

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



## Proposed Private Plan Change 66 to the Auckland Unitary Plan

### Proposal

The Applicant seeks to rezone 57 Schnapper Rock Road from Residential – Large Lot Zone to Residential – Single House Zone (2.11 ha) and Residential – Mixed Housing Suburban Zone (1.88 ha), and to remove the Greenhithe Precinct from 57 and 57A Schnapper Rock Road.

This plan change is **APPROVED**. The reasons are set out below.

<b>Private Plan Change number</b>	66
<b>Site Address and Legal Description</b>	57 and 57A Schnapper Rock Rd, Schnapper Rock Sections 1 and 2 Survey Office Plan 555200
<b>Applicant:</b>	KBS Design Group Limited
<b>Hearing commenced:</b>	Thursday 10 February 2022, 9.30 a.m.
<b>Hearing panel:</b>	Cherie Lane (Chairperson) Nigel Mark-Brown Trevor Mackie
<b>Appearances:</b>	<p><u>For the Applicant:</u> Jeremy Brabant, Legal David Smith, Traffic Dr Jaime MacKay, Ecology William Moore, Civil Engineering Abu Hoque, Planning Stephen Brown, Landscape (tabled) Sam Woolley, Land Contamination (tabled)</p> <p><u>For Council:</u> Eryn Shields, Team Leader Vanessa Wilkinson, Planner Wes Edwards, Traffic Engineer Nick Williamson, Parks Sam Otter, Senior Hearings Advisor</p> <p><u>Submitters:</u> Jason Drury, Auckland Transport Andre Stuart, Watercare</p>

<b>Hearing adjourned</b>	10 <sup>th</sup> February 2022
<b>Commissioners' site visit</b>	Wednesday, 26 <sup>th</sup> January 2022
<b>Hearing Closed:</b>	21 <sup>st</sup> March 2022

## INTRODUCTION

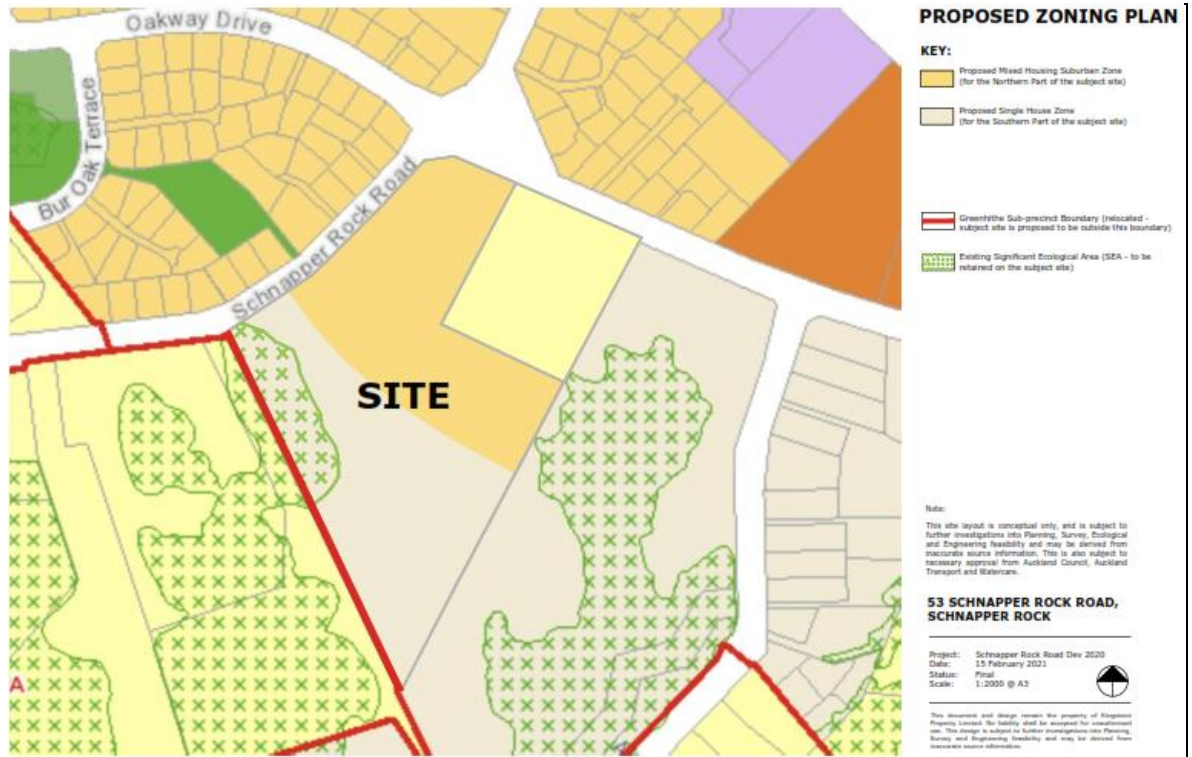
1. This decision is made on behalf of the Auckland Council ("**the Council**") by Independent Hearing Commissioners Cherie Lane (Chairperson), Nigel Mark-Brown and Trevor Mackie appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 ("**the RMA**").
2. The Commissioners have been given delegated authority by the Council to make a decision on Plan Change 66 ("PC 66") to the Auckland Unitary Plan Operative in Part ("AUP") after considering all the submissions, the section 32 evaluation, the reports prepared by the officers for the hearing and evidence presented during and after the hearing of submissions.
3. Following the receipt of all further information under Clause 23 (on 3 and 28 May 2021), PC 66 was accepted for processing under Clause 25 of Schedule 1 to the RMA on 23 June 2021. PC 66 is a private plan change that has been prepared following the standard RMA Schedule 1 process (that is, the plan change is not the result of an alternative, 'streamlined' or 'collaborative' process as enabled under the RMA). A report, in accordance with section 32 of the RMA, was prepared by the Applicant, in support of the proposed plan change, for the purpose of considering the appropriateness of the proposed provisions.
4. The plan change was publicly notified on 26 August 2021 following a feedback process involving iwi, as required by Clause 4A of Schedule 1. The submission period was due to close on 23 September 2021, but given the Level 4 Covid-19 restrictions in place in Auckland at the time, the submission period was extended until 22 October 2021. The summary of submissions was notified on 18 November 2021 and closed for further submissions on 2 December 2021. A total of 21 submissions were received within time. No late submissions and no further submissions were received.

## SUMMARY OF PLAN CHANGE

5. The proposed plan change is described in detail in the hearing section 42A report prepared by Ms Vanessa Wilkinson and in the evidence presented on behalf of the Applicant. A summary of the key components of the plan change is set out below:
  - to rezone land (3.9889 hectares) at 57 Schnapper Rock Road, from Residential – Large Lot Zone to Residential – Mixed Housing Suburban Zone (1.88 hectares); and Residential – Single House Zone (2.11 hectares)
  - the current zoning of 57A Schnapper Rock Road is to remain as Residential – Large Lot Zone

- the removal of the Greenhithe Precinct from both 57 and 57A Schnapper Rock Road in the AUP

No modifications to PC 66, as originally requested, were sought by the Applicant. This was confirmed by legal counsel for the Applicant, Mr Jeremy Brabant (letter dated 10<sup>th</sup> December 2021), in response to our Direction No.1 (dated 1<sup>st</sup> December 2021).



*Applicant's Proposed Zoning Plan*

6. The Applicant advised that the purpose of PC 66 is to enable the development of additional housing (at between approximately 90 – 110 new dwellings) on the 57 Schnapper Rock Road portion of the site. This is based on an 'Envisaged Development Concept Plan' which was provided as part of the AEE material, the density against which some of the environmental effects were assessed.
7. In addition, the Applicant stated, in its request for this rezoning, that it considers that the current Greenhithe Precinct (specifically Sub-precinct A) which is located over 57 and 57A Schnapper Rock Road, creates an additional layer of planning control over the site which does not justify such control because the land does not have any particular natural and landscape quality that demands protection by way of these Precinct controls.
8. The proposed residential zoning of Residential - Single House Zone and Residential - Mixed Housing Suburban Zone are detailed in the 42A report<sup>1</sup>. The Residential – Single House Zone enables one dwelling per site as a permitted activity, subject to compliance with standards for buildings. Multi-unit development

<sup>1</sup> 42A Report, Section 6.1

is not anticipated, with the built form being one to two storey and of a 'suburban built character'.

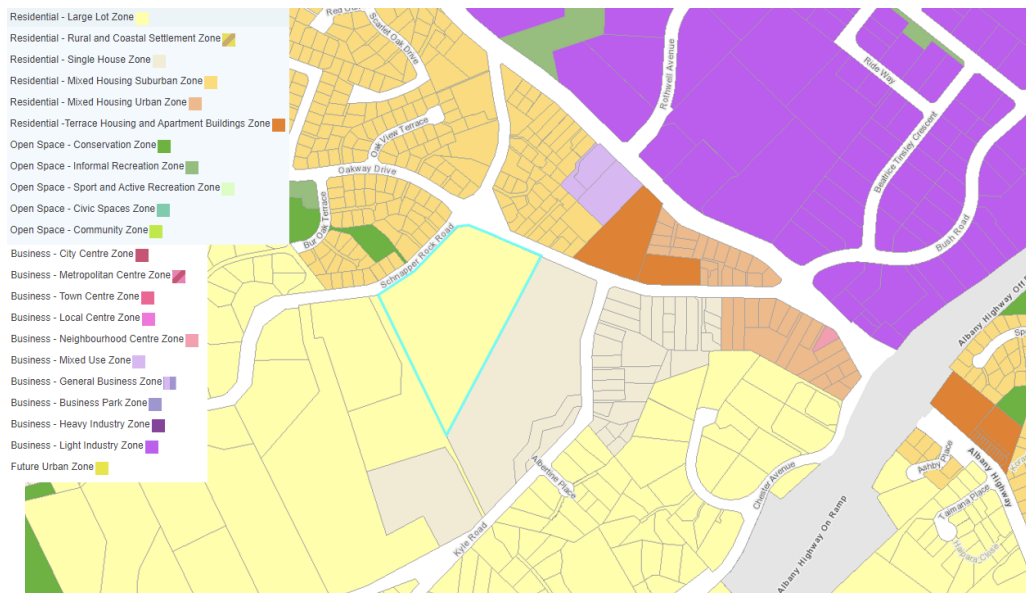
9. The Residential – Mixed Housing Suburban Zone (as the most widespread residential zone in the City) enables intensification, with generally two storey detached and attached housing in a variety of types and sizes, intended to provide housing choice. Unlike the Residential – Single House Zone, the Residential – Mixed Housing Suburban Zone enables up to three dwellings per site as a permitted activity. Four or more dwellings in the Residential – Mixed Housing Suburban Zone requires resource consent as a Restricted Discretionary Activity.

## **THE SITE AND SURROUNDING ENVIRONMENT**

10. The Applicant, in Section 4.0 of the plan change request, provided a full description of the PC 66 site and surrounds. The Section 42A Report also provided a summary of the site description, including the following:
  - the PC 66 land, at 57 and 57A Schnapper Rock Road, is located on the southern side of the roundabout controlled intersection of Schnapper Rock Road with Oakway Drive; and between 300m and 450m from the Albany Highway to the north or north-east
  - within the northern portion this site, the land is mostly flat; then slopes downwards to the south-east and south-west and forms a gully
  - 57 Schnapper Rock Road was previously owned by Watercare Services Ltd. This part of the site is currently vacant and mostly covered with grass. However, there is an identified significant ecological area (SEA) located in the western portion of the site. The SEA contains vegetation comprising a mix of Kanuka and Pine trees, as well as under storey vegetation and weed species
  - the stream classification (prepared by Freshwater Solutions) that accompanied the Applicant's Ecology Report, confirmed the location of two intermittent streams within the site, which flow into the Te Wharau Creek and subsequently to the Lucas Creek and then the Upper Waitemata Harbour
  - the Certificate of Title for 57 Schnapper Rock Road lists a land covenant, Instrument 11927673.4. This covenant is in favour of Watercare Services Ltd, the owner of 57A Schnapper Rock Road. The covenant restricts the current and any future owners of 57 Schnapper Rock Road from making complaints about the use and operation of 57A Schnapper Rock Road for water supply and water reservoir purposes. 57A Schnapper Rock Road remains in the ownership of Watercare Services Ltd, with a designation applying (Designation 9301 for water supply purposes, future pump stations and reservoirs), and currently contains a Watercare water supply station, accessible via a formed driveway and vehicle crossing to Schnapper Rock Road.
11. Schools (Albany Junior High School, Kristin School and Upper Harbour Primary School) are located in proximity to the site, with commercial and retail services

located nearby on Albany Highway and the regional shopping mall (Westfield Albany) located within the Albany Town Centre approximately 3 to 4km to the north. Public transport, in the form of bus route 883, is available on the western leg of Schnapper Rock Road. This route provides access to Constellation Drive. Bus 917 runs along the Albany Highway, 450m to the north of the PC 66 area providing access to the Albany Bus Station.

12. The site is located within a residential neighbourhood (as shown in the zoning map below), with land zoned Residential - Mixed Housing Suburban Zone to the west and north. To the north-east of the PC 66 area, opposite Kyle Road, zoning becomes Residential – Terraced Housing and Apartment Building Zone. These sites have been developed with two-storey terraced dwellings. Further to the north, fronting Albany Highway, is a pocket of Business – Mixed Use zoned land. Land on the northern side of Albany Highway, is zoned Business – Light Industry Zone.
13. To the immediate east, south and south-west of 57 and 57A Schnapper Rock Road are 55 and 89 Schnapper Rock Road and 52 Kyle Road. 55 Schnapper Rock Road and 52 Kyle Road are zoned Residential – Single House Zone, while 89 Schnapper Rock Road is zoned Residential - Large Lot Zone. Resource consent was granted (29 November 2017) for the subdivision of these sites into 44 vacant residential lots of between 600m<sup>2</sup> and up to over 2 hectares in size, with an associated access road off Kyle Road and privateways.
14. Further to the south, west and east from the PC 66 area, land is zoned Residential - Large Lot Zone and comprises larger lots containing residential dwellings, accessory buildings and areas of both protected (SEA) and non-protected vegetation.



Current Zoning Context - AUP

## EXISTING PLAN PROVISIONS

15. The land (PC 66 area) is currently zoned Residential - Large Lot Zone and is located within the Greenhithe Precinct (Sub-Precinct A). The Residential – Large Lot Zone is described in H1.1 as follows:

*The Residential – Large Lot Zone provides for large lot residential development on the periphery of urban areas. Large lot development is managed to address one or more of the following factors:*

- *it is in keeping with the area’s landscape qualities; or*
- *the land is not suited to conventional residential subdivision because of the absence of reticulated services or there is limited accessibility to reticulated services; or*
- *there may be physical limitations to more intensive development such as servicing, topography, ground conditions, instability or natural hazards where more intensive development may cause or exacerbate adverse effects on the environment.*

*To manage existing or potential adverse effects, larger than standard site sizes are required and building coverage and impervious surface areas are restricted.*

16. The objectives of the Residential - Large Lot Zone (H1.2) seek to enable development that maintains and is in keeping with the area’s spacious landscape character, landscape qualities and natural features; that maintains the amenity of adjoining sites; and is appropriate for the physical and environmental attributes and any infrastructure constraints of the site. The zone enables one dwelling per site as a permitted activity.
17. As noted above, the PC 66 area is also located within the Greenhithe Precinct. The Greenhithe Precinct is described in I509.1 (AUP) as follows:

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

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

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



18. There is only one objective in the Greenhithe Precinct, which is to be considered in addition to any overlay, zone and Auckland-wide objectives. The objective states that:

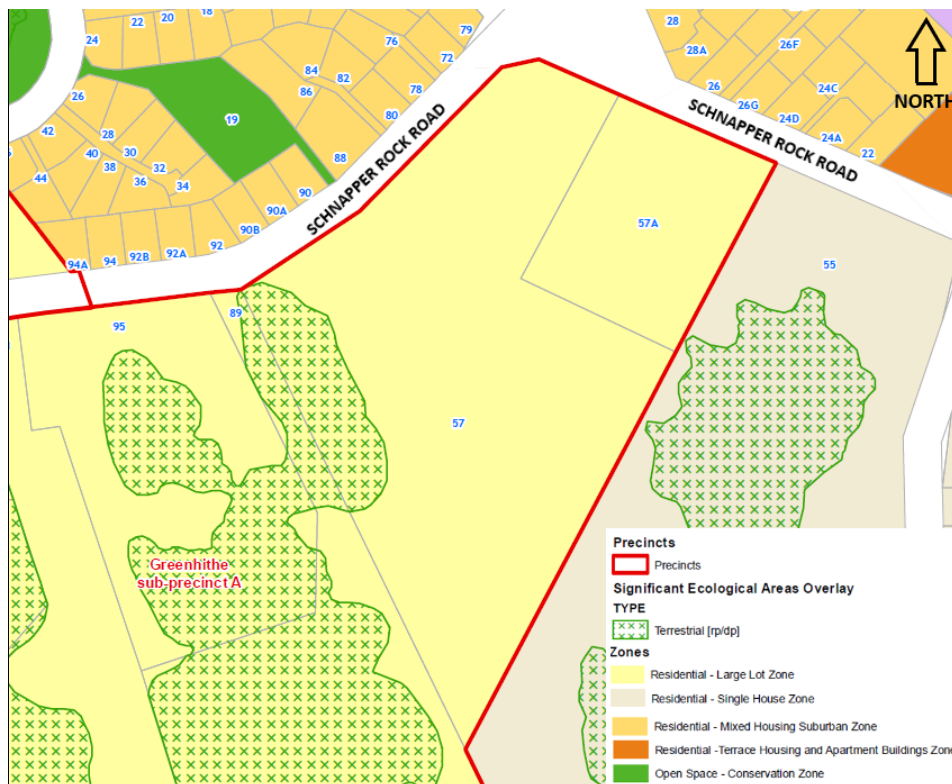
(1) *Subdivision and development is managed to protect environmental values and the landscape character of the area.*

19. The minimum net site areas in the Greenhithe Precinct, Sub-Precinct A, is 2 hectares (Standard I509.6.5).

20. The PC 66 site is also subject to the following overlays and controls:

- Significant Ecological Area Overlay, (SEA\_T\_8351)
- Designation 4311 for the protection of approach and departure paths at Whenuapai Airbase
- Stormwater Management Area Control – Flow 1 and Flow 2 (SMAF)
- Macroinvertebrate Community Index

The western portion of 57 Schnapper Rock Road is subject to a Significant Ecological Area Overlay ('SEA' T\_8351), shown below.



*AUP map showing zoning, precinct boundary and SEA location*

21. This SEA is scheduled for factors (2 and 4) relating to the SEA's threat status and rarity; and stepping stones, migration pathways and buffers. Objectives D9.2(1) – (3) for SEAs seek that:

- areas of significant indigenous biodiversity value in terrestrial areas are protected from the adverse effects of subdivision, use and development;
  - indigenous biodiversity values of SEAs are enhanced; and
  - the relationship of Mana Whenua and their customs and traditions with indigenous vegetation and fauna is recognised and provided for.
22. Associated policies (D9.3) seek the enhancement of SEAs; control of vegetation trimming and removal; and consideration to biodiversity, with specific regard to the role of mana whenua. No change to the SEA, as it applies to the PP 66 area, is proposed with this plan change.

## NOTIFICATION PROCESS AND SUBMISSIONS

23. All (21) submissions were received within time. Five submissions supported PC 66 in its entirety, while one sought that PC 66 be approved with amendments to address traffic matters. The remainder of the submissions seek that PC 66 be declined or amended, with topics of concern including:
- Intensification
  - Infrastructure
  - Traffic
  - Ecology / Landscape
  - Open Space
  - Objectives and Policies
  - Greenhithe Precinct Provisions
24. The full list of submitters, and respective relief sought, is listed in **Attachment 1** to this Decision.

## HEARING PROCESS

25. Due to COVID 19 restrictions in place at the time, the hearing was held by Remote Access (Teams) on Thursday, 10<sup>th</sup> February 2022. This involved the Panel and the Hearings Advisor in person at the Town Hall venue, with all other attendees available remotely. The hearing was adjourned having heard from the Applicant, two of the Submitters (Auckland Transport and Watercare Services Ltd), and the Council. No appearances at the hearing were made by any other submitters. The Applicant's Reply Submissions was provided on the 15 March 2022.
26. Pre-circulated evidence was received from the Applicant's experts and from Auckland Transport and Watercare Services Ltd, as directed by a timetable set out in our Direction No.2 (dated 17 December 2021). A supplementary statement of



evidence was presented at the hearing by Mr Smith (traffic), as discussed further in this Decision.

27. Prior to the hearing, the Commissioners visited the site and the local surroundings.

## **PROCEDURAL MATTERS**

28. Three Directions were issued by the Panel during the course of the hearing. The first (dated 1<sup>st</sup> December 2021) sought confirmation from the Applicant as to any modifications proposed to the proposed plan change as notified; the second (dated 17<sup>th</sup> December 2021) set the hearing timetable for the pre-circulation of evidence; and the third (dated 2<sup>nd</sup> February 2022) advised of the hearing to be held using remote access facilities (Teams).
29. The Upper Harbour Local Board had not reported on this plan change at the time of the hearing. The Panel made enquires as to the timing of any likely Local Board input and also invited the Local Board to attend the hearing. We were advised that the next Local Board meeting was scheduled for 17<sup>th</sup> February 2022. No comments were subsequently received from the Local Board at the time the hearing was closed. The Panel did not consider it necessary or appropriate to adjourn the hearing awaiting Local Board comment; given that the plan change had been available for comment since notification in August 2021. Mr Brabant also addressed this matter, in his opening legal submissions (noted below).
30. For transparency, Commissioner Lane advised that she was aware that Mr Brabant (as legal counsel for Applicant), was providing legal services to a mutual client. No conflict of interest was identified.

## **RELEVANT STATUTORY AND POLICY FRAMEWORK**

31. The RMA sets out an extensive set of requirements for the formulation of plans and changes to them. These requirements are set out in the 42A report<sup>2</sup> and the section 32 assessment in the Plan Change Request. We do not need to repeat these again in detail, as we accept the appropriate requirements for the formulation of a plan change have been comprehensively addressed in the material before us.
32. Clause 10 of Schedule 1 requires that this decision must include the reasons for accepting or rejecting submissions. The decision must include a further evaluation of any proposed changes to the plan change arising from submissions; with that evaluation to be undertaken in accordance with section 32AA. We note that, in this case, no changes were made to the plan change as notified.
33. There are a number of provisions of the Unitary Plan that are relevant to PC 66, as are detailed in the 42A report, including:
- **Regional Policy Statement**
    - B2.2 Urban growth and form

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<sup>2</sup> 42A Report, Section 8

- B2.3 Quality built environment
  - B2.4 Residential growth
  - B3.3 Transport
  - B6 Mana Whenua
  - B7.2 Indigenous biodiversity
  - B7.3 and B7.4 as they relate to freshwater systems
  - B10.2 Natural hazards and climate change
  - B10.4 Land - contaminated
- **Auckland Unitary Plan – Regional and District Plan**
    - I509 Greenhithe Precinct
    - H3 Residential - Single House Zone
    - H4 Residential – Mixed Housing Suburban Zone
    - E3 Lakes, rivers, streams and wetlands
    - E15 Vegetation management and biodiversity
    - E11 Land disturbance – Regional
    - E26 Infrastructure
34. Relevant national policy statements (NPS) were considered in the preparation of PC 66 and in considering submissions on PC 66. There are detailed in the 42A report and included:
- **National Policy Statement on Urban Development 2020 (NPS-UD)**
35. The NPS-UD seeks to ensure that New Zealand’s towns and cities are well-functioning urban environments that meet the changing needs of diverse communities. It also seeks to remove barriers to development to allow growth ‘up’ and ‘out’ in locations that have good access to existing services, public transport networks and infrastructure.
- **National Policy Statement on Freshwater Management 2020 (NPS-FM)**
36. The NPS-FM is relevant to PC 66 because two streams / overland flow paths are located in the south-west and south portions of the plan change area, which discharge to the Te Wharau Creek. We note that the NPS-FM requires that natural and physical resources are managed in a way that prioritises the health and well-being of water bodies and freshwater ecosystems, the health needs of people, and the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.
37. 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. The following were considered relevant:

- National Environmental Standard on Air Quality
- National Environmental Standard on Sources of Drinking Water
- National Environmental Standard on assessing and managing contaminants into soil to protect human health
- National Environmental Standards for Freshwater Regulations

38. A full assessment of the proposed plan change against the above is provided in the Applicant's AEE and Section 32 report, together with commentary in the 42A Report; upon which we rely. We agree that PC 66 is consistent with the above relevant RPS, AUP and NPS provisions for the reasons detailed in these assessment reports.
39. Zoning from the operative provisions of the Residential – Large Lot Zone and the Greenhithe Precinct are considered to no longer be valid for this area; and it is accepted that PC 66 (and its related future development) would not affect the 'macro values' of the wider valley or escarpment landscape noted as being the subject to Sub-precinct A in the Greenhithe Precinct.
40. We note that PC 66 does not seek to change any regional plan provisions or matters; nor make any changes to the proposed zoning (Residential - Single House Zone and Residential – Mixed Housing Suburban).

#### **Other relevant legislation**

41. In considering this plan change, the following legislation was considered of relevance:
- **Resource Management (Enabling Housing Supply) Act 2021**
42. As passed by Government on 20 December 2021, this Act requires that Council enable more medium-density housing in urban areas within Auckland, with a review of the zoning and rules associated with all of its residential zones, except the Residential – Large Lot Zone. The Council is required by this Act to prepare and notify plan changes to give effect to the new Act by 20 August 2022.
43. If the PC 66 area was to remain zoned Residential – Large Lot Zone, it would not then need to be reviewed under the provisions of this new legislation. However, it is understood that if the PC 66 area is rezoned to Residential – Single House Zone and Residential - Mixed Housing Suburban Zone as requested, and that rezoning is operative before 20 August 2022, then Council would be required to review the newly operative zoning in accordance with the requirements of the Act. We observe that the future potential zoning implications do not form part of the assessment of this proposed plan change.

## Other Plans and Strategies

44. In considering a plan change, a territorial authority must have regard to plans and strategies prepared under other Acts. In this case, the following have been considered relevant:

- **The Auckland Plan**

45. The Auckland Plan 2050 (which includes a Development Strategy) was adopted in June 2018. It is a long-term spatial plan which considers how Auckland will address key challenges over the next 30 years. These challenges include high population growth, shared prosperity, and environmental degradation. The Development Strategy states that Auckland will take a quality compact approach to growth and development where compact development will be focused in existing and new urban areas within the urban footprint, limiting expansion into rural areas.

- **Upper Harbour Local Board Plan 2020**

46. The Upper Harbour Local Board Plan focuses on five outcomes and notes that the upper harbour area is home to growing and diverse communities across multiple neighbourhoods and that transport and access are major contributing factors in the ability of communities to be successful and resilient. The local board plan also identifies that the travel network has been improved in the past ten years with the Northern Corridor Improvements (**NCI**) project and the Northern Busway, increasing travel options and reducing travel times.

- **Upper Harbour Greenways Plan**

47. The Upper Harbour Greenways Plan (September 2019) is a strategic document, intended to show the location of future pathways which may enable connectivity within the Upper Harbour Local Board area, building on the existing walking and cycling network in this area.

48. The relationship of this Plan to the proposed plan change was described in the Applicant's AEE:

*The Greenways Plan has identified some desirable pathway locations through the Schnapper Rock area, and one of these pathways is crossing along the northern frontage of the subject site. Currently, the footpath system around the site is not up to the urban standard, but the Plan Change proposal will allow the site to be developed appropriately with the necessary walkway infrastructure along its both frontages to achieve the vision developed by the Upper Harbour Greenways Plan. One of the intentions of the future subdivision, which the Plan Change proposal will enable, is to create a completely garage free streetscape along both north and west frontages of the northern part of the site beside the existing Schnapper Rock Road roundabout. This will assist further to establish a safe and pleasant walking environment through the Schnapper Rock Road corridor.*

49. It is noted that the footpath on the southern side of the eastern leg of Schnapper Rock Road has now been extended and constructed along the edge of the PC 66 area and extends to the intersection with the western side of Kyle Road. This has been undertaken, we understand, as part of the approved subdivision works at 55 Schnapper Rock Road to the east of the PC 66 area.
50. Having considered the application and the evidence, we are satisfied that PC 66 has been developed in accordance with the relevant statutory requirements and that it will ensure efficient use of existing residential land by delivering a compact urban form in its proposed increased intensity urban residential zoning. The social and economic outcomes proposed to be delivered with the supply of additional housing in this location has the potential to benefit the wider community and in doing so, meet the intentions of the above local strategies and plans.

## **PLANNING CONTEXT HISTORY**

51. By way of background and to provide context to the current zoning pattern of this land, we refer to the detailed summary provided in the 42A report.<sup>3</sup> Under the legacy North Shore District Plan, the PC 66 area was zoned Rural 3 Zone. This zone sought to protect landscapes of high natural value while allowing bush residential lots to be established with a low intensity of development. It is understood that the current Residential – Large Lot Zone was adopted under the AUP as it was considered to be generally the most appropriate zoning being the closest fit to the intensity of development that was occurring under the North Shore District Plan provisions.
52. The Greenhithe Precinct, and in this instance Sub-Precinct A, were also introduced (under the Proposed AUP) over the PC 66 area to implement components of the North Shore City Greenhithe Structure Plan. The intent of this Precinct was to manage subdivision and development in a ‘sensitive catchment’ and to ensure that new development responded to the natural environmental constraints which included steep topography, significant vegetation, visible escarpments and close proximity to the coast.
53. It is acknowledged that the land to the east of the PC 66 site (at 55 Schnapper Rock Road) was rezoned to Residential – Single House Zone by the Auckland Unitary Plan Independent Hearings Panel. Land to the west and north of the site is zoned Residential – Mixed Housing Suburban Zone and Terrace Housing and Apartment Building Zone; both enabling housing intensification, as is evident in the development that has occurred.

## **SUMMARY OF EVIDENCE**

54. The Council planning officer’s report and the Applicant’s and submitters’ (Auckland Transport and Watercare Services Ltd) expert evidence was circulated prior to the hearing, in accordance with our Direction No.2 (dated 17th December 2021). The

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<sup>3</sup> 42A Report, Section 5

section 42A report prepared by Ms Wilkinson was detailed and was supported by technical advice provided by the following technical experts.

- Traffic: Wes Edwards, Engineer / Director, Arrive Limited
- Stormwater: Eseta Maka-Fonokalafi, Senior Healthy Waters Specialist, Resource Management Team, Healthy Waters and Gemma Chuah, Principal Specialist, Resource Management Team, Healthy Waters
- Landscape: Bridget Gilbert, Landscape Architect, Bridget Gilbert Landscape Architecture Limited
- Ecology: Rue Statham, Senior Ecologist, Auckland Council
- Parks Planning: Nick Williamson, Planning Consultant for Parks Planning, Auckland Council

55. Ms Wilkinson, in her section 42A report, recommended that, subject to the additional information regarding traffic matters (as outlined in section 14.1 of her 42A report) being provided and confirmed as acceptable, PC 66 be approved. The transportation information sought, as recommended by Council's traffic consultant (Mr Wes Edwards) included additional traffic modelling and assurance that proposed mitigation measures and access connections could be achieved. This is discussed further in this Decision.

56. The evidence presented at the hearing responded to the issues and concerns identified in the Council planning officer's report, the application itself and the submissions made on the application.

#### **FOR THE APPLICANT**

57. On behalf of the Applicant, legal submissions were presented by Mr Jeremy Brabant, and evidence was pre-circulated or presented by the following witnesses.

- Mr Abu Hoque – Qbix Limited (Planning)
- Mr Stephen Brown – Brown NZ Limited (Landscape and Amenity)
- Mr David Smith – Abley Limited (Traffic)
- Dr Jamie MacKay – Wildlands Consultants Limited (Ecology)
- Mr William Moore – Maven Associates Limited (Engineering)
- Mr Sam Woolley – Thomas Consultants Limited (Contamination)

58. In opening submissions, Mr Brabant confirmed his opinion that the proposed zoning gave effect to the relevant statutory documents including the NPS-UD and the RPS, and was therefore the *'most appropriate means of achieving the purpose*

*of the RMA*. He described the proposed plan change as achieving a 'straight forward' outcome, of *'more housing land supply while efficiently and appropriately responding to characteristics of the site.'* Mr Brabant helpfully summarised the relevant statutory tests for the private plan change, with more specific advice on the relevance and applicability of the NPS-UD. In this regard, he was of the opinion that *'resort to the NPS-UD is not required in order for the PPC66 to be supported'* and he identified consistency of PC 66 with Policies 1 and 6 of the NPS-UD.

59. Mr Brabant acknowledged the level of general agreement between the Council and the Applicant's expert witnesses, with no matters being identified as controversial. This included ecological, servicing and civil engineering, and landscape. He referenced the additional information being sought by Council in terms of traffic analysis, referring to supplementary evidence provided by Mr Smith; which Mr Brabant concluded, confirmed that the traffic effects of PC 66 would be minor to less than minor and acceptable.
60. Mr Brabant advised that an agreement was being finalised with Auckland Transport (AT) regarding various roading upgrades. This was further addressed in evidence by Mr Smith and Mr Hoque, with responding comment provided in the course of the hearing by Mr Drury for AT, as described below. Mr Brabant also acknowledged the submission of Watercare Services Ltd (represented at the hearing by Mr Andre Stuart) which, Mr Brabant described as being capable of resolution, being related to agreement on the preferred option for servicing from a number of available options.
61. Mr Brabant identified the main concerns of other submitters as being traffic matters and a concern around the proposed residential intensification that would be enabled with the proposed change to the zoning of the land. He did not consider there to be any legal matters arising from submissions received.
62. Mr Brabant referred to the proposition in the s42A report (para 238) that the hearing may need to be reconvened should the Upper Harbour Local Board wish to be heard, if this position was to be confirmed after their meeting scheduled for 17 February 2022. He disagreed with this suggestion, referencing the standing of the Local Board relative to the Council under the Local Government (Auckland Council) 2009 Act. He was of the opinion that the Local Board's right to be heard should not override the duty in the RMA to avoid unreasonable delay (section 21).
63. As we have discussed above (para 29 of this Decision), we sought to provide the opportunity for the Local Board to comment and / or appear at the hearing. We agree with Mr Brabant's opinion that in the circumstances, further delay was not warranted and would be unreasonable. We also acknowledge the point made in Mr Brabant's reply submissions that submissions were received from the local community, expressing local community views and concerns; there being, therefore, no prejudice arising with no Local Board comments being received.
64. Mr David Smith, traffic engineering consultant (Technical Director, Abley Ltd), provided a summary of his evidence in chief and presented his supplementary



statement. Mr Smith noted that *'The future transport environment will be quite different to the existing environment due to the imminent completion of the Northern Corridor Improvements (NCI) project (due for completion in September 2022).'*<sup>4</sup> This was because modelling showed a forecast 19-22% reduction in traffic movements along the Albany Highway with the NCI in place. Mr Smith considered that this would then provide sufficient capacity at key intersections to accommodate the PC 66 traffic, with an estimated average increase in delay of up to two seconds at adjacent intersections during peak morning and evening period. That said, he did acknowledge the existing frustrations in delays and disruption currently experienced by the public in this location (which included the Kyle Road temporary road works).

65. Mr Smith concluded that all traffic matters raised by submitters could be addressed at the subdivision consent stage, together with the Development Agreement entered into with AT. We understood this Agreement to relate to the provision (by the Applicant) of pedestrian and lighting improvements, as recommended by Mr Smith.
66. Mr Smith provided additional transportation modelling to address the queries raised by Mr Edwards for the Council. This included sensitivity testing of the Albany Highway/ Schnapper Rock Road/ Bush Road intersection to include additional development (Kyle Road); additional modelling of this intersection; assessment against the proposition of no changes at this intersection; and impacts of the proposed plan change on the Schnapper Rock Road/ Kyle Road intersection. Mr Smith observed that the proposed development enabled by PC 66 was not, in his opinion, a large scale traffic generator. It was his conclusion that *'The incremental increase in traffic from the Plan Change site on neighbouring intersections is very small and has been demonstrated through extensive traffic modelling to have little to no impact on the wider network.'*
67. Dr Jamie MacKay, ecological consultant (Principal Ecologist, Wildland Consultants Ltd) spoke to his evidence and answered questions from Commissioners. He advised that the scope of his work for the Applicant, was *'to assess the potential ecological effects of 57 and 57a Schnapper Rock Road to allow denser housing.'* Dr MacKay described the ecological aspects of the site and their respective values which included mixed exotic and indigenous vegetation; kanuka forest (protected by a SEA overlay); and two intermittent watercourses. He acknowledged that higher density residential development (to that currently in place) could result in adverse ecological effects on fauna inhabiting the SEA (such as noise, light and predation from domestic animals). He noted that other adverse ecological effects may occur as a result of loss of vegetation, loss of habitat, sedimentation and stormwater runoff.
68. Dr MacKay was of the opinion however, that *'the magnitude of any potential adverse ecological effects of PPC66 is low.'* This was, he acknowledged, dependent upon the implementation of mitigation measures (such as fauna

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<sup>4</sup> Supplementary SOE, D. Smith (para 3.2)

management, ecological restoration, sediment control during planting, and stormwater management) in the course of the development of the site and with respective consents applying. He observed that Council's ecological advisor, Mr Statham, had confirmed support for the proposed plan change with regard to ecological matters.

69. Dr MacKay acknowledged relevant submitter concerns (regarding the removal of trees from the site, loss of indigenous habitat, and the potential impacts of indigenous flora and fauna) and noted his support for the assessment made in the Council's 42A report to reject these submission points. He concluded that the two intermittent watercourses were of low ecological value; that the proposed residential zoning in proximity to the SEA (Single House Zone) would be low intensity; and mitigation measures would be put in place with future subdivision consents.
70. Mr William Moore, engineering consultant (Director of Maven Associates Ltd) summarised his evidence, describing the engineering considerations and measures proposed as part of the future development of the PC 66 land. This included a comprehensive stormwater management plan; wastewater and water supply network extensions; and the future design of overland flow paths (OLFPs) exit points and capacity to align with the adjacent development of 55 Schnapper Rock Road. He described the proposed earthworks as comprising the creation of roading and building lots, with associated erosion and sediment control measures.
71. Mr Moore provided background to the wastewater servicing arrangements proposed for the land, referencing consultation undertaken with Watercare Services Ltd. He confirmed that this could be achieved, with two available options. These involved either utilising the existing pump station within Kyle Road or the installation of a new pump station within the site. Mr Moore advised that further investigation as to the feasibility of utilising the existing wastewater pump station within Kyle Road (being Watercare's preferred option) would be undertaken at resource consent stage. He noted that this was necessary because this option involved neighbours' approval for the construction of a new gravity network through private land. He was of the opinion that a final design could be achieved in accordance with the guidelines of Watercare Services Limited, Wastewater Code of Practice.
72. Similarly, Mr Moore noted that there were no capacity constraints for water supply to service the site under PC 66; existing service networks were present in the surrounding area; and telecommunications, power and gas were available for future development of the site.
73. Mr Abu Hoque, planning consultant (Director of Qbix Ltd) spoke to his evidence, confirming that no changes were proposed to the plan change to that which was notified. He answered questions from Commissioners regarding the 'Envisaged Development' (as detailed in the AEE report), advising that this was an indicative concept plan used as part of the design process to test development potential. Mr Hoque addressed the intention of the proposed Residents Association, as a

structure to monitor and manage mitigation functions, advising that such an arrangement was not unusual.

74. Mr Hoque's evidence addressed environmental effects of the proposed plan change, referring to both the applicant's expert analysis and the conclusions of Council's advisors, as expressed in the 42A report. This covered matters of urban form; open space and community facilities; landscape values and amenity; transport; ecology; flooding, stormwater management and drainage; earthworks; archaeology; land contamination; geotechnical; and cultural. It was the conclusion of Mr Hoque that *'the site suitable for re-zoning to mixed-density residential land use, i.e. a mix of the Residential - Single House and Residential – Mixed Housing Suburban zoning'*; and that the proposed plan change will result in positive effects.
75. Mr Hoque provided his analysis against the relevant statutory considerations of the proposed plan change, concluding that the proposed rezoning was the most appropriate way to achieve the objectives and policies of the AUP and the Act when compared with the option of retaining the operative Residential – Large Lot Zone. He provided analysis and commented on the submissions received, addressing them by topic. Specifically, he confirmed that, he did *'not support those submissions seeking to retain the existing residential zoning or rezone it entirely to Residential – Single House as the land will not be used efficiently, will not be able to manage and maintain its natural features appropriately, will be a significant wastage of valuable land resources and will fail to deliver additional housing to the local market.'*<sup>5</sup>
76. We note that matters addressed in pre- circulated evidence by Mr Sam Woolley (land contamination) and Mr Stephen Brown (landscape) were not considered to be in contention. While evidence was prepared on these matters, and considered by the Hearing Panel, we had no questions for these expert witnesses. We accept these matters have been appropriately addressed by PC 66 and the plan provisions.

## **FOR THE SUBMITTERS**

77. Mr Jason Drury appeared on behalf of AT and spoke to his evidence, confirming the reason for AT's submission as being *'to ensure that transport related matters raised by PC 66 are appropriately addressed and considered'*. He advised that AT had provided conditional support for the plan change, with its submission focused on the need to provide specific pedestrian facilities, including crossings and lighting. Although these facilities were indicated in the plan change material, Mr Drury advised that AT wished to see these upgrades as part of the plan change decision; rather than left to a future subdivision consent.
78. Mr Drury outlined discussions held with the Applicant since close of submissions, with, we understood, a draft Infrastructure Agreement being in process. Pending finalisation of this Agreement, Mr Drury advised that AT was still seeking a plan

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<sup>5</sup> SOE, A.Hoque (para 73)

change provision to require the implementation of these pedestrian facilities. We were unclear as to what mechanism such a provision may be and were not provided with advice on this from Mr Drury.

79. While this Infrastructure Agreement was not available during the course of the hearing, it was finalised subsequently. We received a copy on 22<sup>nd</sup> March 2022. We understand that this Agreement would satisfy the concerns of AT.
80. Mr Andre Stuart appeared on behalf of Watercare Services Ltd and spoke to his evidence. He confirmed Watercare's preferred method of wastewater reticulation as a gravity pipeline to the existing Kyle Road pump station. He confirmed his agreement with the evidence of Mr Moore and acknowledged that there were three wastewater reticulation options proposed by the Applicant. In response to questions from Commissioners, Mr Stuart advised that the ultimate system adopted could adequately be addressed at the EPA stage through subdivision consent.
81. Mr Stuart confirmed that there was sufficient current water supply capacity to service the plan change area, but that this would need to be reassessed at subdivision consent stage. All infrastructure and necessary upgrades (to both water and wastewater services) would, Mr Stuart stated, be required to be fully funded by the Applicant.
82. Mr Stuart described, in response to questions from Commissioners, the current use and function of the WaterCare designated site (57A Schnapper Rock Road), being as pump station and storage area. He advised that this may be expanded in the future to include an additional North Shore reservoir. At that time, construction and built form on this site may trigger the non-complaints covenant that applies. Mr Stuart advised that a reservoir tank may be in the order of 8m high with a 30 megalitre capacity. He did not expect effects such as noise to be an issue.
83. In evidence Mr Stuart confirmed Watercare's acceptance of the removal of the Greenhithe Sub-Precinct A from the (designated) WaterCare land.
84. The remaining submissions are addressed in detail below in our consideration of issues raised in contention and in our respective deliberations. We note that of these remaining 19 submissions, five supported PC 66 in its entirety and one sought that PP 66 be approved with amendments to address traffic matters. The remaining 13 submissions held concerns and were opposed to PC 66.
85. We did not receive any evidence (additional to the original submissions) from these remaining submitters and no appearance was made by them at the hearing. A full analysis of submissions is made in Ms Wilkinson's 42A report<sup>6</sup>, to which we refer.

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<sup>6</sup> S42A Report, section 17

## FOR THE COUNCIL

86. We heard from Mr Edwards (traffic) and Mr Williamson (Parks) but did not require the attendance of other Council advisors, relying on their memos provided as part of the 42A report. We appreciate and accept the Assessment of Effects analysis undertaken by Ms Wilkinson in her 42A report which drew on and referenced both the Council specialist advice and the Applicant's AEE report and Section 32 analysis. We have not repeated the detail in our Decision but acknowledge that this analysis covers the following effects:
- Character and Amenity
  - Transport
  - Wastewater
  - Ecology
  - Geotechnical
  - Cultural
87. Mr Edwards confirmed that the additional modelling and sensitivity analysis provided by Mr Smith satisfied his outstanding traffic queries. He acknowledged the limitations and resulting ramifications to traffic assessment imposed by recent COVID constraints in Auckland.
88. Mr Williamson answered questions from Commissioners, confirming his original assessment, that he was confident that mechanisms would be in place (through the subdivision consent process) to protect the SEA located along the western boundary of the plan change area. He reiterated that he considered there to be sufficient public open space and parks in the vicinity to serve the future residents of the plan change area but accepted that access to the Bur Oak reserve opposite the site was not readily available, being overgrown with no identified pathway. Mr Williamson confirmed his assessment that no new open spaces or parks were necessary to cater for future needs of residents within the plan change area.
89. Ms Wilkinson confirmed her recommendation that PC 66 be approved, stating that, in her opinion, the plan change would enable appropriate use of this land. She answered questions from Commissioners regarding options for varying the zone boundaries within the plan change area, especially in proximity to the SEA. While she acknowledged that a less intensive residential zoning (Residential - Large Lot Zone) could be applied, she was of the view that the proposed Residential - Single House Zone would be appropriate.
90. In her summation, Ms Wilkinson referred back to the zoning history of the site and the application of the Greenhithe Precinct. She acknowledged that this Precinct was intended to relate to the identification and protection of high value landscapes. She referenced the landscape evidence of Mr Brown and Ms Gilbert (identifying low landscape values of this land) in support of the removal of this Precinct from the site.

## APPLICANTS REPLY

91. The applicant's response in closing was given by Mr Brabant in his oral summation and subsequent written submissions. He addressed the following matters arising:

- The Infrastructure Agreement between AT and the Applicant was delayed but he believed it to be imminent, being a matter out of the control of the Applicant. Mr Brabant was of the opinion, nevertheless, that the Agreement, while supported by the Applicant, was not necessary in determining the plan change.
- The option of a Large Lot zoning instead of the proposed Single House zone was considered inappropriate as it would not provide an effective buffer / transition to the Residential Mixed Housing Suburban zoning and would not provide the flexibility of the Single House zone. Mr Brabant stated that the Large Lot zone was not necessary to protect the adjoining SEA and would not be able to provide the increased housing options afforded by the Single House zone.
- The specific control of cats, as pests within the environment, as raised in questions of Dr MacKay. Mr Brabant described the location as an urbanised area, within which the control of cats was unlikely to be achievable. He referenced the approach of Dr MacKay, to focus on habitat improvement, rather than a ban on pets, as a more 'effective and real-world approach'.
- The rationale for a 'Masterplan Concept', while not forming part of the plan change, is to represent what may realistically be developed. The concept plan also provides a base against which experts can provide their analysis and the Applicant can make informed decisions.
- Applicability of a Residents Association, as a useful community-based management mechanism. While not a 'necessity', Mr Brabant described it as useful.
- Intensity of development proposed confirmed as a low-medium development.
- With the removal of parking requirements (as of 11<sup>th</sup> February 2022), the likely consequences were acknowledged by Mr Brabant, with possible parking on roads (as a permitted activity) and the provision on site; neither of which, he stated, should 'militate in favour of PC 66 being declined or otherwise amended.'
- Confirmation that the Applicant would put in place new equivalent no complaints covenants in favour of the Watercare Services Ltd site.
- Confirmation that there is agreement between the Applicant and Ngati Manuhiri that the recommendations of the CVA will be respected.

- Open space adequacy to serve the plan change area was confirmed, having regard to increased use of existing facilities as an efficient outcome.

## **PRINCIPAL ISSUES IN CONTENTION**

92. Having considered the submissions received, the hearing report, the evidence presented at the hearing and the Council officers' response to questions, the following principal issues in contention have been identified. We acknowledge that there was little dissent between the Applicant's and the Council's expert opinions in respect of these matters; with the principal concerns being raised in submissions. Accordingly, we have addressed these matters, with our findings and decisions on submissions made collectively, below.

- *Traffic*
- *Degree of Intensification and effects of intensification (traffic/amenity/green space/ecology)*
- *Infrastructure*
- *Ecology/ Landscape*
- *Open Space*
- *Objectives and Policies*
- *Greenhithe Precinct Provisions*

## **FINDINGS ON THE PRINCIPAL ISSUES IN CONTENTION / DECISIONS ON SUBMISSIONS**

93. As noted previously, Ms Wilkinson's s42A report provides a complete analysis of submissions, with recommendations. We agree with the assessments made, as described below. We address the submissions received to PC 66 and the relief sought in those submissions. In this respect, in accordance with Clause 10(2) of the RMA, we have grouped together those submissions under the headings that were used in the section 42A report for consistency and simplicity.

### ***Traffic***

94. Submission points 4.3; 5.1; 6.1; 7.4; 8.4; 9.4; 10.3; 12.2; 13.2; 14.2; 14.3; 14.4; 19.3; 19.6 and 21.1 raise concerns regarding adverse traffic effects associated with the rezoning of the PC 66 area. More specifically, concerns include that:

- The area is already busy and roads cannot cope with additional traffic volumes
- Increased development intensity will increase traffic pressure around the local schools and there is a lack of footpath infrastructure
- Insufficient car parking in any future development will increase on-street car parking
- Traffic modelling data is outdated and should be revised



- Additional improvements are required to improve or mitigate the transport situation and improve amenity.
95. The traffic effects of PC 66 are addressed in the transportation assessment provided by the Applicant and confirmed in evidence presented. We accept that evidence which concludes that vehicle trips from increased intensity of development in the PC 66 area can be accommodated in road networks without significant impacts on operational efficiency. This assessment also recommends that additional footpath connections and pedestrian facilities be implemented. We are aware that this forms the basis of the Infrastructure Agreement between the Applicant and AT.
96. We note that the traffic assessment has been reviewed for Council by Mr Wes Edwards, Consultant Traffic Engineer. Mr Edwards has concluded that in his opinion, while the site is not suited to intensive residential development, he considers the proposed rezoning to Residential – Single House and Mixed Housing Suburban zones to be less intensive and will not be inconsistent with transport planning policy.
97. With regard to traffic volumes and modelling, we understand that Mr Edwards is satisfied with the additional analysis and modelling provide by Mr Smith for the Applicant. He is in agreement with Mr Smith that in the short to medium term the traffic volumes along Albany Highway are expected to reduce because of the NCI project, and this is likely to allow more green time to be reallocated to Schnapper Rock Road without producing significant additional delay to Albany Highway traffic. Because of this, the operation of Schnapper Rock Road is likely to be better than it has been, even when the additional traffic due to the plan change is included.
98. Accordingly, we find that submission points 4.3; 5.1; 6.1; 7.4; 8.4; 9.4; 10.3; 12.2; and 13.2 be **accepted in part**; and that submission points 14.2; 14.3; 14.4; 19.3; 19.6 and 21.1 **be accepted** as they relate to the provision of additional modelling and / or mitigation measures.

### ***Intensification***

99. Submission points 1.1; 3.1; 4.1; 4.2; 4.3; 4.4; 4.5; 4.6; 6.2; 7.3; 8.3; 9.3; 10.2; 12.3; 13.3; 14.5; 19.1; and 19.2 raise concerns regarding the intensity of development and subsequent adverse effects (i.e. on traffic, amenity, green space, ecology), that may occur with the rezoning proposed by PC 66 and as a result of the removal of the Greenhithe Precinct. Most of these submissions consider that the existing Residential – Large Lot zoning should be retained or that the Residential – Single House zoning is appropriate and should be applied to the whole of the PC 66 area to be rezoned; but that the Residential – Mixed Housing Suburban Zone is too intensive and not appropriate for the PC 66 area.
100. The PC 66 area has been found to have a very limited range of landscape features, elements, patterns and values; and the landscape character that was sought to be protected under the Greenhithe Precinct provisions has been altered,

largely by the approved subdivision on the adjoining land (55 Schnapper Rock Road). Residential development within the nearby neighbourhood is, overall, of low to medium intensity (with Single House zone, Residential -Mixed Housing Suburban zone and Terrace Housing and Apartment Building zone). As a result, while the character (and intensity) of the PC 66 area would be altered by the rezoning proposed by this plan change, it is considered that this would be in keeping with the character and intensity of development in the surrounding area and would not be detrimental to it.

101. In addition, the area can be serviced with the necessary water, wastewater and stormwater infrastructure; and it is accessible to a range of open spaces and community and commercial services via private car or bus public transport. While traffic volumes in the surrounding area are reasonably high, it is understood that the traffic generated by an increased intensity of development and use in the plan change area can be accommodated in the road network.
102. While environmental features in the PC 66 area have been identified, being the SEA and the watercourses, provisions requiring the consideration, protection, enhancement and maintenance of these features remain in the AUP regardless of the zoning. These include the provisions of D9 SEA Overlay; E1 Water quality and integrated management; E10 SMAF; E15 Vegetation management; and E36 Natural hazards and flooding.
103. We find that submission points 1.1; 3.1; 4.1; 4.2; 4.3; 4.4; 4.5; 4.6; 6.2; 7.3; 8.3; 9.3; 10.2; 12.3; 13.3; 14.5; and 19.1 be **rejected**.

#### ***Infrastructure***

104. Submission points 3.3 and 6.3 raise concerns about the provision of infrastructure to the PC 66 area. We have received evidence that the PC 66 area can be adequately serviced with the necessary water, wastewater and stormwater services without significant adverse effects on freshwater systems.
105. We find that submission points 3.3 and 6.3 be **rejected**.
106. Submission points 11.1 and 11.2 by Watercare Services Ltd confirm that water supply infrastructure can be provided to the P C66 plan change area; and that while Watercare does not support one of the three options proposed for the provision of wastewater servicing to the PC 66 area, there is at least one option that is agreed as viable. The submission points 11.1 and 11.2 are **accepted**.

#### ***Ecology/ Landscape***

107. Submission points 1.3; 4.5; 7.5; 8.5; 9.5; 10.4; and 19.5 raise concerns regarding the removal of trees from the PC 66 area and that increased intensity of development in the plan change area will adversely affect native flora and fauna, including in the identified SEA.

108. Based on the advice and relevant assessments provided, the agreed approach between Council and the Applicant is, we understand, that details for the protection, management and maintenance of wetlands, streams and the SEA on this land can all be reviewed at the subdivision and development stages. There will be no change to the SEA that applies to this land and management plans will be in place to manage development effects on watercourses and flora and fauna features of the land. This would be the case regardless of the proposed rezoning.
109. We consider that there are sufficient provisions in the AUP or other legislation that require the protection and enhancement of SEA and associated ecology. For these reasons we find that submission points 1.3; 4.5; 7.5; 8.5; 9.5; 10.4; and 19.5 be **rejected**.

### ***Open Space***

110. Submission points 4.4 and 19.4 request that a playground and open green space field of no less than 600m<sup>2</sup> in size be provided. The reason given is that the distance and size of existing developed parks, community areas and playgrounds do not support the growing demand and needs that this development will potentially add to the local community.
111. Mr Nick Williamson (Consultant for Parks Planning) noted in his advice that Council does not have a target for the provision of open space in general, such as a ratio of open space to population and that the provision of open space results from different demand drivers. Mr Williamson also identified that the wider PC 66 area is not devoid of open space, although he noted that more could be done to improve access to and between the open spaces that exist. Overall, it was Mr Williamson's opinion that the existing open space areas are suitably located and have the ability to cater for additional use created by more intensive development of the PC 66 area.
112. We find that submission points 4.4 and 19.4 be **rejected**.

### ***Objectives and Policies***

113. Submission points 7.2; 8.2 and 9.2 consider that PC 66 is inconsistent with the objectives and policies of the AUP.
114. As discussed in our Decision above (and detailed in the 42A report and the Applicant's AEE report and section 32 analysis) we consider that PC 66 will provide the opportunity for increased housing within an established residential neighbourhood, with access to services and transport, in line with the proposed residential zonings of the AUP. The land is capable of being serviced and can be developed in a manner that enables the protection and management of areas of sensitivity. This is in line and consistent with relevant objectives and policies of the AUP.
115. We find that submission points 7.2; 8.2 and 9.2 be **rejected**.

### ***Greenhithe Precinct Provisions***

116. Submission point 1.2 seeks that the Greenhithe Precinct be retained over the PC 66 area. We note that submission point 11.3 by Watercare Services Ltd confirms that, as the owner of 57A Schnapper Rock Road, this submitter supports the removal of the Greenhithe Precinct, specifically sub-precinct A, from this portion of the PC 66 area.
117. Evidence received, addressing the landscape and environmental characteristics of the PC 66 area, indicates that apart from the SEA portion of the site (which will remain and provide protection to this part of the site) there is a relative paucity of landscape features, elements and patterns of note across the site. The site does not exhibit the high value landscape amenity anticipated with the application of the Greenhithe Precinct (sub-precinct A). Furthermore, the Greenhithe Sub-precinct A requirements would not support the flexibility required to enable the form of low to medium intensity residential development considered appropriate for this site.
118. We find that submission point 1.2 be **rejected** and that submission point 11.3 be **accepted**.

### **STATUTORY PROVISIONS**

119. The RMA sets out a range of matters that must be addressed when considering a plan change, as identified in the section 32 report accompanying the notified plan change. We also note that section 32 clarifies that analysis of efficiency and effectiveness is to be at a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.
120. Having considered the evidence and relevant background documents, we are satisfied that PC 66 has been developed in accordance with the relevant statutory and policy matters, and sufficiently gives effect to these documents. In particular, we find the Residential – Single House Zone and Residential – Mixed Housing Suburban Zone to be the most appropriate residential zones for this land. This new zoning pattern will enable future residential development which is adequately connected to existing commercial, community and transport services while also being at an intensity that complements the existing built form and urban character in this locality.
121. We also find the removal of the Greenhithe Precinct (Sub- Precinct A) to be appropriate, being a reflection of the reduced landscape and ecological values of the site and which will then enable future residential development at a low to medium intensity. The SEA is to remain.
122. Accordingly, we find that PC 66 will assist the Council in its effective administration of the Unitary Plan and is the most appropriate way to achieve the purpose of the RMA.

## **FINDINGS AND REASONS FOR APPROVING THE PLAN CHANGE**

123. Where there has been an agreement reached, between submitters and the Applicant and/or the Council reporting team, we have adopted any agreed outcomes. In all cases our decisions have been based on the evidence presented during the hearing process.
124. For the reasons that follow, it is our view that the provisions of PC 66 are more efficient and appropriate in terms of section 32 of the RMA than those of the AUP (OP).
- a. PC 66 will enable an integrated land use/infrastructure residential development. The site is well connected to recreational, educational and commercial facilities, including places of employment.
  - b. Although we note that the Applicant is not relying on the NPS-UD provisions in order for PC 66 to be confirmed, PC 66 is considered to be consistent with Policies 1 and 6 of the NPS-UD, providing the opportunity for additional housing within an established residential neighbourhood.
  - c. The locality has a well-connected street system and is located in proximity to existing transport infrastructure, including public transport options.
  - d. PC 66 is considered to be an efficient use of the land, enabling a mix of low to medium residential development. This rezoning is not considered to constitute a 'spot zoning' because it provides a natural and logical extension of the surrounding mixed density zoning to the site. The rezoning will provide a natural progression of the existing nearby Residential - Mixed Housing Suburban zoning.
  - e. PC 66 will give effect to the NPS-FM, in particular Objective 1, and Policies 2, 3, 9 and 15, as the development of the plan change area can be undertaken in a manner that protects the existing streams / overland flow paths and the respective ecology.

## **DECISION**

125. That pursuant to Schedule 1, Clause 10 of the Resource Management Act 1991, Proposed Plan Change 66 to the Auckland Unitary Plan (Operative in Part) be approved.
126. Submissions on the plan change are accepted, accepted in part and rejected in accordance with this decision. These decisions follow the recommendations set out in the Council's section 42A report.
127. In addition to the reasons set out above, the overall reasons for the decision are that Plan Change 66:
- a. will assist the Council in achieving the purpose of the RMA

- b. gives effect to the Auckland Regional Policy Statement
- c. will promote the sustainable management of natural and physical resources as contemplated by Part 2 of the RMA
- d. is supported by necessary evaluation in accordance with section 32; and
- e. will help with the effective implementation of the plan.



Cherie Lane  
**Chairperson**  
for Commissioners Nigel Mark-Brown and Trevor Mackie

Date: 10<sup>th</sup> May 2022

# ATTACHMENT 1

Plan Change 66 - 57 & 57A Schnapper Rock Road					
Summary of Decisions Requested					
Sub #	Sub Point	Submitter Name	Address for Service	Theme	Summary
1	1.1	Blair Thorpe	blair_thorpe@hotmail.com	If proposed plan change is not declined, then amend it as outlined.	Retain site as single housing units.
1	1.2	Blair Thorpe	blair_thorpe@hotmail.com	If proposed plan change is not declined, then amend it as outlined.	Retain the site in the Greenhithe Precinct
1	1.3	Blair Thorpe	blair_thorpe@hotmail.com	If proposed plan change is not declined, then amend it as outlined.	Retain trees on the site. Maintain a front yard of 4.0m to enable specimen trees to be planted.
2	2.1	P Zhou	jpengzhou@gmail.com	Decline the plan change	Schnapper Rock Road is one of two entries to the area and the road is busy.
3	3.1	Dominique de Paula Reis	domfleiser@gmail.com	Decline the plan change	Retain the site as is.
3	3.2	Dominique de Paula Reis	domfleiser@gmail.com	Decline the plan change	Adverse traffic impacts, particularly around the school.
3	3.3	Dominique de Paula Reis	domfleiser@gmail.com	Decline the plan change	Adverse impacts on local infrastructure
4	4.1	Gavin Bennett	gavinpbennett@gmail.com	If proposed plan change is not declined, then amend it as outlined.	Rezone sites as Single House Zone.
4	4.2	Gavin Bennett	gavinpbennett@gmail.com	If proposed plan change is not declined, then amend it as outlined.	Amend zoning as the height and density of development is misaligned with existing neighbouring properties. Height of the proposed lot is 83m above sea level, which is 2-3 meters above the boundary (80m). Zoning for high density housing will create adverse visual dominance effects as the height of the foundations and land where housing is proposed will domineer over existing neighbouring properties, the landscape and environment of the suburb. The design does not consider the existing density of houses directly opposite the site. They should recognise the density of housing along the boundary of Schnapper Rock Road.



Plan Change 66 - 57 & 57A Schnapper Rock Road					
Summary of Decisions Requested					
Sub #	Sub Point	Submitter Name	Address for Service	Theme	Summary
4	4.3	Gavin Bennett	gavinbennett@gmail.com	If proposed plan change is not declined, then amend it as outlined.	Revise traffic assessments as the traffic volume counts are out of date and the area has continued to grow and traffic worsen over time. The traffic report needs to include current assessments, specifically for peak times of the morning and evening with Schnapper Rock Road and Albany Highway. There is increased development on Kyle road and the adjacent new development already approved. This development is too far away from amenities to walk, and there is also no direct bus to the Albany mall. This will encourage car ownership and more people will drive from the area to shop at Albany or Glenfield. There needs to be adequate onsite parking and garaging for every property. The additional traffic flows from the new road make the lack of crossings a safety concern, especially for school children. Request a raised crossing or pedestrian crossing near the bus stop on Schnapper Rock Road.
4	4.4	Gavin Bennett	gavinbennett@gmail.com	If proposed plan change is not declined, then amend it as outlined.	Add a playground and open green space field no less than 600m2 in size as the distance and size of existing developed parks, community areas and playgrounds does not support the growing demand and needs this development will add into the local community.
4	4.5	Gavin Bennett	gavinbennett@gmail.com	If proposed plan change is not declined, then amend it as outlined.	Provide reporting on the impact on wild lizards habitat in the area. Suggest an in-depth report, shared lizard management plan and if suitable a dedicated public green space park area with lizard friendly gardens near the waterways.

Plan Change 66 - 57 & 57A Schnapper Rock Road					
Summary of Decisions Requested					
Sub #	Sub Point	Submitter Name	Address for Service	Theme	Summary
4	4.6	Gavin Bennett	gavinpbennett@gmail.com	If proposed plan change is not declined, then amend it as outlined.	Current community amenities are insufficient for such development. The density of housing proposed lend itself to sections more adequately located in walking distance of amenities such as super markets, post offices and eateries. Amenities do not support denser housing. Concern that the proposed walkways within the development without adequate electrical and natural lighting and housing setback in the development will cause security and safety concerns.
5	5.1	Tracey Riordean	tjriordean@gmail.com	Not specified	Increase of traffic and subsequent hazards. Specifically increased on street parking blocking access, higher vehicle volumes and car accidents.
6	6.1	Rosie Edginton	rosieedginton@gmail.com	If proposed plan change is not declined, then amend it as outlined.	Currently too much traffic on existing roads. No footpaths on Kyle Road and road is narrow and dangerous. Increased traffic from rezoning would increase traffic in and out of Kyle Road at school times. At peak times 30 min travel time from Kyle Road to Schnapper Rock Road. Upgrade Kyle Road to 2 lanes at top and footpaths.
6	6.2	Rosie Edginton	rosieedginton@gmail.com	If proposed plan change is not declined, then amend it as outlined.	Rezone the whole valley the same zone.
6	6.3	Rosie Edginton	rosieedginton@gmail.com	If proposed plan change is not declined, then amend it as outlined.	Upgrade infrastructure to cope with increased number of people living in the area.
7	7.1	Jacqueline Jolliffe	jacs.jolliffe@gmail.com	Decline the plan change	Decline the plan change
7	7.2	Jacqueline Jolliffe	jacs.jolliffe@gmail.com	Decline the plan change	Inconsistent with the objectives and policies of the Auckland Unitary Plan.
7	7.3	Jacqueline Jolliffe	jacs.jolliffe@gmail.com	Decline the plan change	Retain the area as Large Lot or Single House Zone.
7	7.4	Jacqueline Jolliffe	jacs.jolliffe@gmail.com	Decline the plan change	Traffic infrastructure cannot cope with intensification. The roads are not designed for so many cars or on street car parking. Additional traffic noise will also be an adverse effect.

Plan Change 66 - 57 & 57A Schnapper Rock Road					
Summary of Decisions Requested					
Sub #	Sub Point	Submitter Name	Address for Service	Theme	Summary
7	7.5	Jacqueline Jolliffe	jacs.jolliffe@gmail.com	Decline the plan change	The housing density in the SEA will adversely effect the native flora and fauna. This is a known area for tui and kereru. Intensive housing will remove their natural habitat and cause them to leave the area, or kill them, resulting in adverse effects on the ecological habitat.
8	8.1	Damon Jolliffe	damon.jolliffe@gmail.com	Decline the plan change	Decline the plan change
8	8.2	Damon Jolliffe	damon.jolliffe@gmail.com	Decline the plan change	Inconsistent with the objectives and policies of the Auckland Unitary Plan.
8	8.3	Damon Jolliffe	damon.jolliffe@gmail.com	Decline the plan change	Retain the area as Large Lot or Single House Zone.
8	8.4	Damon Jolliffe	damon.jolliffe@gmail.com	Decline the plan change	The existing transport infrastructure is not capable of such a development. Insufficient car parking for the development, will create additional traffic congestion at a busy intersection (where Schnapper Rock and The Oaks meet). Traffic volume data used is outdated.
8	8.5	Damon Jolliffe	damon.jolliffe@gmail.com	Decline the plan change	Adverse impact on the native flora and fauna as a result of development in the SEA (low density housing where there is currently Large Lot). Will lead to destruction of native habitat.
9	9.1	Christina Joan James	mcjames@xtra.co.nz	Decline the plan change	Decline the plan change
9	9.2	Christina Joan James	mcjames@xtra.co.nz	Decline the plan change	Inconsistent with the objectives and policies of the Auckland Unitary Plan.
9	9.3	Christina Joan James	mcjames@xtra.co.nz	Decline the plan change	Retain the area as Large Lot or change to Single House Zone.
9	9.4	Christina Joan James	mcjames@xtra.co.nz	Decline the plan change	Will have adverse traffic effects on the area (volume and parking), it is a inappropriate location for medium density and terrace housing (corner of a busy intersection).
9	9.5	Christina Joan James	mcjames@xtra.co.nz	Decline the plan change	Will have adverse effects on native flora and fauna (low density housing in an SEA).
10	10.1	Malama Caskie	malamae@hotmail.com	Decline the plan change, but if approved, make the amendments I requested	Decline the plan change, but if approved, make the amendments I requested

Plan Change 66 - 57 & 57A Schnapper Rock Road					
Summary of Decisions Requested					
Sub #	Sub Point	Submitter Name	Address for Service	Theme	Summary
10	10.2	Malama Caskie	malamae@hotmail.com	Decline the plan change, but if approved, make the amendments I requested	Rezone the area as Single House Zone, not Mixed Housing Suburban. High density housing will result in a less pleasing outlook and with the elevation of the site, proposed dwellings will tower over neighbouring properties and be an eyesore in the landscape and current environment. Local amenities and schools would not support denser housing.
10	10.3	Malama Caskie	malamae@hotmail.com	Decline the plan change, but if approved, make the amendments I requested	Major issues with traffic congestion at the intersection of Schnapper Rock Road and Albany Highway and will become even more congested with this and other development in the area. Traffic will be impossible at peak times. Most households have a minimum of two cars but many have more. Terraced housing doesn't usually include garaging or off street parking, so the road will become a big car park and this will add to issues.
10	10.4	Malama Caskie	malamae@hotmail.com	Decline the plan change, but if approved, make the amendments I requested	Maintain green space. There is going to be a huge environmental impact by removing a vast green space for the native plants and wildlife.
11	11.1	Watercare Services Limited c/- Ilze Gotelli	ilze.gotelli@water.co.nz	Neutral - neither supports nor opposes the plan change	An existing water supply station at 57A Schnapper Rock Road in eastern corner of the Plan Change Area. A 250PE water supply pipe located in Schnapper Rock Road corridor will service the proposed development. Watercare confirms there is currently sufficient capacity in the water supply network to service the Plan Change Area. However, capacity of the water supply network will need to be re-assessed at resource consent stage as local watermain upgrades may be required to service development within the Plan Change Area. The applicant will be required to provide and fund the local reticulation network within the plan change area and provide the necessary fire hydrants.

Plan Change 66 - 57 & 57A Schnapper Rock Road					
Summary of Decisions Requested					
Sub #	Sub Point	Submitter Name	Address for Service	Theme	Summary
11	11.2	Watercare Services Limited c/- Ilze Gotelli	ilze.gotelli@water.co.nz	Neutral - neither supports nor opposes the plan change	Plan Change area is located within a well-established wastewater reticulated area. However, due to the topography of the site and the surrounding area, a public gravity extension to network cannot be achieved. Three alternative options proposed by applicant. 1. A low pressure system. 2. Public gravity extension from Kyle Road pump station. 3. New pump station constructed within the site. Watercare does not accept Option 1. Watercare's strong preference is to service the site by the existing pump station (Option 2) and there is capacity in the Kyle Road wastewater pump station to service this development. The developer will be required to construct and fund the infrastructure and necessary upgrades required to service the Plan Change Area. The layout of the new gravity wastewater network must be designed in accordance with Watercare's Code of Practice.
11	11.3	Watercare Services Limited c/- Ilze Gotelli	ilze.gotelli@water.co.nz	Neutral - neither supports nor opposes the plan change	57A Schnapper Rock Road, which forms part of the application area, is owned by Watercare and is designated under the Auckland Unitary Plan (Operative in Part) for "Water Supply Purposes", specifically a "Water Supply Station and Future Reservoirs". The Applicant has sought that the Overlay be removed from Watercare's land to "adopt a consistent resource management mapping approach in relation to neighbouring properties". Should the Plan Change be approved, Watercare agrees to the removal of the Greenhithe Sub-precinct from the Watercare land.
12	12.1	Gordon Edginton	gordon@prendos.co.nz	Decline the plan change, but if approved, make the amendments I requested	Decline the plan change

Plan Change 66 - 57 & 57A Schnapper Rock Road					
Summary of Decisions Requested					
Sub #	Sub Point	Submitter Name	Address for Service	Theme	Summary
12	12.2	Gordon Edginton	gordon@prendos.co.nz	Decline the plan change, but if approved, make the amendments I requested	Too much traffic in the area for the current infrastructure to handle and the roads (especially Kyle Road) are terrible. No footpaths on Kyle Road and the road is extremely narrow and dangerous. Development will cause a an increase in traffic coming in and out of Kyle Rd and Schnapper Rock Road. At peak hours during the week it can take 30 minutes to get from Kyle Road just to the Schnapper Rock lights.
12	12.3	Gordon Edginton	gordon@prendos.co.nz	Decline the plan change, but if approved, make the amendments I requested	To just rezone the applicants corner block through a private plan change is missing a great opportunity to release more urban land for the city to meet the pressing housing needs.
13	13.1	Kim Edginton	g.edginton@xtra.co.nz	Decline the plan change, but if approved, make the amendments I requested	Decline the plan change
13	13.2	Kim Edginton	g.edginton@xtra.co.nz	Decline the plan change, but if approved, make the amendments I requested	Too much traffic in the area for the current infrastructure to handle and the roads (especially Kyle Road) are terrible. No footpaths on Kyle Road and the road is extremely narrow and dangerous. Development will cause an increase in traffic coming in and out of Kyle Road an dschnapper Rock Road. At peak hours during the week it can take 30 minutes to get from Kyle Road just to the Schnapper Rock lights.
13	13.3	Kim Edginton	g.edginton@xtra.co.nz	Decline the plan change, but if approved, make the amendments I requested	To just rezone the applicants corner block through a private plan change is missing a great opportunity to release more urban land for the city to meet the pressing housing needs.
14	14.1	Subodh Kumar	subodhkumar83@gmail.com	Approve the plan change with the amendments I requested.	Approve the plan change with the amendments I requested.

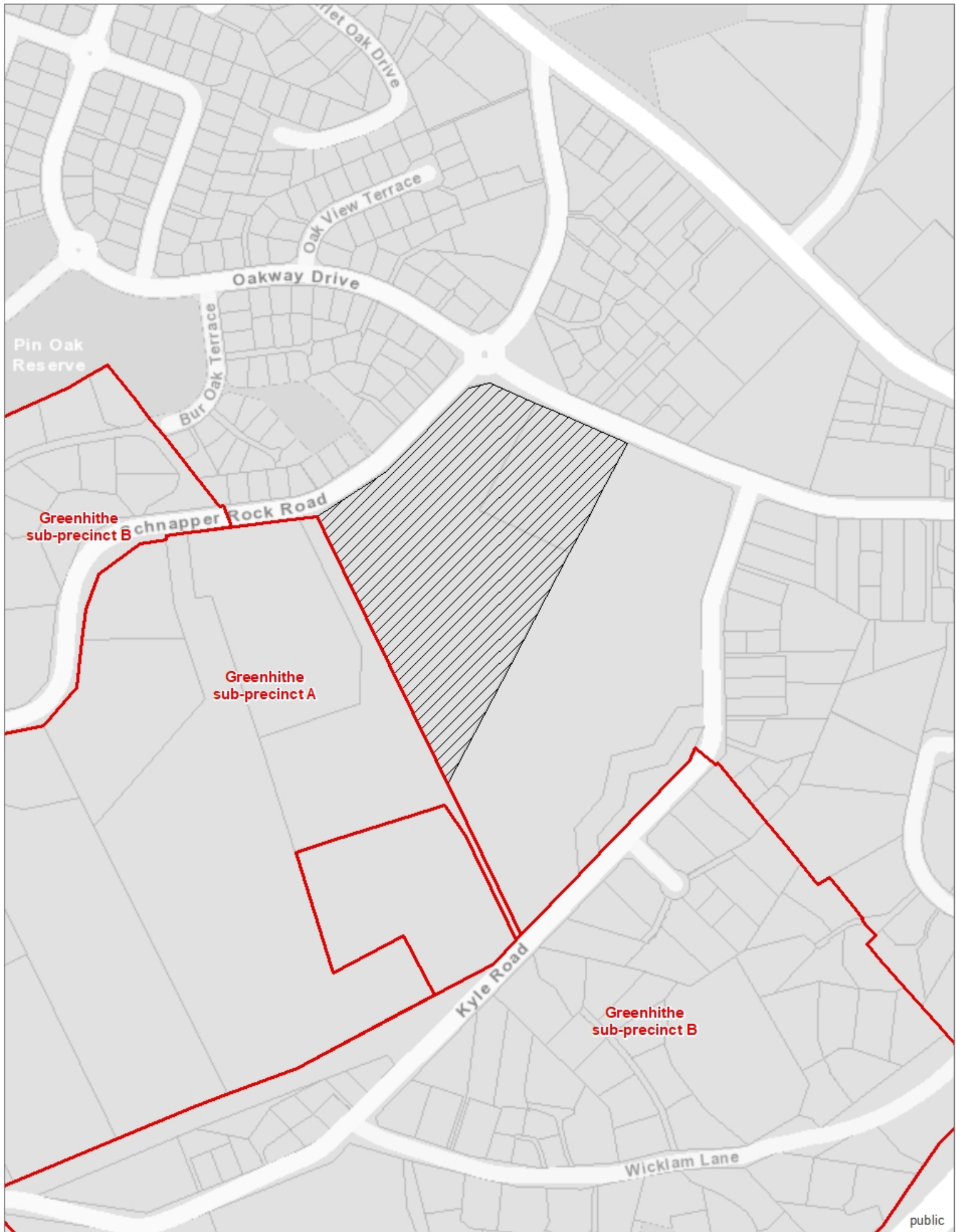


Plan Change 66 - 57 & 57A Schnapper Rock Road					
Summary of Decisions Requested					
Sub #	Sub Point	Submitter Name	Address for Service	Theme	Summary
14	14.2	Subodh Kumar	subodhkumar83@gmail.com	Approve the plan change with the amendments I requested.	Exit through the intersection Albany Hwy/Schnapper Rock Rd/Bush Road in peak times takes around 10 to 15 minutes. Oakway Drive->Schnapper Rock Rd->Albany Hwy is used as thoroughfare by vehicles in peak times to bypass the massive congestion on Albany Hwy/Bush Road intersection contributing to the usual traffic. The rezoning will add more load to already congested roads/intersections.
14	14.3	Subodh Kumar	subodhkumar83@gmail.com	Approve the plan change with the amendments I requested.	Revise traffic data. 2014-2016 traffic data is too old to be relevant.
14	14.4	Subodh Kumar	subodhkumar83@gmail.com	Approve the plan change with the amendments I requested.	Increasing housing density will exacerbate and worsen the transit for the residents in peak times. The proposed 100m exit from Schnapper Rock Rd onto roundabout at the intersection of Oakway Drive and Schnapper Rock Road will affect traffic at peak times.
14	14.5	Subodh Kumar	subodhkumar83@gmail.com	Approve the plan change with the amendments I requested.	Rezone from Residential Large Lot Zone to Residential Single House Zone. Rezoning to Mixed Housing Suburban Zone shouldn't be approved.
15	15.1	Chunlan Han	58911071@qq.com	Approve the plan change without any amendments	Approve the plan change without any amendments
16	16.1	Ningyi Guo	guoningyi@hotmail.com	Approve the plan change without any amendments	Approve the plan change without any amendments
17	17.1	Hanwei guo	epclauckland@hotmail.com	Approve the plan change without any amendments	Approve the plan change without any amendments
18	18.1	Terry Wang	terrywz@gmail.com	Approve the plan change without any amendments	Approve the plan change without any amendments
19	19.1	Scott Wilson	wilsonscott@live.com	Decline the plan change, but if approved, make the amendments I requested	Rezone to the Residential Single House zone, and not Mixed Housing Suburban Zone.



Plan Change 66 - 57 & 57A Schnapper Rock Road					
Summary of Decisions Requested					
Sub #	Sub Point	Submitter Name	Address for Service	Theme	Summary
19	19.2	Scott Wilson	wilsonscott@live.com	Decline the plan change, but if approved, make the amendments I requested	Amend zoning as the height and density of development is misaligned with existing neighbouring properties. Height of the proposed lot is 83m above sea level, which is 2-3 meters above the boundary (80m). Zoning for high density housing will create adverse visual dominance effects as the height of the foundations and land where housing is proposed will domineer over existing neighbouring properties, the landscape and environment of the suburb. The design does not consider the existing density of houses directly opposite the site. They should recognise the density of housing along the boundary of Schnapper Rock Road.
19	19.3	Scott Wilson	wilsonscott@live.com	Decline the plan change, but if approved, make the amendments I requested	Revise traffic assessments as the traffic volume counts are out of date and the area has continued to grow and traffic worsen over time. The traffic report needs to include current assessments, specifically for peak times of the morning and evening with Schnapper Rock Road and Albany Highway. There is increased development on Kyle road and the adjacent new development already approved. This development is too far away from amenities to walk, and there is also no direct bus to the Albany mall. This will encourage car ownership and more people will drive from the area to shop at Albany or Glenfield. There needs to be adequate onsite parking and garaging for every property. The additional traffic flows from the new road make the lack of crossings a safety concern, especially for school children. Request a raised crossing or pedestrian crossing near the bus stop on Schnapper Rock Road.
19	19.4	Scott Wilson	wilsonscott@live.com	Decline the plan change, but if approved, make the amendments I requested	Add a playground and open green space field no less than 600m2 in size as the distance and size of existing developed parks, community areas and playgrounds does not support the growing demand and needs this development will add into the local community.

Plan Change 66 - 57 & 57A Schnapper Rock Road					
Summary of Decisions Requested					
Sub #	Sub Point	Submitter Name	Address for Service	Theme	Summary
19	19.5	Scott Wilson	wilsonscott@live.com	Decline the plan change, but if approved, make the amendments I requested	Provide reporting on the impact on wild lizards habitat in the area. Suggest an in-depth report, shared lizard management plan and if suitable a dedicated public green space park area with lizard friendly gardens near the waterways.
19	19.6	Scott Wilson	wilsonscott@live.com	Decline the plan change, but if approved, make the amendments I requested	Current community amenities are insufficient for such development. The density of housing proposed lend itself to sections more adequately located in walking distance of amenities such as super markets, post offices and eateries. Amenities do not support denser housing. Concern that the proposed walkways within the development without adequate electrical and natural lighting and housing setback in the development will cause security and safety concerns.
20	20.1	Hsiue-Te Tu	hsiute@gmail.com	Approve the plan change without any amendments	Proposed rezoning will provide more dwellings as all the infrastructure is already in place. Schnapper Rock area is so close to all the major infrastructure change in Albany, it is no longer a farm area.
21	21.1	Auckland Transport c/- Jason Drury	jason.drury@at.govt.nz	Approve the plan change with the amendments I requested.	Resolve the matters raised in the submission to provide certainty that the transport infrastructure identified as improvements/mitigation in the applicant's Transport Assessment will be provided in conjunction with subdivision and development of the land included in PPC 66. This could include a site-specific amendment to the plan change and/or methods to ensure such transport effects are addressed.



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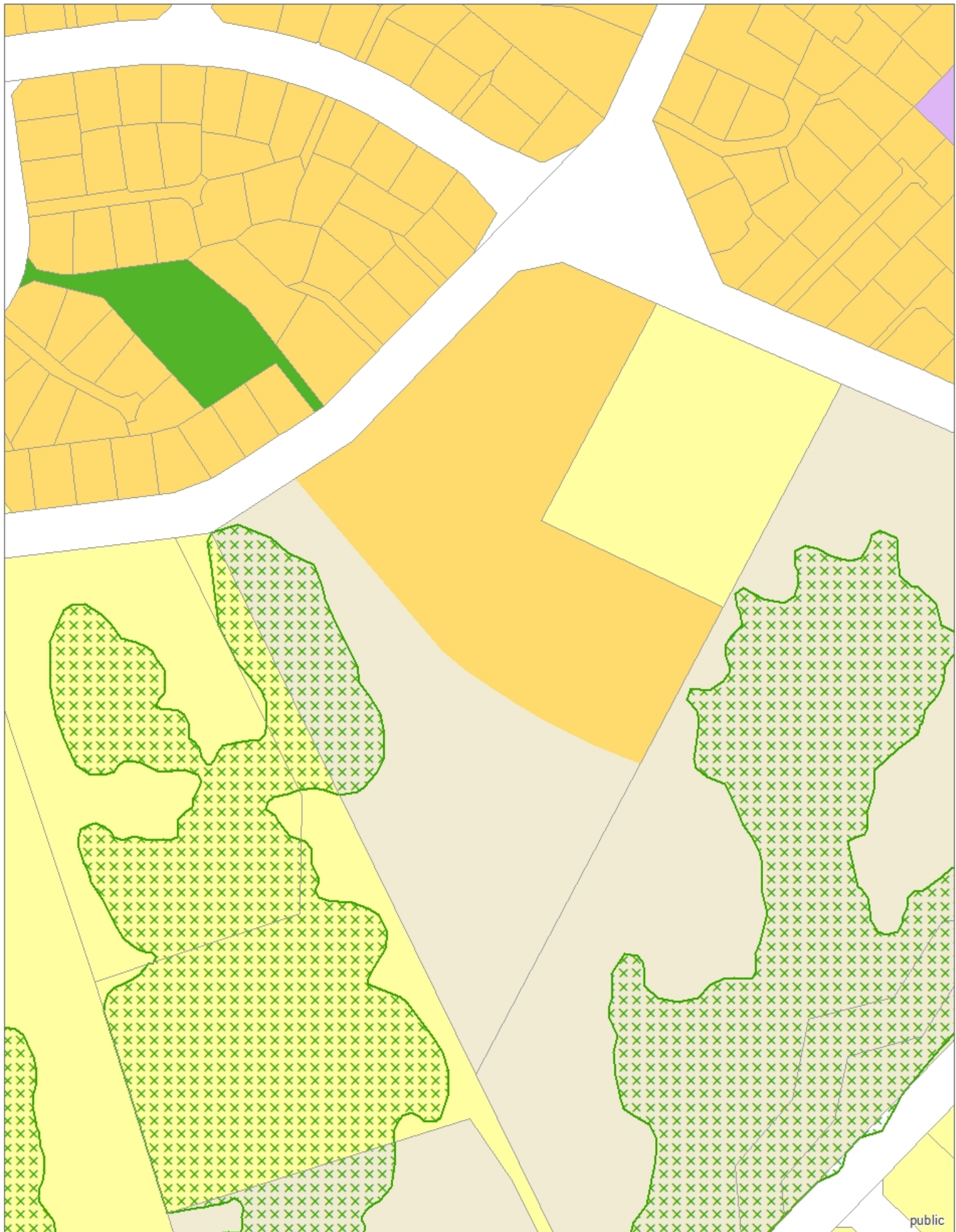
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## PC66 Precincts - Final decision

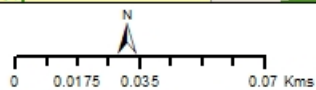
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Date: 16/05/2022

## PC66 - Final decision



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