

## UNITARY PLAN UPDATE REQUEST MEMORANDUM

**TO** Warren MacLennan, Manager Planning – North, West, & Islands Unit

**FROM** Katie Maxwell, Planner

**DATE** 7 September 2020

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



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

<b>Reason for update – Plan Change 32 – Avondale Jockey Club to be made operative</b>	
<b>Chapter</b>	Chapter I Precincts AUP GIS Viewer
<b>Section</b>	Central - I307 Avondale Racecourse Precinct
<b>Changes to text (shown in underline and strikethrough)</b>	N/A
<b>Changes to diagrams</b>	I307.10.1. Avondale Racecourse: Precinct plan 1 – new altered map to replace existing
<b>Changes to spatial data</b>	Altering the 1,870m2 slither of land from Special Purpose – Major Recreation Centre to Residential – Terrace Housing and Apartment Building Zone.  Removing the parcel from the Avondale Racecourse Precinct, re-aligning the boundary of the precinct around the parcel.
<b>Attachments</b>	Attachment 1: PC 32 Decision  Attachment 2: Updated Precinct Plan  Attachment 3: Updated GIS Viewer

<b>Prepared by:</b> Katie Maxwell Planner	<b>Maps prepared by:</b> Aching Konyak Geospatial Analyst
<b>Signature:</b> 	<b>Signature:</b> 
<b>Reviewed by:</b> Katie Maxwell Planner	<b>Signed off by:</b> Warren MacLennan Manager Planning – North, West, & Islands
<b>Signature:</b> 	<b>Signature:</b> 

## Attachment 1: PC 32 Decision

# Decision following the hearing of a Plan Modification to the Auckland Unitary Plan (Operative in Part) under the Resource Management Act 1991



## SUMMARY OF THE DECISION

This decision is made pursuant to Clause 10 of Schedule 1 of the Resource Management Act. The decision of the Commissioners is that Plan Change 32: Avondale Jockey Club is APPROVED.

The site at Wingate Street, part of Lot 2 DP 470450 (Identifier 635753), is:

- a) rezoned from Special Purpose - Major Recreation Facility to Residential – Terraced Housing and Apartment Buildings;
- b) uplifted from the Avondale Racecourse Precinct I307; and
- c) the Interface Control Area boundary is moved 20m within the newly reduced Avondale Racecourse Precinct I307.

The reasons are set out below.

This private plan modification is GRANTED. The reasons are set out below.

<b>Plan subject to change</b>	Auckland Unitary Plan (2016) (Operative in Part)
<b>Number and name of change</b>	Proposed Private Plan Change 32 – Avondale Jockey Club
<b>Type of change</b>	Private Plan Change
<b>Status of Plan</b>	Operative in Part
<b>Date Publicly Notified</b>	29 August 2019 – Limited notification
<b>Date submissions closed</b>	Submissions closed on 26 September 2019.
<b>Plan Development Process used</b>	Normal
<b>Submissions received</b>	10
<b>Summary of Decisions Requested notified on 24 October 2019.</b>	Notified on 24 October 2019
<b>Date further submissions closed</b>	8 November 2019
<b>Further submissions received</b>	1
<b>Commissioners</b>	Kim Hardy (Chairperson) Trevor Mackie

<b>Commissioners' site visit</b>	Friday 6 March 2020
<b>Hearing</b>	Friday 6 March 2020
<b>Appearances</b>	<p><u>For the Council:</u>  Katie Maxwell – Reporting Planner  Eryn Shields – Planning Team Leader  Sarah Lindsay – Urban Design  Wendy Stephenson – Hearings Advisor  Sidra Khan – Hearings Advisor</p> <p><u>For the Applicant:</u>  Daniel Sadler - Counsel  Ila Daniels - Planning</p> <p><u>For Submitters:</u>  Wingate Club represented by:</p> <ul style="list-style-type: none"> <li>- Ken Lomax</li> <li>- Hokimai Eparaima</li> <li>- Mathew Fairbrother</li> <li>- Sally Coyle-Dorsey</li> </ul>

## INTRODUCTION

1. The Commissioners have been delegated authority by the Council under section 34A of the Resource Management Act 1991 (the “Act”) to make a decision on Plan Change 32 to the Auckland Council Unitary Plan (Operative in Part) after considering the section 32 evaluation, section 42A report prepared by the officers, submissions and evidence provided at the hearing.
2. Proposed Private Plan Change 32 (PC 32) was publicly notified on 29 August 2019 to the Auckland Unitary Plan (Operative in Part) ('AUP(OP)'). PC 32 seeks to rezone 1,870m<sup>2</sup> of land at part of Lot 2 DP 470450 (Identifier 635753) (to become Lot 1 DP470450 when subdivision completed) Avondale Racecourse from Special Purpose – Major Recreation Facility ('SP-MRF') to Terrace Housing and Apartment Building Zone ('THAB'). The request also proposes to remove Lot 1 from the Avondale Racecourse Precinct ('precinct') and realign the Interface Control Area ('ICA') with the altered precinct boundary. There are no proposed text changes to the Auckland Unitary Plan (Operative in Part).

## BACKGROUND

3. The new 1870m<sup>2</sup> site fronting Wingate Street, Avondale is located at the southern end of the Avondale Racecourse, contains no buildings and is immediately adjacent to the racetrack. The site has approximately 45m of road frontage and rises up from Wingate Street and the adjacent properties relatively steeply until it reaches the racetrack. The land in the surrounding vicinity is residential aside from the racecourse land. Wingate

Street is a no exit street and is identified in the AUP(OP) as a minor urban local road. The Avondale Jockey Club, which controls the racecourse land, is the applicant for the Plan Change request.

4. Lot 1 DP 508281 was granted subdivision consent from the racecourse boundary in 2018. The applicant applied for subdivision consent in mid-2018 to remove 4,570m<sup>2</sup> from the Avondale Racecourse and create a separate parcel of land which is now known as Lot 1. Lot 1 is the site subject to the plan change. The site is no longer required by the Avondale Jockey Club for racing purposes. Part of this land is already zoned THAB with the plan change area extending the THAB zone to establish a larger THAB zoned site. The subdivision consent was granted by an Independent Commissioner on 12 October 2018.



5. The land to the east, west and south of the site is zoned Terrace Housing and Apartment Building Zone. The surrounding residential zoned land is occupied by individual detached houses and by the Wingate Club immediately opposite the site on Wingate Street. The Wingate Club is a private members club that has operated from its current site since 1992.

### **PC32 – SCOPE AND JURISDICTION**

6. As a panel, we must satisfy ourselves that the plan change has been prepared in the manner set out in Schedule 1 to the Act and that all submissions received are within the scope of the plan change.
7. In considering PC32 we have taken into account:
  - a. The plan change request and supporting s32 evaluation and environmental effect assessments
  - b. Council's s42A report and the views of the contributing experts
  - c. The submissions on PC32; and
  - d. The submissions, statements and evidence presented by the Avondale Racecourse and Submitters at the hearing
8. Our decision includes our findings on PC32 and its provisions and on the matters raised in the submissions.
9. We have not taken a further evaluation of PC32 under s32AA as our recommendation is to accept PPC32 without amendment.

10. No scope and/or jurisdictional issues arose during the course of the hearing.

## SUBMISSIONS

11. The proposed plan change was limited notified with 10 submissions and one further submission received. Nine of the 10 submissions received were in opposition with one submission in support from Auckland Transport.

## SUMMARY OF EVIDENCE

12. The Council planning officer's report (Ms Katie Maxwell), including Council specialist reports were circulated prior to the hearing and taken as read. Ms Maxwell's recommendation was that the proposed plan change should be approved without amendment. The expert evidence of Ila Daniels (Planning) and Richard Pridham (Racecourse Manager) was also pre-circulated.

13. The evidence pre circulated and presented at the hearing summarised the plan change request information and responded to the issues and concerns raised in the submissions. Mr Pridham advised us of the strategic planning review undertaken for the Avondale Jockey Club which identified that the existing land buffer around the perimeter of the site at Wingate Street was larger than required and subsequently confirmed the site subdivision and rezoning exercise.

14. Ms Daniels confirmed the streamlined nature of the plan change request and that it simply required changes to the AUP(OP) maps. Ms Daniels advised us that *'There are no changes proposed to the objectives, policies, rules or other written provisions of the Unitary Plan. This deliberate approach recognises that the Unitary plan already contains a suitable policy framework and toolbox of provisions to assess any future resource consent application on the proposed site.'*<sup>1</sup> Ms Daniels recommendation was that the land should be zoned THAB to coincide with the balance of the existing zoning of the land within the proposed site and on the adjacent private sites along Wingate Street.

15. Questions and matters for clarification were raised by the Commissioners as the hearing progressed.

Submissions, on behalf of the Wingate Club and the owner of 76 – 80 Wingate Street were presented by Mr Ken Lomax, Wingate Club Manager, and by Ms Coyle-Dorsey and Mr Fairbrother (Gardener), employees of the Wingate Club, and Mr Hokimai Eparaima, a club member.

16. Mr Lomax advised us that the club had been on its present site since 1992 and that when the club was first established the immediately surrounding land was undeveloped. The urban residential land use has since developed around what was originally a reasonably isolated and private site location. The loss of privacy was of concern to the club. Mr Lomax and the club members advised us that this privacy aspect was fundamental to club's ongoing operation on the current site. Mr Fairbrother (Gardener) advised us that substantial time was dedicated to ensuring the outdoor spaces were maintained with appropriate levels of separation and screen planting from

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<sup>1</sup> Statement of Summary Evidence of I Daniels para 2.2, 6 March 2020.

adjoining residential properties. A core part of his job was maintaining the gardens at the club to ensure onsite privacy. The club is concerned with overlooking from residential properties developed on the subject site. Particularly given the site topography and elevation above Wingate Street and the club grounds.

17. Mr Lomax was concerned to ensure that the club would have some input into the future development plans for residential properties on the subject site. This was to ensure the design and outlook from the properties to the site would maintain privacy aspects for both the club and future occupants of the residential dwellings. He advised us that he did not oppose the plan change and future development per se but that he was primarily concerned about the privacy impacts of any future building development.
18. Ms Daniels in her planning evidence advised us that she considered the existing framework of the AUP (OP) would guide any future redevelopment of the land following rezoning and this same 'toolbox' would apply to any other private land along the adjacent part of Wingate Street.
19. Mr Eryn Shields, Planning Team Leader and on behalf of the s42A reporting Planner Ms Katie Maxwell, responded to the Applicant's evidence and that of the submitters and provided clarification of site history and zoning matters.
20. Mr Sadlier, in closing with the Applicant's right of reply, agreed to clarify the legal description of the site so that it could be used precisely in any decision.
21. The hearing was closed on Friday 20 March 2020 after the Commissioners had satisfied themselves that they had all the information they required in order to make their decision on PPPC32.

## **HEARING**

22. In accordance with Clause 8B and Clause 29(3) of Schedule 1, a hearing was held on Friday 6 March 2020. Mr Ken Lomax on behalf of the Wingate Club was the only submitter in attendance at the hearing.

## **ISSUES RAISED IN SUBMISSIONS AND EVIDENCE**

23. The issues raised in submissions and in the evidence include:
  - a. Potential loss of privacy to the Wingate Club at 76 – 80 Wingate Street, and to other properties that may be overlooked by residential development on the plan change site.
  - b. Potential shading, loss of sun access to the Wingate Club at 76 – 80 Wingate Street.
  - c. Loss of current recreational outlook from residential properties along Wingate Street and whether an Open Space zoning would be more appropriate.
  - d. Transport effects including traffic generation, congestion, on-street parking and traffic safety effects from intensification on Wingate Street.
  - e. Other effects such as noise, construction effects and loss of land that is perceived by the community as open space.

## OUR FINDINGS ON THE ISSUES IN CONTENTION

24. We find that the proposed rezoning is appropriate within the existing site and land use context. In terms of the potential loss of privacy for the Wingate Club, whilst we empathise with the club on the impacts of the changing intensity of residential land use around the site, we rely on the evidence of Ms Daniels and Ms Maxwell's assessment that the planning framework provides for an adequate level of assessment of the effects of future development within the THAB zone.
25. Ms Maxwell advised us that all new buildings within the THAB zone require Restricted Discretionary Activity consent. We find that the development controls and assessment criteria under that rule framework will ensure the appropriate level of assessment is undertaken as part of the planning process. The THAB development assessment includes residential amenity, overlooking and privacy if the Alternative Height in Relation to Boundary standard is used.
26. We also note that there is good separation between the Wingate Club and the subject site created by the existing formed road and residential development on Wingate Street. However, we acknowledge that the Wingate Club may not be considered an immediate 'neighbour' to any future development given the road and presence of a row of intervening sites fronting the northern side of Wingate Street.
27. In terms potential shading and loss of sun access we accept Ms Maxwell's assessment that the THAB zone framework includes standards that address the effects of future development on surrounding residential properties. These standards are assessed in context on a case by case basis. We do not find that the plan change should be rejected on the basis that the potential development enabled by the plan change will result in adverse shading and loss of sun access. Such assessments will be undertaken on a case by case basis through the existing THAB zone planning framework.
28. The effects of loss of open space outlook currently enjoyed by the sites adjoining the racecourse was raised by a number of the residents on Wingate Street. We do not find that the plan change should be rejected on the basis of potential loss of outlook from these properties and preference for the land to be zoned open space. As the land is owned by the Avondale Jockey Club, it cannot be preserved for open space or recreational purposes without the Council purchasing and deciding to maintain the land for open space purposes.
29. Auckland Transport's submission supported the plan change provided that there was a mechanism available in the AUP(OP) that provides for an appropriate level of transport assessment to assess and address any impact on the wider network and intersections. Ms Maxwell sought a peer review of transport aspects of the proposal to determine the anticipated level of traffic impact arising from the re zoning. The findings of this assessment are included within the s42A report. The assessment confirmed that the traffic and parking effects were manageable. No other evidence on traffic or transport was produced at the hearing. PC 32 has maintained some racecourse frontage to Wingate Street, so that access can be created if needed in the future. We find that the potential traffic effects of any future development of the THAB zone will be adequately addressed through the planning framework on a case by case basis as the site is



developed. Maintaining the site frontage also ensures there is flexibility to determine the best access and egress arrangements for the site in the future.

30. Whilst some submitters raised concerns with the effects of construction activities such as noise and loss of land that is perceived by the community as public open space, we find that the concerns related to construction activities and noise can be adequately addressed when the site is developed. In terms of the loss of open space, because the land is not owned by the Auckland Council and not identified for open space purposes it is inevitable that at some point it would be more efficiently used for alternative purposes by the landowner.

## **RELEVANT STATUTORY PROVISIONS**

31. The RMA requires that the Council considers a number of statutory and policy matters when assessing a proposed plan change. We are satisfied that PC 32 has been developed in accordance with the relevant statutory and policy matters. This assessment is set out in detail in sections 6 and 7 of the Council's s42A report.

## **SECTION 32AA FURTHER EVALUATION**

32. PC 32 as proposed, the recommendations made in the Section 42A Report and the underpinning Section 32 Evaluation Report are not changed by our decision, so there is no demonstrated need to undertake a Section 32AA Further Evaluation.

## **CONCLUSIONS**

33. Having considered the proposed private plan change request including the supporting Assessment of Environmental Effects and Section 32 Analysis report, the Council's section 42A report, and the submissions and further submission we find that:
  - a. The current zoning of the land as Special Purpose Major Recreation Facility is no longer relevant and that the site should be rezoned Residential – Terraced Housing and Apartment Buildings Zone; and
  - b. That the Avondale Racecourse Precinct I307 should be uplifted from the site, and that the Interface Control Area boundary should be adjusted to 20m within the newly reduced Avondale Racecourse Precinct I307.
34. The proposed change to the Residential – Terraced Housing and Apartment Buildings zoning for the site aligns with the Auckland Unitary Plan's regional policy statement objectives and policies and with sound resource management practice. Alternative zonings and precinct and zone provisions have been considered and the proposal is the most appropriate for achieving the purpose of the Act, and the objectives of the AUP(OP).
35. We are satisfied that PC 32 will assist the Council in achieving the purpose of the Act, is consistent with the Auckland Regional Policy Statement and the Auckland Plan.

## DECISION

The Commissioners have determined that

1. The Proposed Private Plan Change 32 to the Auckland Unitary Plan (Operative in Part) be **APPROVED** pursuant to Schedule 1 Clause 10 of the Resource Management Act 1991.
2. The reasons for the decision are that the approval of Proposed Plan Change 32:
  - a. will assist the council in achieving the purpose of the RMA;
  - b. is consistent with the Auckland Unitary Plan Regional Policy Statement;
  - c. is consistent with the Auckland Plan;
  - d. is the most appropriate zone and precinct provisions for the site; and
  - e. is consistent with the Auckland Plan 2050.
3. That the Auckland Unitary Plan (Operative in Part) be amended in accordance with Attachment A, Plan Change 32 – Avondale Jockey Club. The site at Wingate Street is
  - a) rezoned from Special Purpose - Major Recreation Facility to Residential – Terraced Housing and Apartment Buildings;
  - b) the Avondale Racecourse Precinct I307 is uplifted from the new 1870m<sup>2</sup> site; and
  - c) the Interface Control Area boundary 20m is applied within the newly reduced Avondale Racecourse Precinct I307.

## DECISION ON SUBMISSIONS

1. Following our decision that PC 32 meets all applicable statutory requirements to be approved as a change to the AUP we approve PC 32 without modification as shown in Appendix A.
2. Accordingly, our decision on the submissions is that:
  - a. Submissions 1, 2, 3, 4, 5, 6, 7, 8 and 9 are rejected.
  - b. Submission 10 is accepted.



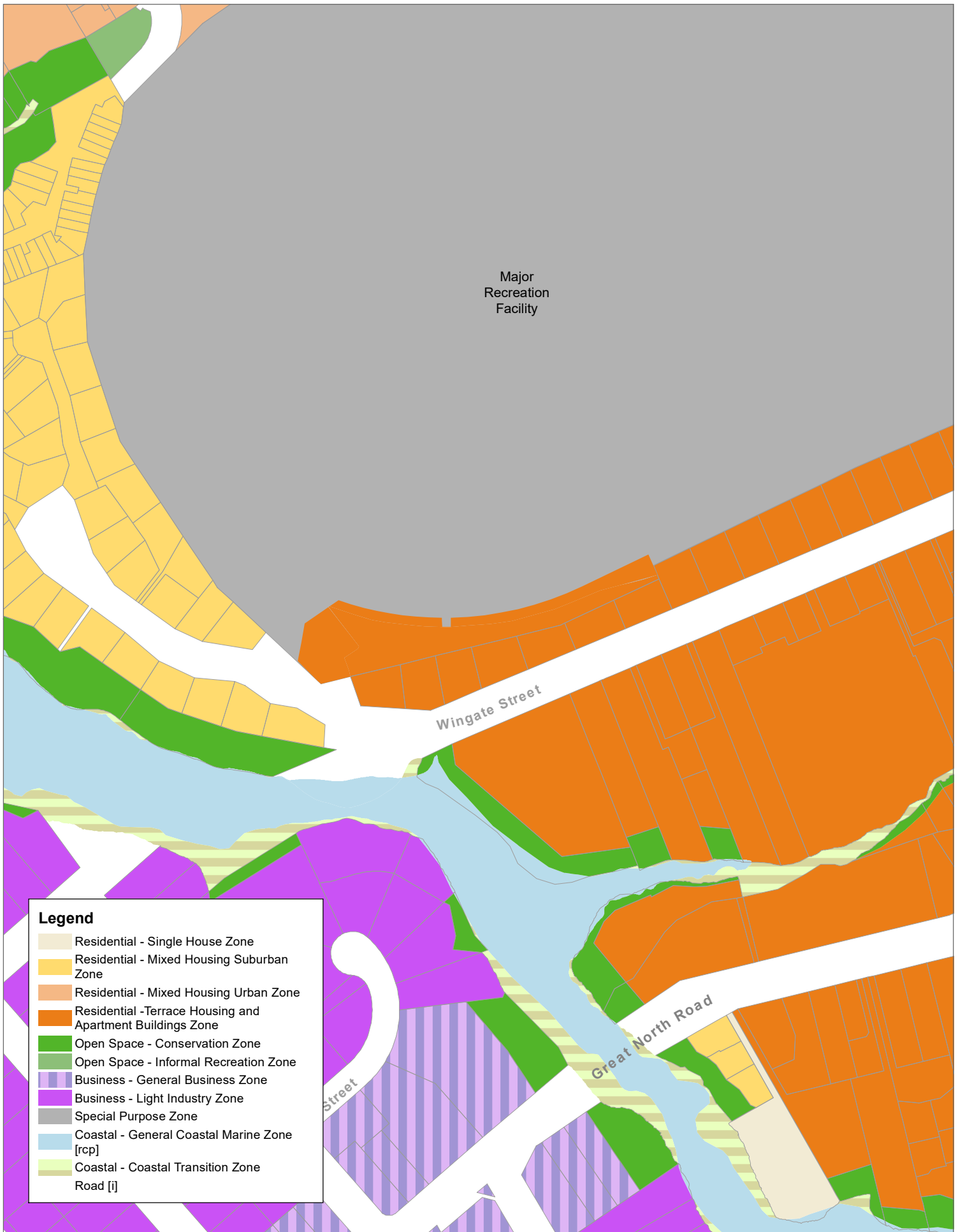
Commissioner K Hardy (Chair)



Commissioner T Mackie

## Attachment A: Amendments to the Auckland Unitary Plan

1. Zone Map – new zone boundary and zonings
2. Zone Map – new Avondale Racecourse Precinct boundary
3. Avondale Racecourse Precinct Plan with new precinct boundary and Interface Control Area



Major  
Recreation  
Facility

Wingate Street

Great North Road

Street

**Legend**

- Residential - Single House Zone
- Residential - Mixed Housing Suburban Zone
- Residential - Mixed Housing Urban Zone
- Residential - Terrace Housing and Apartment Buildings Zone
- Open Space - Conservation Zone
- Open Space - Informal Recreation Zone
- Business - General Business Zone
- Business - Light Industry Zone
- Special Purpose Zone
- Coastal - General Coastal Marine Zone [rcp]
- Coastal - Coastal Transition Zone
- Road [j]



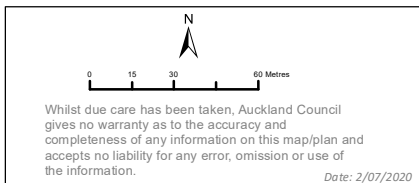
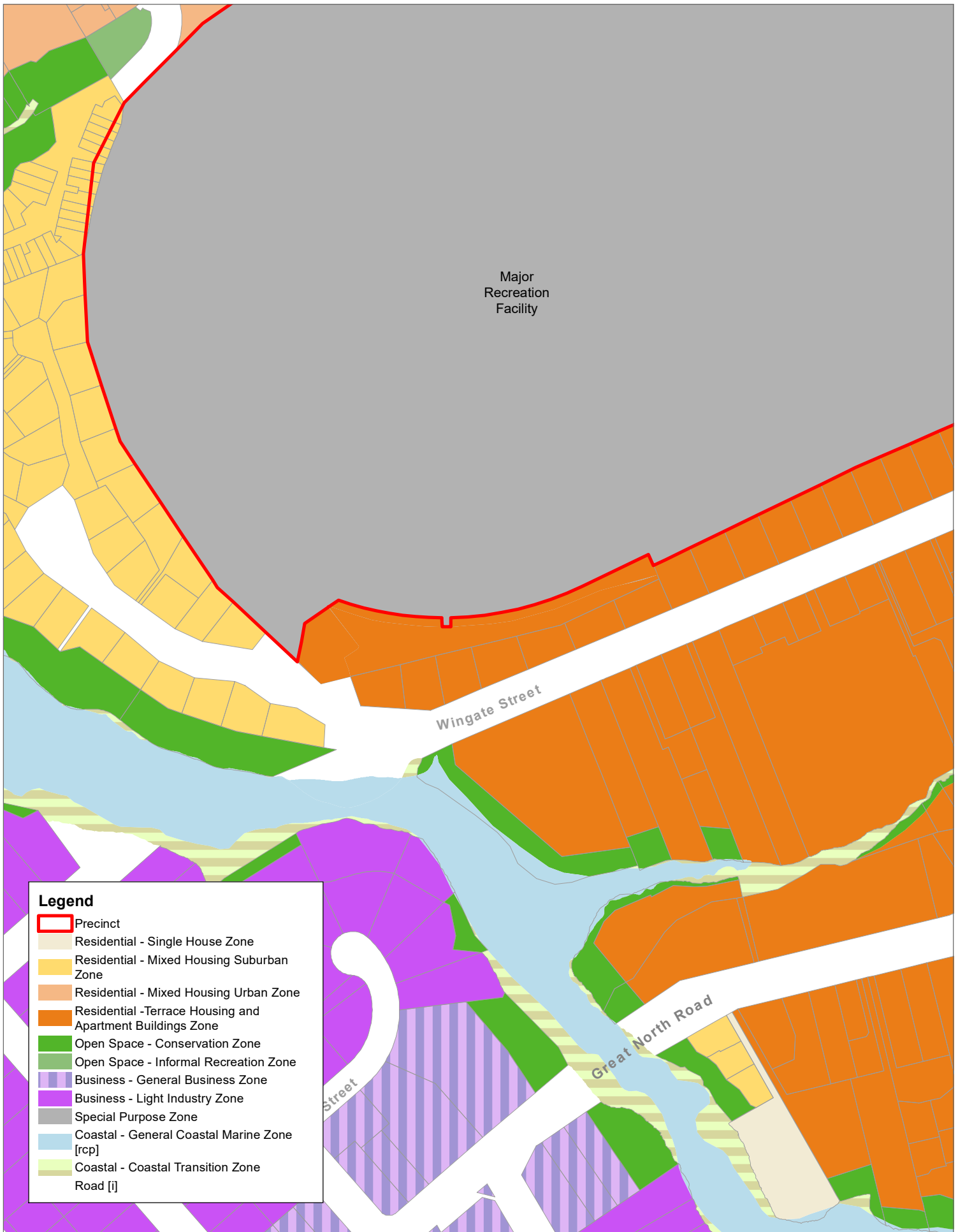
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Date: 2/07/2020

**Private Plan Change 32 - Avondale Jockey Club**



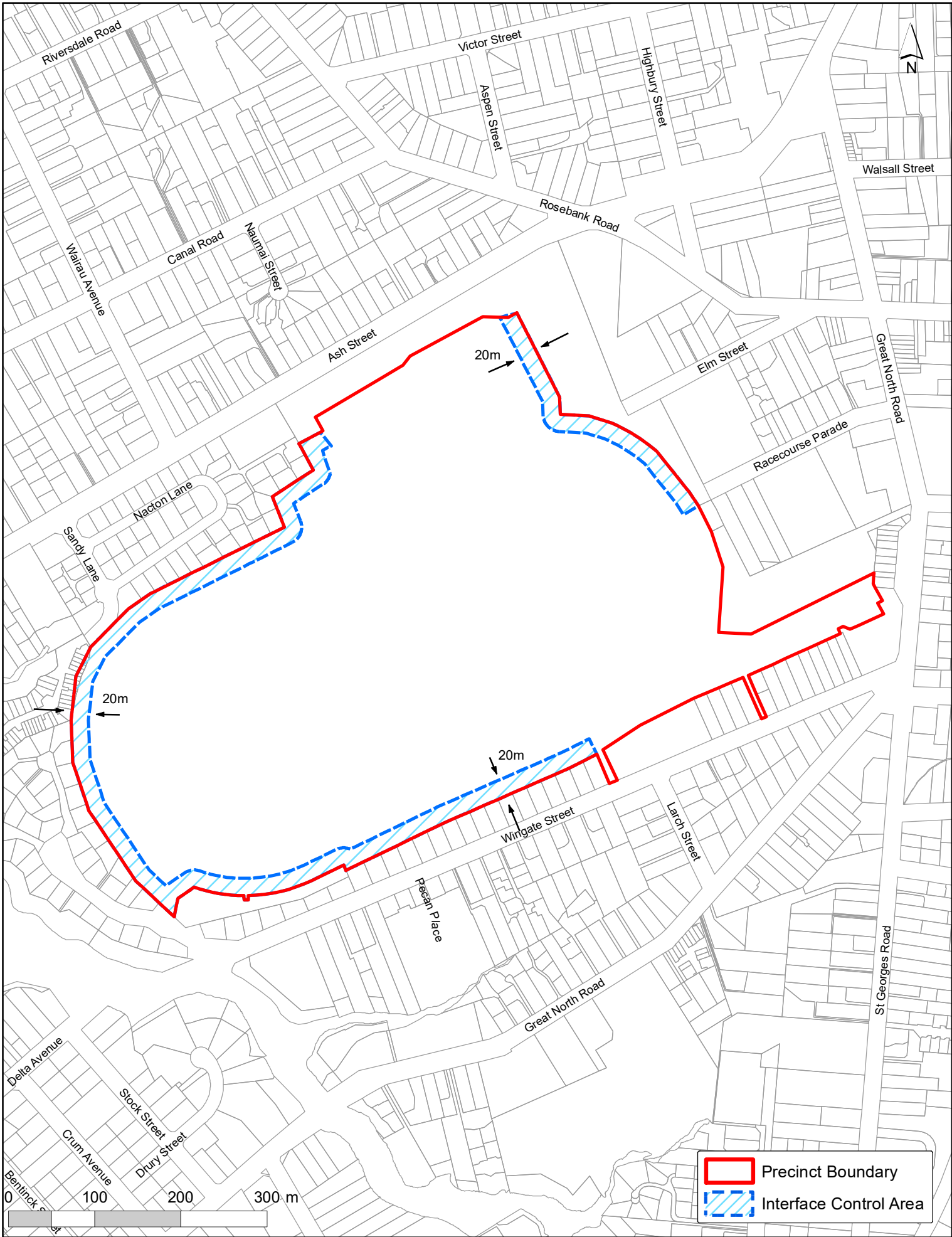
*Plans and Places*



## Private Plan Change 32 - Avondale Jockey Club



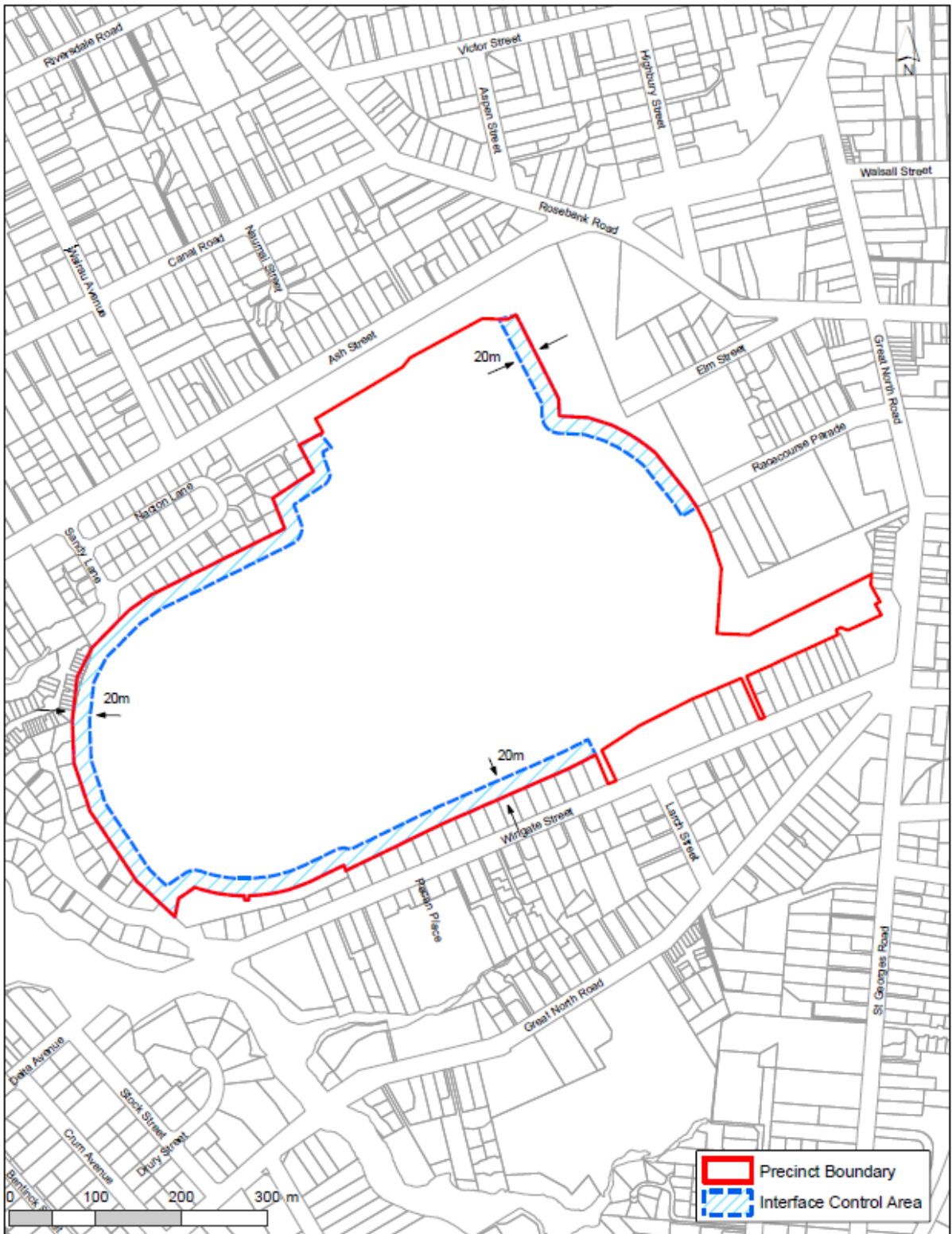
*Plans and Places*



### Avondale Racecourse : Precinct plan 1

## Attachment 2: Updated Precinct Plan

I307.10.1. Avondale Racecourse: Precinct plan 1





# Attachment 3: Updated GIS Viewer

**BEFORE**



- Plan Changes
- Residential - Mixed Housing Suburban Zone
- Residential - Terrace Housing and Apartment Buildings Zone
- Open Space - Conservation Zone
- Business - Light Industry Zone
- Special Purpose Zone
- Coastal - General Coastal Marine Zone [rcp]
- Coastal - Coastal Transition Zone
- Road [i]

**AFTER**



- Residential - Mixed Housing Suburban Zone
- Residential - Terrace Housing and Apartment Buildings Zone
- Open Space - Conservation Zone
- Business - Light Industry Zone
- Special Purpose Zone
- Coastal - General Coastal Marine Zone [rcp]
- Coastal - Coastal Transition Zone
- Road [i]



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Date: 5/10/2020

**Private Plan Change 32: Avondale Jockey Club  
(operative 9th October 2020)**



Plans and Places