activity that makes any activity not provided for in the tables a non-complying activity. It also seeks to amend references to 'residential buildings' in the Rural Chapter of the Auckland Unitary Plan (Operative in Part) (**AUP:OP**) to 'dwellings'.
2. The normal plan change process set out in Schedule 1 of the Resource Management Act 1991 ('RMA') was adhered to in developing PC20.
3. PC20 was publicly notified on 21 March 2019 with the period for receiving submissions closing on 18 April 2019. The summary of decisions requested was notified on 20 June 2019 with the period for receiving further submissions closing on 4 July 2019.
4. A total of 231 submissions were received together with 10 further submissions.
5. In preparing for hearings on PC20, this hearing report has been prepared in accordance with section 42A of the RMA.
6. This report considered the issues raised by submissions and further submissions on PC20. The discussion and draft recommendations in this report are intended to assist the Hearing Commissions, and those persons or organisations that lodged submissions on PC20. The recommendations contained within this report are not the decisions of the Hearing Commissioners.
7. This report also forms part of council's ongoing obligations, which is, to consider the appropriateness of the proposed provisions, as well as the benefits and costs of any policies, rules or other methods, as well as the consideration of issues raised submissions on PC20.
8. A report in accordance with section 32 of the RMA has also been prepared for this purpose and attached in Appendix 2. The 'Section 32 report' and associated documentation related to PC20, on the council's website should be considered in making decisions on PC20.
9. It is recommended that PC20 be approved with amendments in response to submissions.

1. BACKGROUND

10. PC20 is a Council plan change. The s32 report prepared for PC20 states that the issue at the centre of the plan change is how to manage activities which are not provided for in rural zones. A number of resource consents addressing activities not provided for in the rural zone activity table have been processed since the AUP:OP became operative in part in 2016. The resource consent process has delivered, in a number of instances, outcomes not anticipated by the Council for the rural zones. Examples of activities that have been granted consent included intensive aged care facilities, visitor accommodation, art galleries and commercial and industrial activities. The Council's analysis as set out in the s32 report is that activities that are not provided for in the zone currently default to being discretionary activities. The Council considers that it may be that these types of activities would be better assessed as a non-complying activity.
11. The s32 report states that the purpose of the plan change is to consider and evaluate the best option for dealing with activities which are not contemplated in rural zones, and which extend beyond those currently provided in the AUP:OP. The section 32 report identified two solutions as an appropriate response to this issue. The first is to amend the rural activity tables to add a new activity into the table, being "Any activity not provided for" and making its activity status non-complying. The second is to amend references to 'residential buildings' in the Rural chapter to 'dwellings'.

2. EXISTING PLAN PROVISIONS

12. The existing Unitary Plan provisions that are subject to the proposed plan change are the activity table in the Rural Chapter and several other clauses in this chapter.
13. In respect of the activity table, the existing activity table in the Rural Chapter (H19.8.1) does not contain an activity status for activities not provided for in the table. Most other zones in the AUP:OP have an activity status of non-complying for such activities. Where there is not a specified activity status specified in the activity table the activity status defaults to Rule C1.7 which states.

Activities not provided for

(1) Any activity that is not specifically classed in a rule as a permitted, controlled, restricted discretionary, discretionary, non-complying or prohibited activity is a discretionary activity unless otherwise specified by a rule for an overlay, zone or precinct or in an Auckland-wide rule.

14. Throughout the policies and some zone descriptions in the Rural chapter the term residential buildings is used most commonly to describe the types of activities provided for by the policy or within the zone. The term 'residential' is not defined in the AUP although the term is used in the nesting tables within Chapter J Definitions. Table J1.3.5 Residential reads as follows.

<i>Dwellings</i>	
<i>Home occupations</i>	
<i>Visitor accommodation</i>	
<i>Camping grounds</i>	
<i>Boarding houses</i>	<i>Student accommodation</i>
<i>Integrated residential development</i>	
<i>Retirement village</i>	

15. Based on this table it is possible to interpret the term 'residential buildings' as applying to all the activities set out in this table.

3. PROPOSED PLAN CHANGE PROVISIONS

16. PC 20 makes the following changes to the AUP:OP. Firstly it amends Activity table H19.8.1 by adding a new activity category (AA1) Activities not provided for. This change will make any activity not provided for within the activity table a non-complying activity in the Rural Conservation Zone, Countryside Living Zone, Rural Coastal Zone, Mixed Rural Zone and the Rural Production Zone.

17. The second part of the plan change is to amend references to 'residential' in a number of zone descriptions, objectives and policies and to refer to 'dwellings' instead. This includes amendments to the following;

- 19.2.4 Policies – rural character, amenity and biodiversity values.
- 19.6.1 Rural – Rural Conservation Zone – Zone description
- 19.6.2(3) Rural – Rural Conservation Zone – Objective
- 19.6.3(3) Rural – Rural Conservation Zone – Policy
- 19.7.1 Rural – Countryside Living – Zone description

18. A full copy of PC20 is set out in Appendix 1 to this report.

4. HEARINGS AND DECISION MAKING CONSIDERATIONS

19. Clause 8B of Schedule 1 of RMA requires that a local authority shall hold hearings into submissions on its proposed plan.

20. Hearings Commissioners have been delegated by the Regulatory Committee of the council to determine council's decisions on submissions on PC20, under section 34 of the RMA. Hearing Commissioners will not be recommending a decision to the council, but will be issuing the decision directly.

21. This report summarises and discusses submissions received on PC20. It makes recommendations on whether to accept, in full or in part; or reject, in full or in part; each submission. This report also identifies what amendments, if any, can be made to address matters raised in submissions. Any conclusions or recommendations in this report are not binding on the Hearing Commissioners.

22. The Hearing Commissioners will consider all the information in submissions together with evidence presented at the hearing.

23. This report has been prepared by the following author:

Author

David Wren – Planning Consultant

5. STATUTORY AND POLICY FRAMEWORK

24. The RMA requires territorial authorities to consider a number of statutory and policy matters when developing proposed plan changes. There are slightly different statutory considerations if the plan change affects a regional plan or district plan matter.

25. PC20 is solely district plan related.

26. PC20 was developed under the relevant statutory matters. The submissions on PC20 were also considered under relevant statutory matters. The following sections summarises the statutory and policy framework, relevant to PC20.

5.1. Resource Management Act 1991

5.1.1. Plan change matters – regional and district plans

27. In the development of a proposed plan change to a regional and/ or district plan, the RMA sets out mandatory requirements in the preparation and process of the proposed plan change. Table 1 below summarises matters for plan changes to regional and district plan matters.

Table 1 Plan change matters relevant to regional and district plans

Relevant Policy/ Plan	Act/ Section	Matters
Resource Management Act 1991	Part 2	Purpose and intent of the Act
Resource Management Act 1991	Section 32	Requirements preparing and publishing evaluation reports. This section requires councils to consider the alternatives, costs and benefits of the proposal
Resource Management Act 1991	Section 80	Enables a 'combined' regional and district document. The Auckland Unitary Plan is in part a regional plan and district plan to assist Council to carry out its functions as a regional council and as a territorial authority
Resource Management Act 1991	Schedule 1	Sets out the process for preparation and change of policy statements and plans by local authorities

28. The mandatory requirements for plan preparation are comprehensively summarised by Environment Court in *Long Bay-Okura Great Park Society Incorporated and Others v North Shore City Council* (Decision A078/2008) ¹, where the Court set out the following measures for evaluating objectives, policies, rules and other methods. This is outlined in Box 1.

Box 1

A. General requirements

1. A district plan (change) should be designed to accord with, and assist the territorial authority to carry out its functions so as to achieve, the purpose of the Act.

2. When preparing its district plan (change) the territorial authority must give effect to any national policy statement or New Zealand Coastal Policy Statement.

¹ Subsequent cases have updated the Long Bay summary, including *Colonial Vineyard v Marlborough District Council* [2014] NZEnvC 55.

3. When preparing its district plan (change) the territorial authority shall:
 - (a) have regard to any proposed regional policy statement;
 - (b) not be inconsistent with any operative regional policy statement.
4. In relation to regional plans:
 - (a) the district plan (change) must not be inconsistent with an operative regional plan for any matter specified in section 30(1) [or a water conservation order]; and
 - (b) must have regard to any proposed regional plan on any matter of regional significance etc.;
5. When preparing its district plan (change) the territorial authority must also:
 - have regard to any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries regulations; and to consistency with plans and proposed plans of adjacent territorial authorities;
 - take into account any relevant planning document recognised by an iwi authority; and
 - not have regard to trade competition;
6. The district plan (change) must be prepared in accordance with any regulation (there are none at present);
7. The formal requirement that a district plan (change) must also state its objectives, policies and the rules (if any) and may state other matters.

B. Objectives [the section 32 test for objectives]

8. Each proposed objective in a district plan (change) is to be evaluated by the extent to which it is the most appropriate way to achieve the purpose of the Act.

C. Policies and methods (including rules) [the section 32 test for policies and rules]

9. The policies are to implement the objectives, and the rules (if any) are to implement the policies;
10. Each proposed policy or method (including each rule) is to be examined, having regard to its efficiency and effectiveness, as to whether it is the most appropriate method for achieving the objectives of the district plan taking into account:
 - (a) the benefits and costs of the proposed policies and methods (including rules); and
 - (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.

D. Rules

11. In making a rule the territorial authority must have regard to the actual or potential effect of activities on the environment.

E. Other statutes:

12. Finally territorial authorities may be required to comply with other statutes. Within the Auckland Region they are subject to:
 - the Hauraki Gulf Maritime Park Act 2000;
 - the Local Government (Auckland) Amendment Act 2004.

5.1.2. Resource Management Act 1991- District matters

29. There are mandatory considerations in the development of a proposed plan change to district plans and rules. Table 3 below summarises district plan matters under the RMA, relevant to PC20.

Table 3 Plan change- district plan matters under the RMA

Relevant Act/ Policy/ Plan	Section	Matters
Resource Management Act 1991	Part 2	Purpose and intent of the Act
Resource Management Act 1991	Section 31	Functions of territorial authorities in giving effect to the Resource Management Act 1991
Resource Management Act 1991	Section 73	Sets out Schedule 1 of the RMA as the process to prepare or change a district plan
Resource Management Act 1991	Section 74	Matters to be considered by a territorial authority when preparing a change to its district plan. This includes its functions under section 31, Part 2 of the RMA, national policy statement, other regulations and other matter
Resource Management Act 1991	Section 75	Outlines the requirements in the contents of a district plan
Resource Management Act 1991	Section 76	Outlines the purpose of district rules, which is to carry out the functions of the RMA and achieve the objective and policies set out in the district plan. A district rule also requires the territorial authority to have regard to the actual or potential effect (including adverse effects), of activities in the proposal, on the environment

5.2. National policy statements

30. There are no relevant NPS relevant to this plan change. However the government is currently consulting on a NPS for Highly Productive Land. While this may influence the matters contained in PC20 this has no effect at present. The S32 report has identified that the Ministry for the Environment has developed national planning standards. The Auckland Council has 7 years to implement the first set of standards from April this year. It is considered that given the limited nature of this plan change that it is not necessary to insert any standards as a result of the PC20.

5.3. National environmental standards or regulations

31. Under section 44A of the RMA, local authorities must observe national environmental standards in its district/ region. No rule or provision may be duplicate or in conflict with a national environmental standard or regulation.

32. There are no relevant national environmental standards or regulations relevant to this plan change.

5.4. Auckland Unitary Plan

33. For a plan change, the relevant policy statement and plans must be considered in the preparation of the plan change and in the consideration of submissions. These are summarised in Table 4 below and set out in full in Appendix 3.

Table 4 Relevant regional policy statements and district provisions of Auckland Unitary Plan

Relevant Act/ Policy/ Plan	Section	Summary of Matters
Auckland Unitary Plan –	B6.4 Maori	Provision of papakainga across urban and rural

Relevant Act/ Policy/ Plan	Section	Summary of Matters
Regional Policy Statement	economic, social and cultural development.	Auckland.
Auckland Unitary Plan – Regional Policy Statement	B9. Toitū te tuawhenua Rural environment B9.2. Rural activities B9.2.1. Objectives B9.2.2. Policies	<ul style="list-style-type: none"> • Protection of elite soils, enabling rural production and protection of rural areas from inappropriate subdivision, urban use and development.
	B9. Toitū te tuawhenua Rural environment B9.3. Land with High Productive Potential B9.3.1. Objectives B9.3.2. Policies	<ul style="list-style-type: none"> • Land containing elite soil is protected. • Prime soils are managed to ensure production. • Productive potential of other land recognised.
	B2. Tāhuhu whakaruruhau ā-taone – B2.2 Urban growth and form Urban growth and form B2.2.1. <i>Development capacity and supply of land for urban development</i> Objectives 1- 5 <i>Development capacity and supply of land for urban development B2.2.2</i> Policies 1-3 <i>Quality compact urban form B2.2.2</i> Policies 4-8	<ul style="list-style-type: none"> • Enabling a quality compact urban form • Urban growth is primarily accommodated within the 2016 urban area. • Sufficient development capacity and land supply is provided. • Urbanisation is contained within the Rural Urban Boundary (RUB) • Development of urban land is integrated with infrastructure.
	B2.4 Residential Growth Objectives B2.4.1 Residential growth 1-5 B2.4.2 Policies 1-7	<ul style="list-style-type: none"> • Residential growth supports a quality compact urban form • Residential areas are attractive • Land in and near centres and transport corridors is focus for residential intensification. • Increase in housing capacity and choice • Non- residential activities provided.
	B2.5 Commercial	

Relevant Act/ Policy/ Plan	Section	Summary of Matters
	and industrial growth B2.5 .1 Objectives 1-3 B2.5.2 Policy 1	<ul style="list-style-type: none"> • Employment, commercial and industrial opportunities meet demands • Commercial growth in centres. • Industrial growth enabled.
	B2.6. Rural and coastal towns and villages B2.6.1. Objectives	<ul style="list-style-type: none"> • Growth and development of rural and coastal towns and villages avoids elite soils and where practicable prime soils.
Auckland Unitary Plan-Regional Coastal Plan	N/A	
Auckland Unitary Plan – district provisions	H19. Rural zones ^[SEP] H19.2 Objectives & Policies-all rural zones H19.2.1 Objectives- general rural H19.2.2 Policies	<ul style="list-style-type: none"> • Elite soil is protected and prime soil is managed for potential rural production. • Rural lifestyle development avoids fragmentation of productive land.
	H19. Rural zones H19.2.3 Objectives- rural character, amenity and biodiversity values	<ul style="list-style-type: none"> • The character, amenity values and biodiversity of rural areas is maintained or enhanced.
	H19.2.4 Policies H19. Rural zones H19.2.5 Objectives – rural industries, rural commercial services and non-residential activities H19.2.5 Policies	<ul style="list-style-type: none"> • Rural production activities are supported by appropriate rural industries and services. • The character, intensity and scale of rural industries and services are in keeping with the character of the relevant rural zone. • Industries, services and non-residential activities of an urban type and scale unrelated to rural production activities should not be located in a rural zone.
	H19.3 Rural – Rural Production Zone H19.3.2 Objectives H19.3.3. Policies	<ul style="list-style-type: none"> • A range of rural production, rural industries, and rural commercial activities take place in the zone. • The productive capacity of the land is maintained and protected from inappropriate subdivision, use and development.
	H19.4 Rural – Mixed Rural zone H19.4.2 Objectives	<ul style="list-style-type: none"> • The continuation of rural production and associated non-residential activities in the zone is not adversely affected by

Relevant Act/ Policy/ Plan	Section	Summary of Matters
	H19.4.3 Policies	<p>inappropriate rural lifestyle activity.</p> <ul style="list-style-type: none"> Rural character and amenity values are maintained.
	<p>H19.5 Rural – Rural Coastal zone H19.5.2 Objectives H19.5.3 Policies</p>	<ul style="list-style-type: none"> Rural production activities are enabled while managing adverse effects on rural character and amenity values, landscape, biodiversity values and Mana Whenua cultural heritage values. Recreational and local non-residential services are enabled where they maintain and enhance the zone’s rural and coastal character, amenity values, landscape and bio-diversity values. Buildings do not detract from rural and coastal character and amenity values Rural lifestyle subdivision is limited. The significant relationship between land, freshwater bodies and the coastal marine area and their contribution to Auckland’s rural and coastal character is maintained and enhanced. Recognise differences in coastal character
	<p>H19.6 Rural – Rural Conservation zone H19.6.2 Objectives H19.6.3 Policies</p>	<ul style="list-style-type: none"> The natural character, landscape and distinctive environmental values of the zone are recognised and protected. The zone’s values are maintained and enhanced. Existing activities provided for but future development is limited. Buildings and structures are unobtrusive within the natural landscape.
	<p>H19.7 Rural – Rural Countryside Living zone H19.7.2 Objectives H19.7.3 Policies</p>	<ul style="list-style-type: none"> The land is used for rural lifestyle living and small-scale rural production Rural character, amenity values, water quality, ecological quality, historic heritage values and the efficient provision of infrastructure is maintained. Development does not compromise ability of adjacent zones to be used for appropriate activities. The type and nature of activities are

Relevant Act/ Policy/ Plan	Section	Summary of Matters
		restricted to those appropriate for smaller site sizes.

34. The regional policy statement (RPS) objectives and policies that are relevant to PC20 are identified in Table 4 above. In respect of the regional policy the PC20 is considered to give effect to objectives and policies that aim to ensure the protection of elite soils and the prevention of non-rural activities on such soils. The PC20 is also consistent with and gives effect to those objectives and policies that seek to contain urban type development within the Rural Urban Boundary, towns and rural and coastal towns and villages.

35. PC20 is, in my opinion, not inconsistent with the RPS for the following reasons:

- It further protects soils.
- It gives effect to the directive objectives and policies of the RPS
- It addresses issues relating to non-rural activities within rural zones.
- It assists in maintaining the integrity of the RUB

5.5. Other relevant legislation

36. In considering a plan change, a territorial authority must consider any regulation that is relevant to a regional or district plan change. It is considered that no other regulations or legislation is relevant.

5.6. The Auckland Plan

37. In considering a plan change, a territorial authority must have regard to plans and strategies prepared under other Acts.

38. The Auckland Plan, prepared under section 79 of the Local Government (Auckland Council) Act 2009 is a relevant strategy document that council should have regard to in the preparation of PC20.

39. The previous 2012 Auckland Plan has now been superseded by the 2018 Auckland Plan. A number of the outcomes identified in the Auckland Plan are relevant to PC 20. These have been summarised on Table 5 below.

Table 5 Relevant sections of the Auckland Plan

Relevant Act/ Policy/ Plan	Section	Matters
Auckland Plan	Outcome Homes and Places	Direction 1 – Develop a quality compact urban form to accommodate Auckland’s growth.
Auckland Plan	Outcome Homes and Places	Focus Area 4 – Invest and support Maori to meet their specific housing aspirations.
Auckland Plan	Development Strategy	How Auckland will grow and change – a quality compact approach; Rural productivity and character can be maintained – encouraging growth within urban areas helps to protect rural environments from urban encroachment, and maintain the productive capacity of the land and its rural character. Supporting rural production

		<p>Residential development in rural zones will be limited. Provision for residential growth will be focussed in the existing countryside living zone.</p> <p>Rural Auckland ...Rural lifestyle will be focused into those areas zoned as countryside living</p> <p>To ensure that rural production can continue and develop, land fragmentation and reverse sensitivity must be minimised to safeguard Auckland's land and soil resources, particularly elite and prime soils.</p>
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5.7. Any relevant management plans and strategies prepared under any other Act

40. The following relevant plans and strategies are considered relevant.

Relevant Act/ Policy/ Plan	Section	Matters
Ngaa Tikanga o Ngaati Te Ata Tribal Policy Statement	6.2.5	Need to build housing on land owned by Ngaati Te Ata or on adjacent land
Kawerau A Maki Trust Resource Management Strategy	4.1	Papakainga and Marae
Waikati-Tainui Iwi Management Plan 2013	13	Papakainga and Marae

6. CONSULTATION

41. An invitation to consult on the plan change was extended to all Iwi within the Auckland region which had rural zoned land within their Rohe. Nga Maunga Whakahii o Kaipara indicated a wish to be consulted. The s32 indicated in response that Nga Maunga Whakahii o Kaipara generally supported PC20.
42. Consultation also occurred with the Independent Maori Statutory Board of the Auckland Council. The board sought that Papakainga on general rural land be made a discretionary activity. The Council did not include a specific discretionary activity status for such papakainga.
43. Consultation was also undertaken with the Rodney and Franklin Local Boards. Both boards indicated that they supported PC20.
44. A summary of consultation undertaken in preparation of PC20 is provided in the 'Section 32' evaluation report, attached as **Appendix 2** to this report.

7. NOTIFICATION AND SUBMISSIONS

7.1. Notification details

45. Details of the notification timeframes and number of submissions received is outlined below:

Date of public notification for submissions	21 March 2019
Closing date for submissions	18 April 2019
Number of submissions received	231
Date of public notification for further submissions	20 June 2019
Closing date for further submissions	4 July 2019
Number of further submissions received	10

46. There were 4 late submissions. These were all received within 6 days of the closing date. Acting under delegated authority officers have waived the original time limit in accordance with s37 of the Resource Management Act 1991.

47. In addition there was a single late further submission in support of 6 submissions received on 17 September from Oak Hill Vineyard Limited (FS11). The further submitter states that a submission was made online in time but it was not received by the Council (A check of the Council computer system confirmed that a submission was not received). It will therefore be necessary for the Commissioners to determine whether to accept the late further submission at the start of the hearing. The agent for the submitter (Tracey Morse of Envivo Consultants) has provided the following request for consideration by the Commissioners;

In relation to the matters that may be considered when determining a request for timeframe waiver, it is noted that, in accordance with Section 37A(2)(b) of the RMA, it is requested by the submitter to extend the timeframe by more than twice the statutory timeframe amount.

With regards to Section 37A(1) of the RMA, the following is noted:

- The submission does not seek an outcome different to those already received in relation to this plan change (in this instance, the removal of Rule H19.8.1(AA1) for activities not otherwise provided for);*
- It provides additional perspective to those submissions received that also request the removal of Rule H19.8.1(AA1) for Council's consideration, thus providing a more well- rounded assessment of the impact on the rural community of the addition of this rule to the AUP: OIP; and*
- While this submission will be received well after the close of both the request for submissions and for further submissions, this was through no fault of the submitters. A sincere attempt to make the submission via Council's online system was undertaken, and, for whatever reason, was subsequently not received by Council. Immediate action was taken by the submitters agent once they became aware that the submission was not received by Council. Contact made with Council the day the matter was discovered, and the further submission provided 3 working days after receipt of advice from Council on the most appropriate means to do so.*

It is acknowledged that the decision as to whether Council will agree to extend the timeframe for this late further submission will be made by the Commissioners at the

hearing, and that there is no guarantee that agreement to extend the timeframe will be provided.

48. Copies of the submissions and further submissions are attached as **Appendix 4** to this report.

8. LEGAL AND STATUTORY CONTEXT RELEVANT TO SUBMISSIONS

49. A number of submissions are considered to go beyond the scope of PC20 and are considered to be not on the plan change. The High Court in Palmerston North CC v Motor Machinists Ltd approved the test set out in Clearwater Resort Ltd v Christchurch City Council which set out the requirements for a submission to be 'on' a plan change. There are two requirements that should be met.

- a. Submissions must reasonably be said to fall within the ambit of the plan change.
- b. Is there a real risk that that persons directly or potentially directly affected by the additional changes proposed in the submission have been denied an effective opportunity to respond to those additional changes.

50. There are a number of submissions that seek to rezone land or apply the changes in PC20 to other zones not identified in the plan change. It is considered that these submissions on not 'on' the plan change and cannot be accepted. This report identifies these submissions in the body of the report.

9. ANALYSIS OF SUBMISSIONS AND FURTHER SUBMISSIONS

51. The following sections address the submissions received on PC20. It discusses the relief sought in the submissions, and makes recommendations to the Hearing Commissioners.

52. Submissions that address the same issues and seek the same relief have been grouped together in this report under the following topic headings:

- Submissions supporting PC20 in its entirety
- Submissions opposing PC20 in its entirety
- Submissions requesting changes to PC20 – Activities
- Submissions requesting changes to PC20 - Residential
- Submissions requesting changes to PC20 – Papakainga
- Specific or site related submissions

9.1.1. Submissions supporting PC20 in its entirety

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Planners Recommendation
1	Ruth Minton	Accept the plan modification	FS6, FS9	Accept
2	Macauley Sei	Accept the plan modification	FS9	Accept
13	Gi-Jun Oh	Accept the plan modification	FS9	Accept
15	Barry Potter	Accept the plan modification	FS9	Accept
20	Alistair Watts	Accept the plan modification	FS6, FS9	Accept
41	Chan Hon	Accept the plan modification	FS9	Accept

44	Lanzhong Zhao	Accept the plan modification	FS9	Accept
47	Ace Jie Lin	Accept the plan modification	FS9	Accept
48	Ian John Smith	Accept the plan modification	FS9	Accept
49	Jason W & Maggie W Trustee Ltd	Accept the plan modification	FS9	Accept
50	Daniel Lord	Accept the plan modification	FS6, FS9	Accept
51	Jianyu Chen	Accept the plan modification	FS9	Accept
55	Qiyuan Zhang	Accept the plan modification	FS6, FS9	Accept
60	Marie Van Es	Accept the plan modification	FS6, FS9	Accept
62	Bing Tong	Accept the plan modification	FS1, FS6	Accept
72	Xiao Huihui Trustee Company Ltd	Accept the plan modification	FS6, FS9	Accept
79	Creswell Randolph John Hartnett and Sheryl Diane Hartnett	Accept the plan modification	FS6, FS7, FS9	Accept
112	Barbara Lynn Shoop Chatfield	Accept the plan modification	FS9	Accept
132	Jennifer Brewerton	Accept the plan modification	FS9	Accept
156	Clevedon Cares Inc	Accept the plan modification	FS6, FS9	Accept
171.1	Karaka Centre Ltd	Accept the plan modification		Accept
189.1	Ministry of Education	Accept the plan modification		Accept
207	Federated Farmers of New Zealand	Accept the plan modification	FS6, FS9	Accept
213	Aggregate and Quarry Association and Straterra	Accept the plan modification	FS9	Accept
216	John Gilbert Strachan	Accept the plan modification	FS9, FS9	Accept
226	Maurice Teague	Accept the plan modification	FS9	Accept
227	Almighty Investments Ltd	Accept the plan modification	FS9	Accept
229	Vinko Holdings Ltd	Accept the plan modification	FS6, FS9	Accept
230	Keiron John McDonnell and Kevin Neil Wilson	Accept the plan modification	FS6, FS9	Accept

	and Lynsie Walsh-McDonnell			
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Discussion

53. These submissions all support PC20. It is considered that subject to any changes set out subsequently in this report these submissions should be accepted.

Recommendations on submissions

54. That submissions **1, 2, 13, 15, 20, 41, 44, 47, 48, 49, 50, 51, 55, 60, 62, 72, 79, 112, 132, 156, 171.1, 189.1, 207, 213, 216, 226, 227, 229** and **230** be accepted subject to changes recommended on other submissions below, for the following reasons:

- The submissions support the proposed plan change and subject to other changes recommended below PC20 is considered to be the most appropriate means of giving effects to the objectives and policies of the AUP.

55. There are no amendments associated with this recommendation.

9.1.2. Submissions Opposing PC20 in its entirety

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Planners Recommendation
4	Ken Boler	Decline the plan modification		Reject
5	Deliford Investment Ltd	Decline the plan modification		Reject
6	Grant David Ford	Decline the plan modification		Reject
7	Erica Hackett	Decline the plan modification		Reject
8	Julia Puka	Decline the plan modification		Reject
9	Rosemary Wilkinson and Raymond Allen	Decline the plan modification		Reject
10	Jacques Imbeau	Decline the plan modification		Reject
11	Bryce Catchpole	Decline the plan modification		Reject
12	Ningning Li	Decline the plan modification		Reject
14	Josephine Gray	Decline the plan modification		Reject
16	Raewyn Norton	Decline the plan modification		Reject
17	Ben Wolmarans	Decline the plan modification		Reject
18	Carl Bigley	Decline the plan modification		Reject
19	Warren John Brown and Jill Pauline Brown	Decline the plan modification		Reject
22	Yankai Chen	Decline the plan modification		Reject

23	John Andrew Germain	Decline the plan modification		Reject
24	Stephen and Julie Waddell	Decline the plan modification		Reject
25	Janet Phuah	Decline the plan modification		Reject
26	Ben Jones	Decline the plan modification		Reject
28	Christopher Richard Welch	Decline the plan modification		Reject
29	Richard Brown	Decline the plan modification		Reject
31	Linda Isbister	Decline the plan modification		Reject
32	Robert Grahame de Clive-Lowe	Decline the plan modification		Reject
33	Gary Running	Decline the plan modification		Reject
34	Tony Fraser Mansell	Decline the plan modification		Reject
35	Bryan Greenwood	Decline the plan modification		Reject
36	Y N Chang	Decline the plan modification		Reject
38	Sherbrook Farm	Abandon the plan change completely		Reject
40	Di Sun	Decline the plan modification		Reject
42	Katrina Marie Stuart	Decline the plan modification		Reject
46	Dougal Garland Harding	Decline the plan modification		Reject
52	Russell Laurence Vincent	Decline the plan modification	FS2	Reject
53.1	Kathleen Matilda Vitasovich SKNV Trust	Decline the plan modification		Reject
54	Leigh Shaw	Decline the plan modification	FS6	Reject
58	Shane Cornell Paki	Decline the plan modification		Reject
61	Noni Bruce Burnett	Decline the plan modification	FS6	Reject
63	Kumeu Property Ltd	Decline the plan modification	FS3, FS6	Reject
64	F Boric and Sons Ltd	Decline the plan modification	FS6	Reject
65	Berislav Stulich	Decline the plan modification		Reject
67	Adria Properties Ltd	Decline the plan modification		Reject
68	Shu-Cheng Chen	Decline the plan modification		Reject
69	Raymond	Decline the plan modification		Reject

	O'Brien			
70	Lee Sutton	Decline the plan modification		Reject
73	Justin James Cook	Decline the plan modification		Reject
74	Sunny Sun	Decline the plan modification		Reject
75	Edgar Reichardt	Decline the plan modification		Reject
76	John Paul Browne	Decline the plan modification		Reject
78	John Buchanan	Decline the plan modification		Reject
80	Glen Liddington	Decline the plan modification		Reject
81	Aaron Cunningham	Decline the plan modification		Reject
83	Robert Sutton	Decline the plan modification		Reject
84	Brandon Lancaster	Decline the plan modification		Reject
85	Tony Dickson	Decline the plan modification		Reject
86	Rishi Vaswani	Decline the plan modification		Reject
87	Marc Whinery	Decline the plan modification		Reject
88	Alan William Tasker	Decline the plan modification		Reject
89	Blayne Peacock	Decline the plan modification		Reject
90	Nicholas Jon Berry	Decline the plan modification		Reject
91	Victoria O'Brien	Decline the plan modification		Reject
92	Chris Mavius	Decline the plan modification		Reject
93	Gerald Baustista	Decline the plan modification		Reject
94	Brent Jamieson	Decline the plan modification		Reject
95	Accent Gifts and Prints Ltd	Decline the plan modification		Reject
97	George and Mara Vitasovich	Decline the plan modification		Reject
98	David James Palmer	Decline the plan modification		Reject
99	Mark Illingworth	Decline the plan modification		Reject
100	Andrew Potter	Decline the plan modification		Reject
101	John O'Grady and Kevin O'Grady	Decline the plan modification		Reject
103	Tony Ross	Decline the plan modification		Reject

	Timms			
104	Transport Assistance Ltd	Decline the plan modification		Reject
106	Jon Snowden	Decline the plan modification		Reject
107	John Coleman	Decline the plan modification		Reject
109	Calvin Chew	Decline the plan modification		Reject
110	Nathan Murray	Decline the plan modification		Reject
113.1	Birch Surveyors Ltd	Decline the plan modification	FS6	Reject
114	Andrew James Keith	Decline the plan modification		Reject
115	Radiata Properties Ltd	Decline the plan modification		Reject
118.1	Thomas James Benedict Holdings	Decline the plan modification		Reject
119.1	Independent Maori Statutory Board	Decline the plan modification		Reject
120	Kathleen Stead	Decline the plan modification		Reject
121	Dale Badham	Decline the plan modification		Reject
122	Andrew and Hayley Duncan	Decline the plan modification		Reject
123	Leon Law	Decline the plan modification		Reject
124	John Tiongco	Decline the plan modification		Reject
125	Gregory Harold Yound	Decline the plan modification		Reject
126	Paul Talijancich	Decline the plan modification		Reject
127	Mark Eisig	Decline the plan modification	FS6	Reject
128	Paulette Talijancich	Decline the plan modification		Reject
129	Kaki and Grove Family Trust Partnership	Decline the plan modification		Reject
130.1	Chelsea Babra Tarati	Decline the plan modification		Reject
133	Lorenzo Jay Marari Tarati	Decline the plan modification		Reject
134	Olivia Troost	Decline the plan modification		Reject
135	Christopher Brian Alexander	Decline the plan modification		Reject

136	Hamish David Bell	Decline the plan modification		Reject
137	Yiping Lin	Decline the plan modification		Reject
138	Fangqin Wang and Cheng You	Decline the plan modification		Reject
139	Samuel Roger Williams	Decline the plan modification		Reject
140	Joe Gock	Decline the plan modification		Reject
141	Chris Young	Decline the plan modification		Reject
142	Ian Albert Bailey and Leigh Mary Bailey	Decline the plan modification		Reject
143	Jacqueline Suzanne Julian	Decline the plan modification		Reject
145	Stephen Rex Forest	Decline the plan modification		Reject
146	Michael John Phillips	Decline the plan modification		Reject
147	Greard Piaggi	Decline the plan modification		Reject
148.1	Kent Baigent	Decline the plan modification	FS3, FS6	Reject
149.1	University of Auckland	Withdrawal of the plan modification or similar		
149.2	University of Auckland	Any consequential changes		
150.1	Pipers Limited Partnership	Decline the plan modification	FS6, FS9	Reject
150.4	Pipers Limited Partnership	Consequential amendments		
151.1	The Gibb Foundation	Decline the plan modification	FS9	Reject
152.1	Waiiti Headwaters Ltd	Decline the plan modification	FS6, FS9	Reject
153	Michael Ng	Decline the plan modification		Reject
154	Bria Property Trust	Decline the plan modification		Reject
155.1	Q Invest Company Ltd	Decline the plan modification	FS6, FS9	Reject
155.2	Q Invest Company Ltd	Any consequential amendments	FS6, FS9	Reject
157	Alexander Stuart Wolfe Murray	Decline the plan modification		Reject
158	Shelly Stevens	Decline the plan modification		Reject
159	Tracey Gee	Decline the plan modification		Reject
162	Heather	Decline the plan modification		Reject

	Hernandez			
163	Huntermville Estate	Decline the plan modification		Reject
164.1	Strategic Property Network	Decline the plan modification		Reject
165	Tyler Schwagler	Decline the plan modification		Reject
166.1	S M Mackay	Decline the plan modification	FS6	Reject
166.2	S M Mackay	Consequential amendments	FS6	Reject
167.1	S C McIntyre	Decline the plan modification	FS3, FS6	Reject
167.2	S C McIntyre	Consequential amendments	FS3, FS6	Reject
168.1	J B Wheeler	Decline the plan modification	FS6	Reject
168.2	J B Wheeler	Consequential amendments	FS6	Reject
169.1	WS Wheeler	Decline the plan modification	FS6	Reject
169.2	WS Wheeler	Consequential amendments	FS6	Reject
170.1	A A Wheeler	Decline the plan modification	FS6	Reject
170.2	A A Wheeler	Consequential amendments	FS6	Reject
172	Warren Judd	Decline the plan modification		Reject
173	Elaine Maree Spring-Rice	Decline the plan modification		Reject
174	Steve Trevor Spring-Rice	Decline the plan modification		Reject
175	Kate Keane	Decline the plan modification		Reject
176.1	John Ramsey	Decline the plan modification	FS6, FS9	Reject
176.2	John Ramsey	Consequential amendments	FS6, FS9	Reject
177	Debbie White	Decline the plan modification	FS6	Reject
178.1	Wayne and Michelle Davies	Decline the plan modification	FS6	Reject
186	Joy Calway	Decline the plan modification		Reject
188.1	Brooklands TMT Partnership	Decline the plan modification		Reject
190.1	Pakari Ltd	Decline the plan modification	FS3	Reject
191	The Surveying Compant	Decline the plan modification	FS9	Reject
192	Hunua, Ararimu and Papparimu Valleys Residents Association	Decline the plan modification	FS6, FS9	Reject
193	Luke Sullivan	Decline the plan modification	FS6, FS9	Reject
194	Jeram and Laxmi Bhana	Decline the plan modification	FS6, FS9	Reject
195	Balle Bros Group	Decline the plan modification	FS3, FS6, FS9	Reject
196	PPJ and VP Sain	Decline the plan modification	FS6, FS9	Reject

197	P Sain and C Powell	Decline the plan modification	FS6, FS9	Reject
198	Chanel Hargrave	Decline the plan modification	FS6, FS9	Reject
200	Heritage Collection Waitakere Estate	Decline the plan modification		Reject
202	Ken Gordon	Decline the plan modification		Reject
203	Alice Grayson	Decline the plan modification		Reject
205	Anthony van Osenbruggen	Decline the plan modification		Reject
206.1	Alex Schenz	Decline the plan modification		Reject
211	John Cameron Stokes	Decline the plan modification		Reject
212	Lindsay McPhun	Decline the plan modification		Reject
215	Chris Gee	Decline the plan modification		Reject
217	Douglas Alexandre Sheldon	Decline the plan modification		Reject
218	Alistair Haskett	Decline the plan modification		Reject
219	Melanie Moylan	Decline the plan modification	FS6	Reject
220	Gary Beavis	Decline the plan modification		Reject
221	Alexander Shapcott	Decline the plan modification		Reject
224	Charles Wedd	Decline the plan modification	FS6, FS10	Reject
228	Jim Yingming Zhao and Huci Zhang	Decline the plan modification		Reject

Discussion

56. There are number of general sets of reasons for the opposition to PC20 identified in the submissions. This report has attempted to group these concerns into topic headings. These are discussed below.

Cost and Time Delays

57. Various submissions are concerned that the change in activity status from discretionary to non-complying will cause additional costs and time delays due to the additional resource consents required.

58. I consider that there is the possibility of some additional costs as a result of this plan change to resource consent applicants but this is difficult to quantify. However even with discretionary activity applications (i.e. the current situation) there are costs of making a resource consent application. Accordingly the possible additional costs resulting from PC20 will not result from the difference between making a discretionary activity

application verses a non-complying activity application. These possible costs are difficult to quantify, as costs will vary from case to case. In my experience the main regulatory cost associated with resource consent applications relates to whether they are notified or not as the s104 assessment under categories of consent are the same.

59. Notification of any application relates chiefly to the level of environmental effects generated rather than the actual activity status although there is a preclusion of public notification of discretionary activities relating to residential activities. In s95(6) of the RMA 'Residential Activity' is defined as relating to dwelling houses. Any other sort of discretionary residential activity presumably is not precluded from public notification. It is considered that while PC 20 raises the possibility of more costs it will not result in considerably more costs simply because of the change in activity status.
60. In preparing and considering an application for a non-complying activity it is necessary to consider the "gateway tests" in s104D of the RMA. The test relates to the scale of effects (i.e. minor) and whether a proposal is contrary to the relevant plan objectives and policies. While reporting on the tests does take some additional work in the preparation of a consent application, in most cases the actual assessment of effects and consideration of objectives and policies will have to take place in preparing a discretionary activity application which does not have the tests. In my view there is likely to be only a small difference in the scale of work in preparing most non-complying activity consent applications versus a discretionary activity consent application for the same proposal.

Excessive Regulation

61. Many submissions are concerned that the changes proposed amount to excessive regulation and people in rural areas should be able to do what they wish with their land. The changes proposed do not change the need to obtain a resource consent for those activities not included within the activity table, the plan change relates only to the activity status of those activities. Any resource consent application (whether it be for a discretionary activity or a non-complying activity) is required to be assessed in accordance of s104 of the RMA and PC20 does not change this. It is not considered that this amounts to excessive regulation compared with the existing situation.

Barrier to Innovation

62. Several submissions raise the issue that making it harder to get consent for activities not provided for, will prevent innovation from occurring and prevent some activities that may well be appropriate within the rural zones. I consider that these submissions raise legitimate concerns.
63. There is some debate however just how much difference there is between discretionary activities and non-complying activities. Non-complying activities are required to pass one of the gateway tests in section 104D of the Act (i.e. the adverse effects on the environment will be minor or the activity will not be contrary to the objectives and policies of the relevant plans) before assessment under s104. Otherwise the same discretion is given to the Council in respect of resource consent applications both discretionary and non-complying.
64. There may be two areas that make non-complying activities more stringent than discretionary activities. Firstly there is a general perception, some times reinforced by the Environment Court, that non-complying activities should be subject to greater assessment than other activity types. For example in *Mighty River Power Ltd v Porirua City Council* [2012] NZEnvC 213 the Court held that;

Non-complying activity status is a way for a council to signal that activities will be subject to a greater degree of scrutiny and indicates to the community areas where some activities are unlikely to be appropriate.

65. In practice however the number of applications that are actually refused consent are very small. In a 2009 study² it was established in 2007-08 only 285 resource consents were refused consent out of a total of 51960 applications across New Zealand. The study did recognise that there is an argument that non-complying activity status itself has a deterrent value and is effectively preventing applications for resource consents being made for activities that might generally be considered inappropriate. The study was unable to quantify this.
66. Secondly the decision of the Supreme Court in *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38 raised the importance of directive objectives and policies in plans. This may have the effect of making it more difficult to pass the objective and policy test of s104D for activities that are clearly contrary to those objectives.
67. In practice however it is unlikely that activities that have limited adverse effects on the environment will be restricted by PC20. However I consider that the use of the non-complying activity status is appropriate where there are directive objectives and policies, particularly those that aim to prevent activities from occurring (i.e. on elite and prime soils).
68. Given this discussion I consider that the change in activity status will not unduly affect activities with benign environmental effects but it will act to deter, and to enable the Council to refuse consent to activities that may have significant adverse effects on the environment or are contrary to the objectives and policies of the AUP.

Activities required in rural area

69. A number of submissions are concerned that the activities that may be restricted by PC20 are desirable to have in the rural areas. These include activities such as visitor accommodation, wedding venues and retirement villages.
70. An examination of rural zones shows the following. PC20 will have no impact on visitor accommodation as this activity has the activity status defined in the activity table (A34) for all zones. This is not changed by PC20.
71. PC20 will change the activity status of retirement villages from discretionary to non-complying, as these activities are not provided for in the activity table. In respect of retirement villages I consider that this is reasonably consistent with the other activities provided for in the rural zones given the existing non-complying activity status for multiple dwellings on rural lots.
72. Wedding venues could arguably fall within the definition of restaurants and cafes, which are provided for as discretionary activities in the Mixed Rural Zone and the Rural Production Zone. If this is the case, PC20 does not impact on such venues as their activity status is already determined by the activity table, and are not an activity not provided for.

Existing activities

² Dave Serjeant Status Report: Is the non-complying activity redundant? RMJ November 2010

73. A number of submissions express concerns about the change proposed in activity status will have on existing activities. Existing activities will not be affected by this proposal provided they have been legally established, as they will have existing use rights. PC20 will only impact on such activities if they wish to expand. Existing use rights are governed by s10 of the RMA. This section provides for legally established activities to continue provided the effects are the same or similar in character, intensity and scale to those that existing before the rule became operative or the proposed plan was notified. I consider that this section gives flexibility for such activities to change and evolve over time provided the effects are the same or similar. PC20 will not require existing uses to cease.
74. A number of submissions are also concerned about the effects the changes will have on a wide range of activities that can be described as being accessory to farming. The introduction to the activity table (H19.8 Activity Table) makes it clear that the status of activities also applies to new buildings including accessory buildings that are needed to accommodate or facilitate the activity. For example farming is a permitted activity in all the rural zones. Buildings and structures such as barns and sheds necessary for farming are therefore also permitted activities. I consider that PC 20 will not change this. However a change to the plan to clarify a related matter to this is recommended in section 9.1.3 below.

Economic use of land

75. A number of the submissions are concerned that the changes will limit their ability to make economic use of their land. This is particularly the case for those smaller land holdings such as lifestyle blocks. The first point that I note here is that PC20 does not impact on the ability to undertake home occupation level activities on rurally zoned land. Home occupations that comply with rule H19.10.13 are provided for as permitted activities in all rural zones. Where these activities do not comply with H19.10.13 they currently are listed as non-complying. PC20 does not alter this.
76. There is a range of activities that are provided for as discretionary activities in the activity table including visitor accommodation and commercial activities in most zones. Given this range of activities already provided for, I consider that the change to non-complying status to unlisted activities will not have a significant impact. As noted above activities not listed will still be able to be applied for and potentially gain consent under the RMA provisions relating to non-complying activities.

Inadequacies in the s32 report

77. There are a number of submissions that raise concerns about the adequacy of the s32 report that accompanied PC20. I have made some comments about resource consent application costs above and will not repeat them in this section.
78. One of the significant criticisms of the section 32 report is that many of the activities it has used as examples of inappropriate activities are in fact provided for as discretionary activities and will not be affected by PC 20. Examples of this include;
- Visitor accommodation - (D in Countryside Living, Coastal and Rural Production Zone and RD in Mixed Rural)
 - Dentist – (D in all zones except Conservation zone)
 - Storage in the Mixed Rural Zone (D)

79. In my view this is a deficiency in the s32 report. However the views expressed in the s32 report in respect of the difficulty that the Council has in declining consent to industrial type activities and other activities not provided for remain valid. In addition PC20 has not proposed any change to those activities that are provided for in the Rural zones. In other words PC20 has not gone as far as it might have in amending the activity status of activities provided for in the activity table.
80. Submissions have also suggested that the universal non-complying activity status does not adequately distinguish between the various rural zones which have different objectives and policies. I consider that such a distinction is not necessary for several reasons.
81. Firstly the current discretionary activity status does not change from zone to zone. As each application (whether a discretionary activity or a non-complying activity) will be treated on its merits there is no need to take a different approach in different zones. Secondly the objectives and policies of each zone will generally provide the ability for different approaches to be taken in different zones. This approach of a non-complying activity status for activities not provided for is inconsistent with most other zones as this approach is also used widely in other Chapters of the AUP:OP
82. Overall I have concluded that PC20 is an appropriate response to the concerns raised in the s32 report despite the deficiencies that have been identified in the report. No changes to PC20 are recommended in response to these submissions. PC20 is a relatively simple plan change and it is considered that there are no changes that would assist in giving effect to these submissions, other than rejecting the plan change in its entirety. This is not recommended.

Recommendations on submissions

83. That submission **4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16, 17, 18, 19, 22, 23, 24, 25, 26, 28, 29, 31, 32, 33, 34, 35, 36, 38, 40, 42, 46, 52, 53.1, 54, 58, 61, 63, 64, 65, 67, 68, 69, 70, 73, 74, 75, 76, 78, 80, 81, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 97, 98, 99, 100, 101, 103, 104, 106, 107, 109, 110, 113.1, 114, 115, 118.1, 119.1, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130.1, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 145, 146, 147, 148.1, 149.1, 149.2, 150.1, 150.4, 151.1, 151.2, 153, 154, 155.1, 155.2, 157, 158, 159, 162, 163, 164.1, 165, 166.1, 166.2, 167.1, 167.2, 168.1, 168.2, 169.1, 169.2, 170.1, 170.2, 172, 173, 174, 175, 176.1, 176.2, 177, 178.1, 186, 188.1, 190.1, 191, 192, 193, 194, 195, 196, 197, 198, 200, 202, 203, 205, 206.1, 211, 212, 215, 217, 218, 219, 220, 221, 224 and 228** be rejected for reasons set out in 9.1.2.
84. There are no amendments associated with this recommendation.

9.1.3. Submissions Requesting Changes - Activities

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Planners Recommendation
30.1	Jennifer Shanks	Accept the plan modification with amendments		Reject
30.2	Jennifer Shanks	Amend the definition of 'home occupation' as it pertains to the Rural Zones to exclude inappropriate activities such as car mechanics and purely industrial businesses.		Reject

38.2	Sherbrook Farm	Consider option 3 as outlined in the s32 report		Reject
39.1	S. Clark Nurseries Ltd	Accept the plan modification with amendments	FS6, FS7	Reject
39.2	S. Clark Nurseries Ltd	Amend proposed rule H19.8.1(AA1) to read 'Activities not provided for <u>and activities not based on or related to rural production on elite and prime soils</u> '	FS6, FS7	Reject
43.1	Peter Merton	Accept the plan modification with amendments		Reject
43.2	Peter Merton	Define the term 'productive soil'		Reject
45.1	Rachelle Audrey Millar	Accept the plan modification with amendments		Reject
45.2	Rachelle Audrey Millar	Amend the plan change so that any activity not in the rural activity table that is longer than 3 consecutive days/nights is subject to a resource consent.		Reject
56.1	Royal Forest and Bird Protection Society of New Zealand Inc	Accept the plan modification with amendments		Accept
56.2	Royal Forest and Bird Protection Society of New Zealand Inc	Seeks that the heading 'Use' is removed from Table H19.8.1 and that the non-complying activity rule (AA1) is added as proposed.		Accept
57.1	Glenn William Archibald	Accept the plan modification with amendments		Reject
57.3	Glenn William Archibald	Allow as permitted or restricted discretionary a subsequent separate dwelling(s) as accommodation for other family members or staff members of the Business operated at 755 Linwood Road Papakura		Reject
57.4	Glenn William Archibald	Clarify that historic rights are never to be taken away.		Reject
71.1	Tim Yang	Amend the plan modification if it is not declined		Reject
71.2	Tim Yang	Shooting ranges, clubs and or recreational hunting and shooting must be allowed as primary rural activity.		Reject
77.1	Hugh William	Accept the plan modification	FS5	Reject

	Barid Litchfield	with amendments		
77.2	High William Barid Litchfield	Enable any building to be considered by ordinary building consent without resource consent if only required to enable farm to operate.	FS5	Reject
82.1	Michael Ryu	Accept the plan modification with amendments		Reject
82.2	Michale Ryu	Address commercial development		Reject
82.3	Michael Ryu	Clarify reasons behind banning retirement villages		Reject
82.4	Michael Ryu	Encourage denser housing		Reject
95.1	Allen Douglas Barr	Accept the plan modification with amendments		Reject
95.2	Allen Douglas Barr	More specific details are required to determine what activities will require consent		Reject
102.1	Spark New Zealand Trading Ltd	Accept the plan modification with amendments		Reject
102.2	Spark New Zealand Trading Ltd	Add a note to H19.8.1(AA1) clarifying that it does not apply to Chapter E26.		Reject
105.1	RQ and RX Family Trust	Amend the plan modification if it is not declined.	FS9	Reject
105.2	RQ and RX Family Trust	Retain the discretionary activity status for land use activities not provided for in the Rural – Countryside Living Zone.	FS9	Reject
111.1	H&L Trustee Company Ltd	Amend the plan modification if not declined		Reject
111.2	H&L Trustee Company Ltd	Make any activity not provided for a discretionary activity in table H19.8.1		Reject
113.2	Birch Surveyors Ltd	Retain table H19.8.1 as is with no inclusion of the proposed change regarding 'activities not provided for as a non-complying activity'.		Reject
118.2	Thomas James Benedict Hollings	Amend the plan change so that non listed activities are made discretionary activities		Reject
118.3	Thomas James Benedict Hollings	Amend the plan change so that only activities on a definitive list would be covered.		Reject
118.4	Thomas James Benedict Hollings	Amend the plan change so that the nature and extent of existing use rights are defined.		Reject
				Reject

144.1	Barry Graham Hinton	Amend the plan modification if is not declined.		Reject
148.2	Kent Baigent	Amend the plan change to address the specific resource consent outcomes of the concern relied on in the section 32 assessment	FS3, FS6	Reject
150.2	Pipers Limited Partnership	Seeks withdrawal of the proposed change to Table H19.8.1 and retain table H19.8.1 in its current form, or a similar change that addresses the submission.	FS6, FS9	Reject
151.2	The Gibbs Foundation	Withdrawal of the proposed change to introduce standard (AA1) "Activities not provided for " as a non-complying activity in table H19.8.1.	FS9	Reject
151.3	The Gibbs Foundation	Make specific provision for development associated with permitted activities in table H19.8.1	FS9	Accept
151.4	The Gibbs Foundation	Any subsequent modifications	FS9	Reject
152.2	Waiiti Headwaters Ltd	Table H19.8.1 – Withdrawal of the proposed change and retain table H19.8.1 in its current form, or a similar change that addresses the submission.	FS6, FS9	Reject
160.1	BAA Land Holdings Ltd	Delete the amendment proposed by PPC 20 to Activity Table H19.8.1	FS6, FS9	Reject
160.2	BAA Land Holdings Ltd	Seeks any further or consequential amendments	FS6, FS9	Reject
161.1	Silverdale Estates Ltd	Delete the amendment proposed by PPC 20 to Activity Table H19.8.1.	FS6, FS9	Reject
161.2	Silverdale Estates Ltd	Seeks any further or consequential amendments	FS6, FS9	Reject
164.2	Strategic Property Advocacy Network	Seeks that the Council goes away and prepares better objectives and policies to guide discretionary decisions		Reject
164.3	Strategic Property Advocacy Network	Seeks that non-listed activities will remain/be of discretionary status.		Reject
164.4	Strategic Property Advocacy Network	Seeks that only specified activities on a definitive list would be covered.		Reject
164.5	Strategic	Seeks that the nature and		Reject

	Property Advocacy Network	extent by explanatory note of existing use rights are defined.		
178.2	Wayne and Michelle Davies	Seeks to identify specific activities to which non-complying activity status will apply.	FS6	Reject
178.3	Wayne and Michelle Davies	Seeks to identify a scale of activity as well as specific activities to which non-complying activity will apply.	FS6	Reject
178.4	Wayne and Michelle Davies	Seeks to differentiate activity status between rural zones according to the environmental sensitivity of the zone. For example non-complying activity status may be appropriate for particular activities in the Rural Conservation zone or the Rural Coastal zone but not in the other rural zones.	FS6	Reject
179.1	Arnim Pierau	Seeks that the amendment proposed to PPC20 to activity H19.8,1 be deleted	FS6	Reject
179.2	Arnim Pierau	Consequential amendments	FS6	Reject
180.1	Blue Tides Farm Ltd	Seeks that the amendment proposed to PPC20 to activity H19.8,1 be deleted	FS6	Reject
180.2	Blue Tides Farm Ltd	Consequential amendments	FS6	Reject
181.1	McKergow	Seeks that the amendment proposed to PPC20 to activity H19.8.1 be deleted		Reject
181.2	McKergow	Consequential amendments		Reject
182.1	Snowberry New Zealand Ltd	Seeks that the amendment proposed to PPC20 to activity H19.8,1 be deleted	FS6	Reject
182.2	Snowberry New Zealand Ltd	Consequential amendments	FS6	Reject
183.1	Southern Paprika	Seeks that the amendment proposed to PPC20 to activity H19.8,1 be deleted	FS6	Reject
183.2	Southern Paprika	Consequential amendments	FS6	Reject
184.1	Turners and Growers	Seeks that the amendment proposed to PPC20 to activity H19.8,1 be deleted	FS3	Reject
184.2	Turners and Growers	Consequential amendments	FS3	Reject
185.1	Paul Boocock and Moir Hill	Seeks that the amendment proposed to PPC20 to activity H19.8,1 be deleted	FS6	Reject

	Forestry			
185.2	Paul Boocock and Moir Hill Forestry	Consequential amendments	FS6	Reject
187	Lloyd and Susan Morris	Seeks that status quo in activity table remains.		Reject
188.2	Brookland TMT Partnership	Remove proposed addition to Table H19.8.1 Activity Table – use and development (AA1) “Activities not provided for (Non-Complying)”		Reject
190.2	Pakari Ltd	Remove proposed addition to Table H19.8.1 Activity Table – use and development (AA1) “Activities not provided for (Non-Complying)”	FS3	Reject
204.1	The Askew Partnership	Amend the plan modification if it is not declined.	FS6	Reject
204.2	The Askew Partnership	Amend the plan modification to address only the specific resource consent outcomes of concern relied on in the section 32 assessment at Section 2, Clause 3 (Resource Consent Outcomes).		Reject
206.3	Alex Schenz	Amend the plan modification so that activities in the Rural Conservation zone are non-complying, and activities in all other rural zones are discretionary		Reject
208.1	Lisa Capes	Amend the plan change modification if it is not declined	FS6	Reject
208.2	Lisa Capes	Remove the General Rural and Mixed Rural zones from the plan change and include better objectives and policies around land containing prime soils, prime landscapes and strong conservation values.		Reject
209.1	Beef and Lamb New Zealand	Seek that farming activities not listed in the Rural Activities table nor covered under Permitted, controlled or restricted discretionary rules default to a discretionary activity, and provisions which make these activities under the proposed plan change non-complying are deleted.		Reject
214.1	Andrew Couch	Accept the plan change with modifications		Reject
214.2	Andrew	Amend the plan change to		Reject

	Couch	allow minor dwellings		
222.1	New Zealand Four Wheel Drive Association	Accept the plan modification with amendments		Reject
222.2	New Zealand Four Wheel Drive Association	Ensure that clubs and societies can continue to hold competitive events on rural properties as they have in the past without any more red tape.		Reject
223.1	James Mackenzie, Cynthia Mackenzie, Mackenzie family, Kate Sanders	Amend the proposed table H19.8.1 so that the Activity Status of "AA1 Activities not provided for" in the Rural Coastal Zone only remain as discretionary		Reject
225.1	Heather Ballantyne	Amend the plan modification if it is not declined.		Reject
225.2	Heather Ballantyne	Amend the plan change to support more dwellings/ residential buildings and retirement facilities in the countryside living areas.		Reject

Discussion

85. The submissions above seek changes to the activity table as amended by PC20 as follows (as opposed to deletion of the plan change as a whole).

Deletion of non-complying activity status

86. A number of the submissions request that the change to non-complying activity status for activities not included within the table be deleted. This is essentially the same change as requested in the submissions seeking that the plan change be deleted. Accordingly the matters raised in these submissions are not addressed further in this section as they have been discussed in the proceeding section. Changes requested to the 'residential' wording are discussed separately.

Specific Exemptions

87. A number of submissions seek specific exemptions to the general rule that activities not included within the activity table should become non-complying activities. These requests seek that certain activities become discretionary or permitted activities generally. Activities that are requested include;

- a. Temporary activities (submission 45)
- b. Separate dwellings on 753 Linwood Road, Karaka.
- c. Shooting clubs
- d. Commercial development
- e. Retirement villages
- f. Club activities such as 4 wheel drive clubs;
- g. Other activities on non-defined definitive list.

h. Minor dwellings

88. In respect of temporary activities Chapter E40 of the AUP provides specifically for temporary activities. This chapter provides for up to 6 days a year for temporary activities on private land as a permitted activity. The related development standards provide some reasonable limits on this. I have reviewed these and consider that the Auckland wide rules provide adequately for temporary activities and there is no need to change PC20 in this regard. I also note that PC20 does not specifically relate to temporary activities and accordingly it is questionable whether these submissions are 'on' the plan change.
89. The submission in respect of 755 Linwood is unclear from the submission how this relates to PC20. The site at 755 Linwood is zoned Business – Neighbourhood Centre zone. This site is not subject to the plan change. The submitter is invited to explain the submission further if some other change is sought by the submission but it is considered that this submission is beyond the scope of PC20.
90. Currently shooting clubs are likely to fall within the definition of 'organised sport and recreation' for the activity and 'clubrooms' for any associated rooms. The activity status of these activities are not affected by the plan change as these activities are included within the activity table and accordingly do not become non-complying activities apart from organised sport and recreation in the Rural- Rural Conservation Zone which is provided for specifically.
91. Recreational hunting in rural areas in my view falls under the heading of 'Informal Recreation' which is a permitted activity throughout all the rural zones. These activities are not affected by PC20.
92. The submission from Michael Ryu relates to the area of the submitter's property at 240A Henderson Valley Road. This area is zoned a mixture of Rural-Waitakere Foothills Zone and Single House zone together with some more intensive residential and business zones. These zones are not affected by PC20. For example the Rural – Waitakere Foothills Zone already includes activities not included within the activity table as a non-complying activity.
93. The submission seeks commercial and retirement village type development in the area. This part of the submission is not 'on' the plan change as there are no rural zones in the area identified in the submission.
94. I consider that PC20 is unlikely to affect the operation of four-wheel drive clubs and the like. Informal use of farm tracks etc. for ad hoc club activities falls within the definition of 'informal recreation'. More organised sport events and clubrooms are also covered by other definitions including potentially temporary activities. It is considered that PC20 is not likely to generate more red tape for such clubs.
95. A number of Submissions request that a definitive list of non-complying activities be established rather than the proposed catch all approach in PC 20. While such a list may be able to identify those activities that the Council considers should not be located in the Rural zones, it will not be able to identify new or novel activities. Accordingly under this scenario un-identified activities that may have a greater impact on the environment would be considered discretionary activities, while only those on the list would be non-complying. I consider that this approach would introduce a number of anomalies into PC20 and is not supported.

96. Submissions also seek that PC20 make provision for minor dwellings. PC20 does not change the rules regarding minor dwellings, which are generally provided, throughout the Rural zones.
97. Submission 30 requests that the definition of home occupations, as it pertains to rural zones, be amended to exclude inappropriate activities such as car mechanics and purely industrial businesses. Home occupations in the rural zones are controlled through the definition of 'home occupation', which requires the activity to be secondary to a dwelling use and, by Rule 19.10.13 which contains a number of standards for home occupations.
98. Rule 19.10.13 sets out 10 standards for home occupations in the rural zones. These include the requirement that one person in the occupation reside on site and that no more than two people from off site are employed. The standards also limit vehicle movements (including heavy vehicle movements) and the hours of operation of activities. Such activities are also subject to the AUP noise standards. It is considered that these standards are sufficient to manage the effects of home occupations, yet provide flexibility of use for residents and any change will be beyond the scope of PC20.

Different rules in different zones

99. A number of submissions seek that different approaches are taken in different zones. For example submission 223 requests that activities not included in the table be discretionary activities in the Rural – Rural Coastal Zone. Submission 206 requests that activities in the Rural- Rural Conservation Zone be made non-complying while in other zones the existing discretionary activity status remains.
100. While the different zones have specific objectives and policies, they also share objectives and policies. There is differentiation between the different zones, but in my view it is difficult to conclude that some zones require greater protection than other zones. For example the Rural Conservation zone is concerned with the protection of natural values, but the Rural Production zone is also concerned about protection of elite or prime soils. In view of this I consider that the non-complying activity status may be appropriate for all zones, but for different reasons. I do not consider that a conclusion can be drawn that some zones should be more open to non-rural activities than others.

Non-complying activities should be restricted to non-farming activities only

101. Submission 39 seeks that the non-complying activity status apply to activities not based on or related to rural production on elite and prime soils. I consider that this approach has a number of drawbacks. Firstly it does not recognise other factors such as rural character that is also important in some areas. Secondly the definition of activities related to rural production is difficult to define and even if a good definition is possible, the effects may be quite different for different types of activities. For example a glasshouse, which is related to rural production, may have much greater effects both visually and on the underlying soil, than some activities not related to rural production. In addition I consider that the activity table already makes sufficient provision for farming and production activities (as permitted, restricted discretionary and non-complying activities).

Better objectives and policies

102. A number of submissions request that instead of relying on a non-complying activity status for non-listed activities, that the objectives and policies of the Rural zones be improved so that are stronger about protecting elite and prime soils and conservation values. There is in my view some merit in this argument. Currently there is room within

the objectives and policies for development on elite and prime soils. If these were made stronger the need for a non-complying activity status may be reduced. However the discussion in section 9.1.2 above has identified that the use of the non-complying activity status is useful to signal that such activities are unwelcome while the discretionary status may signal an acceptance of such activities. It is possibly beyond the scope of this report to suggest such changes, as this would essentially require a full re-evaluation of all the objectives and policies of the Rural Zones.

Accessory Development

103. A number of submissions request that specific provision is made within the activity table for development associated with permitted activities. The Rural chapter of the AUP is somewhat unusual in that accessory activities and development is provided for in the introduction to the activity table and not within the activity table itself. Submitters have raised concerns that the introduction of the non-complying clause may cause accessory development to be classed as non-complying. I consider that this concern has some merit, as the non-complying clause relates specifically to activities not included in the activity table (and not the introduction) and is inconsistent with the approach taken in other chapters of the AUP. It is therefore recommended that the introductory clause be moved (with any necessary modifications) to the activity table.
104. Submission 164 appears to request changes to the rural zones in the Waitakere Ranges area. It should be noted that PC20 does not apply to the rural zones within the Waitakere Ranges Heritage Area which have specific rural zones applying. These zones already contain the non-complying activity clause that is proposed to be introduced to other Rural zones in PC20. If this submission is confined to the Waitakere Ranges heritage Area, this submission cannot be on PC20. The submission also requests that existing use rights be defined. Setting aside the fact that there is no change proposed to the provisions relating to the ranges, existing use rights are defined by the RMA and there is no scope to change these through decisions on the plan change.

Format

105. The submission from the Royal Forest and Bird Protection Society, which is generally supportive of PC20, seeks that the term 'use' in the activity table immediately above the row where the new activity is to be inserted be removed. I have reviewed other chapters in the AUP that include the non-complying activity clause for activities not provided for. The residential zones have a heading with the word 'use' as is proposed in PC 20. The business zones use the term 'general' while the Waitakere Ranges simply has the heading 'activities'. It is considered that the term 'general' is most appropriate. The term use could be interpreted as relating to uses only and not to development. 'Activities' has similar interpretative issues. The change requested in this submission is supported to the extent that the heading should be changed to 'General'.
106. The submission from Spark seeks that a cross reference be included clarifying that the new non-complying activity rule does not apply to Chapter E26. Chapter E26 relates to infrastructure. It is considered that such a cross reference is not necessary because each chapter of the AUP is stand-alone and the new rule relates only to the activity table in the Rural Chapter. In addition the other chapters that contain a similar non-complying clause do not have such cross-references and such a cross reference in just this chapter is likely to be confusing.

Residential

107. Submission 225 seeks that the plan change supports more dwellings and residential activities in the Countryside living areas. It is considered that this would be contrary to the current objectives and policies of the rural chapter and for that reason is not supported and is likely to be beyond the scope of PC20.

Recommendations on submissions

108. That submissions **30.1, 30.2, 38.2, 39.1, 39.2, 43.1, 43.2, 45.1, 45.2, 57.1, 57.3, 57.4, 71.1, 71.2, 77.1, 77.2, 82.1, 82.2, 82.3, 82.4, 95.1, 95.2, 102.1, 102.2, 105.1, 105.2, 111.1, 111.2, 113.2, 118.2, 118.3, 118.4, 144.1, 148.2, 150.2, 151.2, 151.4, 152.2, 160.1, 160.2, 161.1, 161.2, 164.2, 164.3, 164.4, 164.5, 178.2, 178.3, 178.4, 179.1, 179.2, 180.1, 180.2, 181.1, 181.2, 182.1, 182.2, 183.1, 183.2, 184.1, 184.2, 185.1, 185.2, 187, 188.2, 190.2, 204.1, 204.2, 206.3, 208.1, 208.2, 209.1, 214.1, 214.2, 222.1, 222.2, 223.1, 225.1 and 225.2** be rejected for the reasons set out in 9.1.3.

109. That submissions 56.1, 56.2 and 151.3 be accepted for the following reasons set out in 9.1.3.

110. The following amendments are associated with this recommendation.

111. That the word ‘use’ in the new row in activity table above (AA1) be deleted and replaced with the word ‘general’ as follows;

Use <u>General</u>

112. Delete the following text within the introductory wording to H19.8 Activity table.

~~The activity status of the activities in the table below also applies to new buildings including accessory buildings that will accommodate or are needed to facilitate the activity.~~

113. Add a new activity to H19.8 activity table as follows.

Activity		Activity Status				
		Rural Conservation Zone	Countryside Living Zone	Rural Coastal Zone	Mixed Rural Zone	Rural Production Zone
<u>(A59A)</u>	<u>New buildings including accessory buildings</u>	<u>The same activity status and standards as applies to the land use activity that the new building is designed to accommodate.</u>				

9.1.4. Submissions Requested Changes - Residential

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Planners Recommendation
27.1	Jody Leigh Stewart	Accept the plan change with amendments		Reject
27.2	Jody Leigh	Do not change ‘rural lifestyle		Reject

	Stewart	development' to 'rural lifestyle dwellings' within H19.7 Rural – Countryside Living H19.7.1 Zone Description.		
53.2	Kathleen Matilda Vitasoch SKNV Trust	Retain reference to 'Residential Buildings' rather than "Dwellings".		Reject
59.1	Moya Anne Kelly	Accept the plan change with amendments		Reject
59.2	Moya Anne Kelly	The types of all residential buildings should be listed so it is totally clear.		Reject
150.3	Pipers Limited Partnership	Seeks withdrawal of proposed amendments referring to residential buildings to residential dwellings.		Reject
130.2	Chelsea Barbra Tarati	Seeks exemptions for caravan, mobile homes and tents.		Reject
152.3	Waiti Headwaters Ltd	Withdraw the proposed amendments in the Rural Chapter referring to residential 'buildings' to residential 'dwellings', or a similar change that addresses the submission.	FS6, FS9	Reject
152.4	Waiti Headwaters Ltd	Any further or consequential changes necessary or appropriate to address the concerns expressed in this submission.	FS6, FS9	Reject
188.3	Brooklands TMT Partnership	Retain existing wording of H19.2.4 Policies – rural character, amenity and biodiversity values, H19.6 Rural – Rural Conservation Zone H19.6.1 Zone description, H19.6.2 Objectives, H19.6.3 Policies and H19.7 Countryside Living H19.7.1 Zone Description or other relief that satisfied the submitter.		Reject
188.4	Brooklands TMT Partnership	Seeks alternative relief that satisfies the submitter.		Reject
190.3	Pakari Ltd	Retain existing wording of H19.2.4 Policies – rural character, amenity and biodiversity values, H19.6 Rural – Rural Conservation Zone H19.6.1 Zone description, H19.6.2 Objectives, H19.6.3 Policies and H19.7 Countryside Living	FS3	Reject

		H19.7.1 Zone Description or other relief that satisfied the submitter.		
190.4	Pakari Ltd	Seeks alternative relief that satisfies the submitter.	FS3	Reject
206.4	Alex Schenz	Amend wording to ‘ ... rural and residential activities, including related dwellings....’		Reject
210.1	James Rex Price and Rosemary Jill Price	Opposes the wording of dwellings in place of residential buildings.		Reject

114. These submissions relate to that component of the proposed change throughout the Rural Zones that seeks to replace the term ‘residential activities’ with the term ‘dwellings’. The purpose of this change is to amend the policy setting from that which has been interpreted as supporting a wide range of residential activities (including retirement villages and the like) to one that is more focussed on dwellings. The submissions largely oppose this change. I consider that this change is consistent with the overall approach of the Rural Zones. As set out in the s32 report the term ‘residential’ is associated with a wide range of activities including integrated residential development and retirement villages. These are not provided for within the Rural zones. The change will act to focus the policies on dwellings (which will include minor dwellings) rather than acting to allow larger urban type residential development.

115. Submission 130 seeks that tents and caravans be exempted from the definition of dwellings. I consider that this change is not practicable as it would also change the status of tents and caravans in other parts of the plan and may lead to unintended consequences elsewhere in the plan. The change proposed in PC20 from ‘residential buildings’ to dwellings’ does not change the status of tents and caravans in the rural zones.

Recommendations on submissions

116. That submissions **27.1, 27.2, 53.2, 59.1, 59.2, 150.3, 130.2, 152.3, 152.4, 188.3, 188.4, 190.3, 190.4, 206.4, 210.1** be rejected for the reasons set out in 9.1.4.

117. No amendments resulting from this recommendation.

9.1.5. Submissions Requested Changes - Papakainga

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Planners Recommendation
57.2	Glenn William Archibald	Seeks that papakainga remains as per Table E20.4.1 (A1) to (A6) under Section 3.5 of Attachment A4 of the PC20 Section 32 Report, and that the existing status remain for papkainga on general title on all of the Auckland rural zones.		Accept in part

116.1	Kirkwood Family Trust	Accept the plan modification with amendments		Accept in part
116.2	Kirkwood Family Trust	Retain discretionary activity status for Papakainga development on Maori lands.		Accept in part
117.1	Ngati Tamaoho Trust	Accept the plan modification with amendments		Accept in part
117.2	Ngati Tamaoho Trust	Retain discretionary activity status for Papakainga development on Maori lands.		Accept in part
119.2	Independent Maori Statutory Board	Seeks that Mana Whenua papakainga development on ancestral lands in general title retain discretionary activity status in the rural zones.		Accept in part
119.3	Independent Maori Statutory Board	Seeks that explicit policy provision be included which makes it clear that Mana Whenua papakainga development on ancestral land is contemplated in the rural zones and is in keeping with the character and amenity values anticipated in the rural zones.		Accept in part
171.2	Karaka Centre Ltd	Amend the table so that papakainga is permitted activity in rural zones.		Accept in part
206.2	Alex Schenz	Amend activity table (H19.8.1) so there is no differentiation between Rule AA1 (H19.8.1) and Papakainga.		Accept in part

118. These submissions concern the provision of Papakainga within rural zones. Currently the activity table H19.8.1 (A55-A57) provides for several Mana Whenua activities including Marae, Urupa and Customary use as discretionary activities and permitted activities. Papakainga on Maori Land is provided for by way of Chapter E20 Maori Land and similarly is provided for on Treaty Settlement Land by way of Chapter E21 Treaty Settlement Land. Currently papakainga on general land is provided for in the rural zones only by way of the default discretionary activity status. The effect of PC20 then is to make Papakainga on general land a non-complying activity. PC20 does not impact on the provision of Papakainga on Maori land and Treaty Settlement land.

119. The AUP does not contain a definition of papakainga however Chapter N Glossary of Maori terms describes Papakainga as 'a settlement or village which has whakapapa connections to the land'. Te Puni Kokiri in its guide to papakainga states that a papakainga refers to a group of houses of 3 or more, on whenua Maori as a community which may include broader support and occupant involvement. In turn 'whenua Maori' can refer to:

- Maori Freehold Land registered in the Maori Land Court as Maori Title; or

- Land in general title where it once was Maori Title; or
- Land in the process of being converted back to Maori title; or
- Land that is considered to be Maori 'customary land' with clear and demonstrated tikanga, history or other matters of significance (for example adjacent to a Marae) meaning it is attached to the ownership and kaitaki of the whanu/hapu.

120. The submissions reference a number of objectives and policies from the RPS including the following;

Policy B6.4.2(1) Provide for papakainga, marae, Maori Customary activities, commercial activities across urban and rural Auckland to support Maori economic, social and cultural well-being.

121. It could be argued that currently, providing for papakainga in the operative AUP is achieved through the current discretionary activity status for papakainga in the Rural zones. Arguably changing this status to non-complying is not consistent with this policy and will result in the district plan giving less effect to the RPS. The counter argument is that the provisions in Chapters E20 and E21 are sufficient to give effect to the RPS. It is also worth noting that the definition of Marae in the AUP includes accessory housing. As Marae are a discretionary activity throughout the Rural Zones some limited housing is provided for as a discretionary activity.

122. In my view the change introduced by PC20 will result in the district plan giving less effect to the RPS.

123. The section 32 report contained an attachment that discussed papakainga housing that took a different view concluding:

... it is considered appropriate that papakainga developments on general rural land be treated as a non-complying activity on the landuse rules for the rural zones in the AUP, on the basis that there is already sufficient provision in the AUP for papakainga on Maori Land, Maori Special Purpose zoned land and Treaty Settlement Land in the Rural zones.

124. While I acknowledge that there is significant land available for papakainga development in rural zones, PC20 does reduce the opportunities for papakainga development compared to the status quo. This appears to be contrary to the direction of the RPS.

125. If papakainga is to remain a discretionary activity in the Rural zones I consider that it should have some policy direction so that any development claiming papakainga status is truly related to the broader concept of whenua Maori. There are several ways in which this could be achieved including providing a policy framework or by providing a strict definition of papakainga that would limit the type of land papakainga could be established on. Given the potential for unintended consequences and a current lack of definition of Papakainga I consider that the most appropriate option is to provide policy guidance by way of a new policy for the rural zones. I consider that the RPS objectives discussed above and Objective H19.2.1(1) (Rural areas are where people work, live and recreate and where a range of activities and services are enabled to support these functions) provide an adequate framework for a specific policy.

126. I have also considered a third option considered in the s32 report. This would maintain the non-complying default as in PC20 but also provide a policy framework for papakainga. I do not support this approach as I consider that it is inconsistent to provide a policy framework supporting non-complying activities. This approach would also be

contrary to the aims of PC20, which seeks to make it more difficult to obtain consent to some activities.

127. In Chapter E20 Maori Land and Chapter E21 Treaty Settlement Land the scale and density of Papakainga are limited to a maximum of 20 houses at a maximum density of 1 house per 4000m² as a restricted discretionary activity. Development in excess of this is a non-complying activity. I consider that if provision is made for Papakainga as a discretionary activity on general land then it is appropriate to carry the same scale limitations into the activity table.

128. I have therefore concluded that it is appropriate to make Papakainga a discretionary activity provided that there is sufficient policy guidance as to the importance of whakapapa in deciding where papakainga are appropriate and in managing scale and cumulative effects of Papakainga.

Recommendations on submissions

129. That submission **57.2, 116.1, 116.2, 117.1, 117.2, 119.2, 119.3, 171.2 and 206.2** be accepted in part for the reasons set out in 9.1.5.

130. The following amendments are associated with this recommendation.

Add two new policies as follows:

H19.2.2 (8)

Enable papakainga on land which is not in Maori Title or on Treaty Settlement Land, only where there is a clear and demonstrated whakapapa relationship of the applicant whanau/hapu to the subject land.

H19.2.2(9)

Papakainga, located on land which is not in Maori Title or Treaty Settlement Land, must be small in scale and avoid the creation of adverse cumulative effects including those resulting from the establishment of multiple settlements in rural areas.

Add a new activity to table H19.8.1 as follows

Activity		Activity Status				
		Rural Conservation Zone	Countryside Living Zone	Rural Coastal Zone	Mixed Rural Zone	Rural Production Zone
<u>(A56A)</u>	<u>Papakainga comprising a maximum 1 dwelling per 4000m² and no more than 20 dwellings per site.</u>	<u>D</u>	<u>D</u>	<u>D</u>	<u>D</u>	<u>D</u>

9.1.6. Specific or site related submissions

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Planners Recommendation
3.1	Glenbrook Rest Home	Amend the plan change as the Glenbrook Rest Home is compliant for 23 residents		Reject
21.1	John Cloebourne	Rezone the immediate area around 189 Pratts Road, Drury to lifestyle/ rural with the ability to have a minimum 2 ha lots.		Reject
37.1	Lanzhong Zhao	Accept the plan modification with amendments		Reject
37.2	Lanzhong Zhao	Seeks a good transportation system to ensure the safety of residents.		Reject
57.5	Glenn William Archibald	Allow for possible future expansion of the Local Business Zone and Rural and Coastal Settlement Zone into the Rural- Rural Production Zone as stretches east and south from 755 Linwood Road.		Reject
66.1	Kenneth Ian Braines	Accept the plan modification with amendments if it is not declined.	FS4	Reject
66.2	Kenneth Ian Braines	Exclude 20 Fowler Access Road, Puhoi from the provisions or give it existing use right recognising its unique location, landscape and infrastructure.	FS4	Reject
108.1	Ross John Taylor and Nicola Mary Taylor	Accept the plan modification with amendments	FS6	Reject
108.2	Ross John Taylor and Nicola Mary Taylor	Tighten up on the definitions so that they are not so weak	FS6	Reject
189.2	Ministry of Education	Retain the existing activity status for education facilities in the Rural Zones subject to the proposed plan change.		Accept
199.1	Preserve the Swanson Foothills Society	Amend PC20 to apply to the Swanson and Henderson Valleys for further protection from unscrupulous development.		Reject
199.2	Preserve the Swanson Foothills Society	Add a rule that states that any activity not provided for in the AUP requires resource consent to be a non-complying activity in the rural zone and we e=request that it applies to		Reject

		Waitakere Ranges Heritage Area.		
199.3	Preserve the Swanson Foothills Society	Amend references to “residential buildings’ to read “dwellings” and request that it also applies to the Waitakere Ranges Heritage Area.		Reject
201.1	Abdul Hafeez	Amend the plan modification if it is not declined.		Reject
201.2	Abdul Hafeez	Exclude the properties which are facing the urban areas or are at the rural urban boundary (RUB) and are clarified in the “District Plan” as “L”.		Reject
231.1	New Zealand Defence Force	A key matter of importance of NZDF is avoidance of reverse sensitivity effects and protection of NZDFs ability to carry the function of maintaining the nation’s security. NZDF wishes to provide this information as a neutral submission.		Accept

131. These submissions concern specific issues or specific sites.

132. Submission 3.1 from the Glenbrook Rest Home seeks that the threshold for rest homes that are listed as permitted activities be amended from 10 persons. I consider that the submitter is incorrect in the assertion that rest homes for up to 10 people are a permitted activity. The AUP provides for ‘care centres’ for up to 10 people as a permitted activity. However rest homes do not fall within the definition of a ‘care centre’ which includes various forms of day care. Supported residential care (which includes rest homes) is specifically excluded from the definition of ‘care centre’. It is therefore considered that the submitter’s request cannot be accepted.

133. Submission 21.1 requests that the area around 189 Pratts Road Drury be rezoned to allow lifestyle use and to have 2ha lots. The site at 189 Pratts Road is a 16ha site that is zoned Rural - Rural Production Zone. It is considered that the submission is not “on the plan change” in that it is seeking a change of zone related to the subdivision potential of the site. PC20 concerns the activity status of various activities in the Rural Zones and not subdivision or the actual zoning of specific properties.

134. Submission 37 seeks that the plan modification be accepted and in addition a good transport system is needed to support the safety of residents. It is considered that improvements to the transport system are beyond the scope of this plan change. In addition the changes requested are not specified in the submission.

135. Submission 57.5 seeks that the AUP allows for possible future expansion of the Local Business Zone and Rural and Coastal settlement Zone in the vicinity of 755 Linwood Road Karaka into the existing Rural Zone. This area is located at the intersection of Kidd Road, Batty Road and Linwood Road and includes the Te Hihi School. As with the submission above I consider that it is beyond this plan change to

change the zoning of land as PC20 concerns activity status and not the allocation of zones.

136. Submission 66 requests that PC20 be declined if it is not modified. The specific modification sought by the submitter is that the site at 20 Fowler Access Road in Wenderholm be excluded from the plan change. The site is a largely bush covered site located above and just to the east of the SH1 tunnels and the northern end of the current northern motorway. The site contains a number of buildings including a large house. It is zoned Rural- Rural Coastal Zone and is subject to the Outstanding Natural Landscape Overlay. The submitter suggests that the site is suitable for a retirement village.
137. Without discussing the merits of the site for a retirement village, which is beyond the scope of this report, it is considered impractical to exclude a specific site from PC20. I consider that the site is not likely to be so unusual that a specific set of provisions is applied to it. In addition the overlay that applies to the site may also affect the ability of the site to be developed for a retirement village. As the site is not being used as a retirement village now it cannot be given existing use rights as requested by the submitter.
138. Submission 108 supports PC20 but seeks that definitions be tightened up. Particularly the submitter appears to be concerned about the definition of dwelling and home occupation. It is considered that changing these definitions are really beyond the scope of the plan change. This is because these definitions are applicable to many other zones besides the rural zones including the residential zones. Amending the definitions without a full s32 analysis and consultation through a plan change is not recommended.
139. Submission 189 from the Ministry of Education seeks that the activity status of education facilities be retained. Education facilities are provided for as a non-complying activity in the Rural Conservation Zone and discretionary activities in the other rural zones. This is not proposed to be changed by PC20 or other submissions.
140. Submission 199 seeks generally to make the changes proposed in PC20 to the Henderson and Swanson Valleys and the Waitakere Ranges Heritage Area. The Swanson and Henderson Valley areas outside of the RUB are generally zoned Rural – Waitakere Foothills Zone. The area is also subject to the Waitakere Ranges Heritage Area Overlay. I have reviewed the Waitakere Foothill zone and I note that it already contains a non-complying activity status for activities not provided for. Accordingly I consider no change is required to make the zones in Swanson and Henderson Valley areas consistent with what is being proposed in PC20. I have also reviewed the Waitakere Foothill use in respect of its use of the term ‘residential buildings’. The zone does not use the term ‘residential building’. Accordingly no change is required to make the zone consistent with PC20 in that respect also.
141. Submission 201 seeks that properties on the Rural boundary of the RUB be excluded from PC20. There are some practical issues with identifying the land just over the RUB. Some sites will be large and others small and the potential for amalgamation of sites exists to enlarge the area that would benefit from the change proposed by the submitter. In addition such an approach is likely to be contrary to a number of regional level objectives and policies around urban growth. For example Objective B2.2.1(2) and (4) are concerned with containing urban growth within the RUB. The approach that is suggested by the submitter is akin to a ‘fuzzy’ RUB which I don’t consider consistent with the objectives set out above which contemplates a hard RUB.
142. Submission 231.1 from the NZ Defence force is concerned about any changes that may change reverse sensitivity effects. I consider that the change from discretionary

activities status to non-complying status for activities not provided for will have no impact on these effects. There are a number of policies concerning reverse sensitivity effects (i.e. H19.2.2(5)) these are normally framed as concerning reverse sensitivity effects on farming activities, and not on defence facilities. Regardless it is considered that PC20 will not have an impact on the consideration of reverse sensitivity effects, as the s104 considerations for making decisions on resource consents are essentially the same for discretionary and non-complying activities. This submission is neutral and I consider that no change is required to the plan as a result of the submission.

Recommendations on Submissions

143. That submission **3.1, 21.1, 37.1, 37.2, 57.5, 66.1, 66.2, 108.1, 108.2, 199.1, 199.2, 199.3, 201.1, 201.2** be rejected for the reasons set out in 9.1.6.
144. That submissions **198.2 and 23.1** be accepted for the reasons set out in 9.1.6.
145. There are no amendments associated with this recommendation.

10. CONCLUSIONS


146. There is wide range of submissions on the Plan Change. There is a significant split between those submissions that request that the plan change be accepted or that the plan change be rejected. A small number of submissions seek that it be amended in some way.
147. Having considered all of the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that Plan Change 20 should be adopted, subject to the amendments to the text/planning maps of the Auckland Unitary Plan as set out in **Appendix 5** to this report.
148. The adoption of PC 20, with its recommended amendments will:
- assist the council in achieving the purpose of the Resource Management Act 1991
 - be consistent with Auckland Unitary Plan Regional Policy Statement
 - be consistent with the Auckland Plan.

11. RECOMMENDATIONS

1. That, the Hearing Commissioners accept or reject submissions (and associated further submissions) as outlined in this report.
2. That, as a result of the recommendations on the submissions, the Auckland Unitary Plan be amended by:
 - the changes proposed by PC20, to the Auckland Unitary Plan
 - the inclusion of the amendments set out in **Appendix 5** to this report.

12. SIGNATORIES

Name and title of signatories	
Authors	David Wren - Consultant

	
Reviewer / Approver	Peter Vari Team Leader Planning North, West and Islands P Vari

APPENDIX 1

PLAN CHANGE 20 AS NOTIFIED

Auckland Unitary Plan Operative in Part

PROPOSED PLAN CHANGE 20 Rural Activity Status

This is a Council initiated plan change

Explanatory Note – Not part of Proposed Plan Change 20

PC20 is the proposed plan change to Chapter 19 Rural zones in the Auckland Unitary Plan (Operative in part) (AUP). This document contains all of the proposed amendments to the AUP.

The proposed changes to the Auckland Unitary Plan seek to:

- a) add to the rural activity tables an activity that essentially makes any activity not provided for in the tables non-complying.
- b) amend references to “residential buildings” in the Rural chapter to “dwellings”.

The operative regional and district provisions within the AUP remain to apply until the proposed changes are operative (e.g. decisions released and any appeals resolved).

Note:

1. Amendments proposed by this plan change to the AUP are underlined for new text and ~~struck through~~ where existing text is proposed to be deleted.
2. The use of Indicates that there is more text, but it is not being changed. These are used when the whole provisions if too long to be included.
3. Some existing text is shown to place the changes in context.

Proposed Plan Change 20

There are two elements to the proposed plan change (PPC20).

- a) The first is to add to the Rural Activity Table, Table H19.8.1, reference to “Activities not provided for” as follows (additions are underlined and deletions are ~~struck through~~).

Table H19.8.1 Activity Table – use and development [rp/dp]

Activity		Activity Status				
		Rural Conservation Zone	Countryside Living Zone	Rural Coastal Zone	Mixed Rural Zone	Rural Production Zone
Use						
(AA1)	<u>Activities not provided for</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>
Rural						

- b) The second part of the plan change is to amend references to “residential” in a number of rural zone descriptions, objectives and policies to refer to “dwellings”. The amendments are set out below (additions are underlined and deletions struck through):

- i) **19.2.4 Policies – rural character, amenity and biodiversity values**

(1) *Manage the effects of rural activities to achieve a character, scale, intensity and location that is in keeping with rural character, amenity and biodiversity values, including recognising the following characteristics:*

- (a) *a predominantly working rural environment;*
- (b) *fewer buildings of an urban scale, nature and design, other than ~~residential buildings~~ dwellings and buildings accessory to farming; and*
- (c) *a general absence of infrastructure which is of an urban type and scale.....*

ii) **19.6 Rural – Rural Conservation Zone**

H19.6.1 Zone description

This zone comprises biophysically distinctive areas in rural Auckland. The zone has important natural values requiring maintenance and protection. They are largely in private ownership and are used for a range of purposes including ~~residential~~ dwellings, low-impact recreational activities, conservation and open space....

The purpose of this zone is to adopt a conservative approach to new subdivision, use and development so that the natural values of the zone are maintained and protected while enabling established rural ~~and residential~~ activities and dwellings to continue.

iii) **H19.6.2 Objectives**

-
- (3) *Existing rural ~~and residential~~ activities and dwellings are provided for but further development in the zone is limited to that which maintains and where appropriate enhances the values of the zone....*

H19.6.3 Policies

-
- (3) *Enable the continued use of established rural ~~and residential~~ activities and dwellings and provide for new activities only where adverse effects are avoided or mitigated....*

iv) **H19.7.Rural – Countryside Living**

H19.7.1 Zone Description

.... This zone incorporates a range of rural lifestyle developments, characterised as low-density rural lifestyle development dwellings on rural land. These rural lifestyle sites include scattered rural ~~residential~~ dwelling sites, farmlets and horticultural sites, ~~residential~~ bush dwelling sites and papakāinga.....

APPENDIX 2
SECTION 32 REPORT



Proposed Plan Change 20 Rural Activity Status

to the Auckland Unitary Plan (Operative in
part)

**SECTION 32
EVALUATION REPORT**

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Executive Summary

The Auckland Unitary Plan ('Unitary Plan') became operative in part on 15 November 2016. Since then it has become apparent that the Unitary Plan is not positioned appropriately to address the issue of how to manage activities which are not anticipated in rural zones.

Currently, Rural zones activities not provided for in the activity table (H19.8.1) are covered by Chapter C "General Rules" which makes such activities Discretionary. This status of activity for out of zone activities is at odds with Regional Policy Statement (RPS) policy which seeks to protect finite elite soils and apply a high degree of management to prime soils important to rural production activities.

This status is also at odds with managing cumulative adverse effects on coastal and rural character and amenity; being something which the RPS signals is to be at least maintained. Furthermore, a discretionary activity status for activities not associated with rural production in rural zones does not adequately support RPS policy associated with promoting a compact urban form and has the potential to undermine specific zones established to provide for intensive residential activities, industry and commercial activities.

The policy framework for rural zones at the district plan level supports the policy direction at the RPS level by placing a strong emphasis on rural zones being primarily for rural production purposes, as against being a second best possible location for activities which might successfully locate in other specific zones provided for their purpose.

It is considered that better alignment between RPS policy and the activity status for unanticipated activities in rural zones can be achieved by both:

1. Adding to the rural activity tables the statement "Any activity not provided for" and making its activity status Non-complying'
2. amending references to "residential buildings" in the Rural chapter to "dwellings".

These amendments are the most efficient and effective option to achieve the objectives and policies of the Regional Policy Statement and the Rural zones.

Introduction

This report is prepared as part of the evaluation required by Section 32 of the Resource Management Act 1991 (**'the Act'**) for proposed Plan Change 20 (**PPC20**) to the Auckland Unitary Plan (Operative in Part) (**AUP**).

Section 32 Evaluation

Section 32 of the Act requires that before adopting any objective, policy, rule or other method, the Council shall carry out an evaluation to examine:

- The extent to which each objective is the most appropriate way to achieve the purpose of the Act, and
- Whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objective.

The evaluation must also consider:

- The benefits and costs of policies, rules, or other methods; and
- The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

The evaluation approach

This section outlines how PC20 has been evaluated. The rest of this report will follow the evaluation approach described in the table below. In accordance with section 32(6) of the RMA and for the purposes of this report:

- i. the 'proposal' means the plan change;
- ii. the 'objectives' means the amendment of the activity status of activities not listed in the Rural activity table and the clarification of the references to "residential" activities and
- iii. the 'provisions' means the amendments to the objectives, policies and rules.

Sections of this report	Evaluation Approach
Section 2: Issues	This part of the report will explain the resource management issues and why there is a need to resolve them.
Section 3: Objectives	This part of the report will outline the purpose of PC20.
Section 4: The development and evaluation of options	In accordance with section 32(1)(b) and (2) of the RMA, this section examines whether the options appropriately achieve the objectives of the AUP and the sustainable management purpose of the RMA. The options are assessed by their efficiency and effectiveness, costs, benefits and risks to resolve the RMA issue.

Section 5: Reasons for the proposed plan change	In accordance with subsections 32(1)(a) and (1)(b)(iii) of the RMA, this part of the report examines the extent to which the objectives of the proposal (PC20) are the most appropriate way to achieve the purpose of the RMA. This section outlines the reasons for PC20 and the scope of PC20.
Section 6: Statutory evaluation	This part of the report evaluates the relevance of PC20 to Part 2 (sections 5-8) and other relevant parts / sections of the RMA.
Section 7: National and local planning context	This part of the report evaluates the relevance of PC20 against the national and local planning context.
Section 8: Development of the plan change	This part of the report outlines the methodology and development of PC20, including the information used and consultation undertaken in preparing PC20. This section includes a summary of all advice received from iwi authorities on PC20 (as required by section 32(4)(a) of the RMA).
Section 9: Evaluation of provisions	This part of the report outlines the evaluation conducted on individual issues contained within PC20.
Section 10: Conclusion	This part of the report concludes that PC20 is the most efficient, effective and appropriate means of addressing the resource management issues identified.

Section 2 - Issues

1. Introduction

The Auckland Unitary Plan ('Unitary Plan') became operative in part on 15 November 2016. It has become clear since this time that the Unitary Plan may not be positioned appropriately to manage activities not provided for in rural zones.

2. Issues / problem definition

The issue at the centre of this proposed plan change is how to manage activities which are not provided for in rural zones. The next part of this section 32 analysis considers the relevant policy context of the Unitary Plan as it relates to the rural zones. The full identification of Unitary Plan policy relevant to this plan change is to be found in Attachment 1.

Regional Policy Statement

a) Rural Activities

At the Regional Policy Statement (RPS) level any rural activities are to ensure that land containing elite soil is protected from inappropriate subdivision, urban use and development. This policy directive also applies in general to rural areas outside the Rural Urban Boundary (RUB) and coastal towns and villages. Furthermore, rural character and amenity is to be maintained in these locations.

The RPS anticipates environmental results that include land containing elite soil capable of rural production activities being excluded from development for non-rural activities, and that no additional sites will be created for non-rural production purposes over time.

b) Land with High Productive Potential

The RPS policy direction in terms of land with high productive potential is to protect land containing elite soils and maintain its accessibility for primary production. In the case of land containing prime soils this is to be managed to enable its accessibility for primary production. Any land with productive potential is also to be recognised in resource management decision making.

Again, as in the case of rural activities, the RPS anticipates an environmental result that no additional sites will be created for non-rural production purposes on land with elite soils over time.

c) Urban Growth & Form

The RPS policy direction for urban growth and form is a quality compact urban form that results in: better use of existing infrastructure; effective public transport; better maintenance of rural character and productivity; and reduced adverse environmental effects.

The RPS directs that urban growth is primarily within the urban area and that sufficient development capacity is provided for residential, commercial and industrial growth.

Urbanisation is to be contained within the RUB, towns and rural and coastal villages and is to be integrated with the provision of appropriate infrastructure.

The RPS anticipates environmental results which include available and suitably zoned land for commercial, industrial and social facility development. Similarly, it is anticipated that large scale residential and business development will only occur in urban zones.

d) Residential Growth

The RPS policy direction for residential growth is that residential intensification supports a quality compact urban form and that this primarily occurs on land within and adjacent to centres and corridors or near public transport and social facilities or employment opportunities.

The RPS anticipates an environmental result where housing intensification occurs in urban residential zones.

e) Commercial & Industrial Growth

The RPS policy direction is that commercial growth and industrial activities are primarily focussed within a hierarchy of centres and identified growth corridors that support a compact urban form.

The anticipated environmental result for commercial and industrial activities is that there be appropriate and increasing areas of land specifically zoned for these land uses.

f) Rural & Coastal Towns and Villages

The RPS at the policy level directs the growth and development of existing or new rural and coastal towns and villages to avoid elite soils and avoid where practicable prime soils which are significant for their ability to sustain food production.

The anticipated environmental result is that no rural land containing elite soil which is capable of supporting rural production activities is developed for non-rural activities.

District Plan

g) At the District Plan (DP) policy level the general rural and rural character, amenity and biodiversity objectives support the RPS direction in terms of maintaining rural character and amenity and protecting elite soil and managing prime soil for rural production. In addition, the DP requires rural lifestyle development to avoid the fragmentation of productive land.

DP objectives related to rural industries, rural commercial services and non-residential activities require the character, intensity and scale of rural industries and services to be in keeping with the character of the relevant zone. The DP policy direction is that industries, services and non-residential activities of an urban type and scale unrelated to rural production activities not be located in rural zones.

District Plan Zones

- h) The Rural Production zone policy direction is to ensure that the productive capability of the land is maintained and protected from inappropriate subdivision, use and development.
- i) The Mixed Rural zone policy direction is to promote rural production and non-residential activities and maintain rural character and amenity values. Some rural lifestyle land use is anticipated but not at the expense of rural production and non-residential activities.
- j) The policy direction of the Rural Coastal zone is to enable rural production activities, recreational and local non-residential services, and manage adverse effects on rural and coastal character and amenity values, landscape, biodiversity and Mana Whenua cultural heritage values. Rural lifestyle opportunities are limited in this zone.
- k) The Rural Conservation zone is very limited in terms of the activities which it promotes. The policy direction of this zone is to maintain and enhance existing environmental values, and largely provide for the zone's existing range of activities.
- l) The Rural Countryside Living zone is established to provide for rural lifestyle living and small-scale rural production. The type and nature of land use activities provided for are restricted to those appropriate for smaller site sizes.

3. Resource Consent Outcomes

A number of resource consents addressing activities not provided for in the rural zone activity table have been processed since the Auckland Unitary Plan became operative in part in 2016. The resource consent process has delivered, in a number of instances, outcomes not anticipated or contemplated in the rural zones. Specific examples with details are referred to in Section 5 of the report under the heading "The current potential for inappropriate activities to establish in rural zones."

An analysis of land use activities applied for by way of resource since 2016 highlights that rural zones in the Auckland region are under considerable pressure from applications primarily designed to establish additional dwellings, minor household units and minor dwellings.

Other activities which have sort to establish in rural zones include intensive aged care facilities. An existing facility located in the Mixed Rural Zone at Kumeu applied to intensify its operations by adding an additional capacity for a further 15 residents. At Riverhead a new intensive aged care facility was applied for in the Rural Countryside Living Zone (see section 5 of this report). There is evidence that such activities are prepared to locate and consider rural zones as a place to establish.

There is also evidence of applications for visitor accommodation and community activities such as art galleries in the Rural Production Zone. Such an application was received in Pukekohe. Other applications for purely visitor accommodation were received at Te Arai and Matakana. At Mahurangi on land zoned Rural Coastal consent was granted for a facility for exercise classes, day retreats and visitor accommodation. At Buckleton Beach on land zoned rural Coastal resource consent was granted for a cooking school as a discretionary activity. At Snells Beach on land zoned Rural Countryside Living consent was granted for new visitors' accommodation within a significant ecological area. At Waitoki consent was granted for a wedding and function venue with chalets for visitor accommodation on land zoned Rural Production. Although largely provided for as a Discretionary activity in the Unitary Plan it may be that these types of activities once proposed beyond certain scale thresholds would be better assessed as a non-complying activity. Currently, they can only default to discretionary.

An application was received for a small-scale dental surgery in the Mixed Rural Zone at Ardmore. Again, although expressly provided for as a discretionary activity such new facilities once beyond certain scales of operation might be best assessed as non-complying activities in zones with a rural production focus.

Also, as certain types of existing and out of zone commercial activities currently located in rural production focussed zones grow beyond a small scale, a non-complying activity status may be more appropriate. For example, at Pukekohe 4 commercial units were applied for on an existing commercial property zoned Rural Production and processed by way of resource consent as a discretionary activity.

There is evidence that industrial activities have in some cases incentives to locate in rural zones rather than industrial zones. A storage and lockup facility was approved in Brookby as a discretionary activity on land zoned Mixed Rural. At Drury on land zoned Mixed Rural an application for resource consent was processed retrospectively for a motor storage facility as a discretionary activity. Such activities unless they can establish a strong connection to rural production activities would struggle to be considered a rural commercial service or rural industry in which case they would be better located in an industrial zone or assessed as a non-complying activity in a rural zone.

Section 3 – Purpose of the Plan Change

1. The purpose of this plan change (PPC20) is to consider and evaluate the best option for dealing with activities which are not contemplated in rural zones, and which extend beyond those currently provided for in the rural zones in the Auckland Unitary Plan.

Section 4 - Development of Options

Description of options

1. Option 1 - Do Nothing
This option means retaining the status quo where activities not listed in the activity table are Discretionary Activities under Chapter C General Rules, C1.7 Activities not provided for.
2. Option 2 – Add “Activities not provided for” as Non-complying activities to the Rural Activity Table, Table H19.8.1 as follows: This option would mean that any activity not currently listed in the activity table (Table H19.8.1) for rural zones would default to a non-complying activity. The proposed amendment to table H19.8.1 follows.

Table H19.8.1 Activity Table – use and development [rp/dp]

Activity		Activity Status				
		Rural Conservation Zone	Countryside Living Zone	Rural Coastal Zone	Mixed Rural Zone	Rural Production Zone
Use						
(AA1)	<u>Activities not provided for</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>
Rural						

- 3) Option 3 - Clearer and more specific policy to guide decision making for Discretionary activities

This option would involve writing additional policy or amending existing policy to assist decision-makers when considering applications for discretionary activities which were not currently listed in table H19.8.1.

- 4) Option 4 - Use greater education for decision-makers and resource users

This option would require resources to be allocated to the ongoing education of decision-makers so that greater certainty of outcome was achieved regarding activities not currently provided for in rural zones.

- 5) Option 5 - Reconsider how residential activities are treated in rural zones by either:
- (i) Changing references in the relevant zone descriptions, objectives and policies from “residential buildings” to “dwellings”; or
(This option changes all the references to “residential buildings” to “dwellings”.)
 - (ii) Delete the last part of the sentence in 19.2.4 Policies, Policy 1(b) which refers to “residential buildings” as follows:

.....fewer buildings of an urban scale, nature and design, ~~other than residential buildings accessory to farming~~; and...or;
 - (iii) In Chapter J Definitions J1.3 Nesting Tables, the nesting table for “residential”, add an exception to the effect that in the Rural zones the term only applies to “dwellings” as shown below:

Chapter J Definitions J1.3 Nesting Tables - Table J1.3.5 Residential, except in Chapter 19 Rural zones where “residential” shall mean residential dwellings only.

<i>Dwellings</i>	
<i>Home occupations</i>	
<i>Visitor accommodation</i>	
<i>Camping grounds</i>	
<i>Boarding houses</i>	<i>Student accommodation</i>
<i>Integrated residential development</i>	
<i>Retirement village</i>	
<i>Supported residential care</i>	

Evaluation of options

In accordance with section 32(1)(b) and (2) of the RMA, this section examines whether the options appropriately achieve the objectives of the AUP and the sustainable management purpose of the RMA. The options are assessed by their efficiency and effectiveness, costs, benefits and risks to resolve the RMA issue. The full details of this analysis are provided in attachment A2. A summary of this analysis follows.

Option 1 Do Nothing

This option is not supported as the current state has the potential to result in unanticipated activities being consented in the rural zones which will produce cumulative adverse effects on rural character and amenity and undermine RPS objectives and policies to protect elite soils

and where practicable prime soils. The do-nothing option also thwarts attempts to achieve a compact urban growth form and establish residential, industrial and commercial activities in specific zones. It also cuts across strong policy direction in rural zones to give rural production activities primacy.

Option 2 Introduce a Non-complying activity status

This option is supported. By way of unanticipated activities in the rural zones being considered as a non-complying activity this would require a fuller assessment of such proposals against the objectives and policies of the RPS and DP. In such cases activities which did not possess the quality of supporting rural production would either be declined or have to exhibit the qualities of not adversely effecting rural character and amenity, elite and prime soils and undermining existing specific zones or policy directions pertaining to urban growth and form.

Option 3 New or amended policy for discretionary activities

This option is not supported. It is not possible to anticipate every out of zone activity which could wish to establish in rural zones. Many of the possible activities which could establish would not be aligned to policy contained in the RPS and DP. Specific zones are in place and seek to provide for the full range of residential, commercial and industrial activities which exist currently or might wish to be developed over time. Rural zones have a rural production focus and many of the possible out of zone activities do not have this same character, intensity and scale making them at odds with the primary function of rural areas.

Option 4 Education

This option is not supported. Given the strong RPS directives it is considered that a statutory framework is more appropriate. The method of education provides less certainty of a consistent approach to the issues of finite elite soils and prime soils and rural and coastal character and amenity.

Option 5 (i) Delete references to residential buildings in policy and replace with the word “dwelling”

This option is supported. Intensive forms of residential development in rural zones is not aligned to RPS policy directives around maintaining coastal and rural character and amenity. Intensive forms of residential development in rural zones has the potential to create reverse sensitivity effects and displace legitimate in zone rural activities. Dwellings are anticipated in rural zones to support rural production focused activities. Specific zones are in place to provide for intensive residential forms of development. The possibility of more intensive residential development in rural zones is at odds with the strong rural production policy focus of most rural zones.

Section 5 - Reasons for the proposed plan change (see Attachment A3 which details the plan change content)

Auckland Plan

The Auckland Plan provides several policy directions which are in themselves reasons for initiating this plan change. This section considers both the existing Auckland Plan 2012 and the Auckland Plan 2050.

The Auckland Plan 2012 addresses rural issues and the key outcome sought relevant to this report is the protection of the rural area for rural activities.

Chapter 9 addresses rural issues and Strategy Direction 9 is to:

Keep rural Auckland productive, protected and environmentally sound

Priority 1 is to:

Create a sustainable balance between environmental protection, rural production and activities connected to the rural environment.

Directive 9.1 is to:

Ensure that the resources and production systems that underpin working rural land are protected, maintained and improved.

Another key strategy of the plan is a Compact Urban Form and one of the benefits of this is:

Encouraging growth within the existing urban footprint protects Auckland's rural hinterland and its productive potential: it enables ready access to coastal, marine and other recreation areas.

This plan has been superseded by the Auckland Plan 2050. The Auckland Plan 2050 continues with the same strategic approach to rural growth and development as the 2012 Auckland Plan. In particular the Auckland Plan 2050 Development Strategy specifies that Auckland will grow and change with a quality compact approach. This means – by 2050, most growth will have occurred within the urban footprint limiting both expansion into the rural hinterland and rural land fragmentation. The benefits of such an approach include

“Rural productivity and character can be maintained”

The Development Strategy in relation to supporting rural production states that

“Residential development in rural zones will be limited. Provision for residential growth will be focused in the existing countryside living zone.

Limiting residential growth in rural areas will maintain their values and support ongoing rural production.”

Unitary Plan Policy Context

At the RPS policy level there are some strong and clear signals that indicate unanticipated activities in rural zones and residential activities other than dwellings supporting rural production activities should be considered as a non-complying activity.

One is that elite soil is to be protected due to its significant value in rural production and finite nature. Prime soil is to be protected where practicable. Activities proposed on elite soil which were not for rural production purposes could be reasonably considered as non-complying given the finite nature and value of this resource.

At both the RPS level and DP level significance is placed on maintaining rural character and amenity. Activities beyond those anticipated in the rural zones have the potential to produce cumulative adverse effects on rural character and amenity and in such cases could be reasonably considered as non-complying activities.

The RPS contains policy direction that urban growth and form be compact so as to in part promote the efficient use of infrastructure. Furthermore, the RPS signals that specific zones are to be provided for intense forms of residential development and commercial and industrial development. In view of these policy provisions the use of rural land for other than rural production use has the potential to undermine the function of rural zones and specific zones set aside for residential, commercial and industrial activities. This suggests that such out of zone activities in rural zones should be considered as non-complying.

The rural zones themselves have a strong policy focus on rural production and maintaining rural character and amenity which again supports the view that activities not anticipated in these zones which does not have a rural character and rural production focus should be considered non-complying.

Infrastructure

Another reason for this plan change is the issue of infrastructure.

A greater number and range of residential activities approved in rural zones (such as boarding houses, retirement villages and residential care facilities) will result in pressure for infrastructure not usually considered necessary in rural locations. Examples of this include footpaths, curb and channel and reticulated services.

In urban locations infrastructure exists or can be added to or upgraded as needs arise from the intensification or expansion of residential activities. This affords the opportunity for effective and efficient solutions to infrastructure issues. In contrast rural locations are usually characterised by lower levels of physical infrastructure and the establishment of residential facilities in random and unconnected locations reduces the likelihood of efficient, timely and co-ordinated infrastructure provision.

Reverse Sensitivity

A key reason for this plan change is the potential for reverse sensitivity effects. Examples of reverse sensitivity include complaints from residential activities to spray drift and odour from nearby farming activities.

Intensive forms of residential activities in particular, where residents are not themselves engaged in farming activities and choose to occupy smaller rural sites with limited buffering from nearby rural farming activities have the potential to create reverse sensitivity effects.

If residential activities in rural zones are not limited to dwellings used to support farming and rural production activities the possibility of reverse sensitivity effects on farming activities could arise at any location across the rural zones.

Finite Soils

Concerns regarding adverse cumulative effects on and the loss of soils critical to agricultural production are another reason for this plan change.

The elite and prime soils of the Auckland region are generally flat and therefore are attractive to non-agricultural development because of the relative ease in which construction activities can occur.

The introduction of greater residential activities into the rural zones has the potential to result in even greater losses of these soils to agricultural activities. This a matter of high significance because of the limited availability of this resource to agriculture in the Auckland region.

The Current Potential for Inappropriate Activities to establish in Rural Zones

The need to initiate a plan change is supported by some recent decision making which focused on the status of the activity as discretionary rather than non-complying.

A recent decision by Hearings Commissioners to grant resource consent for an industrial activity in the Rural zone (Commissioner Decision 11 September 2017 LUC60066560 Hibiscus Tanks Ltd 63 Richards Road, Dairy Flat) relied in part on the discretionary activity status of activities not listed in the Rural activity table. The decision stated:

“there is no defensible basis to hold the view that ‘industrial’ activities...are inherently incompatible with the zone. If such a doctrinaire approach to industrial activities had been intended in the Plan, the Commissioners agree with the applicant’s planners Mr Foster and Ms MacNicol that a Non-complying activity status...would have been necessarily included in the AUPOP”.

Another example is a self-storage facility of over 5000m² at Rivehead Road, Kumeu, granted consent as a Discretionary Activity [BUN60314368] in the Mixed Rural zone. The consent was granted on the basis that it was not contrary to the policies and objectives of the zone, but an ‘urban style’ self-storage facility was not generally contemplated as an activity that would be located on rural zoned land. Amending the status of such activities to non-complying would assist in providing stronger guidance as to the type of activities anticipated in the rural zones. The decision in this case, stated in the reasons that granting

consent will not create precedent or cumulative issues or undermine the integrity of the plan. The council is now dealing with a similar application for 45 storage units at Jones Road, Omaha Flats in the Mixed Rural zone.

In a recent interim decision of the Environment Court (Decision No. [2018] NZEnvC 27 *Kumeu Property Limited V Auckland Council*), the Court highlighted that some of the rural policies refer to “residential” activities. Under the nesting tables in Chapter J Definitions this includes a wide range of activities, including amongst others, retirement villages. The Court granted resource consent for a supported care facility/retirement village in a rural zone, in part, based on the policy and definition, and because activities not listed in the activity table are discretionary.

The policy that the Court referred to is set out directly below (highlighting for this report only):

H19.2.4. Policies – rural character, amenity and biodiversity values

- (1) *Manage the effects of rural activities to achieve a character, scale, intensity and location that is in keeping with rural character, amenity and biodiversity values, including recognising the following characteristics:*
 - (a) *a predominantly working rural environment;*
 - (b) *fewer buildings of an urban scale, nature and design, other than **residential** buildings and buildings accessory to farming; and*
 - (c) *a general absence of infrastructure which is of an urban type and scale.*

In Chapter J Definitions the term “residential” is not defined. However, it is included in the nesting tables as follows:

Table J1.3.5 Residential

<i>Dwellings</i>	
<i>Home occupations</i>	
<i>Visitor accommodation</i>	
<i>Camping grounds</i>	
<i>Boarding houses</i>	<i>Student accommodation</i>
<i>Integrated residential development</i>	
<i>Retirement village</i>	
<i>Supported residential care</i>	

There are several other instances in the Rural Chapter where the term “residential” is used. These are:

H19.6 Rural Conservation Zone

H19.1.1. Zone description

*This zone comprises biophysically distinctive areas in rural Auckland. The zone has important natural values requiring maintenance and protection. They are largely in private ownership and are used for a range of purposes including **residential**, low-impact recreational activities, conservation and open space...*

*The purpose of this zone is to adopt a conservative approach to new subdivision, use and development so that the natural values of the zone are maintained and protected while enabling established rural and **residential** activities to continue.*

H19.6.2 Objectives

*(3) Existing rural and **residential** activities are provided for but further development in the zone is limited to that which maintains and where appropriate enhances the values of the zone.*

H19.6.3 Policies

*(3) Enable the continued use of established rural and **residential** activities and provide for new activities only where adverse effects are avoided or mitigated.*

H19.7 Rural - Countryside Living Zone

H19.7.1 Zone description

*This zone incorporates a range of rural lifestyle developments, characterised as low-density rural **residential** development on rural land. These rural lifestyle sites include scattered rural **residential** sites, farmlets and horticultural sites, **residential** bush sites and papakāinga.*

These references are all in policies or zone descriptions however the term is not used in the Rural activity tables or the standards. Elsewhere in the Rural Chapter the term dwellings is used. In the rural activity table, Table H19.8.1 and Table H19.8.2 the term “dwellings” is referred to and in the latter table one dwelling per site is a permitted activity in all the rural zones except for several Rural Coastal zones in which they are restricted discretionary. All the development controls also refer to “dwellings”

Section 6 – Statutory Evaluation

The relevant sections of the Resource Management Act 1991 include sections 5, 6, 7 and 8.

The plan change supports section 5 by promoting the sustainable management of natural and physical resources. In this regard the plan change assists rural zones to maintain rural character and amenity and ensure that rural land is primarily used for rural production activities to support local communities.

The plan change supports section 6 of the Act by enabling rural/natural coastal character and amenity to be maintained.

Regarding section 7 the plan change promotes the efficient use of natural and physical resources (rural land), the maintenance and enhancement of rural amenity values, the maintenance of the quality of the rural environment and supports the finite characteristics of natural and physical resources (elite and prime soils).

In developing the plan change consultation was undertaken with local iwi. The details of this consultation are outlined in section 8.

Section 7 – National & Local Planning Context

Ministry for the Environment is proposing to develop national environmental standards. These are at an early stage of development and only in draft form. However, within these standards are Draft Area Specific Matters Standards. Draft Area Specific Matters Standards contain zones and purpose statements (see 44 S-ASM: Draft Area Specific Matters Standard within a document to be cited as Ministry for the Environment. 2018, Draft National Planning Standards. Wellington: Ministry for the Environment.).

Of note is the purpose of the Rural zone which is to provide primarily for primary production activities. The zone may also provide for a limited range of activities which support rural production.

Also, of note is the Rural production zone. The purpose of the Rural production zone is to prioritise primary production activities that rely on the productive nature of the soils, intensive primary production, and provide for associated rural industry.

Although now no weight can be placed on the Ministry’s work on environmental standards as discussed above, it is worth noting that the direction being proposed in this draft documentation is aligned to the purpose of this plan change which is to ensure that rural zones remain primarily for the purpose of rural production activities.

Section 8 - Development of Plan Change

Information Used

1. The following information has been used in the preparation of this Plan Change.

Name of document, report, plan	How did it inform the development of the plan change
Environment Court (Decision No. [2018] NZEnvC 27 Kumeu Property Limited V Auckland Council	The court’s decision highlighted that the use of the term “residential” in the rural policies could result in the establishment of activities that were not contemplated in the zone such as retirement villages.
Hearing Commissioner Decision 11 September 2017 LUC60066560 Hibiscus Tanks Ltd 63 Richards Road, Dairy Flat	The Decision relied in part on the fact that activities not listed in the Rural Activity Table were discretionary.
Ministry for the Environment. 2018, Draft National Planning Standards. Wellington: Ministry for the Environment	The content of this document informed the indicative direction that central government is intending to take regarding developing national standards pertaining to rural zoned land.

Consultation with Iwi

1. An invitation to consult on the plan change was extended to all Iwi within the Auckland region which had rural zoned land within their rohe. This included:

Waikato - Tainui
Ngati Maru
Ngati Te Ata
Ngati Manuhiri
Ngati Wai
Ngati Tamatera
Ngati Whatua Orakei
Te Kawerau a Maki
Ngati Paoa
Te Uri o Hau
Te Patukirikiri
Te Ahiwaru - Waiohua
Ngai Tai ki Tamaki
Ngati Tamaoho
Te Akitai Waiohua
Ngati Whanaunga
Te Runanga o Ngati
Whatua
Ngati Whatua o Kaipara

Ngāti Whātua Ōrākei indicated that they were a predominantly urban iwi and did not wish to consult on the matter of the plan change. Only Nga Maunga Whakahii o Kaipara indicated a wish to be consulted on the proposed plan change.

Consultation occurred with Nga Maunga Whakahii o Kaipara on 30th July 2018 where representatives advised that they supported the proposed plan change. The reasons for supporting the plan change were largely derived from the following concerns which it hoped would be able to be addressed through the plan change progressing:

- A wish to maintain rural character and amenity and avoid adverse cumulative effects on the rural environment;
- The need for pre-planned management of topsoil overburden from rural residential development.
- Impacts on the performance of on-site waste water systems in clay soil types associated with residential intensification in rural areas;
- A strong trend of permitted activities and non-notification of resource consent applications in regard to rural development, which negated iwi participation in decision making processes.

The consultation undertaken with Nga Maunga Whakahii o Kaipara indicated that there were no cultural concerns which required any amendment to the plan change content. However, the plan change can be seen to assist in addressing the concerns of iwi consulted in the process as:

- By limiting the range of residential activities able to establish in rural areas by right or relatively easily this assists to maintain rural character and amenity and avoid adverse cumulative effects;

- Issues such as on-site waste water system performance and topsoil from development entering rural waterways become matters capable of being considered in the context of a non-complying activity resource consent application and the consideration of cumulative effects.
- By establishing a default to a non-complying activity for those activities not anticipated in rural zones and by limiting residential activities to dwellings this increases the likelihood that intensive forms of residential development in rural zones will require an appropriately higher level of public notification.

Consultation occurred with the Independent Maori Statutory Board of Auckland Council on the proposed plan change. It sought that Papakainga on general rural land be afforded the status of a discretionary activity. Considerable analysis of the existing opportunities for Papakainga in the rural zones was undertaken. On the basis of this analysis which highlighted policy and implementation concerns regarding providing for Papakainga on general rural land it was not considered appropriate that the plan change widen its scope to satisfy this request. It was considered that providing for Papakainga on general rural land was a matter best dealt with as a separate and discrete plan change. Attachment A4 to this report contains the full body of analysis undertaken on this matter.

Consultation with Local Boards

1. Consultation was undertaken with both the Franklin and Rodney Local Boards. These two Local boards have most of the Auckland region's rural land within their operational boundaries. Both local boards indicated that they were supportive of the plan change.

Conclusion

A Plan Change is necessary to address the fundamental issue of how unanticipated activities not provided for in rural zones should be managed.

Two solutions have been identified as an appropriate response to this issue. The first is to amend the rural activity tables to add a new activity into the table, being "Any activity not provided for" and making its activity status Non-complying'

The second is to amend references to "residential buildings" in the Rural chapter to "dwellings".

Together, these amendments are the most efficient and effective option to achieve the objectives and policies of the Regional Policy Statement and the Rural zones.

List of Attachments

Put in table form

Attachment	Name of Attachment
A1	Unitary Plan Policy
A2	Section 32 analysis
A3	Plan Change
A4	Papakainga

Attachment 1

Policy Relevant to the Plan Change (PPC20)

Reference	Regional Policy Statement Objectives	Regional Policy Statement Policy	Regional Policy Statement Anticipated Results
B9. Toitū te tuāwhenua- Rural environment B9.2. Rural activities B9.2.1. Objectives B9.2.2. Policies	<p>(2) Areas of land containing elite soil are protected for the purpose of food supply from inappropriate subdivision, urban use and development.</p> <p>(3) Rural production and other activities that support rural communities are enabled while the character, amenity, landscape and biodiversity values of rural areas, including within the coastal environment, are maintained.</p> <p>(4) Auckland's rural areas outside the Rural Urban Boundary and rural and coastal towns and villages are protected from inappropriate subdivision, urban use and development.</p>	<p>(1) Enable a diverse range of activities while avoiding significant adverse effects on and urbanisation of rural areas, including within the coastal environment; and avoiding, remedying, or mitigating other adverse effects on rural character, amenity, landscape and biodiversity values.</p> <p>(2) Minimise the potential for reverse sensitivity effects by:</p> <p>(a) preventing sensitive activities (such as countryside living) from establishing in areas where rural production activities could be adversely affected; or</p> <p>(b) requiring sensitive activities (such as new countryside living) to adopt on-site methods to avoid reverse sensitivity effects on rural production activities;</p>	<p>No rural land containing elite soil which is capable of supporting rural production activities is developed for non-rural activities. (Links to B9.2.1(2))</p> <p>No additional sites are created for non-rural production purposes over time. (Links to B9.2.1(4))</p>
B9. Toitū te tuāwhenua- Rural environment B9.3. Land with High Productive Potential B9.3.1. Objectives B9.3.2. Policies	<p>(1) Land containing elite soils is protected through land management practices to maintain its capability, flexibility and accessibility for primary production.</p> <p>(2) Land containing prime soil is managed to enable its capability, flexibility and accessibility for primary production.</p> <p>(3) The productive potential of land that does not contain elite or prime soil is recognised.</p>	<p>(1) Avoid new countryside living subdivision, use and development on land containing elite soil and discourage them on land containing prime soil.</p> <p>(2) Encourage activities that do not depend on using land containing elite and prime soil to locate outside these areas.</p> <p>(3) Recognise the productive potential of land that does not contain elite or prime soil and encourage the continued use of this land for rural production.</p>	<p>No additional sites are created for non-rural production purposes on land with elite soils over time. (Links to B9.3.1(2))</p>

<p>B2. Tāhuhu whakaruruhau ā-taone – B2.2 Urban growth and form</p> <p>Urban growth and form B2.2.1. <i>Development capacity and supply of land for urban development</i> Objectives 1-5</p> <p><i>Development capacity and supply of land for urban development</i> B2.2.2 Policies 1-3</p> <p><i>Quality compact urban form</i> B2.2.2 Policies 4-8</p>	<p>Urban growth and form</p> <p>(1) A quality compact urban form that enables all of the following:</p> <p>(a) a higher-quality urban environment; (b) greater productivity and economic growth; (c) better use of existing infrastructure and efficient provision of new infrastructure; (d) improved and more effective public transport; (e) greater social and cultural vitality; (f) better maintenance of rural character and rural productivity; and (g) reduced adverse environmental effects.</p> <p>(2) Urban growth is primarily accommodated within the urban area 2016 (as identified in Appendix 1A).</p> <p>(3) Sufficient development capacity and land supply is provided to accommodate residential, commercial, industrial growth and social facilities to support growth.</p> <p>(4) Urbanisation is contained within the Rural Urban Boundary, towns, and rural and coastal towns and villages.</p> <p>(5) The development of land within the Rural Urban Boundary, towns, and rural and coastal towns and villages is integrated with the provision of appropriate infrastructure.</p>	<p><i>Urban growth and form Development capacity and supply of land for urban development</i></p> <p>(1) Include sufficient land within the Rural Urban Boundary that is appropriately zoned to accommodate at any one time a minimum of seven years' projected growth in terms of residential, commercial and industrial demand and corresponding requirements for social facilities, after allowing for any constraints on subdivision, use and development of land.</p> <p>(2) Ensure the location or any relocation of the Rural Urban Boundary identifies land suitable for urbanisation in locations that:</p> <p>(a) promote the achievement of a quality compact urban form</p> <p>(b) enable the efficient supply of land for residential, commercial and industrial activities and social facilities;</p> <p>(c) integrate land use and transport supporting a range of transport modes;</p> <p>(d) support the efficient provision of infrastructure;</p> <p>(e) provide choices that meet the needs of people and communities for a range of housing types and working environments; and</p> <p>(f) follow the structure plan guidelines as set out in Appendix 1; while:</p> <p>(g) protecting natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage and special character;</p> <p>(h) protecting the Waitakere Ranges Heritage Area and its heritage features;</p> <p>(i) ensuring that significant adverse effects from urban development on receiving waters in relation to natural resource and Mana Whenua values are avoided, remedied or mitigated;</p> <p>(j) avoiding elite soils and avoiding where practicable prime soils which are significant for their ability to sustain food production;</p>	<p>Commercial, industrial and social facility development is not constrained by the amount or location of suitably zoned land which is available at any time. (Links to B2.2.1(3)).</p> <p>Land is available for residential, commercial and industrial uses in a variety of locations at a reasonable cost. (Links to B2.2.1(3)).</p> <p>Urbanisation does not occur without prior structure planning and plan changes. (Links to B2.2.1(4))</p> <p>Large scale residential and business development only occurs in urban zones. (Links to B2.2.1(4))</p> <p>Structure planning and plan changes make explicit provision for infrastructure. (Links to B2.2.1(5))</p> <p>Infrastructure to support development is delivered in a timely manner so that housing, commercial and business growth is not restricted by it. Links to B2.2.1(5))</p>
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		<p>(k) avoiding mineral resources that are commercially viable;</p> <p>(l) avoiding areas with significant natural hazard risks and where practicable avoiding areas prone to natural hazards including coastal hazards and flooding; and</p> <p>(m) aligning the Rural Urban Boundary with:</p> <p>(i) strong natural boundaries such as the coastal edge, rivers, natural catchments or watersheds, and prominent ridgelines; or</p> <p>(ii) where strong natural boundaries are not present, then other natural elements such as streams, wetlands, identified outstanding natural landscapes or features or significant ecological areas, or human elements such as property boundaries, open space, road or rail boundaries, electricity transmission corridors or airport flight paths.</p> <p>(3) Enable rezoning of future urban zoned land for urbanisation following structure planning and plan change processes in accordance with Appendix 1 Structure plan guidelines.</p> <p><i>Quality compact urban form</i></p> <p>(4) Promote urban growth and intensification within the urban area 2016 (as identified in Appendix 1A), enable urban growth and intensification within the Rural Urban Boundary, towns, and rural and coastal towns and villages, and avoid urbanisation outside these areas.</p> <p>(5) Enable higher residential intensification:</p> <p>(a) in and around centres;</p> <p>(b) along identified corridors; and</p> <p>(c) close to public transport, social facilities (including open space) and employment opportunities.</p> <p>(6) Identify a hierarchy of centres that supports a quality compact urban form:</p> <p>(a) at a regional level through the city centre, metropolitan centres and town centres which function as commercial, cultural and social focal points for the region or sub-regions; and</p>	
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<p>B2.4 Residential Growth</p> <p>Objectives B2.4.1 Residential growth 1-5</p> <p>B2.4.2 Policies 1-7</p>	<p><i>Residential growth</i></p> <p>(1) Residential intensification supports a quality compact urban form.</p> <p>(2) Residential areas are attractive, healthy and safe with quality development that is in keeping with the planned built character of the area.</p> <p>(3) Land within and adjacent to centres and corridors or in close proximity to public transport and social facilities (including open space) or employment opportunities is the primary focus for residential intensification.</p> <p>(4) An increase in housing capacity and the range of housing choice which meets the varied needs and lifestyles of</p>	<p>(b) at a local level through local and neighbourhood centres that provide for a range of activities to support and serve as focal points for their local communities.</p> <p>(7) Enable rezoning of land within the Rural Urban Boundary or other land zoned future urban to accommodate urban growth in ways that do all of the following:</p> <p>(a) support a quality compact urban form;</p> <p>(b) provide for a range of housing types and employment choices for the area;</p> <p>(c) integrate with the provision of infrastructure; and</p> <p>(d) follow the structure plan guidelines as set out in Appendix 1.</p> <p>(8) Enable the use of land zoned future urban within the Rural Urban Boundary or other land zoned future urban for rural activities until urban zonings are applied, provided that the subdivision, use and development does not hinder or prevent the future urban use of the land.</p> <p><i>Residential intensification</i></p> <p>(1) Provide a range of residential zones that enable different housing types and intensity that are appropriate to the residential character of the area.</p> <p>(2) Enable higher residential intensities in areas closest to centres, the public transport network, large social facilities, education facilities, tertiary education facilities, healthcare facilities and existing or proposed open space.</p> <p>(3) Provide for medium residential intensities in area that are within moderate walking distance to centres, public transport, social facilities and open space.</p> <p>(4) Provide for lower residential intensity in areas:</p> <p>(a) that are not close to centres and public transport;</p> <p>(b) that are subject to high environmental constraints;</p>	<p>The number of dwellings per hectare in areas zoned for residential intensification (Residential - Mixed Housing Urban Zone and Residential - Terrace House and Apartment Buildings Zone) increases over time. (Links to B2.4.1(1)).</p>
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<p>Auckland's diverse and growing population.</p> <p>(5) Non-residential activities are provided in residential areas to support the needs of people and communities.</p>	<p>(c) where there are natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage and special character; and</p> <p>(d) where there is a suburban area with an existing neighbourhood character.</p> <p>(5) Avoid intensification in areas:</p> <p>(a) where there are natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage or special character; or</p> <p>(b) that are subject to significant natural hazard risks; where such intensification is inconsistent with the protection of the scheduled natural or physical resources or with the avoidance or mitigation of the natural hazard risks.</p> <p>(6) Ensure development is adequately serviced by existing infrastructure or is provided with infrastructure prior to or at the same time as residential intensification.</p> <p>(7) Manage adverse reverse sensitivity effects from urban intensification on land with existing incompatible activities.</p> <p><i>Commercial and Industrial Growth</i></p> <p>(1) Encourage commercial growth and development in the city centre, metropolitan and town centres, and enable retail activities on identified growth corridors, to provide the primary focus for Auckland's commercial growth.</p>	<p>Employment and productivity are not constrained by a lack of land zoned for employment, commercial and industrial activities. (Links to B2.5.1(1)).</p>
<p><i>Commercial and industrial growth</i></p> <p>(1) Employment and commercial and industrial opportunities meet current and future demands.</p> <p>(2) Commercial growth and activities are primarily focussed within a hierarchy of centres and identified growth corridors that supports a compact urban form.</p>		

B2.5

<p>Commercial and industrial growth</p> <p>B2.5 .1 Objectives 1-3</p> <p>B2.5.2 Policy 1</p>	<p>(3) Industrial growth and activities are enabled in a manner that does all of the following:</p> <ul style="list-style-type: none"> (a) promotes economic development; (b) promotes the efficient use of buildings, land and infrastructure in industrial zones; (c) manages conflicts between incompatible activities; (d) recognises the particular locational requirements of some industries; and (e) enables the development and use of Mana Whenua's resources for their economic well-being. <p><i>Rural and coastal towns and villages</i></p> <p>(1)(b) Growth and development of existing or new rural and coastal towns and villages are enabled in ways that avoid elite soils and avoid where practicable prime soils which are significant for their ability to sustain food production.</p>	<p><i>Rural and coastal towns and villages</i></p> <p>(1) Require the establishment of new or expansion of existing rural and coastal towns and villages to be undertaken in a manner that does all of the following:</p> <p>...</p> <p>(d) avoids elite soils and avoids where practicable prime soils which are significant for their ability to sustain food production; ...</p>	<p>The amount of floorspace within centres and along corridors zoned for commercial activities increases over time. (Links to B2.5.1(2))</p> <p>Land area zoned for industrial activities, including for land extensive industrial activities and for heavy industry, increases over time. (Links to B2.5.1(3)).</p> <p>Reverse sensitivity complaints against industry decrease over time. (Links to B2.5.1(3)).</p> <p>No rural land containing elite soil which is capable of supporting rural production activities is developed for non-rural activities. Links to B2.6.2(1)(b))</p>
<p>B2.6. Rural and coastal towns and villages</p> <p>B2.6.1. Objectives</p>			

Reference (including individual zones)	District Plan Objective	District Plan Policy	District Plan Rule	District Plan Anticipated Results
<p>H19. Rural zones H19.2 Objectives & Policies-all rural zones H19.2.1 Objectives-general rural H19.2.2 Policies</p>	<p>(3) Elite soil is protected, and prime soil is managed, for potential rural production. (4) Rural lifestyle development avoids fragmentation of productive land.</p>	<p>(1) Enable activities based on use of the land resource and recognise them as a primary function of rural areas. (3) Enable rural production activities on elite and prime soil and avoid land-use activities and development not based on, or related to, rural production from locating on elite soil and avoid where practicable such activities and development from locating on prime soil. (4) Enable and maintain the productive potential of land that is not elite or prime soil but which has productive potential for rural production purposes, and avoid its use for other activities including rural lifestyle living except where these are provided for or enabled by Policy H19.2.2(5). (5) Enable a range of rural production activities and a limited range of other activities in rural areas by: separating potentially incompatible activities such as rural production and (a)rural lifestyle living into different zones; ... (c) managing the effects of activities in rural areas so that; ... (ii) reverse sensitivity effects do not constrain rural production activities.</p>		
<p>H19. Rural zones</p>	<p>(1) The character, amenity values and biodiversity values of rural</p>	<p>(1) Manage the effects of rural activities to achieve a character,</p>		

<p>H19.2.3 Objectives- rural character, amenity and biodiversity values</p> <p>H19.2.4 Policies</p>	<p>areas are maintained or enhanced while accommodating the localised character of different parts of these areas and the dynamic nature of rural production activities.</p>	<p>scale, intensity and location that is in keeping with rural character, amenity and biodiversity values, including recognising the following characteristics: a predominantly working rural environment; (a) fewer buildings of an urban scale, nature and design, other than (b) residential buildings and buildings accessory to farming; and a general absence of infrastructure which is of an urban type and scale.</p>		
<p>H19. Rural zones</p> <p>H19.2.5 Objectives – rural industries, rural commercial services and non- residential activities</p> <p>H19.2.5 Policies</p>	<p>(1) Rural production activities are supported by appropriate rural industries and services.</p> <p>(2) The character, intensity and scale of rural industries and services are in keeping with the character of the relevant rural zone.</p> <p>(4) Industries, services and non-residential activities of an urban type and scale unrelated to rural production activities are not located in rural zones.</p>	<p>(1) Enable rural industries and rural commercial services only where they have a direct connection with the resources, amenities, characteristics and communities of rural areas.</p> <p>(2) Manage rural industries, rural commercial services and other non-residential activities to:</p> <p>(a) avoid creating reverse sensitivity effects;</p> <p>(b) contain and manage adverse effects on-site; and</p> <p>(c) avoid, remedy or mitigate adverse effects on traffic movement and the road network.</p>		
<p>H19.3 Rural – Rural Production Zone</p> <p>H19.3.2 Objectives</p>	<p>(1) A range of rural production, rural industries, and rural commercial activities take place in the zone.</p> <p>(2) The productive capability of the land is maintained and protected from inappropriate subdivision, use and development.</p>	<p>(1) Provide for a range of existing and new rural production, rural industry and rural commercial activities and recognise their role in determining the zone's rural character and amenity values.</p>		

<p>H19.3.3. Policies</p>				
<p>H19.4 Rural – Mixed Rural zone H19.4.2 Objectives H19.4.3 Policies</p>	<p>(2) The continuation of rural production and associated non-residential activities in the zone is not adversely affected by inappropriate rural lifestyle activity. (3) Rural character and amenity values of the zone are maintained while anticipating a mix of rural production, non-residential and rural lifestyle activities.</p>	<p>(2) Manage reverse sensitivity effects by: (a) limiting the size, scale and type of non-rural production activities; (b) retaining the larger site sizes within this zone; (c) limiting further subdivision for new rural lifestyle sites; and (d) acknowledging a level of amenity that reflects the presence of: (i) rural production and processing activities that generate rural odours, noise from stock and the use of machinery, and the movement of commercial vehicles on the local road network; and (ii) non-residential activities which may generate noise, light and traffic levels greater than those normally found in areas set aside for rural lifestyle activities.</p>		
<p>H19.5 Rural – Rural Coastal zone H19.5.2 Objectives H19.5.3 Policies</p>	<p>(1) Rural production activities are enabled while managing adverse effects on rural character and amenity values, landscape, biodiversity values and Mana Whenua cultural heritage values. (2) The development and operation of activities that provide recreational and local non-residential services are enabled where they maintain and enhance the zone’s rural and coastal character, amenity values, landscape and biodiversity values.</p>	<p>(1) Manage activities and development to maintain the distinctive rural and coastal character of the zone which include: (a) farming and forestry with a low density of buildings and other significant structures; (b) rural character and amenity values, biodiversity values, values based on particular physical and natural features such as beaches, ridgelines, estuaries, harbours, indigenous vegetation, wetlands, or similar features;</p>		

	<p>(3) Buildings are of a scale and intensity that do not detract from the zone's rural and coastal character and amenity values.</p> <p>(4) Rural lifestyle subdivision is limited across the zone.</p> <p>(5) The significant relationship between land, freshwater bodies and the coastal marine area and their contribution to Auckland's rural and coastal character is maintained and enhanced.</p> <p>(6) Recognise differences in coastal character in different parts of the zone and manage activities and development to maintain and enhance local coastal character.</p>	<p>(c) physical and visual links between land, freshwater lakes and the coastal marine area; or</p> <p>(d) traditional cultural relationships of Mana Whenua with the coastal environment.</p> <p>(2) Enable the continuation of rural production activities and the construction of accessory buildings and structures for farming purposes.</p> <p>(3) Provide for the continued operation of forestry including harvesting and replanting in existing forest areas.</p> <p>(4) Discourage rural production activities that have significant adverse effects resulting from:</p> <p>(a) large buildings;</p> <p>(b) significant earthworks or changes to natural landforms;</p> <p>(c) adverse effects that cannot be contained or managed within the boundary of the site;</p> <p>(d) significant numbers of daily vehicle movements, particularly on scenic and tourist routes; or</p> <p>(e) significant impacts on biodiversity values and rural character and amenity values.</p> <p>(5) Maintain the rural and coastal character and amenity values in the coastal environment by controlling the number, location, size and visual impact of dwellings and other non-</p>		
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		<p>residential buildings and their curtilage and accessways.</p> <p>(6) Require the location and design of buildings and other significant structures to:</p> <p>(a) avoid locating on the top of ridgelines so their profile does not protrude above the natural line of the ridge;</p> <p>(b) minimise building platforms and accessways and earthworks associated with these; and</p> <p>(c) avoid locating buildings and other significant structures in coastal yards and riparian margins, except for fences and structures with operational need for such a location.</p> <p>(7) Recognise the importance of major roads in the zone that:</p> <p>(a) provide access to coastal settlements, public open space and the coast;</p> <p>(b) function as major transport routes for rural produce;</p> <p>(c) are major scenic and tourist routes;</p> <p>(d) are preferred locations for recreation, tourism, visitor facilities and services and the sale of produce and crafts; or</p> <p>(e) act as gateways to Auckland.</p> <p>(8) Enable the development of appropriate activities, while ensuring that the transport function of the road and its scenic values are not compromised.</p>		
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<p>H19.6 Rural – Rural Conservation zone</p> <p>H19.6.2 Objectives</p> <p>H19.6.3 Policies</p>	<p>(1) The natural character, landscape, and distinctive environmental values of the zone are recognised and protected.</p> <p>(2) The zone’s values are maintained and where appropriate enhanced.</p> <p>(3) Existing rural and residential activities are provided for but further development in the zone is limited to that which maintains and where appropriate enhances the values of the zone.</p> <p>(4) Buildings and structures are unobtrusive within the natural landscape.</p>	<p>(1) Protect the natural character and landscape from significant change or modification, particularly visually intrusive buildings, structures and roads.</p>		
<p>H19.7 Rural – Rural Countryside Living zone</p> <p>H19.7.2 Objectives</p> <p>H19.7.3 Policies</p>	<p>(1) Land is used for rural lifestyle living as well as small-scale rural production.</p> <p>(2) The rural character, amenity values, water quality, ecological quality, historic heritage values and the efficient provision of infrastructure is maintained and enhanced in subdivision design and development.</p> <p>(3) Development in the zone does not compromise the ability of adjacent zones to be effectively and efficiently used for appropriate activities.</p> <p>(4) The type and nature of land-use activities provided for are restricted to those appropriate for the typically smaller site sizes.</p>	<p>(1) Locate and design subdivision and development to maintain and enhance rural character and amenity values and avoid an urban form and character by:</p> <p>(a) designing subdivision and development (including accessways, services, utilities and building platforms) to be in keeping with the topography and characteristics of the land;</p> <p>(b) minimising earthworks and vegetation clearance for accessways, utilities and building platforms;</p> <p>(c) avoiding locating accessways, services, utilities and building</p>		

		<p>platforms where they will result in adverse effects on water quality, wetlands, riparian margins, historic heritage sites or scheduled sites and places of value or significance to Mana Whenua. Where avoidance is not possible, mitigation measures must be proposed so that any adverse effects are minor;</p> <p>(d) identifying opportunities for environmental enhancement of existing areas of native vegetation, wetland areas, riparian margins or the coastal edge;</p> <p>(e) encourage landscape planting that reinforces local vegetation patterns;</p> <p>(f) cycleway and bridle path networks.</p> <p>(2) Prevent subdivision, use and development from compromising the safe and efficient operation of existing mineral extraction activities, rural production activities, existing infrastructure or industry in adjacent zones.</p> <p>(3) Avoid or mitigate adverse effects in relation to reverse sensitivity and rural character and amenity by restricting the range of land-use activities in the zone.</p> <p>(4) Discourage activities that will result in adverse effects such as noise, dust, traffic volumes, odour, visual effects and effects on health, safety and cultural values and significantly reduce</p>		
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		<p>the rural character and amenity values of the zone.</p> <p>(5) Acknowledge that the rural character and amenity values associated with this zone reflect its predominant use for rural lifestyle living rather than for rural production activities.</p>		
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Attachment A2

Section 32 Analysis (PPC20)

	Appropriate	Effective	Efficient	Costs	Benefits	Employment	Economic Growth	Risks
Option 1-Do nothing	Not appropriate. Resource consents have been granted for activities that were not anticipated in the Rural zones. It does not achieve the objectives of the RPS or the AUP.	Not effective as resource consents have been granted for activities not contemplated in the Rural zones does not achieve the objectives of the RPS or the AUP	Neutral, resource consents required.	Neutral in terms of financial cost to applicants as resource consent required. Environmental costs of urban activities locating in the Rural zones.	Relatively easier test. From landowner perspective more urban style activities could occur in the rural zones.	Discretionary activity application proposals are more likely to be approved resulting in additional jobs.	Discretionary activity proposals approved would increase regional contributions to gross domestic product.	More resource consents granted for activities not contemplated in the Rural zones.
Option 2 – Introduce Non-complying activity status	Appropriate as ensures greater scrutiny of resource consent applications and is more likely to achieve the objectives of the RPS and the AUP.	More effective as greater scrutiny of resource consent applications as NC is a more rigorous test. Achieves the objectives of the RPS and the AUP.	Neutral, resource consents required.	Neutral in terms of financial cost to applicants as resource consent required.	Greater scrutiny of applications as NC is a harder test. Fewer resource consents granted for activities not contemplated in the Rural zones. As a harder test there is more likelihood that applications will be declined and thus	Non-complying activity application proposals are more likely to be declined however it is unlikely that this will result in lost employment opportunities as start-up facilities will find land in more appropriate zones.	Non-complying activity proposals are more likely to be declined however it is unlikely that this will result in reduced economic growth as start-up facilities will find land in more appropriate zones.	Possible that resource consents could be granted but they will have been subject to greater scrutiny.

Option 3 – New or amended policy for discretionary activities not listed in table H19.8.1	Establishes a different policy base which may be or may not be relevant to individual proposals not anticipated.	Difficult to develop comprehensive policy for all activities that may not be anticipated	Not very efficient as the rural land base is having policy customised for activities provided for in other zones	Neutral as resource consent is currently required	Some unanticipated activities find it easier to establish in rural zones	Neutral as unanticipated activities of a residential, commercial and industrial nature are to be provided for in other specific zones	Neutral as unanticipated activities of a residential, commercial and industrial nature are to be provided for in other specific zones	Activities establish in rural zones to the detriment of rural production activities.
Option 4 – Education for decision-makers and resource users	Not appropriate as existing RPS policy contains directives which require a more formalised statutory response	No guarantee of consistency in approach to significant issues such as the finite nature of elite soil	Education may not guarantee consistency of approach.	Neutral as resource consent is currently required	Higher order tests of the RMA avoided. Some activities may establish as discretionary activities but may not have if assessed as a non-complying activity.	Neutral as unanticipated activities of a residential, commercial and industrial nature are to be provided for in other specific zones	Neutral as unanticipated activities of a residential, commercial and industrial nature are to be provided for in other specific zones	Inconsistent approach to decision making.
Option 5 (i) – delete references to residential buildings in rural policy and replace with “dwelling”.	Appropriate way to address the issue	Effective as it removes reference to “residential” but still makes it explicit that dwellings are contemplated in the zone	Addresses the issue at lowest cost with highest benefit.	Cost of limiting opportunities for residential activities in the rural area.	Limits opportunities for residential activities in the rural area in line with the objectives and policies.	Employment opportunities decrease from out of zone activities but may be realised in more appropriate zones.	Opportunities for economic growth to contribute regionally to gross domestic product decrease from out of zone activities but may be realised in more	Low risk that a wide range of residential activities locate in the rural zone.

<p>Option 5 (ii) – Delete the last sentence of Policy 19.2.4(1)(b).</p>	<p>Appropriate but does not address the issue across the chapter.</p>	<p>Not effective as it only addresses the issue in one of the instances where the term “residential” is used</p>	<p>Does not address the issue efficiently as does not deal with all instances of the problem.</p>	<p>Cost of limiting opportunities for residential activities in the rural area.</p>	<p>Limits opportunities for residential activities in the rural area in line with the objectives and policies.</p>	<p>Employment opportunities decrease from out of zone activities but may be realised in more appropriate zones.</p>	<p>Opportunities for economic growth to contribute regionally to gross domestic product decrease from out of zone activities but may be realised in more appropriate zones.</p>	<p>Unclear that dwellings can locate in the Rural zone and doesn’t address all instances where the term residential is used.</p>
<p>Option 5(iii) – amend the definition of “residential” by adding an exception for rural zones.</p>	<p>Appropriate but does not address the issue in the Rural chapter.</p>	<p>This option would address all references to “residential” in the Rural chapter. Not very effective as not all users of the plan will look in the definitions chapter at the nesting tables to determine what is included under the term “residential”.</p>	<p>Addresses the issue but not efficiently as it is not dealt with in the Rural chapter.</p>	<p>Cost of limiting opportunities for residential activities in the rural area.</p>	<p>Limits opportunities for residential activities in the rural area in line with the objectives and policies.</p>	<p>Employment opportunities decrease from out of zone activities but may be realised in more appropriate zones.</p>	<p>Opportunities for economic growth to contribute regionally to gross domestic product decrease from out of zone activities but may be realised in more appropriate zones.</p>	<p>Not clear in the Rural Chapter that residential activities limited to dwellings. Users may not refer to the Definitions Chapter.</p>

Attachment A3

The Plan Change (PPC20)

There are two elements to the plan change.

- a) The first is to add to the Rural Activity Table, Table H19.8.1, reference to “Activities not provided for” as follows (additions are underlined):

Table H19.8.1 Activity Table – use and development [rp/dp]

Activity		Activity Status				
		Rural Conservation Zone	Countryside Living Zone	Rural Coastal Zone	Mixed Rural Zone	Rural Production Zone
Use						
(AA1)	<u>Activities not provided for</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>
Rural						

- b) The second part of the plan change is to amend references to “residential buildings” in a number of rural zone descriptions, objectives and policies to refer to “dwellings”. The amendments are set out below:

i) 19.2.4 Policies – rural character, amenity and biodiversity values

- (1) *Manage the effects of rural activities to achieve a character, scale, intensity and location that is in keeping with rural character, amenity and biodiversity values, including recognising the following characteristics:*

- (a) *a predominantly working rural environment;*
- (b) *fewer buildings of an urban scale, nature and design, other than ~~residential buildings~~ dwellings and buildings accessory to farming; and*
- (c) *a general absence of infrastructure which is of an urban type and scale.*

(2) 19.6 Rural – Rural Conservation Zone

H19.6.1 Zone description

This zone comprises biophysically distinctive areas in rural Auckland. The zone has important natural values requiring maintenance and protection. They are largely in private ownership and are used for a range of purposes including ~~residential buildings~~ dwellings, low-impact recreational activities, conservation and open space....

The purpose of this zone is to adopt a conservative approach to new subdivision, use and development so that the natural values of the zone are maintained and protected while enabling established rural ~~and residential~~ activities and dwellings to continue.

H19.6.2 Objectives

- (4) Existing rural ~~and residential~~ activities and dwellings are provided for but further development in the zone is limited to that which maintains and where appropriate enhances the values of the zone.*

H19.6.3 Policies

- (3) Enable the continued use of established rural ~~and residential~~ activities and dwellings and provide for new activities only where adverse effects are avoided or mitigated.*

iv) H19.7.Rural – Countryside Living

H19.7.1 Zone Description

.... This zone incorporates a range of rural lifestyle developments, characterised as low-density rural lifestyle residential development dwellings on rural land. These rural lifestyle sites include scattered rural ~~residential~~ dwelling sites, farmlets and horticultural sites, ~~residential~~-bush dwelling sites and papakāinga.

Attachment A4

Papakāinga

Papakāinga & General Rural Land

Purpose

This report is a supplementary to item 10 on the Planning Committee agenda for the purpose of assisting the Chair, Deputy Chair and a member of the Independent Māori Statutory Board (IMSB) to come to a decision on whether or not to provide for papakāinga housing on general rural land either as a non-complying or as a discretionary activity.

1.0 Executive Summary

- 1.1 A Council initiated proposed plan change has been initiated to modify the Unitary Plan so as to correct a matter which did not occur as intended. Originally, the Council's default position for any land use activity, not included in any zone, was one of a non-complying activity by way of general rule C1.7(1). The IHP changed the default setting in general rule C1.7(1) to a discretionary activity. In response Council modified every zone land use table in the Unitary Plan so that any activity not provided for was a non-complying activity, but unfortunately the rural zone land use table was missed. This is the fundamental intention of the proposed plan change. It is not to propose any new policy direction.
- 1.2 As papakāinga is not listed in the Rural Zones activity table, the proposed plan change would see it treated as an activity not otherwise provided for on general rural land and would therefore have non-complying activity status. However, papakāinga development in the rural zones on Māori land or Treaty Settlement land would remain unaffected by this proposed plan change, and would remain either: a permitted activity for one dwelling per hectare, with no more than ten dwellings per site; a restricted discretionary activity for one dwelling per 4,000m², with no more than 20 dwellings per site; and a discretionary activity for integrated Māori development which can include a greater number of dwellings.
- 1.3 There is an extensive area of land available for papakāinga development on rural Māori land and rural land subject to the Treaty Settlement Legislation in the Auckland region. The rural land area potentially available to Māori to establish papakāinga as a permitted, restricted discretionary or discretionary activity under the AUP conservatively approximates 48,000 ha when statutory acknowledgement areas are excluded. Potentially the rural land area available to Māori to establish papakāinga goes well beyond 48,000 ha if statutory acknowledgement land owned by claimant groups is included.
- 1.4 The approach taken by the AUP regarding papakāinga is more permissive than that of other Councils such as the Gisborne, Wellington, Far North, Whangarei and Tauranga districts which have district plan provisions which either limit the focus of papakāinga to Māori land or do not have specific papakāinga provisions.

- 1.5 In an initial meeting with the delegated members, it was agreed that further investigations should take place into options 2 and 3 (see Table 2). Possible wording for options 2 and 3 has been developed should one of these options be chosen. The details of possible Unitary Plan provisions are outlined in Attachment A.
- 1.6 To provide for papakāinga as a discretionary activity or introduce a policy for papakāinga in rural zones on general land, in addition to the existing provisions in the Māori Land and Treaty Settlement land, in conjunction with the proposed rural plan change, would result in planning policy and implementation failings (see section 6). The issue of papakāinga on general land would be best dealt with as a separate plan change matter supported by the appropriate consultation.
- 1.7 In the context of the proposed plan change a non-complying activity status for papakāinga on general rural land is considered the preferred option. This strikes an appropriate balance between supporting existing objectives and policies in the AUP seeking to protect elite and prime soils in rural zones for traditional agricultural activities associated with food production and maintaining rural character, amenity and natural values; whilst recognising the available opportunity for papakāinga development on Māori land and Treaty Settlement Land, and land within the Māori Purposes zone.

2.0 Introduction

- 2.1 Currently, any activity not provided for in the activity table for rural zones is a discretionary activity as a result of changes made by the Independent Hearings Panel. Originally, Council proposed a general provision by way of what is now rule C1.7(1) that required any activity not provided for in the Unitary Plan to be deemed a non-complying activity. In response to the Independent Hearings Panel change Council amended zone rules to clarify that any activity not provided for in land use activity table rules was a non-complying activity. However, the rural activity table was unintentionally omitted from the changes and the default position for the rural zones remained as a discretionary activity. The Council is proposing a plan change, which will result in activities not otherwise provided for in the rural zones having a non-complying activity status. It is not the intention of the proposed plan change to initiate any policy shifts in regard to any issue or land use activity.
- 2.2 This report primarily considers the advantages and disadvantages of the AUP providing for papakāinga housing on general rural land as a non-complying activity as against a discretionary activity. [The proposed plan change does **not** affect the activity status of papakāinga on Māori land under the Te Ture Whenua Māori Act 1993, or on Treaty Settlement land].
- 2.3 This report addresses the content of the AUP regarding papakāinga housing developments as adopted by the Independent Hearings Panel and Council as part of developing a Unitary Plan for Auckland; the status of papakāinga development in other council district plans; and outlines the advantages and disadvantages of several options for the consenting status of papakāinga developments on general rural land.

3.0 Current Position of the AUP

Definitions

- 3.1 There is no definition of Papakāinga in the AUP chapter of definitions (i.e. Chapter J) however in the AUP Glossary of Māori terms in Chapter N it is described as:

Papakāinga

A settlement or village which has whakapapa connections to that land.

- 3.2 Furthermore, in the AUP Glossary of Māori terms in Chapter N, Whakapapa is described as:

Whakapapa

Genealogy that links Māori to their Māori ancestors. (Io, Rangī & Papa).

Māori Land & Land Subject to Treaty of Waitangi Settlement Legislation

- 3.3 The Auckland-wide provisions of the AUP recognise the unique legal and governance framework for Māori land being subject to the Te Ture Whenua Māori Act 1993, and land subject to the Treaty Settlement Legislation.
- 3.4 Table E20.4.1 contained in Chapter E20 of the AUP outlines the status of papakāinga on Māori land. Table E21.4.1 outlined below replicates Table E20.4.1 for land subject to Treaty of Waitangi Settlement Legislation.
- 3.5 This means that the AUP treats papakāinga on Māori land or land subject to Treaty of Waitangi Settlement Legislation permissively with one dwelling per hectare, with no more than ten dwellings per site in the rural zones being a permitted activity, and one dwelling per 4,000m², with no more than 20 dwellings per site being a restricted discretionary activity. The Auckland Unitary Plan also provides for integrated Māori development as a discretionary activity which can include a greater number of dwellings.

Table E20.4.1 Activity table

	Activity	Activity status
(A1)	Activities associated with marae or papakāinga up to 250m ² gross floor area	P
(A2)	Activities associated with marae or papakāinga greater than 250m ² gross floor area	RD
(A3)	One dwelling per hectare with no more than 10 dwellings per site in the rural zones	P
(A4)	One dwelling per 4,000m ² with no more than 20 dwellings per site in the rural zones	RD
(A5)	Integrated Māori development	D
(A6)	Dwellings not otherwise provided for in a rural zone	NC

- 3.6 The Independent hearings Panel (IHP) in hearing submissions on the AUP specifically considered what the appropriate elements should be in any definition of Treaty Settlement land. The resulting definition of Treaty Settlement land sits in Chapter J of the Auckland Unitary Plan, and includes:

Property which is either:

vested with claimant groups by the Crown as a result of Treaty settlement legislation

and final deeds of settlement; or

acquired by a claimant group from the Crown pursuant to a right of first refusal

process provided that the properties were specifically identified by reference to site or

title in Treaty settlement legislation enacted prior to the date on which the Unitary

Plan became operative as Right of First Refusal land for that claimant group.

Includes:

cultural redress properties;

commercial redress properties including:

o properties returned via deferred selection,

o properties transferred to other iwi, hapū or whānau entities associated or affiliated with the claimant group; and

o properties transferred to a company in which the claimant group holds a controlling interest.

Excludes:

· unspecified properties within geographic areas over which claimant groups have

been awarded Right of First Refusal in Treaty settlement legislation;

· any properties over which claimant groups have been awarded Right of First Refusal

in Treaty settlement legislation enacted after the date on which the Unitary Plan

became operative;

· properties covered by Statutory Acknowledgement or Deed of Recognition but not

owned by claimant groups;

· properties in which the claimant group, or an iwi, hapū or whānau entity associated or affiliated with the claimant group, no longer retains a legal freehold interest;

· properties leased by the claimant group to an unrelated entity for a term which,

including renewals, is or could be more than 35 years; and

· properties transferred to a company in which the claimant group has a minority interest.

4.0 Rural Land Available for Papakāinga

Recent Developments – Independent Māori Statutory Board

- 4.1 The Independent Māori Statutory Board recently approved a draft *Kāinga strategic action plan* for consultation, and the document along with supporting material was released on 4th October 2018.
- 4.2 The strategic action plan was developed alongside stakeholders and government in response to the Auckland Māori Housing Summit in April, which highlighted the urgent housing needs Māori face in Auckland, especially low-income whānau, and called for change and increased accountability.
- 4.3 One element in this draft strategy is to advance Māori housing on general rural land and apply papakāinga provisions to general rural land either owned or not owned by Māori.
- 4.4 Council in a submission dated 24 October 2018 to the draft *Kāinga strategic action plan* indicated that it was committed to improving outcomes for Maori and acknowledged that the *Kāinga strategic action plan* aligned with the Auckland Plan 2050 particularly the Homes and Places, Belonging and Participation, and Maori Identity and Wellbeing outcomes.
- 4.5 However, Council's submission also noted:
 - Where activities aligned with current and budgeted future activities, the council would look to support the actions identified in the draft plan particularly in relation to a consent made easy process and reporting outcomes, whereas support for actions that were not already underway or planned for in the 10-year budget would require political direction and decisions;

- The Auckland Unitary Plan provided significant opportunities for Maori social, cultural and economic activities, including dwellings, on general land. Recommendation 22 [in the *Kāinga strategic action plan*] suggested more needed to be done, (i.e. Develop and improve provisions in the Unitary Plan to enable papakāinga on general land and other otherwise viable Māori housing outcomes). In this regard the Council submission outlined that It would be useful to discuss this and understand it further. It further noted that it was important that communities understand the services that council offered and council's activities and that to avoid any confusion, it would be helpful if those actions in the draft plan attributed to Auckland Council were suggested actions noting that some would require political sign-off or legislative change.

4.6 Whilst the *Kāinga strategic action plan presents* laudable goals it also raises a number of significant issues. The *Kāinga strategic action plan* at this stage is a draft document which still requires further community and council consideration. In its aspiration to apply papakāinga provisions to general rural land it is diametrically opposed to the proposed plan change which is very specific in nature, and the Regional Policy Statement which would require change. [Consequently, it is not possible to add a new discretionary activity status for papakāinga to the proposed plan change whilst the Regional Policy Statement contains current policy directions around managing rural land and development.]

4.7 Furthermore, consultation undertaken in conjunction with the proposed plan change indicated that Auckland iwi were supportive of the proposed plan change and they did not raise any issues around the need to provide greater opportunities for papakāinga development in rural locations.

Auckland Unitary Plan

4.8 Attachment 1 outlines the location of land potentially available for papakāinga in the rural zones of the Auckland region based on the operative Auckland Unitary Plan rules which enable this activity (depending on its size) as a permitted, restricted discretionary or discretionary activity on Māori land and Treaty Settlement land. Attachment 1 also outlines the location of elite and prime soils which are afforded a high degree of protection in the AUP.

4.9 The Regional Policy Statement objectives and policies make it clear that development on elite soil is to be avoided and in the case of prime soils development is to be avoided where practicable. A National Policy Statement may well reinforce the status and importance of versatile soils as the Minister for the Environment is currently canvassing with Councils throughout New Zealand the methodology and need for such a policy instrument. Auckland and

its elite and prime soils are likely to receive considerable attention in this process.

4.10 Table 1 below outlines the total area of land potentially available for papakāinga in rural areas by way of land being classified as either Māori land or land subject to Treaty of Waitangi Settlement Legislation.

Table 1

#	Category	Area (ha)
1	Tangata Whenua Management Area	508.36
2	Māori Freehold land	7 628.40
3	Tangata Whenua Māori Land	10 608.75
4	Commercial redress land	19 861.04
5	Cultural Redress land	9 088.07
6	Statutory acknowledgement area	90 643.64
7	Returned under 10-acre Block	0.18
8	Deed of recognition	194.01
9	Right of first refusal	289.16

4.11 The total Auckland rural land area approximates 311,737 ha. The total area of land potentially available for papakāinga development as a restricted discretionary activity under the AUP approximates 138,821ha. This represents approximately 45% of the total resource, namely 138,821/311,737ha.

4.12 It must be acknowledged that the largest area of land in Table 1 is the statutory acknowledgement area (i.e. 90,643ha) which would only provide for papakāinga greater than 250m² as a restricted discretionary activity where the land was owned by a claimant group.

4.13 Removing statutory acknowledgement areas results in 15% of the total rural land area being capable of being considered for papakāinga development as a restricted discretionary activity under the AUP (i.e. 48, 178/311,737ha). This is still a very significant land area.

4.14 It is important to note that the Independent Hearings Panel in its deliberations on the Auckland Unitary Plan did not enable specific provisions for papakāinga beyond Māori Land and Treaty Settlement Land, or the Māori Purposes zone, which enables up to three dwellings as a permitted activity and four or more dwellings as a discretionary activity. The Māori Purposes zone applies to 21 Marae of which seven are rural. The rural marae includes: Rewiti, Haranui, Kakanui, Araparera, Te Henga, Umupuia and Puatahi. Furthermore, in the consultation with iwi on the proposed plan change no iwi requested any change

to the existing position in the Auckland Unitary Plan in regard to where papakāinga could be developed.

5.0 What are Other Councils Doing?

- 5.1 The papakāinga provisions in the Whangarei District Plan provide for the development of ancestral Māori land. In the context of the District Plan, ancestral Māori land is land subject to the Te Ture Whenua Māori Act 1993. These provisions seek to provide opportunities for Māori land owners to develop and live on their ancestral land.
- 5.2 In the Tauranga City Plan papakāinga means development by tangata whenua of land held under the Te Ture Whenua Māori Act (1993), in the traditional rohe of those tangata whenua and developed for residential, social, cultural, economic, conservation and recreation activities.
- 5.3 The Far North and Gisborne districts provide for papakāinga development on Māori land subject to the Te Ture Whenua Māori Act 1993.
- 5.4 Wellington City Council does not have any objectives, policies and rules specifically providing for papakāinga in its district plan.

6.0 Options for Papakāinga on General Rural Land in Terms of the Proposed Plan Change Table 2

#	Option	Advantages	Disadvantages
<u>1</u>	Retain as Non-complying activity (i.e. as proposed in the plan change)	<ul style="list-style-type: none"> • Recognises that dwellings irrespective of land ownership or cultural connection pose a threat to: rural production activities from reverse sensitivity; and rural character. • Maintains a consistent approach to activities currently discretionary in rural zones • Requires a more robust policy analysis of proposals against critical policy elements such as the impact on elite and prime soils. • Provides an incentive to convert general land to Māori land under the Te Ture Whenua Māori Act 1993. 	<ul style="list-style-type: none"> • Where general land is converted to Māori land papakāinga would be a restricted discretionary activity. • Higher threshold for applications for papakāinga to meet.
<u>2</u>	Retain Non-Complying status, but add a separate policy addressing papakāinga.	<ul style="list-style-type: none"> • As above in 1. • Provides greater direction to decision-makers around where Papakāinga can be encouraged to locate. 	<ul style="list-style-type: none"> • Provides an exception for Papakāinga in environments where new settlement and housing is not encouraged due to the zones having (in some cases a very strong

			focus) on rural production activities or rural values.
<u>3</u>	Add papakāinga as a discretionary activity with standards around such things as scale, density, minimum site size, bulk, location and buffers which if infringed result in a requirement for a non-complying activity consent.	<ul style="list-style-type: none"> • Provides greater direction to decision-makers around bulk and location controls to manage visual impacts and reverse sensitivity effects. 	<ul style="list-style-type: none"> • Not as strong in providing direction to decision-makers around where Papakāinga should be encouraged to locate.
<u>4</u>	Add as a Discretionary Activity with no additional constraints.	<ul style="list-style-type: none"> • Increases permissiveness (in terms of the RMA statutory categories) for the consenting of Papakāinga for Māori to pursue their economic, social and cultural aspirations. 	<ul style="list-style-type: none"> • Is at odds with the current approach in the AUP which provides for Papakāinga on Māori land/Treaty Settlement land as an RDA based on a cultural nexus to this land • Increases the likelihood of development occurring which creates the range of adverse effects that the plan change is trying to prevent • The range of possible links to the land to establish Papakāinga is greatly increased as use rights and any cultural nexus (rather than ownership/occupational rights) may only need to be established at resource consent time.

How could Options 2 and 3 be further Developed

Option 2

The Elements

- 6.1 Option 2 would involve retaining the non-complying activity status for papakāinga on general rural land, but a separate policy would be added specifically addressing papakāinga. In this regard it would be critical for the policy to have the appropriate settings to capture the situations where papakāinga was to be encouraged.
- 6.2 In providing for papakāinga on general rural land there is an argument that it should only be provided for where the land is not Māori land under the Te Ture Whenua Māori Act 1993 or Treaty of Waitangi Settlement Legislation **but** there is still a strong cultural connection capable of being established. To do otherwise would create a mismatch between the concept of papakāinga and the land resource in question.

- 6.3 Currently, there is no definition of papakāinga in the definitions section of the Unitary Plan. Therefore, any parties seeking to establish a papakāinga on general rural land do not have to establish or prove a cultural connection. Essentially, a papakāinga could be proposed in any rural location on general rural land. Whilst, it is likely that an application for papakainga on general rural land would be supported by information about past occupation, relatives and ancestors it is not necessarily correct to say that any applicant is required to “prove that a whakapapa link” does exist.
- 6.4 Also integral to any such policy is a requirement that it provide strong direction about the circumstances when papakāinga may not be appropriate, such as if any development due to scale or characteristics was to result in: a loss of soils critical to agricultural activities; adverse effects on rural character and amenity; reverse sensitivity effects on existing or future agricultural activities.

6.5 A suggested wording would be:

Provide for papakāinga on general rural land that is not Māori land under the Te Ture Whenua Māori Act 1993 or land which is subject to the Treaty of Waitangi Settlement Legislation in circumstances where the land is held in multiple Māori ownership and there is a strong cultural connection capable of being established to the land and provided the following effects can be avoided:

- ***Loss of versatile soils (classes 1-3);***
- ***Reverse sensitivity effects on existing rural agricultural activities;***
- ***Adverse effects on rural character and amenity as a result of the inappropriate character, scale and intensity of any development.***

- 6.6 Prima facie the policy appears to contain the critical elements that might be of concern if papakāinga was to establish on general rural land. However, the development of such a policy is not a course of action that can be recommended from a professional planning perspective for both policy and implementation reasons.

Policy matters

- 6.7 The following policy issues are of relevance:

1. It will be necessary to link the policy to issues and an objective, otherwise the policy sits in isolation, in which case the plan change would need to be expanded in breadth (see attachment A). This widening of breadth, and the inclusion of papakāinga as a special case, may warrant the consultation undertaken to date being revisited as the stakeholder interests will have been significantly changed. The RMA requires consultation to be undertaken prior to notification. The treatment of Papakāinga introduces significant new elements which affect a wider

- range of stakeholders, and it would be best if these interests were consulted to avoid any risk of judicial review.
2. The policy is at odds with the rural plan change itself as proposed, as the proposed plan change seeks to ensure that unintended land uses not aligned to rural activities are discouraged rather than enabled or provided for.
 3. The policy sits in opposition to policy drivers in the Auckland Plan and Unitary Plan, in particular those associated with urbanisation and containing urban growth within the rural urban boundary, towns, rural and coastal towns and villages and ensuring that urban growth is integrated with infrastructure. Also, at odds with the addition of a policy providing for papakāinga on general land in rural zones are objectives and policies in the rural zones which promote rural production activities (i.e. farming) and discourage those land uses which are urban in character, including rural lifestyle living.
 4. The RMA requires any plan change to be accompanied by a section 32 analysis. It is difficult to see how this could be accomplished given the content of the proposed plan change, existing policy in the Unitary Plan and the significant area of land currently available for Papakāinga (i.e. Māori Land, Treaty Settlement land and Māori Purposes zone) in locations formally recognised as having Māori ancestral linkages.
 5. It is still necessary for Council's submission to be considered to the *Kāinga strategic action plan*. This submission seeks further discussion and political support around providing for papakāinga on general rural land.
 6. The desire for papakāinga on general rural land could be addressed by way of submission to the proposed plan change but preferably by a separate in-depth plan change process that is more specifically targeted.

Implementation

- 6.8 The implementation issues surrounding such a policy approach are significant and include:
1. If a papakāinga was to be proposed on general rural land it is not currently a requirement for a cultural connection to be established between applicants and the land in question. This means that consent planners could face applications for papakāinga anywhere on general rural land.
 2. It will neither be practicable (in terms of resources) and in many cases feasible nor culturally accepted for consent planners to attempt to validate the cultural connection of any applicants to a piece of general rural land. If a title is presented with more than one Māori interest it is likely that this will be accepted. Māori ancestral linkage to land is a complex matter which goes beyond European concepts of ownership by way of being linked strongly to use rights and customary use. In the case of Māori land or Treaty Settlement land the required validation to support a consenting process requiring a cultural connection to land is made straight forward.
 3. The Auckland development community is likely to use the policy provisions for papakāinga on general rural land to argue from an effects-based perspective for comparable development rights. It should be noted that in the Independent Hearings Panel (IHP) process on the Auckland Unitary Plan (i.e. rural subdivision topics) a number of interests sought the ability to develop urban hamlets in rural zones. The IHP did not concede to this request.

4. The inclusion of a policy providing for Papakāinga is at odds with the status of the activity as proposed. On the one hand a policy appears to provide for Papakāinga if provisos are satisfied, but on the other hand it is given a non-complying activity status. This will cause confusion and is open to challenge.

Option 3

- 6.9 Option three would require papakāinga to be added as a discretionary activity with standards around such things as scale, density, minimum site size, bulk, location and buffers which if infringed would result in a requirement for a non-complying activity consent.

The Elements

- 6.10 I consider that for papakāinga to be a discretionary activity the only key new standard that need to apply is in regard to density. In this respect a limit of up to ten dwellings at a ratio of 1 dwelling per hectare per site would strike a balance between the need for community housing and to maintain some resemblance of rural character. This shadows the density provisions for the Countryside Living zone.
- 6.11 In all other regards the discretionary activity status of papakāinga would make this land use subject to existing standards H19.10.1 to H19.10.16 which include such things as: building height, yard setbacks and location of dwellings.
- 6.12 I consider that it would be necessary to develop some assessment criteria to assist decision-makers focus on the critical matters of importance in considering papakāinga on general rural land (please see Attachment A).

A suggested wording

- 6.13 Attachment A to this report outlines a complete package of provisions to support option 3 being developed.

Policy & Implementation issues

- 6.14 Option 3 would still suffer from the failings of option two. Specifically, items 2, 3, 4, 5 and 6 detailed above under the heading of “Policy matters” and items 2 and 3 detailed above under the heading of “Implementation”.

7.0 Conclusion

- 7.1 There is a potentially large area of rural land available for papakāinga development on land that is either Māori land or land subject to Treaty of Waitangi Settlement Legislation or land within the Māori Purposes zone. This affords Māori considerable opportunities to pursue aspirations around housing in locations where there is a strong cultural connection. In these situations, papakāinga housing developments can be advanced by way of a permitted activity (for papakāinga up to 250m² gross floor area), restricted discretionary

activity (for papakāinga greater than 250m² gross floor area) or a discretionary activity in the case of papakāinga as part of an integrated Māori development.

- 7.2 There is a need to protect the limited resource of elite and prime soils available in the Auckland region and maintain these for agriculture and horticultural activities associated with food production.
- 7.3 Also requiring protecting is larger land holdings which enable pastoral farming and a wider diversity of agricultural activities. These large holdings are a diminishing resource in the Auckland region, as a result of the rural land base being highly characterised by land fragmentation.
- 7.4 It is also vital to ensure that agricultural activities are protected from reverse sensitivity effects which arise from sensitive land use activities emerging near agricultural activities (e.g. rural lifestyle complaints against noise, odour, spray drift from farming).
- 7.5 The proposed plan change is very focussed on the matter of addressing how unintended land use activities in rural zones should be managed. If papakāinga is to be managed in a way that is different from the provisions developed by the IHP in its deliberations on the AUP, then this would require careful consideration outside of the current proposed plan change.
- 7.6 Providing for Papakāinga by way of a specific policy or a discretionary activity in the rural zones on general rural land, in conjunction with the proposed plan change, would produce a number of planning policy and implementation failings.
- 7.7 In view of these findings it is considered appropriate that papakāinga developments on general rural land be treated as a non-complying activity in the land use rules for the rural zones in the AUP, on the basis that there is already sufficient provision in the AUP for papakāinga on Maori Land, Maori Special Purpose zoned land and Treaty Settlement Land in the Rural zones.

Recommendation

- 7.8 That option 1 in table one above which retains papakāinga on general rural land as a non-complying activity be the preferred option.

Barry Mosley

26th October 2018.

Attachment A

Possible Discretionary Activity Provisions to Support Papakāinga Development in Rural Zones on General Land

Issues

1. The need for Māori to provide for their social and cultural wellbeing on land not Māori land under the Te Ture Whenua Māori Act 1993 or Treaty of Waitangi Settlement Legislation, but rural general land where there is a strong ancestral and cultural connection
2. Hapu wish to direct the use and development of their land in a way that is consistent with their cultural values and customs.
3. The effects of papakāinga development may be:
 - incompatible with the rural character and amenity of the surrounding environment;
 - result in the loss of versatile soils in rural zones used to support agricultural production;
 - incompatible with adjacent and surrounding rural land use

Objective

1. Provide opportunity for papakāinga on ancestral Māori land held in general title, where a traditional and cultural relationship exists.
2. Manage any adverse effects of papakāinga development on the rural land resource.

Policy

1. *Provide for papakāinga on general rural land that is not Māori land under the Te Ture Whenua Māori Act 1993 or land which is subject to the Treaty of Waitangi Settlement Legislation in circumstances where the land is held in multiple Māori ownership and there is a strong cultural connection capable of being established to the land and provided the following effects can be avoided:*
 - *Loss of versatile soils (classes 1-3);*
 - *Reverse sensitivity effects on existing rural agricultural activities;*
 - *Adverse effects on rural character and amenity as a result of the inappropriate character, scale and intensity of any development.*

Rules

Amend table H19.8.1 to include new row (A80).

Table H19.8.1 Activity Table – use and development [rp/dp]

Activity		Activity Status				
		Rural Conservation Zone	Countryside Living Zone	Rural Coastal Zone	Mixed Rural Zone	Rural Production Zone
Use						
	<u>Papakāinga of one dwelling per hectare and no greater than ten dwellings per site.</u>	<u>NC</u>	<u>DA</u>	<u>DA</u>	<u>DA</u>	<u>DA</u>
<u>(AA1)</u>	<u>Activities not provided for</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>	<u>NC</u>
Rural						

Assessment Criteria

Renumber existing H19.13 as H19.14 and add the following.

H19.13

The Council will consider, but not be limited to, the assessment criteria detailed below for Papakāinga considered a discretionary activity:

- (a) the appropriateness of the density, bulk or location of dwellings and buildings proposed and effects on rural character and amenity;
- (b) stormwater and waste water management;
- (c) loss of versatile soils (classes 1 to 3);
- (d) setback distances, buffering and any methods required to avoid reverse sensitivity effects;
- (e) access;
- (f) effects on biodiversity.

APPENDIX 3

RELEVANT STATUTORY AND POLICY FRAMEWORK

Appendix 3 Relevant Statutory and Policy Framework

Reference	Regional Policy Statement Objectives	Regional Policy Statement Policy	Regional Policy Statement Anticipated Results
B6.4.1 Maori economic, social and cultural development B6.4.2	<p>(1) Maori economic, social and cultural wellbeing is supported.</p> <p>(2) Mana Whenua occupy, develop and use their land within their ancestral rohe.</p>	<p>(1) Provide for papakainga, marae, Maori customary activities and commercial activities across urban and rural Auckland to support Maori economic, social and cultural wellbeing.</p> <p>(2) Enable the integration of matauranga and tikanga Maori in design and development.</p> <p>(3) Enable the occupation, development and use of Maori land for the benefit of its owners, their whanau and their hapu.</p> <p>(4) Enable Mana Whenua to occupy, develop and use Maori Land (including for papakainga, marae and associated developments) with natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, natural resources, coastal environment, historic heritage and special character, provided that adverse effects on those resources and avoided, remedied or mitigated.</p>	
B9. Toitū te tuawhenua Rural environment B9.2. Rural activities B9.2.1. Objectives	<p>(2) Areas of land containing elite soil are protected for the purpose of food supply from inappropriate subdivision, urban use and development.</p> <p>(3) Rural production and other activities that support rural communities are enabled while the character, amenity, landscape and biodiversity values of rural areas, including within the coastal environment, are maintained.</p>	<p>(3) Enable a diverse range of activities while avoiding significant adverse effects on and urbanisation of rural areas, including within the coastal environment, and avoiding, remedying, or mitigating other adverse effects on rural character, amenity, landscape and biodiversity values.</p> <p>(4) Minimise the potential for reverse sensitivity effects by:</p> <p>(a) preventing sensitive activities (such as countryside</p>	<p>No rural land containing elite soil which is capable of supporting rural production activities is developed for non-rural activities. (Links to B9.2.1(2))</p> <p>No additional sites are created for non-rural production purposes over time. (Links to B9.2.1(4))</p>

B9.2.2. Policies	(4) Auckland's rural areas outside the Rural Urban Boundary and rural and coastal towns and villages are protected from inappropriate subdivision, urban use and development.	living) from establishing in areas where rural production activities could be adversely affected; or (b) requiring sensitive activities (such as new countryside living) to adopt on-site methods to avoid reverse sensitivity effects on rural production activities;	
B9. Toitū te tuawhenua Rural environment B9.3. Land with High Productive Potential B9.3.1. Objectives B9.3.2. Policies	(1) Land containing elite soils is protected through land management practices to maintain its capability, flexibility and accessibility for primary production. (2) Land containing prime soil is managed to enable its capability, flexibility and accessibility for primary production. (3) The productive potential of land that does not contain elite or prime soil is recognised.	(1) Avoid new countryside living subdivision, use and development on land containing elite soil and discourage them on land containing prime soil. (2) Encourage activities that do not depend on using land containing elite and prime soil to locate outside these areas. (3) Recognise the productive potential of land that does not contain elite or prime soil and encourage the continued use of this land for rural production.	No additional sites are created for non-rural production purposes on land with elite soils over time. (Links to B9.3.1(2))

<p>B2. Tāhuhu whakaruruhau ā-taone – B2.2 Urban growth and form</p> <p>Urban growth and form B2.2.1. <i>Development capacity and supply of land for urban development</i> Objectives 1-5</p> <p><i>Development capacity and supply of land for urban development</i> B2.2.2 Policies 1-3</p> <p><i>Quality compact urban form</i> B2.2.2 Policies 4-8</p>	<p>Urban growth and form enables all of the following:</p> <p>(a) a higher-quality urban environment; (b) greater productivity and economic growth; (c) better use of existing infrastructure and efficient provision of new infrastructure; (d) improved and more effective public transport; (e) greater social and cultural vitality; (f) better maintenance of rural character and rural productivity; and (g) reduced adverse environmental effects.</p> <p>(2) Urban growth is primarily accommodated within the urban area 2016 (as identified in Appendix 1A).</p> <p>(3) Sufficient development capacity and land supply is provided to accommodate residential, commercial, industrial growth and social facilities to support growth.</p> <p>(4) Urbanisation is contained within the Rural Urban Boundary, towns, and rural and coastal towns and villages.</p> <p>(5) The development of land within the Rural Urban Boundary, towns, and rural and coastal towns and villages is integrated with the provision of appropriate infrastructure.</p>	<p><i>Urban growth and form Development capacity and supply of land for urban development</i></p> <p>(1) Include sufficient land within the Rural Urban Boundary that is appropriately zoned to accommodate at any one time a minimum of seven years' projected growth in terms of residential, commercial and industrial demand and corresponding requirements for social facilities, after allowing for any constraints on subdivision, use and development of land.</p> <p>(2) Ensure the location or any relocation of the Rural Urban Boundary identifies land suitable for urbanisation in locations that:</p> <p>(a) promote the achievement of a quality compact urban form</p> <p>(b) enable the efficient supply of land for residential, commercial and industrial activities and social facilities;</p> <p>(c) integrate land use and transport supporting a range of transport modes;</p> <p>(d) support the efficient provision of infrastructure;</p> <p>(e) provide choices that meet the needs of people and communities for a range of housing types and working environments; and</p> <p>(f) follow the structure plan guidelines as set out in Appendix 1; while:</p> <p>(g) protecting natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage and special character;</p> <p>(h) protecting the Waitakere Ranges Heritage Area and its heritage features;</p> <p>(i) ensuring that significant adverse effects from urban development on receiving waters in relation to natural resource and Mana Whenua values are avoided, remedied or mitigated;</p> <p>(j) avoiding elite soils and avoiding where practicable prime soils which are significant for their ability to sustain food production;</p>	<p>Commercial, industrial and social facility development is not constrained by the amount or location of suitably zoned land which is available at any time. (Links to B2.2.1(3)).</p> <p>Land is available for residential, commercial and industrial uses in a variety of locations at a reasonable cost. (Links to B2.2.1(3)).</p> <p>Urbanisation does not occur without prior structure planning and plan changes. (Links to B2.2.1(4))</p> <p>Large scale residential and business development only occurs in urban zones. (Links to B2.2.1(4))</p> <p>Structure planning and plan changes make explicit provision for infrastructure. (Links to B2.2.1(5))</p> <p>Infrastructure to support development is delivered in a timely manner so that housing, commercial and business growth is not restricted by it. Links to B2.2.1(5))</p>
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		<p>(k) avoiding mineral resources that are commercially viable;</p> <p>(l) avoiding areas with significant natural hazard risks and where practicable avoiding areas prone to natural hazards including coastal hazards and flooding; and</p> <p>(m) aligning the Rural Urban Boundary with:</p> <p>(i) strong natural boundaries such as the coastal edge, rivers, natural catchments or watersheds, and prominent ridgelines; or</p> <p>(ii) where strong natural boundaries are not present, then other natural elements such as streams, wetlands, identified outstanding natural landscapes or features or significant ecological areas, or human elements such as property boundaries, open space, road or rail boundaries, electricity transmission corridors or airport flight paths.</p> <p>(3) Enable rezoning of future urban zoned land for urbanisation following structure planning and plan change processes in accordance with Appendix 1 Structure plan guidelines.</p> <p><i>Quality compact urban form</i></p> <p>(4) Promote urban growth and intensification within the urban area 2016 (as identified in Appendix 1A), enable urban growth and intensification within the Rural Urban Boundary, towns, and rural and coastal towns and villages, and avoid urbanisation outside these areas.</p> <p>(5) Enable higher residential intensification:</p> <p>(a) in and around centres;</p> <p>(b) along identified corridors; and</p> <p>(c) close to public transport, social facilities (including open space) and employment opportunities.</p> <p>(6) Identify a hierarchy of centres that supports a quality compact urban form:</p> <p>(a) at a regional level through the city centre, metropolitan centres and town centres which function as commercial, cultural and social focal points for the region or sub-regions; and</p>	
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<p>B2.4 Residential Growth</p> <p>Objectives B2.4.1 Residential growth 1-5</p> <p>B2.4.2 Policies 1-7</p>	<p><i>Residential growth</i></p> <p>(1) Residential intensification supports a quality compact urban form.</p> <p>(2) Residential areas are attractive, healthy and safe with quality development that is in keeping with the planned built character of the area.</p> <p>(3) Land within and adjacent to centres and corridors or in close proximity to public transport and social facilities (including open space) or employment opportunities is the primary focus for residential intensification.</p> <p>(4) An increase in housing capacity and the range of housing choice which meets the varied needs and lifestyles of</p>	<p>(b) at a local level through local and neighbourhood centres that provide for a range of activities to support and serve as focal points for their local communities.</p> <p>(7) Enable rezoning of land within the Rural Urban Boundary or other land zoned future urban to accommodate urban growth in ways that do all of the following:</p> <p>(a) support a quality compact urban form;</p> <p>(b) provide for a range of housing types and employment choices for the area;</p> <p>(c) integrate with the provision of infrastructure; and</p> <p>(d) follow the structure plan guidelines as set out in Appendix 1.</p> <p>(8) Enable the use of land zoned future urban within the Rural Urban Boundary or other land zoned future urban for rural activities until urban zonings are applied, provided that the subdivision, use and development does not hinder or prevent the future urban use of the land.</p> <p><i>Residential intensification</i></p> <p>(1) Provide a range of residential zones that enable different housing types and intensity that are appropriate to the residential character of the area.</p> <p>(2) Enable higher residential intensities in areas closest to centres, the public transport network, large social facilities, education facilities, tertiary education facilities, healthcare facilities and existing or proposed open space.</p> <p>(3) Provide for medium residential intensities in area that are within moderate walking distance to centres, public transport, social facilities and open space.</p> <p>(4) Provide for lower residential intensity in areas:</p> <p>(a) that are not close to centres and public transport;</p> <p>(b) that are subject to high environmental constraints;</p>	<p>The number of dwellings per hectare in areas zoned for residential intensification (Residential - Mixed Housing Urban Zone and Residential - Terrace House and Apartment Buildings Zone) increases over time. (Links to B2.4.1(1)).</p>
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<p>B2.5</p>	<p>Auckland's diverse and growing population.</p> <p>(5) Non-residential activities are provided in residential areas to support the needs of people and communities.</p> <p><i>Commercial and industrial growth</i></p> <p>(1) Employment and commercial and industrial opportunities meet current and future demands.</p> <p>(2) Commercial growth and activities are primarily focussed within a hierarchy of centres and identified growth corridors that supports a compact urban form.</p>	<p>(c) where there are natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage and special character; and</p> <p>(d) where there is a suburban area with an existing neighbourhood character.</p> <p>(5) Avoid intensification in areas:</p> <p>(a) where there are natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage or special character; or</p> <p>(b) that are subject to significant natural hazard risks; where such intensification is inconsistent with the protection of the scheduled natural or physical resources or with the avoidance or mitigation of the natural hazard risks.</p> <p>(6) Ensure development is adequately serviced by existing infrastructure or is provided with infrastructure prior to or at the same time as residential intensification.</p> <p>(7) Manage adverse reverse sensitivity effects from urban intensification on land with existing incompatible activities.</p> <p><i>Commercial and Industrial Growth</i></p> <p>(1) Encourage commercial growth and development in the city centre, metropolitan and town centres, and enable retail activities on identified growth corridors, to provide the primary focus for Auckland's commercial growth.</p>	<p>Employment and productivity are not constrained by a lack of land zoned for employment, commercial and industrial activities. (Links to B2.5.1(1)).</p>
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<p>Commercial and industrial growth</p> <p>B2.5.1 Objectives 1-3</p> <p>B2.5.2 Policy 1</p>	<p>(3) Industrial growth and activities are enabled in a manner that does all of the following:</p> <ul style="list-style-type: none"> (a) promotes economic development; (b) promotes the efficient use of buildings, land and infrastructure in industrial zones; (c) manages conflicts between incompatible activities; (d) recognises the particular locational requirements of some industries; and (e) enables the development and use of Mana Whenua's resources for their economic well-being. 	<p><i>Rural and coastal towns and villages</i></p> <p>(1)(b) Growth and development of existing or new rural and coastal towns and villages are enabled in ways that avoid elite soils and avoid where practicable prime soils which are significant for their ability to sustain food production.</p>	<p>The amount of floorspace within centres and along corridors zoned for commercial activities increases over time. (Links to B2.5.1(2))</p> <p>Land area zoned for industrial activities, including for land extensive industrial activities and for heavy industry, increases over time. (Links to B2.5.1(3)).</p> <p>Reverse sensitivity complaints against industry decrease over time. (Links to B2.5.1(3)).</p>
<p>B2.6. Rural and coastal towns and villages</p> <p>B2.6.1. Objectives</p>	<p><i>Rural and coastal towns and villages</i></p> <p>(1) Require the establishment of new or expansion of existing rural and coastal towns and villages to be undertaken in a manner that does all of the following:</p> <ul style="list-style-type: none"> ... (d) avoids elite soils and avoids where practicable prime soils which are significant for their ability to sustain food production; ... 	<p><i>Rural and coastal towns and villages</i></p> <p>(1) Require the establishment of new or expansion of existing rural and coastal towns and villages to be undertaken in a manner that does all of the following:</p> <ul style="list-style-type: none"> ... (d) avoids elite soils and avoids where practicable prime soils which are significant for their ability to sustain food production; ... 	<p>No rural land containing elite soil which is capable of supporting rural production activities is developed for non-rural activities. Links to B2.6.2(1)(b))</p>

Reference (including individual zones)	District Plan Objective	District Plan Policy	District Plan Rule	District Plan Anticipated Results
<p>H19. Rural zones H19.2 Objectives & Policies-all rural zones H19.2.1 Objectives-general rural H19.2.2 Policies</p>	<p>(3) Elite soil is protected, and prime soil is managed, for potential rural production. (4) Rural lifestyle development avoids fragmentation of productive land.</p>	<p>(1) Enable activities based on use of the land resource and recognise them as a primary function of rural areas. (3) Enable rural production activities on elite and prime soil and avoid land-use activities and development not based on, or related to, rural production from locating on elite soil and avoid where practicable such activities and development from locating on prime soil. (4) Enable and maintain the productive potential of land that is not elite or prime soil but which has productive potential for rural production purposes, and avoid its use for other activities including rural lifestyle living except where these are provided for or enabled by Policy H19.2.2(5). (5) Enable a range of rural production activities and a limited range of other activities in rural areas by: separating potentially incompatible activities such as rural production and (a) rural lifestyle living into different zones; ... (c) managing the effects of activities in rural areas so that; ... (ii) reverse sensitivity effects do not constrain rural production activities.</p>		
<p>H19. Rural zones</p>	<p>(1) The character, amenity values and biodiversity values of rural</p>	<p>(1) Manage the effects of rural activities to achieve a character,</p>		

<p>H19.2.3 Objectives- rural character, amenity and biodiversity values</p> <p>H19.2.4 Policies</p>	<p>areas are maintained or enhanced while accommodating the localised character of different parts of these areas and the dynamic nature of rural production activities.</p>	<p>scale, intensity and location that is in keeping with rural character, amenity and biodiversity values, including recognising the following characteristics: a predominantly working rural environment; (a) fewer buildings of an urban scale, nature and design, other than (b) residential buildings and buildings accessory to farming; and a general absence of infrastructure which is of an urban type and scale.</p>		
<p>H19. Rural zones</p> <p>H19.2.5 Objectives – rural industries, rural commercial services and non-residential activities</p> <p>H19.2.5 Policies</p>	<p>(1) Rural production activities are supported by appropriate rural industries and services.</p> <p>(2) The character, intensity and scale of rural industries and services are in keeping with the character of the relevant rural zone.</p> <p>(4) Industries, services and non-residential activities of an urban type and scale unrelated to rural production activities are not located in rural zones.</p>	<p>(1) Enable rural industries and rural commercial services only where they have a direct connection with the resources, amenities, characteristics and communities of rural areas.</p> <p>(2) Manage rural industries, rural commercial services and other non-residential activities to:</p> <p>(a) avoid creating reverse sensitivity effects;</p> <p>(b) contain and manage adverse effects on-site; and</p> <p>(c) avoid, remedy or mitigate adverse effects on traffic movement and the road network.</p>		
<p>H19.3 Rural – Rural Production Zone</p> <p>H19.3.2 Objectives</p>	<p>(1) A range of rural production, rural industries, and rural commercial activities take place in the zone.</p> <p>(2) The productive capability of the land is maintained and protected from inappropriate subdivision, use and development.</p>	<p>(1) Provide for a range of existing and new rural production, rural industry and rural commercial activities and recognise their role in determining the zone's rural character and amenity values.</p>		

<p>H19.3.3. Policies</p>	<p>H19.4 Rural – Mixed Rural zone</p> <p>H19.4.2 Objectives</p> <p>H19.4.3 Policies</p>	<p>(2) The continuation of rural production and associated non-residential activities in the zone is not adversely affected by inappropriate rural lifestyle activity.</p> <p>(3) Rural character and amenity values of the zone are maintained while anticipating a mix of rural production, non-residential and rural lifestyle activities.</p>	<p>(2) Manage reverse sensitivity effects by: (a) limiting the size, scale and type of non-rural production activities; (b) retaining the larger site sizes within this zone; (c) limiting further subdivision for new rural lifestyle sites; and (d) acknowledging a level of amenity that reflects the presence of: (i) rural production and processing activities that generate rural odours, noise from stock and the use of machinery, and the movement of commercial vehicles on the local road network; and (ii) non-residential activities which may generate noise, light and traffic levels greater than those normally found in areas set aside for rural lifestyle activities.</p>	
<p>H19.5 Rural – Rural Coastal zone</p> <p>H19.5.2 Objectives</p> <p>H19.5.3 Policies</p>	<p>(1) Rural production activities are enabled while managing adverse effects on rural character and amenity values, landscape, biodiversity values and Mana Whenua cultural heritage values.</p> <p>(2) The development and operation of activities that provide recreational and local non-residential services are enabled where they maintain and enhance the zone’s rural and coastal character, amenity values, landscape and biodiversity values.</p>	<p>(1) Manage activities and development to maintain the distinctive rural and coastal character of the zone which include:</p> <p>(a) farming and forestry with a low density of buildings and other significant structures;</p> <p>(b) rural character and amenity values, biodiversity values, values based on particular physical and natural features such as beaches, ridgelines, estuaries, harbours, indigenous vegetation, wetlands, or similar features;</p>	<p>(1) Manage activities and development to maintain the distinctive rural and coastal character of the zone which include:</p> <p>(a) farming and forestry with a low density of buildings and other significant structures;</p> <p>(b) rural character and amenity values, biodiversity values, values based on particular physical and natural features such as beaches, ridgelines, estuaries, harbours, indigenous vegetation, wetlands, or similar features;</p>	

	<p>(3) Buildings are of a scale and intensity that do not detract from the zone's rural and coastal character and amenity values.</p> <p>(4) Rural lifestyle subdivision is limited across the zone.</p> <p>(5) The significant relationship between land, freshwater bodies and the coastal marine area and their contribution to Auckland's rural and coastal character is maintained and enhanced.</p> <p>(6) Recognise differences in coastal character in different parts of the zone and manage activities and development to maintain and enhance local coastal character.</p>	<p>(c) physical and visual links between land, freshwater lakes and the coastal marine area; or</p> <p>(d) traditional cultural relationships of Mana Whenua with the coastal environment.</p> <p>(2) Enable the continuation of rural production activities and the construction of accessory buildings and structures for farming purposes.</p> <p>(3) Provide for the continued operation of forestry including harvesting and replanting in existing forest areas.</p> <p>(4) Discourage rural production activities that have significant adverse effects resulting from:</p> <p>(a) large buildings;</p> <p>(b) significant earthworks or changes to natural landforms;</p> <p>(c) adverse effects that cannot be contained or managed within the boundary of the site;</p> <p>(d) significant numbers of daily vehicle movements, particularly on scenic and tourist routes; or</p> <p>(e) significant impacts on biodiversity values and rural character and amenity values.</p> <p>(5) Maintain the rural and coastal character and amenity values in the coastal environment by controlling the number, location, size and visual impact of dwellings and other non-</p>		
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		<p>residential buildings and their curtilage and accessways.</p> <p>(6) Require the location and design of buildings and other significant structures to:</p> <p>(a) avoid locating on the top of ridgelines so their profile does not protrude above the natural line of the ridge;</p> <p>(b) minimise building platforms and accessways and earthworks associated with these; and</p> <p>(c) avoid locating buildings and other significant structures in coastal yards and riparian margins, except for fences and structures with operational need for such a location.</p> <p>(7) Recognise the importance of major roads in the zone that:</p> <p>(a) provide access to coastal settlements, public open space and the coast;</p> <p>(b) function as major transport routes for rural produce;</p> <p>(c) are major scenic and tourist routes;</p> <p>(d) are preferred locations for recreation, tourism, visitor facilities and services and the sale of produce and crafts; or</p> <p>(e) act as gateways to Auckland.</p> <p>(8) Enable the development of appropriate activities, while ensuring that the transport function of the road and its scenic values are not compromised.</p>		
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<p>H19.6 Rural – Rural Conservation zone</p> <p>H19.6.2 Objectives</p> <p>H19.6.3 Policies</p>	<p>(1) The natural character, landscape, and distinctive environmental values of the zone are recognised and protected.</p> <p>(2) The zone’s values are maintained and where appropriate enhanced.</p> <p>(3) Existing rural and residential activities are provided for but further development in the zone is limited to that which maintains and where appropriate enhances the values of the zone.</p> <p>(4) Buildings and structures are unobtrusive within the natural landscape.</p>	<p>(1) Protect the natural character and landscape from significant change or modification, particularly visually intrusive buildings, structures and roads.</p>		
<p>H19.7 Rural – Rural Countryside Living zone</p> <p>H19.7.2 Objectives</p> <p>H19.7.3 Policies</p>	<p>(1) Land is used for rural lifestyle living as well as small-scale rural production.</p> <p>(2) The rural character, amenity values, water quality, ecological quality, historic heritage values and the efficient provision of infrastructure is maintained and enhanced in subdivision design and development.</p> <p>(3) Development in the zone does not compromise the ability of adjacent zones to be effectively and efficiently used for appropriate activities.</p> <p>(4) The type and nature of land-use activities provided for are restricted to those appropriate for the typically smaller site sizes.</p>	<p>(1) Locate and design subdivision and development to maintain and enhance rural character and amenity values and avoid an urban form and character by:</p> <p>(a) designing subdivision and development (including accessways, services, utilities and building platforms) to be in keeping with the topography and characteristics of the land;</p> <p>(b) minimising earthworks and vegetation clearance for accessways, utilities and building platforms;</p> <p>(c) avoiding locating accessways, services, utilities and building</p>		

		<p>platforms where they will result in adverse effects on water quality, wetlands, riparian margins, historic heritage sites or scheduled sites and places of value or significance to Mana Whenua. Where avoidance is not possible, mitigation measures must be proposed so that any adverse effects are minor;</p> <p>(d) identifying opportunities for environmental enhancement of existing areas of native vegetation, wetland areas, riparian margins or the coastal edge;</p> <p>(e) encourage landscape planting that reinforces local vegetation patterns;</p> <p>(f) cycleway and bridle path networks.</p> <p>(2) Prevent subdivision, use and development from compromising the safe and efficient operation of existing mineral extraction activities, rural production activities, existing infrastructure or industry in adjacent zones.</p> <p>(3) Avoid or mitigate adverse effects in relation to reverse sensitivity and rural character and amenity by restricting the range of land-use activities in the zone.</p> <p>(4) Discourage activities that will result in adverse effects such as noise, dust, traffic volumes, odour, visual effects and effects on health, safety and cultural values and significantly reduce</p>		
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			<p>the rural character and amenity values of the zone.</p> <p>(5) Acknowledge that the rural character and amenity values associated with this zone reflect its predominant use for rural lifestyle living rather than for rural production activities.</p>		
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APPENDIX 4

SUBMISSIONS AND FURTHER SUBMISSIONS

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APPENDIX 5
RECOMMENDED CHANGES

Appendix 5 – Recommended Changes

Amendments are shown with text to be deleted as struck through and text to be added as underlined.

1. Add two new policies as follows:

H19.2.2 (8)

Enable papakainga on land which is not in Maori Title or on Treaty Settlement Land, only where there is a clear and demonstrated whakapapa relationship of the applicant whanau/hapu to the subject land.

H19.2.2(9)

Papakainga, located on land which is not in Maori Title or Treaty Settlement Land, must be small in scale and avoid the creation of adverse cumulative effects including those resulting from the establishment of multiple settlements in rural areas.

2. Delete the following text within the introductory wording to H19.8 Activity table.

~~The activity status of the activities in the table below also applies to new buildings including accessory buildings that will accommodate or are needed to facilitate the activity.~~

3. That the word 'use' in the new row in activity table above (AA1) be deleted and replaced with the word 'general' as follows;

~~Use~~ General

4. Add a new activity to table H19.8.1 as follows

Activity		Activity Status				
		Rural Conservation Zone	Countryside Living Zone	Rural Coastal Zone	Mixed Rural Zone	Rural Production Zone
<u>(A56A)</u>	<u>Papakainga comprising a maximum 1 dwelling per 4000m² and no more than 20 dwellings per site.</u>	<u>D</u>	<u>D</u>	<u>D</u>	<u>D</u>	<u>D</u>

5. Add a new activity to H19.8 activity table as follows.

Activity		Activity Status				
		Rural Conservation Zone	Countryside Living Zone	Rural Coastal Zone	Mixed Rural Zone	Rural Production Zone
<u>(A59A)</u>	<u>New buildings including</u>	<u>The same activity status and standards as applies to the land use activity that the new building is designed to accommodate.</u>				

	<u>accessory</u> <u>buildings</u>	
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