

UNITARY PLAN UPDATE REQUEST MEMORANDUM

TO Celia Davison, Manager Planning, Central South

FROM Matthew Gouge, Senior Policy Planner, Central South





DATE 25 February 2021



SUBJECT **Plan Change 22 Additions to Schedule 12 Sites and Places of Significance to Mana Whenua, Schedule 6 Outstanding Natural Features Overlay, Schedule 14.1 Schedule of Historic Heritage - Making Operative in part the District Plan provisions in the Auckland Unitary Plan (AUP) Operative in part (15 November 2016) pursuant to Schedule 1 Clause 20 of the RMA.**

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

Reason for update – Plan Change 22 to become Operative in part	
Chapter	Chapter L Schedules AUP GIS Viewer
Section	Schedule 6 Outstanding Natural Features Overlay Schedule Schedule 12 Sites and Places of Significance to Mana Whenua Schedule Schedule 14.1 Schedule of Historic Heritage AUP GIS Viewer
Changes to text (shown in underline and strikethrough)	Changes to text are detailed in Attachment B to this memorandum
Changes to diagrams	N/A
Changes to spatial data	Changes to spatial data are detailed in Attachment C to this memorandum
Attachments	Attachment A: PC22 Decision Attachment B: Changes to text Attachment C: Updated GIS Viewer

Prepared by: Matthew Gouge Senior Policy Planner, Central South	Text Entered by: Harry Barnes Planning Technician
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Maps prepared by: Aching Konyak Geospatial Specialist	Reviewed by: Matthew Gouge Senior Policy Planner, Central South
Signature: 	Signature: 

Signed off by:

Celia Davison

Manager Planning, Central South

Signature:

A handwritten signature in black ink that reads "C. A. Davison". The signature is written in a cursive style with a large initial 'C' and 'A'.

Attachment A: PC22 Decision

Decisions following the hearing of a Plan Change to the Auckland Unitary Plan and a Plan Modification to the Auckland Council District Plan – Hauraki and Gulf Islands, under the Resource Management Act 1991



Summary of Proposed Plan Change 22

To recognise and protect the cultural values of 30 sites and places nominated by Mana Whenua by adding 30 sites to the Auckland Unitary Plan's Sites and Places of Significance to Mana Whenua Overlay (Chapter L, Schedule 12). In addition, to apply the 'importance to Mana Whenua' criterion to eight nominated sites currently scheduled in the Outstanding Natural Features Overlay (Chapter L, Schedule 6), and apply the 'Mana Whenua' criterion to five nominated sites currently scheduled in the Historic Heritage Overlay (Chapter L, Schedule 14.1).

Plan Change 22 (PC22) is approved with additional modifications to that notified. The reasons are set out below.

Plan change number	22
Applicant	Auckland Council
Plan subject to change	Auckland Unitary Plan (Operative in Part) 2016
Parts of the Auckland Unitary Plan affected by the proposed plan change	The additions to scheduled items occurs in the following schedules: Schedule 12 - Sites and Places of Significance to Mana Whenua, Schedule 6 - Outstanding Natural Features Overlay, Schedule 14.1 - Schedule of Historic Heritage

Summary of Proposed Modification 12

To recognise the cultural values of sites and places nominated by Mana Whenua by adding four Māori Heritage Sites to Appendix 1f – Schedule of Māori Heritage Sites – Inner Islands of the Auckland Council District Plan – Hauraki and Gulf Islands.

To introduce explanatory wording in Part 7.13 - Māori Heritage, Appendix 4 – Criteria for Scheduling Heritage Items, and Appendix 1f – Schedule of Māori Heritage Sites. This wording is introductory information and also explains the evaluation criteria for identifying and evaluating Māori Heritage Sites in the Auckland Council District Plan - Hauraki Gulf Islands.

Plan Modification 12 (PM12) is approved with additional modifications to that notified. The reasons are set out below.

Plan modification number	12
Applicant	Auckland Council
Plan subject to change	Auckland Council District Plan – Hauraki and Gulf Islands – Operative 2018

Parts of the Auckland Council District Plan affected by the proposed plan modification	The additions occur in the following parts of the plan: Appendix 1f - Schedule of Māori Heritage Sites (inner islands) Appendix 4 - Criteria for Scheduling Heritage Items Part 7 - Heritage.
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Hearing details

Hearing commenced	4 September 2020 and continued on 7 September 2020
Hearing Commissioners/Hearing Panel	Sheena Tepania (Chairperson) Alan Watson William Kapea
Appearances	<p><u>For the Submitters:</u> Edith Tuhimata Ngāti Paoa represented by:</p> <ul style="list-style-type: none"> • Te Aroha Kahi (George) • Hayden Solomon • James Ratahi • Chris Bailey • Harly Wade • Crystal Cherrington <p>Kenneth Ridley</p> <p><u>For Council:</u> Craig Cairncross, Team Leader, Central/South Planning, Plans and Places Matthew Gouge - Principal Planner, Central/South Planning, Plans and Places Sheri-Ann Atuahiva - Team Leader Māori Heritage Edward Ashby – Māori Heritage Team Nico Donovan-Pereira - Māori Heritage Team</p> <p><u>Local Board representatives:</u> Albert-Eden Local Board - Margie Watson, Chair Waitematā Local Board - Richard Northey, Chair Devonport-Takapuna Local Board - Trish Deans, Member Waiheke Local Board - Cath Handley, Chair</p> <p>Sam Otter, Senior Hearings Advisor</p>
Hearing adjourned	7 September 2020
Whakatau (Te Rangihoua)	7 September 2020
Commissioners' site visits	7 and 15 September 2020
Hearing closed	25 September 2020

INTRODUCTION

1. This decision is made on behalf of the Auckland Council (“**the Council**”) by Independent Hearing Commissioners Sheena Tepania (Chair), William Kapea and Alan Watson, 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 authority¹ by the Council to make decisions on Proposed Plan Change 22 (“**PC22**”) to the Auckland Council Unitary Plan Operative in Part (“**the AUP**”) and Proposed Plan Modification 12 (“**PM12**”) to the Hauraki Gulf Islands District Plan (“**the HGIDP**”), after considering all the submissions, the section 32 evaluation, the report prepared by the officers for the hearing and evidence presented during and after the hearing of submissions.
3. PC22 and PM12 are Council-initiated plan changes that have been prepared following the standard RMA Schedule 1 process and which seek to provide for the social and cultural wellbeing of the community through the protection of 33 culturally significant sites² to Mana Whenua within the Auckland Region.
4. Both PC22 and PM12 (together, “**plan changes**”) were publicly notified on 21 March 2019 following an engagement process involving Iwi, consistent with Clause 4A of Schedule 1 RMA, with the submission period closing on 18 April 2019. The Māori Heritage Team within the Council’s Heritage Unit has worked closely with the 19 Mana Whenua groups recognised by the Council in order to identify and develop the cultural evidential basis for the nominated sites. Ten Mana Whenua have chosen to nominate sites in these plan changes and these are unopposed by any other Mana Whenua. Some sites have been nominated by more than one Mana Whenua. Further detail regarding the process of Iwi input is set out below under the section on Mana Whenua Collaboration and Consultation.
5. Notification involved a public notice as well as letters to potentially directly affected landowners and occupiers of the sites and a number of statutory bodies, as set out in the s42A report, alerting them to the plan change. The latter step was aimed at ensuring that landowners and occupiers of properties affected by potentially significant changes were made aware of the changes.
6. Following notification, an error was identified where a reference to a site removed from PC22 just prior to notification was still referenced in the Outstanding Natural Features Overlay Schedule. This was subsequently withdrawn from the plan change on 9 May 2019 and the withdrawal was publicly notified along with the Summary of Decisions Requested on PC22. Five primary submissions were received on each of the plan changes with two further submissions received on PC22 and three further submissions received on PM12.
7. Following receiving submissions and further submissions on the plan changes, technical and procedural issues were identified with one of the sites, Site 105 – Te Wairoa, which was then withdrawn from PC22 on 24 October 2019 pending further

¹ Regulatory Committee Minutes, 8 August 2019

² One site was withdrawn following notification, see para 7 below.

analysis and it is no longer part of the plan changes. As a result, all primary and further submissions exclusively on the Te Wairoa site were treated as being withdrawn from the plan changes.

8. On 13 November 2019 the Commissioners issued the first set of directions regarding evidence exchange. A hearing was scheduled for Thursday 20 February 2020 and Friday 21 February 2020. On 17 December 2019 we received advice from Council that the matter was to be renotified, the hearing postponed and the first set of directions cancelled.
9. The submissions received also highlighted an administrative issue with serving the public notice on directly affected parties. It was identified that 57 parties potentially directly affected by PC22 and 10 parties for PM12 were not directly served the public notice. These parties were subsequently served notice on 11 February 2020 through a limited notification process. This resulted in an additional three ('new') submissions being received, two for PC22 and one for PM12. A summary of submissions was notified for further submissions on 26 March 2020. No further submissions were received on either. Further detail regarding the notification process is set out below.
10. There were submissions and submission points considered to be 'out of scope' and we address those submissions, and the requests sought, in some detail later. The 14 local boards within which these sites are located have provided their views. These are largely supportive of the plan changes with some site-specific concerns related to certain community groups, leaseholders and land users.
11. A comprehensive s42A report³ was prepared by Matthew Gouge (Principal planner, Auckland Council). That report was prepared with the assistance of technical reviews as follows:

Specialist Area	Reviewing Specialist
Māori Heritage	Edward Ashby, Senior Technical Specialist, Māori Heritage Team, Auckland Council
Archaeology	Mica Plowman, Principal Heritage Advisor (west), Heritage Unit, Auckland Council

12. In his s42A report, Mr Gouge recommended that PC22 to the AUP and PM12 to the HGIDP be accepted subject to the amendments outlined in Appendix 3 of the s42A report.

SUMMARY OF PLAN CHANGES

13. The proposed plan changes are described in detail in the Council's s42A report. We adopt the summary of key components of the plan changes as set out below.

³ Report prepared in accordance with section 42A of the RMA

14. These plan changes seek to provide for the social and cultural wellbeing of the community through the identification and protection of 33 culturally significant sites to Mana Whenua within the Auckland Region. They represent the first tranche of what is intended to be multiple tranches of plan changes seeking to progressively identify, evaluate and protect sites and places significant to Mana Whenua. They seek to address an under-representation and degradation of such sites within the region.
15. PC22 proposes to schedule a total of 30 Sites and Places of Significance to Mana Whenua across the Auckland isthmus and its surrounds. PM12 schedules four Māori Heritage Sites on Waiheke Island and these are the first such sites identified in that plan. One site is proposed to be scheduled in both the AUP and Auckland District Council Plan (Hauraki and Gulf Islands Section) recognising its landward and seaward extents. With the exception of one site which is partially privately owned, and one on Māori Land, the nominated sites are on publicly owned land.
16. PC22 will recognise the nominated sites in three schedules of the AUP which are the Sites of Significance to Mana Whenua Overlay Schedule, the Outstanding Natural Features Overlay Schedule and the Schedule of Historic Heritage. PC22 applies to the regional coastal plan and district plan level provisions.
17. PM12 will recognise four sites in the Schedule of Māori Heritage Sites – Inner Islands, and also will insert text into other sections of the HGIDP so that future Māori Heritage Sites can be identified and evaluated using criteria listed in the Auckland Regional Policy Statement (“RPS”). PM12 applies to district plan level provisions.
18. The formal recognition of the sites which are the subject of these plan changes will engage existing objective, policy and method frameworks within both plans.
19. In the case of PC22, no changes to these frameworks are proposed. In the case of PM12, in response to submissions received, an amendment to the rules in Part 7.13 - Māori Heritage of the HGIDP and an additional definition in Part 14 – Definitions, is recommended to allow for the practical operation and maintenance of the Onetangi Sports Park. One amendment to correct an identified mapping error in PC22 is also recommended.
20. During the development of these plan changes, and throughout the hearings, Mana Whenua cultural evidence is relied upon by the Council in recognition of its position that Mana Whenua are the exclusive holders of their mātauranga (cultural knowledge) within their rohe (territory). This assessment also recognises that Mana Whenua have overlapping areas of interest across Tāmaki Makaurau.
21. Numerous plans and strategies relevant to the RMA and which arise from other legislation have been considered. These include matters under Treaty settlement legislation, the Marine and Coastal Area (Takutai Moana) Act 2011, the Local Government Act 2002, and the Reserves Act 1977.⁴

⁴ Paras 11-21, s42A report

EXISTING PLAN PROVISIONS

22. PC22 and PM12 affect two sets of planning documents, the AUP and the HGIDP. The existing plan provisions as set out below are discussed in the s42A report.

AUP

23. Up until the notification of PC22, the AUP contained 75 sites within its Schedule 12 – Sites and Places of Significance to Mana Whenua (“**SSMW**”). There are 254 Outstanding Natural Features identified within Schedule 6 – Outstanding Natural Features Overlay Schedule, and 2,739 Historic Heritage Places contained within Schedule 14.1 – Historic Heritage Overlay of the plan.
24. The provisions applying to these three schedules are contained within Chapter D - Overlays of the AUP. Section D21 - Sites and Places of Significance to Mana Whenua Overlay contains a comprehensive set of objectives, policies, rules and other methods applying specifically to scheduled sites. This is similarly the case for Section D10 - Outstanding Natural Features Overlay and Section D17 - Historic Heritage Overlay.
25. Throughout the remainder of the AUP there are a variety of provisions which also recognise Māori cultural values and heritage. In some cases they refer more generally to cultural values, and in some cases they refer specifically to SSMW. The provisions vary from introducing permitted activity standards⁵, to applying specific activity statuses on scheduled sites⁶. Related provisions are most notably contained within the following AUP chapters:
- a) Volcanic viewshafts (D14);
 - b) Water quality and integrated management (E1);
 - c) Lakes, Rivers, Streams and Wetlands (E3);
 - d) Taking, using, damming and diversion of water and drilling (E7);
 - e) Land disturbance – District (E12);
 - f) Infrastructure (E26);
 - g) Subdivision (E38/E39);
 - h) Coastal (F2);
 - i) Open Space Zones (H7); and
 - j) Rural Zones (H19).

HGIDP

26. Part 1.3.5.2 - Introduction and Annexure 1a of the HGIDP briefly outline the history of Māori settlement on Waiheke Island as a coveted place for early occupation. The HGIDP acknowledges that Waiheke Island is the ancestral home of Ngāti Paoa and recognises them as ahi kā (continuous occupants) of the island. The plan identifies the importance of proposed developments having regard to wāhi tapu (sacred ancestral site), wai tapu (sacred water) and other culturally significant sites.

⁵ See Chapter E3 - Lakes, Rivers, Streams and Wetlands

⁶ Such as in Chapter E12 – Land Disturbance (District)

27. Part 7.13 Māori Heritage contains the main provisions in the plan specific to Māori Heritage Sites (“**MHS**”). It contains a policy and rule framework, and assessment matters applying to scheduled sites. Other rules relating to external lighting, temporary activities, and signage on scheduled sites are contained in Part 4 – General Rules. These provisions make any of these activities on a scheduled site a Discretionary Activity. There are currently no sites listed in the plan nor any evaluation criteria by which to identify and evaluate such sites. The HGIDP anticipates that sites would be introduced over time in consultation with iwi⁷.
28. Part 7.13 of the HGIDP contains one objective, three policies and two rules. These rules state that all new ground disturbance, and toilets (including portaloos) or changing facilities require Discretionary Activity resource consent approval within the scheduled sites. Several assessment matters against which to assess these resource consent applications are listed in the corresponding land units to guide planning assessments (refer to Part 10a.24.8 as an example).
29. There are broader objectives in Part 2.5.8 Māori of the HGIDP that apply generally. Some chapters, such as Part 5.8 Network Utilities, make general reference to heritage values.

PROPOSED PLAN CHANGE PROVISIONS

AUP

30. PC22 does not introduce any objectives, policies or methods into the plan but rather seeks to schedule an additional 30 nominated sites under Schedule 12 of the AUP. In addition, the ‘importance to Mana Whenua’ criterion⁸ is being applied to eight nominated sites which are already scheduled as Outstanding Natural Features under Schedule 6. The ‘Mana Whenua’ criterion⁹ is also being applied to five nominated sites already listed in Schedule 14.1 as Historic Heritage Sites. The planning maps are updated to reflect the scheduling.
31. Scheduling will result in the existing objectives, policies, rules and methods of the AUP Chapter D21 - Sites and Places of Significance to Mana Whenua Overlay applying to the scheduled sites.
32. The Māori cultural heritage provisions contained within the broader RMA definition of ‘Historic Heritage’ are to provide greater emphasis across five new sites in the objectives and policies of the AUP Chapter D17 - Historic Heritage Overlay (note these apply in addition to the D21 provisions).
33. The existing Māori related objectives, policies and methods of the AUP Chapter D10 - Outstanding Natural Features Overlay will apply more explicitly to the eight new sites (note these apply in addition to the D21 provisions).

⁷ Refer to Introduction to Part 7.13

⁸ Refer to RPS Chapter B4, Policy B4.2.2(4)(k)

⁹ Refer to RPS Chapter B5, Policy B5.2.2(1)(c)

34. There will also be greater recognition of the Māori cultural significance and values of the 30 nominated sites addressed in the provisions of other chapters of the AUP. A selection of these is listed in paragraph 25 above.

Effect of the Application on the AUP Overlays D21, D17, D10

35. While the addition of Mana Whenua criteria to the Historic Heritage Overlay and Outstanding Natural Features Overlays applies greater emphasis on the existing Māori cultural heritage provisions to some of the sites, the most notable change will be through the application of the Sites and Places of Significance to Mana Whenua Overlay provisions (D21). The D21 overlay does the following:

- a) It introduces a range of objectives and policies designed specifically to protect and enhance the identified sites, avoid significant adverse effects and manage adverse effects.
- b) It introduces Activity Table D21.4.1:
 - i. making **Disturbance in the Coastal Marine Area** a Discretionary Activity (the coastal provisions currently provide for a range of activity classifications from Permitted to a Discretionary Activity);
 - ii. making **Temporary Activities** a Restricted Discretionary Activity (these currently vary from Permitted to a Discretionary Activity on land and in the Coastal Marine Area);
 - iii. making **Any New Buildings and Structures a Discretionary Activity** (these are currently Permitted Activities for all Open Space Zones for instance subject to standards);
 - iv. making **Alterations and Additions to Existing Buildings where the Building Footprint is Increased** a Discretionary Activity (currently Permitted to a Discretionary Activity in Open Space Zones); and
 - v. making **Subdivision that results in a site or place of significance to Mana Whenua extending across multiple lots** a Discretionary Activity (currently a Restricted Discretionary Activity to a Discretionary Activity in Open Space Zones).
- c) It introduces standards and assessment criteria specific to the protection and enhancement of scheduled sites.

Effect of Scheduling in Other AUP Chapters

36. The scheduling has the net effect of bringing greater assessment weight on the Māori cultural values of sites and how proposed activities affect these values. Chapters of the AUP focused on the management of water, land, and the coastal environment, place a policy and method emphasis on the protection and enhancement of identified SSMW. These would need to be considered as part of seeking a resource consent, a permit, a designation or plan change. Of particular note are the district Land Disturbance (E12), Infrastructure (E26), and Lakes Rivers and Streams (E3) provisions, discussed as follows.

Land Disturbance E12

37. Activity Table E12.4.2 applies to all SSMW and introduces more stringent activity statuses for land disturbance of specified activities. It also removes any permitted level of earthworks for activities not otherwise provided for. Permitted activity standards are more prescriptive for activities on SSMW.

Infrastructure E26

38. Section E26.6 – Network Utilities and Electricity Generation – Earthworks Overlays Except Outstanding Natural Features Overlay, and Section E26.10 - Network Utilities and Electricity Generation – Sites and Places of Significance to Mana Whenua contain specific infrastructure provisions applying to SSMW. They include activity tables prescribing more stringent activity statuses (activity tables E26.6.3.1 and E26.10.3.1). They also apply standards to these activities.
39. Two sites within PC22 are identified as being subject to the ‘site exception rule’. This rule applies to sites indicated with an asterisk within Schedule 12 and it denotes sites where it is acknowledged that while they contain intangible values associated with historic events, occupation and cultural activities they do not still contain archaeology due to their highly urbanised state¹⁰. Within the infrastructure chapter, the ‘site exception rule’ provides for a lower activity status of earthworks for service connections (Permitted Activity instead of Restricted Discretionary), and network utilities and electricity generation facilities not otherwise provided for (Restricted Discretionary Activity instead of a Discretionary Activity).
40. During the development of PC22, it was agreed with Mana Whenua that Site 78 - Te Ipu Pakore and Site 084 - Horotiu Stream would be scheduled with this exception due to no known archaeology being associated with these sites and them being highly modified.

Lakes, Rivers and Streams E3

41. General permitted standard E3.6.1.1(7) states that: ‘The activity must not destroy, damage or modify any sites scheduled in the Historic Heritage Overlay or the Sites and Places of Significance to Mana Whenua Overlay’. This applies to all Permitted Activities within Activity Table E3.4.1 of this chapter thereby setting an additional regulatory test with respect to identified SSMW.

Net effect of scheduling in the AUP

42. The net effect of the scheduling is that, while it does not prohibit activities within scheduled sites, it does raise the consenting threshold for parties seeking to obtain land use consent within the sites, and for those parties seeking new water and coastal permits. It also adds greater weight to objectives and policies addressing Māori cultural heritage for Discretionary and Non-Complying Activities.

¹⁰ Topic 037 Chloe Trenouth EIC. Appendix C., as referred to in the s42A report, p. 20

HGIDP

43. PM12 to the HGIDP does not introduce new rules but proposes the scheduling of four sites as MHS in Appendix 1f of the plan where none currently exist. It therefore sets a new schedule structure within the plan.
44. PM12 also introduces explanatory wording into the plan to make explicit the reasons and criteria used for identifying and evaluating MHS. These criteria are drawn directly from Chapter B6 – Mana Whenua of the RPS. There is also some explanatory introductory text proposed. The planning maps are updated to reflect the scheduling.

Effect of the Scheduling in the HGIDP

45. Scheduling of the four sites as MHS will result in the following:
 - a) The objectives of Part 2.5.8 - Māori of the HGIDP will apply to the scheduled sites;
 - b) Network utility activities for which Discretionary Activity resource consent would be sought under Part 5.8 Network Utilities will require greater consideration of the Māori cultural heritage values of the scheduled sites;
 - c) The provisions of Part 7.13 - Māori Heritage will apply to the scheduled sites. This applies one objective and three policies to recognise and protect the sites. Two rules are also proposed stating that all new **Ground Disturbance**, and that **Toilets (including portaloos) or Changing Facilities** are Discretionary Activities. Several assessment matters against which to assess Discretionary Activity resource consent applications under this rule are listed in Part 7.13.4;
 - d) The General Rules provisions of Part 4 will apply a Discretionary Activity status to **Temporary Activities, Lighting** and **Signs** on the scheduled sites. This part of the HGIDP also introduces several assessment matters against which these Discretionary Activities would be assessed.
 - e) There will no longer be any permitted level of earthworks within the scheduled sites;
 - f) The Permitted Activity status for establishing toilet and changing facilities will no longer apply in the Open Space 1 and Open Space 3 land unit sites.

Effect of the Explanatory Text

46. The explanatory text introduced through PM12 is proposed to provide clear guidance to plan users that the reasons for scheduling sites and the criteria used to identify sites are the same as those listed within the RPS. Under s73(4) of the RMA, the HGIDP must give effect to the RPS.

Net effect of scheduling in the HGIDP

47. The net effect of PM12 is to place greater restrictions on two specific activities and three general activities within the scheduled sites, namely the establishment of toilets or changing facilities, ground disturbance, temporary activities, lighting and signs. It will also place greater emphasis on the objectives and policies throughout the plan which address Māori cultural heritage when considering applications affecting the scheduled sites.

MANA WHENUA COLLABORATION AND CONSULTATION

48. The s32 RMA evaluation report¹¹ (“**s32 evaluation**”) sets out the background to the plan changes¹² and notes that the Council initiated a Māori Cultural Heritage Programme (“**MCHP**”) in collaboration with Mana Whenua in 2014, with the purpose to improve the understanding and protection of Māori cultural heritage within the region. The programme involves working alongside 19 Mana Whenua entities to understand the cultural values¹³ and therefore the significance of sites to Mana Whenua. The process for the identification, nomination and assessment of sites and places for recording in the SSMW, including a five-task assessment process, is also explained in detail in the specialist report provided by Mr Edward Ashby.¹⁴
49. As Mr Ashby noted, *“The process needed to be supported by hapū and iwi and be robust enough to support planning and section 32 evaluation requirements, to have cultural integrity and follow best practice, and to fulfil the Treaty principles of partnership and participation. The process was confirmed by hapū and iwi and council and is subject to continuous improvement.”*¹⁵
50. According to the s32 evaluation, following a review of the AUP and HGIDP provisions to understand how the two plans recognise and protect the nominated sites, it was concluded that the AUP offers limited protection¹⁶ for sites that are only known to Mana Whenua, whereas the HGIDP offers no such protection.
51. It is noted these plan changes were considered the most appropriate method to recognise and provide for the identification and protection of these sites within the

¹¹ Report prepared in accordance with section 32 of the RMA

¹² Section 32 evaluation, paras 12-17

¹³ See Footnote 7 in the section 32 evaluation: “Māori values are largely based on traditional concepts, beliefs and values, and shape the thinking of many Māori. From whakapapa and through time Māori acquired knowledge, termed Mātauranga Māori; and from knowledge came Māori values...Māori values form the basis for explaining the Māori world-view (Te Ao Māori), provide an intrinsic cultural basis for controlling or modifying human behavior, determine issues and perspectives, and provide the concepts, principles and lore Māori use to varying degrees in everyday life. They affect the interaction with others, govern responsibilities, establish the relationship with both the natural and spiritual environment, and form the basis for indigenous aspirations. Māori values therefore form the basis for developing principles, protocols, ethical and cultural standards, and for guiding philosophies for culturally based sustainable development” (Harmsworth, 2005, p.14).

¹⁴ Ashby, E., Statement of Evidence in Appendix 4, s42A Report, p. 421

¹⁵ Ashby, Evidence, para 6.2

¹⁶ By the ‘Accidental Discovery Rule’ refer to Sections E11 and E12 - Land Disturbance.

plans and to ensure their cultural values are considered when the use and development of these places is proposed.

52. Consistent with Clauses 3, 3B and 4A of Schedule 1 RMA, consultation for these plan changes has been undertaken in two phases as set out in the s32 evaluation.¹⁷ Phase 1 provided the opportunity for all 19 Mana Whenua entities within the Auckland region, to participate in the MCHP with ten of these entities progressing work on articulating cultural values for the nominated sites as part of the Tranche 1 plan change. Accordingly, the Mana Whenua entities who have sites included in these plan changes are¹⁸:

- Ngāti Whātua o Ōrākei
- Te Rūnanga o Ngāti Whātua
- Te Ahiwaru
- Te Patukirikiri
- Te Kawerau a Maki
- Te Ākitai Waiohū
- Ngāti Tamaoho
- Ngāti Manuhiri
- Ngāi Tai ki Tāmaki
- Ngāti Paoa.

53. The s32 evaluation also records that as part of the development of the plan change, the Council and landowners have collaboratively worked to understand the purpose of the plan changes, method of management of cultural values and the implications of scheduling.

54. The second phase of consultation initiated between June 2018 and September 2018, described in detail in the s32 evaluation, provided all 19 Mana Whenua entities and key stakeholders the opportunity to provide feedback on the relevant plan change documentation.¹⁹ A governance level hui was held on 15 November 2018, to conclude this phase of consultation.

55. Feedback from Mana Whenua was summarised in Table 2 of the s32 evaluation. As part of wider consultation on the proposed plan changes, the landowners, local boards, Independent Māori Statutory Board, Rural Advisory Panel and the Heritage Advisory Panel were also briefed, and feedback was requested by way of a memorandum or confirmation of minutes of the meeting. This feedback is also incorporated into Table 2.

56. The s32 evaluation recognises that the drafting of PM12 provided to Mana Whenua did not include some of the explanatory text proposed. It states, *“This text is consistent with the evaluation of the sites undertaken in the s32 evaluation report (which has been viewed and endorsed by Mana Whenua) and does not introduce*

¹⁷ Section 32 evaluation report, pp. 20 -24

¹⁸ Section 32 evaluation report, p. 210, para 73

¹⁹ Section 32 evaluation report, p. 22, para 77

any rules. The views of Mana Whenua are being sought and will be included at the first available opportunity.”

57. We asked Mr Gouge at the hearing to confirm where that matter now stood and we were satisfied with his response and confirmation that Mana Whenua were supportive of the plan changes as notified.
58. In terms of the Ngāti Paoa Iwi Trust (“**NPIT**”), their submission was before us seeking that PM12 remain as notified. The submission confirms that through the MCHP, Mana Whenua could nominate sites and places to be identified and assessed to determine the most appropriate mechanism to protect the values Mana Whenua hold.²⁰ The Panel was greatly assisted by the submission of NPIT and indeed their attendance at the hearing, to the extent that they confirmed and corroborated the MCHP process.
59. We discuss that submission in our findings on submissions below.

Preparation of Cultural Values Assessments

60. The s32 evaluation sets out the methodology for the collation of information about, and the assessment of, nominated sites and places of significance to Mana Whenua.²¹ Cultural values assessments were provided for each site by the nominating Mana Whenua entities in discussion with the Council’s Māori Cultural Heritage Team. As noted by Mr Gouge, the approach of Council with these plan changes was to rely entirely on the evidence of Mana Whenua to support the values to be attributed to each site. As stated in the s32 evaluation:

“The collated historical, archaeological information and cultural values have informed the consideration of the appropriate options to best protect nominated sites. This consideration has been undertaken in collaboration with Mana Whenua as part of preparing the two plan changes.”²²

61. In his introduction at the hearing, Mr Gouge stated that it was important to clarify the relationship between Council and Mana Whenua insofar as they are cultural experts, noting that Council recognises Mana Whenua as being exclusive holders of mātauranga for their rohe and is also cognisant of the overlapping areas of interest Mana Whenua have.
62. He noted that Mana Whenua are recognised both as cultural experts providing Council officers with an understanding of cultural values and impacts on these, and also as representatives and advocates for their iwi. *“They are therefore in a unique position of being both cultural advisors to the Council and potential submitters in their own right.”²³*
63. Mr Gouge explained at the outset of the hearing that the approach that has been taken by Council in this plan change is for the Māori Heritage Team (“**MHT**”) to apply

²⁰ Ngāti Paoa Iwi Trust Submission

²¹ Section 32 evaluation report, pp. 19-20, paras 63-65

²² Section 32 evaluation report, p. 20, para 65

²³ Gouge, M., Introduction to Plan Changes, Hearing Day 1.

their expertise and work with Mana Whenua in their capacity as cultural experts to determine the extent to which each site meets the qualifying RPS criteria, the mapped extents of the sites, risks and threats applying to the sites, and culturally appropriate management responses to each site. The MHT have in turn provided their recommendation to Mr Gouge, as the reporting planner, to make an assessment against the planning framework.

64. It was Mr Gouge's view that the Council has been careful to recognise any advocacy Mana Whenua naturally feel for sites within their rohe and has put this to one side when engaging with Mana Whenua. He added that the MHT have taken care to keep Mana Whenua informed of progress and communicate to them that they are entitled to make submissions advocating to the Commissioners for certain outcomes.²⁴
65. In their submission NPIT confirm that a thorough values assessment was undertaken by them for each site against the criteria of policy B6.5.2.2, those criteria having been developed in conjunction with Mana Whenua and having gone *"through a robust process to be included in the RPS."*²⁵
66. Policy B6.5.2.2 of the AUP provides criteria for consideration when identifying and evaluating Mana Whenua cultural and historic heritage sites, places and areas. The criteria were provided as a guideline to the participating Mana Whenua to assist them in articulating the cultural values.
- (a) Mauri
 - (b) Wāhi tapu
 - (c) Kōrero Tūturu/historical
 - (d) Rawa Tūturu/customary resources
 - (e) Hiahiatanga Tūturu/customary needs
 - (f) Whakaaronui o te Wa/contemporary esteem
67. All of the nominated sites have been evaluated using RPS criteria and have been found appropriate for scheduling. These evaluations are summarised in the cultural values assessments ("**CVAs**") provided by Mana Whenua for each proposed site and are included in Appendix 1 to the s42A report.
68. It is noted that, in addition, one further criterion is included in the CVAs. The value "Horopaki" has been included at the request of Mana Whenua and provides a wider landscape and /or historical context for the nominated site. Horopaki is described as criterion:

"...where Mana Whenua values and associations with the broader landscape surrounding the nominated site/place can be described, and the context of the site within the landscape can be articulated. It is noted that, although

²⁴ Gouge, M., Introduction to Plan Changes, Hearing Day 1.

²⁵ Ngāti Paoa Iwi Trust Submission

*Horopaki provides context for the nominated site it is not one of the value criteria for scheduling under the RPS.*²⁶

69. The cultural values articulated by the nominating iwi for each site were set out in Attachment 1 to the s32 evaluation report. There is an important acknowledgement that,

*“Although the nominating Mana Whenua group have provided a values assessment for each site, this does not preclude other iwi from also having associations and holding values associated with these sites. In some cases, the final cultural values assessments have been arrived at through discussion between two or more iwi. It is also noted that within the values assessments there is variation in the level of detail and the manner in which the cultural values have been expressed by different Mana Whenua entities.”*²⁷

70. The NPIT submission describes the evaluation work that was undertaken, *“Site visits and mapping work was undertaken to support the assessments for Mokemoke, Ahipao, Matiatia and Te Rangihoua, including Te Pūtiki o Kahumatamomoe - Sometimes several site visits took place attended by mana whenua, NPIT support staff including planners and an archaeologist, council officers, and land owners. The evaluation of the sites was undertaken by council officers in consideration of everyone’s aspirations. The section 32 outlines engagement with further stakeholders.”*²⁸
71. The CVA for each site, with the added value of the Horopaki criteria, provides a transparent and comprehensive summary assessment against the RPS criteria of the site’s ancestral use and values. This greatly advances an understanding of the cultural values and associations which led to the identification of each site as a site of significance to Mana Whenua.
72. We are satisfied, given the level of detailed information provided to the Panel through the s32 evaluation, s42A report, evidence at the hearing and the corroborating submission of Ngāti Paoa Iwi Trust in particular, that collaboration with Mana Whenua in preparation of the plan changes and subsequent consultation process was as reported and consistent with Schedule 1 RMA requirements. Indeed, in terms of the nature of this kaupapa (topic) and given the reliance by the Council on Mana Whenua cultural evidence and the status of these sites as described by those Mana Whenua groups through the CVAs for each site, such collaboration in the development of these plan changes is critical.

NOTIFICATION PROCESS

73. In addition to our comments on notification outlined above, we acknowledge that the process for notification and partial withdrawals is clearly described in the s42A report.²⁹ It records that for these plan changes, directly affected parties were

²⁶ Section 32 evaluation report, p, 25, para 84

²⁷ Section 32 Assessment, p. 25, para 85

⁹ Ngāti Paoa Iwi Trust Submission

²⁹ S42A report, pp. 44-46

identified based on the extent to which the scheduling was likely to affect current and possible future activities such as the operation, use and maintenance of existing structures in rivers, or future alterations to designations. Parties were identified that met the criteria as specified.³⁰

74. This resulted in an additional 57 parties being identified for PC22 and an additional 10 parties for PM12. These parties were subsequently served public notice via email and post and provided an opportunity to submit on the plan changes with a submission and further submission period commencing on 11 February 2020. Details of the notification timeframes and number of submissions received from the two separate submission pathways, were outlined earlier in this decision and we note are set out in the s42A report.³¹

RELEVANT STATUTORY PROVISIONS CONSIDERED

75. The RMA sets out a range of matters that must be addressed when considering a plan change, as identified in the s42A report and its companion s32 evaluation. There are slightly different statutory considerations if the plan change affects a regional plan or district plan matter. We note, as we have done earlier, that these plan changes are solely focused on introducing scheduled sites to the regional coastal plan and district plan level provisions of the AUP, and also to the HGIDP which is a district plan. The plan changes as notified, did not amend the objectives, policies or rules of the AUP or HGIDP although PM12 does set a new schedule structure within the plan. As those provisions were not in dispute, we see no need to repeat them again. We confirm that we have taken careful consideration of those requirements in making our determinations.
76. 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. Having reviewed the s32 evaluation we agree that the s32 evaluation has done this for the notified plan changes.
77. Clause 10 of Schedule 1 RMA 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 changes arising from submissions; with that evaluation to be undertaken in accordance with section 32AA. With regard to section 32AA, we note that the evidence presented by submitters and Council effectively represents this assessment, and that that material should be read in conjunction with this decision, where we have determined that a change to PC22 or PM12 should be made.
78. Having considered the evidence and relevant background documents, we are satisfied that PC22 and PM12 have been developed in accordance with the relevant statutory and policy matters with regard to the purpose and focus of each of these plan changes.

³⁰ S42A report, p. 45, para 160

³¹ S42A report, section 8, pp. 40-42

79. These plan changes will clearly provide formal recognition of the nominated sites engaging existing objective, policy and method frameworks within both plans and as anticipated by the RPS.
80. The proposed amendment to PM12 as recommended by Mr Gouge in response to submissions received, to allow for the practical operation and maintenance of the Onetangi Sports Park, will clearly assist the Council in its effective administration of the HGIDP bringing it into line with the AUP's treatment of SSMW sites. It addresses the community's concerns regarding the efficacy of the scheduling of this extent of Te Rangihoua and its recreational use, whilst still respecting and responding to its heritage context and values but more specifically, the need to provide for its cultural context (Horopaki).
81. We agree with Mr Gouge that the planning assessment he has undertaken recognises the special statutory and policy weight applying to Māori interests which is contained in national legislation and also Auckland's spatial and regulatory planning documents. These matters are important and have been treated as such however are not the only consideration in seeking to achieve the purpose of the RMA. As Mr Gouge recognises, Treaty of Waitangi principles which include rangatiratanga and active protection also include the principles of partnership and mutual benefit and his s42A planning assessment seeks to take these into account, particularly on the Waiheke Island site known as Te Rangihoua (Te Pūtiki o Kahumatamomoe).³²
82. We have identified a number of minor modifications to PC22 and more specific amendments to PM12. We have referred to these changes in some detail in the body of this decision to demonstrate that the further evaluation was undertaken in accordance with the requirements of section 32AA.

PROCEDURAL MATTERS

83. There were no procedural matters that we needed to address.

HEARING PROCESS

84. The Hearing Panel issued a Direction, under section 41B of the RMA, on 22 June 2020 regarding the provision and pre-circulation of expert evidence.
85. The hearing took place over two days with the first day being at Auckland Town Hall and the second at the Local Board Office on Waiheke Island after which the hearing was adjourned for the purpose of undertaking site visits and obtaining written copies of the oral evidence read out on Day 1 of the hearing.
86. The Panel considered it necessary to focus site visits on those sites in respect of which there were opposing submissions and accordingly visited those sites that were considered appropriate for the purposes of deciding the plan changes.

³² Matthew Gouge, Opening Hearing Statement

87. Immediately prior to opening Day 2 of the hearing on Waiheke Island, the Panel attended Te Rangihoua accompanied by members of Ngāti Paoa, those submitters who wished to be heard on the island and who wished to attend, the Chairperson of the Local Board, the reporting planner and staff from Auckland Council's Cultural Heritage Team. This allowed the site to be wātea (made culturally safe) under the manaakitanga (hospitality) of Ngāti Paoa, such that the Panel could then undertake our site visits safely. We emphasise that the role of Mana Whenua as submitter, is a different matter to the role of Mana Whenua in implementing tikanga and kaitiakitanga over the site. We record our gratitude to Ngāti Paoa for meeting us on site, welcoming us and allowing us subsequently, to traverse the site as we needed to.
88. We acknowledge that it will be important moving forward in future plan changes of this nature where sites of significance are to be scheduled, that there are some clear guidelines in place between Council and Mana Whenua around how and where Mana Whenua prefer to be able to speak to the values of those sites, in the course of the hearing. Bearing in mind too that that must be balanced with the need to ensure an open and transparent hearing process for all parties, consistent with natural justice principles. That balance however must reflect that hearing procedures are fair and appropriate in the circumstances (s39(1)), and in determining what is an appropriate procedure avoid unnecessary formality (s39(2)(a)), recognise tikanga Māori and receive evidence written or spoken in Māori (s39(2)9b)) RMA.
89. In this context, there will surely be occasion where such procedure should facilitate the delivery of evidence by Mana Whenua, in te reo Māori, on the nominated site, in a way that appropriately and properly recognises the significance of that site and the values for which it is being nominated, particularly where that evidence might simply be the oral expression of information already provided in the relevant CVA or like submission. That of course is a separate matter to the issue of providing for tikanga practices in relation to the site. That is how we interpret the challenge set down before us by Ngāti Paoa at the hearing. We strongly encourage the Council and Mana Whenua to find some resolve in that respect for the hearing of future plan changes in relation to the scheduling of these sites.
90. In response to the evidence, the Panel was able to visit sites relevant to PM12 and local surroundings the following week on Tuesday 15 September and ascend Te Pūtiki o Kahumatamomoe, Te Rangihoua, unaccompanied and with the appropriate time and focus to gain a wider appreciation of the energy and extent of the sites.
91. Following deliberations and receipt of the information from Edith Tuhimata on 22 September 2020, Commissioners determined that they had all the information they required in order to make their decisions on the plan changes and the hearing was formally closed on 26 September 2020.

MAPPING ERRORS

92. Section 8.5 of the s42A report provides details of a minor mapping error, identified during the course of the analysis of submissions on PC22, which inadvertently

resulted in the SSMW Overlay being placed marginally over a private property. The site where this has occurred is Site 076 – Paruroa and Nihotupu. Mr Gouge’s recommended planning response is to remove the overlay from the private property thereby amending the overlay to extend along the property boundary.

93. Further, there is a second minor error on the title of the map for Site 101 in Appendix 1 where ‘Te Kohuora’ should be ‘Te Kohuroa’. The name in the proposed schedule is correct.
94. In his opening statement Mr Gouge noted one minor error in his s42A report. In response to submissions, paragraph 190 of that report recommends that criterion ‘c’ be included into the heritage values of Site ID 1591 in the Schedule of Historic Heritage 14.1. This recommendation was omitted from Appendix 3 and Mr Gouge confirmed that it is now provided.
95. We accept Mr Gouge’s recommended planning response on these three matters.

FINDINGS ON SUBMISSIONS AND FURTHER SUBMISSIONS

96. Prior to specifically addressing the submissions, we have provided an overview of the submitters’ and local board evidence, statements and presentations at the hearing, and our general response to what was presented to us. We consider that this may be helpful in setting the context for and understanding the reasons of the more ‘formally’ presented decisions on each of the submission points.

Overview

97. The Council planning officer’s s42A report was circulated prior to the hearing and taken as read. No other expert evidence was pre-circulated.
98. We heard from three submitters and four local boards over the course of the hearing. At the end of each hearing session, Council officers were asked whether they had any further response to the presentations heard.
99. The evidence presented and/or tabled by submitters and local board representatives at the hearing is summarised below:

Submitters

100. **Edith Tuhimata**, speaking to her submission and her further hearing statement, Ms Tuhimata described herself as a “*young Maori Heritage Professional that specialises in the field of cultural landscapes*” and kaitiaki taiao for Ngāti Tamaoho. She acknowledged those whose previous mahi had enabled kaitiaki to work in this *ao hurihuri* (ever changing world) such as Kereama Ratima, Kahurangi Ngāneko Minhinnick and Waatara Black.³³ Ms Tuhimata was supportive of PC22 however, expressing her disappointment that only a portion of the original sites (some 2,600 plus) dropped from the Proposed AUP process five years ago, are now being scheduled with PC22 (and PM12) looking to schedule only 33 chosen sites. She noted that for kaitiaki, the protection and preservation of their sites is moving too

³³ Edith Tuhimata, Hearing Statement, 18 September 2020

slowly in the current climate of development intensification leaving remaining sites vulnerable.

101. She explained that PC22 offered an important layer of protection for Mana Whenua, *“to enable us to have a korowai for our remaining sacred sites in Auckland.”*³⁴
102. On behalf of **Ngāti Paoa Iwi Trust**, Mr Haydn Solomon spoke to the submission made by the Iwi, referring us to those aspects of the written submission which had also been shared with us at Te Rangihoua by kaumatua Te Aroha (George) Kahi regarding Ngāti Paoa connection with Waiheke, the arrival and impact of the two waka, Te Arawa and Tainui, and the movements of Paoa and his descendants. He confirmed NPIT’s support of both PC22 and PM12, which NPIT describe as a *“major milestone for the MCHP”* and *“an important step to recognise and protect the values of mana whenua cultural heritage with resource management processes.”*³⁵ We refer in more detail to the submission of NPIT in our findings regarding Te Rangihoua and Te Pūtiki o Kahumatamomoe below.
103. **Mr Kenneth Ridley** attended the site visit and spoke to his submission at the hearing highlighting that the sports fields, which have been designated the Rangihoua Sports Park, had *“been substantially modified ie. landscaped so as to make the probability of archaeological sites etc very remote.”*³⁶ He considered the sports park was separate from the Heritage reserve area and the inclusion of these areas would impose unrealistic conditions on the continued use and development of these sports facilities, going against the community’s intended use of this land. We refer in more detail to Mr Ridley’s submission in our discussion regarding Te Rangihoua and Te Pūtiki o Kahumatamomoe below.

Local Boards

104. **Albert-Eden**, Chair Margi Watson, confirmed that the local board strongly supported the inclusion of Te Ipu Pakore, as originally nominated by Ngāti Whātua o Ōrākei, as a Site of Significance in the AUP. She noted her understanding that the designation across the whenua currently means that this could be a difficult site to schedule, and may need an exemption rule, given it is part of the work site for the proposed City Rail Link, but post construction there would be many opportunities to acknowledge the site’s history including the sharing of the korero and through signage. She considered the inclusion of this site in the AUP will mark another opportunity for everyone to celebrate the rich Māori history, occupation and culture of Tāmaki Makaurau.
105. **Waitematā**, Chair Richard Northey, described the cultural heritage of Mana Whenua of Tāmaki Makaurau as a vital part of it’s history and ambience that’s often unseen, yet deeply important. He confirmed that the local board formally resolved in May 2020 to express its support for PC22 and PM12 and he described each of the six remaining areas within his local board area as he saw them.

³⁴ Edith Tuhimata, Hearing Statement, 18 September 2020

³⁵ Ngāti Paoa Iwi Trust, Submission #2, PM12

³⁶ Kenneth Ridley, Submission #1, PM12

106. **Devonport-Takapuna**, member Trish Deans, confirmed the local board's support for PC22 and PM12, particularly the inclusion of Takāraro [Site 089] into Schedule 12. She also highlighted the significance of other sites in the local board area commenting that while these plan changes are a great start to ensure the protection of these sites, there is much more to be done.
107. **Waiheke**, Chair Cath Handley confirmed the local board's support of Mana Whenua and recognised their dispossession noting also that the local board was committed to moving forward. The s32 evaluation recorded that the local board generally supports the scheduling of three sites Mokemoke and Ahipao (Mātietie Historic Reserve), and Te Toka ā Kapetaua (Bean Rock) but does not support the two nominated sites Matiatia and Te Rangihoua (Te Pūtiki o Kahumatamomoe) and requested that these be part of discussions between the board and nominating iwi prior to scheduling. The s42A report contained the following resolution with respect to Te Rangihoua / Onetangi Sports Park:

*Support the position of Mana Whenua and Heritage New Zealand
Note that Rangihoua Reserve/Onetangi Sports Park is the primary recreational reserve on Waiheke Island
Note that the local board is undertaking a reserve management plan for Rangihoua Reserve/Onetangi Sports Park which will contemplate the activities that require further consenting across the reserve.*

108. We reiterate the acknowledgments made at the hearing to those local board members who took the time to attend the hearing to speak to their boards' feedback and we note the comment in the s32 evaluation that: *"The two draft plan changes meet several objectives set out in the local board plans and provide for the local boards to deliver on Council's commitments to Māori to meet its responsibilities under Te Tiriti o Waitangi and other statutes."*³⁷

Decisions on the submissions

109. The following section addresses in some detail: the submissions received to PC22 and PM12, the relief sought in the submissions, the evidence received, and the decisions we have made - as well as the amendments to the HGIDP.
110. In accordance with Clause 10(2) of the RMA, submissions that address the same issues have been grouped together in this decision under the following headings:
- Out of scope of PC22 & P12
 - General support of PC22
 - General opposition to PC22
 - General support of PM12
 - General opposition to PM12.

³⁷ Section 32 evaluation report, p. 24, para 81

111. Some submissions raise more than one issue. In this case each submission point is addressed under more than one heading. This means there is more than one decision per submission.
112. Under each heading there is a table setting out the relevant submission points (as per the summary of decisions requested), the corresponding further submission numbers and our decision on each submission. We also provide a full marked up version of PM12 Part 7 and Part 14, with the amendments we have made, at Appendix 4 and a ‘clean’ version at Appendix 5.
113. Where we have decided an amendment to the text of the proposed plan change or modification this is shown as follows:
- underlined text is recommended to be inserted.

Out of scope submissions or submission points - Submission ‘on’ a Plan change?

114. The ability to lodge a submission in relation to a plan change is governed by the requirement to make that submission that is ‘on’ the plan change – i.e. it must address matters addressed in the plan change.³⁸ This is an important matter that we need to address first, as we have found a few submissions are not ‘on’ the plan change and accordingly we have rejected them.
115. Mr Gouge set out in his s42A report the Council’s approach to jurisdiction. We agree with his report (and Council’s approach) and we outline this below, adopting the approach taken by the High Court in *Clearwater Resort Ltd v Christchurch City Council*,³⁹ and *Palmerston North City Council v Motor Machinists Ltd*.⁴⁰ In *Motor Machinists* the High Court referred to its earlier decision in *Clearwater* and confirmed that a two limbed test must be satisfied⁴¹ as follows:
- a. The submission must address the proposed plan change itself, that is it must address the extent of the alteration to the status quo which the change entails; and
 - b. The Council must consider whether there is a real risk that any person who may be directly or potentially directly affected by the decision sought in the submission has been denied an effective opportunity to respond to what the submission seeks.
116. In *Motor Machinists* the High Court described the first limb as the “*dominant consideration*”, involving consideration of both “*the breadth of alteration to the status quo entailed in the proposed plan change, and whether the submission then addresses that alteration.*” The Court noted two potential ways of analysing this. One is to ask whether the submission raises matters that should have been addressed in the s32 evaluation. If so, the submission is unlikely to fall within the

³⁸ RMA, Schedule 1, clause 6(1)

³⁹ *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003, at [66]

⁴⁰ *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290, at [80] - [82]

⁴¹ *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003, at [66]

ambit of the plan change. Another way is to ask whether the management regime for a particular resource is altered by the plan change. If it is not, then a submission seeking a new management regime for that resource is unlikely to be ‘on’ the plan change.

117. In relation to the second limb the Court noted that overriding the reasonable interests of people and communities *“by a submissional side-wind would not be robust, sustainable management of natural resources”*. Given the other options available, which include seeking resource consent, seeking a further public plan change, or seeking a private plan change, the Court determined that a *“precautionary approach to jurisdiction imposes no unreasonable hardship.”* The Court, however, noted that there is less risk of offending the second limb in the event that a change is merely consequential or incidental, and adequately assessed in the existing s32 evaluation. However, if the effect of regarding a submission as ‘on’ a variation (or plan change) would be to permit that plan change to be appreciably amended without a real opportunity for participation by those potentially affected, this must be a “powerful” consideration against any argument that the submission is truly ‘on’ the variation. We find that this would be the consequence if the changes proposed by some of the submitters were made.
118. We record that we have undertaken the analysis based on the case law decisions referred to above and the ‘test’ of the extent to which the submissions received are or are not ‘on’ the plan change (i.e. whether they are in or out of scope).
119. There are three issues raised by submissions that we find to be out of scope i.e. not ‘on’ PC22 or PM12. These submission points relate to:
- the scheduling of two further reserves on Waiheke Island;
 - the removal of existing scheduling in other sections of the HGIDP, including scheduled heritage buildings on other locations on Waiheke Island;
 - inclusion of criterion to the RPS Policy B6.5.2.2.

Plan Modification 12 – Submission 4 – Mr. Roger Bryant

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Decision
4.2	Roger Bryant	That other reserves on Waiheke Island should be subject to the same rules including Ostend Domain and Te Tawaipareira Reserve	Support: Roger Bryant (FS02) Support: Heritage New Zealand Incorporated (FS03)	Reject

120. Submission point 4.2 seeks that other reserves including Ostend Domain and Te Tawaipareira Reserve should be subject to the same rules as Māori Heritage Site in the HGIDP (‘MHS’). In his submission, Mr Bryant made specific comments regarding the management of Ostend Domain and Te Tawaipareira Reserve.

Findings

121. In his assessment, Mr Gouge considered it would not be reasonable to expect parties who were notified of PM12 to have anticipated such an outcome from the plan modification in order to fairly participate in the plan change process and he recommended the submission point be rejected.
122. **Submission point 4.2** is outside the scope of PM12 because it is not 'on' the plan change. Adding Ostend Domain and Te Tawaipareira Reserve would place greater restrictions on activities within those two sites and the s32 evaluation does not address this. Furthermore, there is a risk that anyone potentially affected would not have had the opportunity to respond to this submission and any person reading the public notice and considering the s32 evaluation is unlikely to have anticipated that Ostend Domain and Te Tawaipareira Reserve could be included in PM12.

Decision

123. That **submission point 4.2 and the supporting further submissions are rejected** for the reasons set out above.

Plan Modification 12 – Submission 5 – Ms. Annette Robertson

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Decision
5.1	Annette Robertson	Seeks to have the plan modification declined with reference to the properties at numbers 3, 5 and 7 Glenbrook Road, Rocky Bay, Waiheke Island and historic plan changes affecting these properties which placed a Category 'B' Heritage listing over some of these sites.	Oppose: Heritage New Zealand Incorporated (FS03)	Reject

124. This submission relates to removing the HGIDP heritage scheduling of a building on a property at 3, 5 and 7 Glenbrook Road, Rocky Bay, Waiheke Island from Appendix 1b of the plan (refer map reference 15-2).

Findings

125. In his assessment, Mr Gouge noted that PM12 seeks to add four MHS to Appendix 1f of the HGIDP as well as add wording to the plan supporting the future identification of MHS. It does not seek to add or remove existing scheduling in other sections of the HGIDP, including scheduled heritage buildings on other locations on Waiheke Island.
126. In Mr Gouge's opinion, the subject matter of this submission does not address the extent to which the proposed plan modification varies the pre-existing status quo. He noted that PM12 does not seek to alter the management regime for the properties in question and that Submission 5 seeks to vary a planning instrument appreciably without a real opportunity for those who may be affected by such a variation to fairly participate in the process. He did not consider it reasonable to expect parties notified

of PM12 to have anticipated such an outcome and recommended the submission be rejected.

127. We accept Mr Gouge's assessment and agree that Submission 5 is outside the scope of PM12 because it is not 'on' the plan modification.

Decision

128. That **Submission 5.1 is rejected and the opposing further submission is accepted** for the reasons set out above.

Plan Change 22 – Submission 7, paragraph 4.6 – Heritage New Zealand and Plan Modification 12 – Submission 3, paragraph 4.5 – Heritage New Zealand

129. As Mr Gouge set out in his s42A report, the majority of these submissions are considered to be within scope, however he wished to clarify matters with respect to one point made within each of them. Paragraphs 4.6 and 4.5 respectively of the above submissions contain identical wording as follows:

With regard to the additional 7th non-statutory cultural values assessment criterion 'Horopaki' (which addresses associations with the broader landscape and the context of the site within the landscape), utilised by mana whenua in articulating the cultural values of the proposed sites:

Heritage New Zealand seeks inclusion of this criterion to the Regional Policy Statement Policy B6.5.2.2 criteria for consideration when identifying and evaluating Mana Whenua cultural and historic heritage sites, places and areas, by way of a subsequent plan change.

The inclusion of such a criteria in the future will allow the ability to consider and provide for cultural landscapes associated with Sites and Places of Significance to Mana Whenua.

130. Mr Gouge noted that these points do not appear in the Summary of Decisions Requested for PC22 or PM12 as neither are listed as matters Heritage New Zealand seeks a decision on by the local authority⁴².
131. In his assessment Mr Gouge considered that, notwithstanding the above, neither proposed plan change seeks to amend the provisions of the RPS. The purpose of the plan changes is to identify and schedule additional sites and places of cultural significance to Mana Whenua based on the existing evaluation factors listed in B6.5.2.2 of the AUP. He stated that the inclusion of 'Horopaki' as an additional evaluation criterion was at the request of Mana Whenua to provide wider context to the proposed sites, that it is contextual only and has not had a determinative effect on deciding whether a site is considered appropriate for scheduling or not. He noted further that the CVAs supporting the individual sites are not incorporated as part of either plan.

⁴² Refer to paragraph 5 of both submissions

132. Mr Gouge was of the view that the comments by Heritage New Zealand may have merit in future plan change processes addressing the RPS, but did not consider these requests to be 'on' the current plan changes and therefore treated them as out of scope.
133. We accept Mr Gouge's assessment and find that the comments by Heritage New Zealand would fail both limbs of the *Motor Machinist* and *Clearwater* tests. For clarity we do not consider other matters raised by these submissions to be out of scope and discuss these in later sections of this report.

Decision

134. That **part at paragraph 4.6 of Submission 7 on PC22** and that **part at paragraph 4.5 of Submission 3 on PM12 are rejected** for the reasons set out above. For clarity those 'parts' of the submissions rejected relate specifically to the inclusion of the 'Horopaki criterion' to the RPS Policy B6.5.2.2. Our decisions on the other parts of these submissions are addressed elsewhere in this report.

General support or opposition to PC22 & PM12

135. Eight submission points were received that included general statements regarding the submitter's support for or opposition to PC22. These submission points are:
- accept PC22 (1.1, 4.1, 10.1, 12.1)
 - accept PC22 in part with amendments (7.2, 7.3, 8.1)
 - decline PC22 (11.1).
136. Seven submission points were received that included general statements regarding the submitter's support for or opposition to PM12. These submission points are:
- accept PM12 (2.1, 3.1, 4.1, 4.2)
 - accept PM12 with amendments (1.1)
 - decline PM12 (5.1, 6.1).
137. Our decision is to approve PC22 and PM12, but with some amendments in response to submissions. Based on this decision, we:
- 'Accept' the submission point where we agree with all the amendments within the submitter's whole submission.
 - 'Accept in part' where:
 - the submitter seeks 'accept the plan change with amendments' but we do not support all the amendments they seek in their other submission points, or
 - we cannot fully accept an 'accept the plan change' submission point because of other amendments to PC22 or PM12.
 - We have used 'reject' where the submitter seeks PC22 be declined.
 - We have used 'reject' where the submitter seeks PM12 be declined.

General Support – PC22

Submissions supporting PC22

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Decision
1.1	Tanya Sorrell	Accept the plan change	Support: Heritage New Zealand Incorporated (FS05)	Accept
4.1	Te Ākitai Waiohua Waka Taua Incorporated Society attn: Nigel Denny	Accept the plan modification with amendments. Criterion 'c' should be added to Historic Heritage schedule 14.1 for Te Taurere (Site ID 1591)	Support: Heritage New Zealand Incorporated (FS05)	Accept
10.1	Roger Bryant	Supports the intent of the cultural values protection and seeks that Council work collaboratively and in a co-ordinated manner with the local community and local boards to develop community open space across the region.	Support: Roger Bryant (FS01) Oppose in part/ Support in part: Heritage New Zealand Incorporated (FS05)	Accept
12.1	Daphne Mitten	Supports Plan Change 22 and the retention of houseboat mooring within the nominated site Te Rangihoua.		Accept

Submission points supporting PC22 in part, with amendments

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Decision
7.2	Heritage New Zealand Incorporated	Accept in part with an addition made to the description for proposed Site 93 - Tahingamanu as a bird roosting/gathering area, as the name Tahingamanu infers the meaning 'birds gathering as one'		Reject
7.3	Heritage New Zealand Incorporated	Accept in part: The Historic Heritage Place ID 1591 should also have criteria 'C: Mana Whenua' added		Accept
8.1	Edith Tuhimata	Accept the plan change with amendments to be specified at the hearing	Support in part: Heritage New Zealand Incorporated (FS05)	Accept

Findings

138. The submission points listed in the above two Tables generally support the plan change or support the plan change with amendments.

139. **Submissions 1.1, 4.1, 10.1 and 12.1** support PC22 without seeking any amendments and these submitters do not have any other submission points.

Submission 1.1

140. **Submission 1.1**, Tanya Sorrell, specifically noted their support for the identification of Takāraro as a Site of Significance to Mana Whenua, using a poem to express their own acknowledgment and familiarity with the site.

Submission 4.1

141. **Submission 4.1**, Te Ākitai Waiohūa Waka Taua Incorporated Society, submitted in support of PC22 and correctly identified that while Site 97 Te Taurere (Taylor's Hill) is identified as both significant to Mana Whenua in Schedule 12 and Schedule 6, it is not recognised as such in its corresponding entry in Schedule 14.1.

142. In his evaluation, Mr Gouge noted that B5.2.2 (1) sets out the criteria for historic heritage places and B5.2.2(1)(c) recognises that an identified heritage place has a strong or special association with, or is held in high esteem by, Mana Whenua. He observed that this site has been identified as having these qualities by Mana Whenua and that all other proposed sites for Schedule 12 also add criteria 'c' to the corresponding Schedule 14.1 entry.

143. It is noted that there is no specific reference to an exemption being applied to this site in the s32 evaluation supporting the plan change and that Council's heritage experts have considered this relief sought in light of the supporting documentation. They have recommended that criteria 'c' be included into the Heritage Values of Site ID 1591 in Schedule 14.1 on the cultural evidence provided. Mr Gouge therefore recommended that Submission 4.1 be accepted.

Submission 10.1

144. **Submission 10.1**, Roger Bryant, is supportive of PC22 and PM12 and the protection of appropriately identified cultural heritage sites across the region. For this reason, this aspect of his submission has been coded to both PC22 (**Submission point 10.1**) and PM12 (**Submission point 4.1**).

145. In his evaluation Mr Gouge recognised that Mr. Bryant's submission was focused on how public open spaces have historically been managed by the Waiheke Local Board and Auckland Council (and its predecessors). The submitter also expressed dissatisfaction that the local board does not express unqualified support for two of the nominated sites on Waiheke Island.

146. Mr Bryant made specific comments regarding the management of Ostend Domain and Te Tawaipareira Reserve on Waiheke Island although neither of these sites are proposed for protection by PM12 and as such we have referred to this submission point in our findings above as to scope.

147. **Heritage New Zealand (FS05)** supported the aspects of the submission which they feel seek to consider the two aforementioned reserves for future scheduling but

opposed the parts of the submission that refer to ‘two of the sites to be subject to further discussion with the Waiheke Local Board before scheduling’.

148. Mr Gouge clarified his understanding that the submitter is supportive of the PM12 scheduling as notified and does not seek a delay as interpreted by Heritage New Zealand. On that basis, Mr Gouge recommended that **Submission 10.1** be accepted and added that the comments Mr Bryant makes with respect to parks management on Waiheke Island draw attention to the need to strike an appropriate balance on the use of public open space on Waiheke Island.

Submission 12.1

149. The s42A report sets out a detailed evaluation of **Submission 12.1** by Daphne Mitten, which we summarise as follows.⁴³
150. PC22 includes all the sites (or parts of sites) which are within the CMA. In respect to Te Rangihoua (Te Pūtiki o Kahumatamomoe), this includes Pūtiki Bay which includes an area zoned Coastal – Mooring Zone as illustrated in Figure 1.

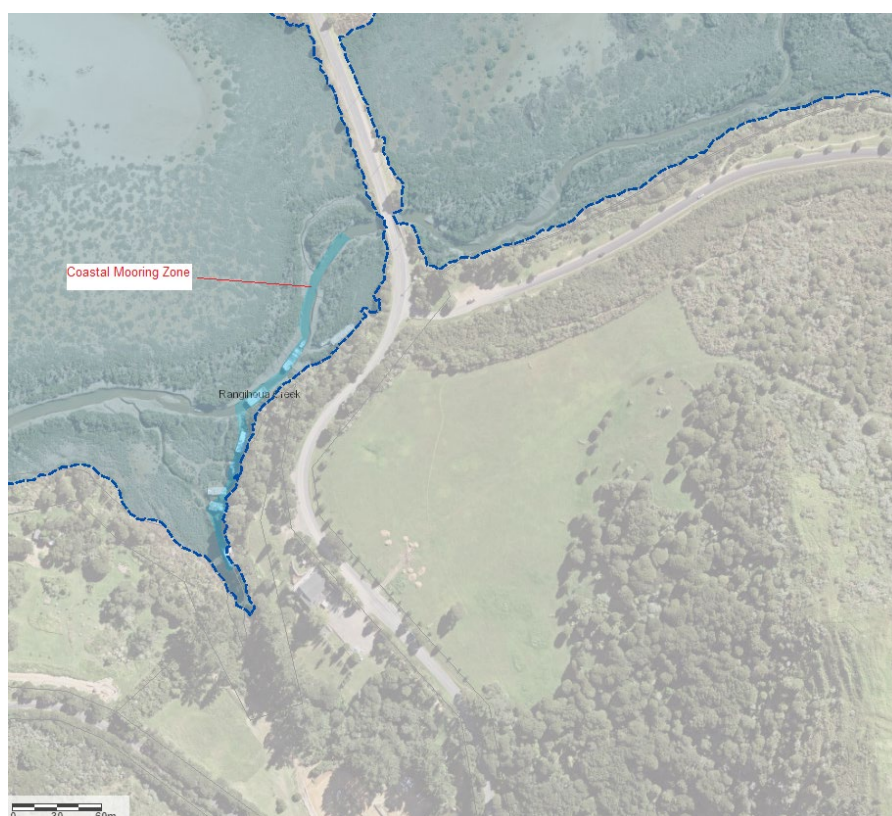


Figure 1: Te Rangihoua (Pūtiki Bay) - Coastal Mooring Zone

151. Within this mooring zone, there are seven permanent houseboats, understood to be fixed in place by piles for the most part, as opposed to swing moorings.
152. Submission 12.1 offers support of PC22 and recognises the significance of this area to local iwi however Mr Gouge considered this support can be interpreted as being

⁴³ S42A report, p. 52-55

qualified by seeking no change to the existing houseboat mooring situation at this location.

153. Mr Gouge helpfully explained that the application of the overlay in this location, and over this zone, will apply more stringent consideration of activities which disturb the foreshore and seabed. Referring to Chapter F4 of the AUP, he noted that Coastal Mooring Zones are located in places which avoid, as far as practicable, adverse effects on historic heritage and Mana Whenua values⁴⁴ and that policies supporting this objective require new moorings located within areas which may adversely affect identified Mana Whenua values, to be avoided⁴⁵.
154. Mr Gouge considered that from a rules perspective, new and existing swing moorings, that do not involve disturbance of the seabed, including occupation and use by the vessel to be moored are Permitted Activities within the zone and this activity status would therefore remain unchanged. He noted further that existing pile moorings as at 30 September 2013 are also permitted⁴⁶ while new pile moorings, including the occupation and use by the vessel to be moored, are a Restricted Discretionary Activity within the zone. As pile moorings involve disturbance of the seabed, such an activity would trigger a Discretionary Activity consent pursuant to Rule D21.4.1(A4) of the Sites and Places of Significance to Mana Whenua Overlay⁴⁷. Maintenance, repair or reconstruction of existing lawful coastal marine area structures is a Permitted Activity under rule F2.19.10(A122). If reconstruction involved disturbance, the new overlay would make that reconstruction a Discretionary Activity under D21.4.1(A4). New moorings located outside the Coastal Mooring Zone are a Discretionary Activity under Rule F4.3.3(A7) of the Coastal Chapter and this is unchanged by the SSMW scheduling.
155. Having provided a comprehensive assessment of the relevant rules in his s42A report, Mr Gouge concluded, and we accept, that:

The effect of scheduling Pūtiki Bay and its associated mooring zone as a SSMW is to increase the consenting threshold for new pile mooring activities, and for reconstruction of existing piles if they include seabed disturbance. Any such activities would need to consider adverse effects on the Māori cultural values associated with the site, and consultation with local iwi would be likely.

*As it exists, the objectives and policies of the Coastal Mooring Zone seek to avoid adverse effects on Mana Whenua cultural values. Should the ongoing mooring of houseboats in this location prove culturally problematic for iwi, the suitability of this site to retain its Coastal Mooring Zone may need to be reconsidered in a subsequent plan change process. Any such plan change would involve a consultation process with affected parties.*⁴⁸

⁴⁴ Objective F4.2(1).

⁴⁵ Policy F4.3(1)(d).

⁴⁶ Rules F4.4.2(A3) and (A4)

⁴⁷ Refer to Chapter C1.6 of the AUP – Overall Activity Status

⁴⁸ S42A report, para 205, p. 54, paras 205-206

156. We understand from both the s42A report and evidence given at the hearing by Mr Gouge, that in the context of these proceedings at least, to date Mana Whenua have not identified any issue from a cultural perspective with the presence of houseboats at this site. Mr Gouge did acknowledge however that traditionally, discharges into the water which may affect ecosystem health are of concern to iwi and in addition, the discharge of wastewater in inappropriate locations has also been of cultural concern to Māori.
157. Without detailing the specific objectives and policies, referred to by Mr Gouge in his assessment, we note his view that the current policy framework regulating discharges into the CMA, acknowledges the importance of consulting with Mana Whenua in accordance with tikanga and these views being given appropriate weighting under sections 6, 7 and 8 of the RMA⁴⁹.
158. As set out in the s42A report, the existing AUP provisions already provide an opportunity for Mana Whenua to be consulted on activities that may be contrary to Mana Whenua values in respect to the houseboats and there are circumstances where matters of discretion include the effects on Mana Whenua values.
159. In Mr Gouge's opinion, the scheduling of the site will highlight its cultural significance to applicants, resource consent practitioners and the general public, will have no immediate impact on legally established activities for the houseboats, and does not prohibit those activities being continued in the future. Subsequent consenting (permitting) will however place greater emphasis on the cultural values of the area post-scheduling.
160. Mr Gouge therefore recommended that Submission 12.1 be accepted, noting that any future effect on current houseboat activities is speculative at this stage.

Submission points 7.2 and 7.3

161. In **Submission points 7.2 and 7.3, Heritage New Zealand** supports the plan change as a whole, although suggests that an additional descriptor could be included under Site 93, Tahingamanu, to recognise the site's significance as a bird roosting or gathering area.
162. Mr Gouge pointed out that the suggested addition of 'bird roosting/gathering area' to the description, while historically correct, is covered by the descriptor 'mahinga kai' and that this general term refers to 'food gathering places (rivers, bush, sea, gardens etc.)'⁵⁰. Mana Whenua have also confirmed the descriptor as notified recording that the food historically gathered at this site also includes shellfish.
163. Mr Gouge was of the opinion that the site being described as a site where food was gathered alerts resource management practitioners and the public in general to this aspect of the cultural significance of the site and provides for a more fulsome investigation through a CVA if required. He considered referring to the birds

⁴⁹ AUP, Policy F2.11.3(8). See s42A report, pp. 54-55, paras 208-210

⁵⁰ Refer to Chapter N1 – Glossary of Māori Terms in the AUP

specifically, runs the risk of overlooking the other dominant food source gathered in this area.

164. On this basis, he recommended that **Submission point 7.2** be rejected as unnecessary and possibly misleading.
165. **Submission point 7.3** identifies a missing annotation against Historic Heritage Plan ID1591 - Te Taurere. This submission point is identical to Submission 4.1 from Te Ākitai Waiohua Waka Taua Incorporated Society which we have discussed above. For the same reasons, Mr Gouge confirmed Submission point 7.3 is supported.

Submission 8.1

166. In **Submission 8.1**, Ms Tuhimata, clarified the additional relief sought by her submission in an email to Council on 2 May 2019 and also appeared at the hearing to provide further detail. In addition to critiques with respect to plan change processes undertaken by Council and other key government entities, Ms Tuhimata commented generally seeking greater consistency in collaboration, resourcing, and a higher proportion of nominated sites being protected.
167. We agree with Mr Gouge that these are important observations and accept none of these matters are material to the nominated sites and proposed protections of PC22, which are ultimately supported by the submitter. Mr Gouge recommended that Submission 8.1 be accepted and confirmed that he has noted the comments of Ms Tuhimata for future plan change processes of this nature. We refer also to the statement she made at the hearing as summarised above⁵¹.
168. We also acknowledge a matter raised by Heritage New Zealand at paragraph 4.7 of their submission (Submission 7 on PC22) regarding the extent of the sites and the view that the extent of the sites proposed for inclusion in the schedule align with the cadastral boundaries in these locations, which may not always be the extent that reflects the values which the scheduling is intended to protect. Heritage New Zealand therefore suggests that future changes to the plan seek to amend the extents to reflect the values of these sites. We support that suggestion and agree that this is appropriately raised by Heritage New Zealand.
169. The s32 evaluation provides comment on the site extents for nominated sites and states that, *“The extent of each site was nominated by Mana Whenua and has been refined through discussions with iwi and landowners and during site visits.”*⁵² Whether that *‘process of refinement’* appropriately reflects the values which the scheduling is intended to protect should also be a relevant consideration in future plan changes of this nature.

⁵¹ At paragraph 98

⁵² Section 32 evaluation report, para 86 at p. 112 of the s42A report

Decision

170. **Submission points 1.1, 4.1, 10.1 and 12.1 are accepted in part, and the supporting and opposing further submissions are accepted in part, for the reasons set out above.**
171. **Submission points 7.3 and 8.1 are accepted in part and the supporting further submission is accepted in part, for the reasons set out above.**
172. **Submission point 7.2 is rejected, for the reasons set out above.**
173. Associated with Submission points 4.1 and 7.3 **we make the following amendment:**
- **That criteria ‘c’ be included into the Heritage Values of Site ID 1591 (Te Taurere (Taylor’s Hill)) in Schedule 14.1.**

General Opposition

Submissions opposing PC22

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Decision
11.1	Vera Regina Schulze	Supports the principle of honouring and recognising sites and places of significance to Mana Whenua but opposes any plan change that could negatively affect the submitter's way of life (living on a houseboat)		Reject

Submission 11.1

174. **Submission 11.1**, Vera Regina Schulze, is supportive of the principle of recognising and protecting Mana Whenua cultural heritage but is opposed to any possibility that their current houseboat lifestyle is affected by the proposed plan change. Ms Schulze attached a copy of a comprehensive feedback statement to the draft AUP from The Rangihoua Houseboat Community which she had co-written. The statement provides some explanation from the houseboat community as to why the houseboat mooring area is appropriate in this natural area.
175. Ms Schulze stated they are opposed to the plan change.

Findings

176. We refer to our discussion above in relation to Submission 12.1 noting that applying the SSMW Overlay to the Coastal Mooring Zone within Pūtiki Bay will have limited immediate effects on houseboat activities.
177. As Mr Gouge sets out in his s42A report: *“New disturbance of the seabed through the installation of pile moorings will have a more stringent activity status of a Discretionary Activity than the zone currently allows (Restricted Discretionary). Post-scheduling, there will also be greater scrutiny of adverse cultural effects*

associated with potential future activities such as wastewater discharges and biofouling activities. Future plan changes considering the locations of Coastal Mooring Zones will also need to consider the cultural significance of this site.”

178. We accept that the scheduling does not prohibit these activities from occurring and concur with Mr Gouge that, if, in the future, activities or plan provisions come into conflict with Mana Whenua values, they can be appropriately addressed through resource consent and plan change processes under the RMA.
179. Accordingly, Mr Gouge recommended and we accept that Submission 11.1 in opposition to PC22 be rejected.
180. The reasons set out in this decision report for approving PC22 are the same reasons for rejecting those submissions opposed to PC22.

Decision

181. **Submission point 11.1 is rejected**, for the reasons set out above.

General Support – PM12

Submission points supporting PM12

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Decision
2.1	Ngāti Paoa Iwi Trust	Accept the plan modification as notified	Support: Heritage New Zealand Incorporated (FS03)	Accept
3.1	Heritage New Zealand Incorporated	Accept the plan modification as notified		Accept
4.1	Roger Bryant	Supports the intent of the cultural values protection and seeks that Council work collaboratively and in a co-ordinated manner with the local community and local boards to develop community open space across the region.	Support: Roger Bryant (FS02) Oppose in part: Heritage New Zealand Incorporated (FS03)	Accept
4.2	Roger Bryant	That other reserves on Waiheke Island should be subject to the same rules including Ostend Domain and Te Tawaipareira Reserve	Support: Roger Bryant (FS02) Support: Heritage New Zealand Incorporated (FS03)	Reject

Submissions supporting PM12 in part, with amendments

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Decision
1.1	Kenneth Ridley	Accept plan modification with an amendment to the site extent of Site MHS 4 - Te Rangihoua to remove the sports park as its inclusion would impose unrealistic conditions on the continued use and development of these facilities.	Support: Terry Maguire (+92 additional signatories) (FS01) Oppose: Heritage New Zealand Incorporated (FS03)	Accept in part

Findings

182. The submission points listed in the above two tables generally support the plan change or support the plan change with amendments.
183. Submissions 2.1 and 3.1 support PM12 without seeking any amendments and these submitters do not have any other submission points.

Submission 2.1

184. **Submission 2.1**, Ngāti Paoa Iwi Trust (NPIT), provide additional cultural background information on the history of Ngāti Paoa on Waiheke Island. NPIT is recognised as the post settlement governance entity for this iwi and is one of two Ngāti Paoa entities which the Council has engaged with during this plan change process⁵³. As noted above, in describing submissions and evidence heard at the hearing in terms of NPIT, support of these plan changes is confirmed and the submission also provides commentary on the process undertaken between iwi and Council to develop the plan change.
185. NPIT's submission outlines their connection with Waiheke, the arrival and impact of the two ancestral waka Te Arawa and Tainui, korero regarding Paoa, the eponymous ancestor of Ngāti Paoa and the movement of his descendants. It recognises that Waiheke is densely populated with markers of Māori occupation.
186. The submission sets out the importance for Ngāti Paoa of being able to protect their cultural heritage, particularly in the context where as they say, *“the footprints of Ngāti Paoa tūpuna have been impacted by development but many remain - though at risk from continual attempts to lessen or ignore their importance and develop over.”*⁵⁴ Quite pointedly, NPIT express the view that, “Statutory requirements distribute the responsibility to protect mana whenua cultural heritage broadly, but the greatest

⁵³ The Auckland Council currently engages with both the Ngāti Paoa Trust Board and Ngāti Paoa Iwi Trust while both are seeking a legal determination of mandate, as per a direction from the Māori Land Court.

⁵⁴ Ngāti Paoa Submission #2, PM12

weight of responsibility lies with Ngāti Paoa, the kaitiaki over their cultural heritage.”⁵⁵

187. Specifically, NPIT seek the inclusion of places identified as Mokemoke, Ahipao, Matiatia and Te Rangihoua including Te Pūtiki o Kahumatamomoe to the HGIDP, are supportive of the proposed text and the s32 evaluation report prepared by Council and that PM12 is maintained as notified. They consider that the inclusion of these sites will be a mechanism to:
- increase the likelihood of protection for the wāhi tapu of Ngāti Paoa;
 - recognise, enable and support Ngāti Paoa in their role as kaitiaki; and
 - initiate and encourage engagement and relationships between Ngāti Paoa, and the community of Waiheke.

Submission 3.1

188. **Submission 3.1**, Heritage New Zealand, fully supports PM12 in its entirety, makes observations with respect to future plan changes of this nature and also mentions the criterion of ‘Horopaki’ which we have addressed above and considered out of scope. In their submission Heritage New Zealand also submit that the HGIDP provisions at Part 7.13 should be amended in a subsequent plan modification, to be consistent with the provisions found in the AUP at Chapter D21.
189. Mr Gouge recommended that Submission 2.1 and Submission 3.1 be accepted, subject to the amendments he recommends in response to other submissions.

Submission points 4.1 and 4.2

190. As discussed above in relation to findings on Submission 10.1 on PC22, **Submission points 4.1 and 4.2**, Roger Bryant, outline a history of involvement in community development on behalf of the Waiheke community and focus on Council and local board process around the use of public open spaces and a lack of co-ordination across public sector entities.
191. Two further submission points from Heritage New Zealand address Mr Bryant’s submission with the view that Mr. Bryant is suggesting the scheduling for Site MHS1 and MHS4 be delayed pending discussions with the Waiheke Local Board and oppose such a delay. They also support the suggestion that other reserves on Waiheke Island are considered for future scheduling as MHS.
192. In Mr Gouge’s view, Mr Bryant seems supportive of the proposed scheduling, particularly given the supporting information provided by Mana Whenua to substantiate the significance of the sites. Mr Bryant’s comments around historic park management schemes and reserves planning on Waiheke Island are illustrative of some tensions between Council, the local board and the aspirations of some members of the community and reiterate the need to strike an appropriate balance for the use of public spaces on Waiheke Island.

⁵⁵ Ngāti Paoa Submission #2, PM12

193. Mr Gouge notes that notwithstanding any possible merit to the future identification and scheduling of other reserves including Ostend Domain and Te Tawaipareira Reserve as MHS, this is not currently part of the proposed plan change and as we have previously found regarding Submission 10.1 on PC22, is considered out of scope.
194. For the above reasons, Mr Gouge recommended that Submission point 4.1 be accepted and Submission point 4.2 be rejected.

Submission 1.1

195. **Submission 1.1**, Kenneth Ridley, is concerned with the scheduling of the full extent of the Onetangi Sports Park and subsequent restrictions this will place on this land for its intended (recreational) use. Submission 1.1 (and FS01, Terry Maguire) takes the view that substantial landscaping of the park would make the likelihood of any physical remnants of early occupation remote and on that basis, the overlay should be removed from the sports fields. Our findings on the amendments sought by Mr Ridley are discussed elsewhere in this decision under the heading Findings regarding Te Rangihoua (Te Pūtiki o Kahumatamomoe).

Decision

196. **Submission points 2.1, 3.1 and 4.1 are accepted in part, and the supporting and opposing further submissions are accepted in part**, for the reasons set out above.
197. **Submission point 4.2 is rejected**, for the reasons set out above.
198. **Submission point 1.1 is accepted in part and the recommended amendments to Part 7.13.3 and Part 14 of the HGIDP are approved**, for the reasons set out under the topic Findings regarding Te Rangihoua (Te Pūtiki o Kahumatamomoe) below.

General Opposition

Submission points opposing PM12

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Decision
5.1	Annette Robertson	Seeks to have the plan modification declined with reference to the properties at numbers 3, 5 and 7 Glenbrook Road, Rocky Bay, Waiheke Island and historic plan changes affecting these properties which placed a Category 'B' Heritage listing over some of these sites.	Oppose: Heritage New Zealand Incorporated (FS03)	Reject
6.1	Vera Regina Schulze	Supports the principle of honoring and recognising sites and places of significance to Mana Whenua but opposes any plan change that could negatively affect the submitter's way of life (living on a houseboat)		Reject

Submission 5.1

199. As previously recorded, we have found Submission 5.1 to be out of scope and decided it should be rejected.

Submission 6.1

200. As with her submission opposing PC22 (Submission 11.1), Vera Regina Schulze is supportive of the principle of recognising and honouring Mana Whenua cultural heritage but is opposed to any change that could negatively affect the submitter's current houseboat lifestyle. The submitter therefore seeks that PM12 be declined.

Findings

201. Mr Gouge noted that PM12 applies to the landward areas of Site MHS 4 – Te Rangihoua (Te Pūtiki o Kahumatamomoe) and are district level provisions. Insofar as this applies to the Rangihoua Houseboats, the structures which exist supporting the boats are piers/jetties to gain access, seven composting toilets (one for each boat), and in some cases a small implement shed for housing household tools. He was of the opinion that provided these structures were legally established and do not increase in their intensity, the scheduling will not affect their ongoing use. In the event that they are altered, any activities involving ground disturbance would require consideration as a Discretionary Activity. This would most likely require consultation with Mana Whenua to determine cultural impacts of such activities.
202. Mr Gouge observed that on site and small scale wastewater treatment and disposal is a regional plan matter regulated by the AUP⁵⁶. This district level plan change will not introduce more stringent rules than currently exist. It would, however, raise awareness of the cultural significance of the site to plan users and waste disposal is known to be a culturally sensitive issue for Mana Whenua.
203. We are persuaded by Mr Gouge's opinion that scheduling would not prohibit enabling activities for the houseboats however, any future assessment of such activities would be balanced against a new understanding of the cultural significance of this area. We agree that an adaptive management approach to an evolving understanding of the receiving environment is common and appropriate in resource management practice. We also accept his view that as the land covered by the overlay is Council owned, any proposed activities will require its landowner approval, as does the ongoing operation [of] any existing facilities.
204. For the above reasons, Mr Gouge recommended that Submission 6.1 in opposition to PM12 be rejected.
205. The reasons set out in this decision report for approving PM12 are the same reasons for rejecting those submissions opposed to PM12.

⁵⁶ Chapter E5 On-site and Small Scale Wastewater Treatment and Disposal.

Decision

206. **Submission point 6.1 is rejected**, for the reasons set out above.
207. Our more specific reasons for supporting PM12, with some amendments, are discussed under the relevant parts of this decision report.

FINDINGS REGARDING TE RANGIHOUA (TE PŪTIKI O KAHUMATAMOMOE)

208. As noted above, submission 1.1, Kenneth Ridley, is concerned with the scheduling of the full extent of the Onetangi Sports Park as this will make maintaining and developing its current recreational uses difficult. This submission has been supported by a further submission with 92 co-signatories (FS01) and is also opposed by a further submission from Heritage New Zealand (FS03).
209. As Mr Gouge explains, the submission on PM12 applies to the landward portions of this site which are regulated by the HGIDP under its district plan level provisions while the regulation of the streams within the site are regional plan matters dealt with under the AUP. In his view, this is a planning technicality the submitter is unlikely to be aware of and Mr Gouge has accordingly, considered this submission holistically.
210. The submission states that the sports park is separate from the heritage reserve area and has been substantially landscaped so there is only a remote chance of finding archaeology, a view Mr Ridley reiterated to us at the hearing. Mr Gouge presumed that the “*pā area and surrounds*” the submitter refers to is the Rangihoua Maunga Area (Area C) of the Rangihoua Park Plan in the HGIDP, as replicated in the s42A report⁵⁷. Having heard Mr Ridley’s submission at the hearing and in attending the site with us to point out the areas referred to in his submission, that appeared to be the case.
211. We have considered the specialist advice provided by Mr Edward Ashby and the comprehensive evaluation provided by Mr Gouge in his s42A report, in responding to the submission of Mr Ridley and clearly setting out the history of Council involvement with the site, the current HGIDP management approach for the Park and the effect of the scheduling in the HGIDP and in the AUP (on streams within Rangihoua sports park). This evaluation was not challenged and we find no reason to disagree with the analysis as provided by Mr Gouge.
212. As Mr Gouge explains, Submission 1.1 equates cultural values with the presence of physical remnants of early Māori occupation and draws a logical conclusion that due to the fact that the park has been landscaped to accommodate recreational activities over several years, there is little chance of archaeological evidence of early Māori occupation remaining.⁵⁸
213. We concur with Mr Gouge’s response that recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands, water,

⁵⁷ S42A report, p. 62

⁵⁸ S42A report, p.70, para 271

sites, waahi tapu and other taonga, as a matter of national importance (s6(e) RMA), is not limited to the physical remnants of these relationships.

214. As set out in the s42A report, PM12 introduces wording to the HGIDP which cross-references to RPS Policy B6.5.2 containing factors used to identify and evaluate Mana Whenua cultural and historic heritage sites and areas of significance to Mana Whenua within the Auckland Region. B6.5.2 gives effect to objectives within B6.5.1 which seek to identify, protect and enhance both the *tangible* and *intangible* values of Mana Whenua cultural heritage, and also recognise, protect and enhance the association of Mana Whenua cultural, spiritual and historic values with local history and whakapapa.⁵⁹ In accordance with section 73(4) RMA, the RPS must be given effect to by the HGIDP.
215. As Mr Gouge states, *“Tangible evidence is only one consideration of the cultural values presented by a site to qualify it for scheduling. Intangible values such as mana, metaphysical and spiritual importance, historical significance, and educational significance all feature in B6.5.2 as qualifying factors.”*⁶⁰
216. In responding to that aspect of Mr Ridley’s submission regarding the ‘remoteness’ of physical remnants of early occupation, Mr Gouge referenced evidence of two recorded sites in the Council Cultural Heritage Inventory (“CHI”) database and two unrecorded historic heritage sites located within the sports park area as illustrated in Figure 8 in the s42A report. He states:
- “Of note, the Onetangi Sports Park contains a small midden/hangi pit (CHI 14681) circled in red in Figure 8. Two unrecorded sites, an urupā (anecdotal) and a midden (discovered and destroyed during earthworks), are referenced in research records completed during the development of the sportsfields in 1996 and 1997.”*⁶¹
217. Accordingly, in Mr Gouge’s view this analysis suggests that physical remnants of early Māori occupation may still exist in close proximity to (or possibly under) the sports fields on this site and that expansion of the recreational facilities may encounter unrecorded archaeology during land disturbance. We find no reason to disagree with that view.
218. Then addressing the relevance of physical remnants as a determiner of cultural association, Mr Gouge referred to the CVA for Te Rangihoua (Te Pūtiki o Kahumatamomoe) provided by Ngāti Paoa noting that it is extensive in outlining the cultural significance of this site. He also pointed to Ngāti Paoa’s iwi planning document lodged with Council in 2013 as further evidence of the importance of this site to Ngāti Paoa and their long association with the area evident also in Ngāti Paoa’s initialling version of its Deed of Settlement.⁶² We refer also to the submission of NPIT addressed earlier in this decision.

⁵⁹ Refer to Objectives B6.5.1(1) and (3) of the RPS ; S42A report, p.70, paras 272-274

⁶⁰ S42A report, p. 70, para 276

⁶¹ S42A report, p. 71, para 279

⁶² S42A report, pp. 71-72, para 281

219. Mr Ashby confirmed that the site is of cultural significance to hapū and iwi who whakapapa to or hold customary interest in the area, in particular Ngāti Pāoa whom nominated the site and prepared the CVA for its assessment. He noted that the site is also within the area of interest of Ngāti Whanaunga, Ngāi Tai ki Tāmaki, Te Patukirikiri, Ngāti Tamaterā, Ngāti Te Ata, and Ngāti Maru.⁶³ Mr Ashby also referred to the Ngāti Pāoa CVA which discusses the associations with the intra-related components and features that make up the site as whole, including the historical landing place of one of their ancestral waka, the occupation of the area by key tūpuna such as Kahumatamomoe and Kura, the battles that were waged and the peace that was made at the site, the role of the area and kāinga as the ancestral home of the iwi, the tangihanga (funeral ceremonies and burials) that occurred at the urupā, and the resources that provided sustenance and materials for more than 20 generations.⁶⁴
220. In Mr Ashby's opinion, the evidence provided in the Ngāti Pāoa CVA is reliable and supports the current extent of the site including the area that covers the sports park. He commented that if anything, from his reading of the evidence, the extent ought to be extended slightly to the north to encompass Maunga Hoporata, which is located on private land but is clearly part of the site's significance. Mr Ashby emphasised that the determination of whether a Site or Place of Significance to Mana Whenua exists or not (either in full or in part), is based upon Māori cultural values and not archaeological or any other set of heritage values.⁶⁵
221. Mr Gouge referred to Mr. Ashby's evidence which discussed at length the difference between Te Ao Māori (Māori worldview) and Te Ao Pākeha (European worldview) concepts of cultural heritage.⁶⁶ Mr Ashby noted that there are a multitude of types and examples of Māori heritage places and that such sites can hold both physical and metaphysical components. He explained that, these form part of the ancestral cultural landscape encapsulated within the concept of *rohe*. They are geographic locations, but they do not require tangible/physical evidence like archaeological or even geological features to be considered heritage. Conversely, archaeological remains can and do form *part* of Māori heritage sites, such as the case with urupā, middens within the location of an historic kāinga, or ditches on pā sites. Importantly, in Mr Ashby's opinion, the pertinent point is that Māori heritage is not premised upon or restricted to such evidence but is rather supplemented by it. It is the association of tangata whenua that is relevant.⁶⁷
222. The s42A report recognises that, as with a majority of the nominated sites of significance, much of the significance of Te Rangihoua (Te Pūtiki o Kahumatamomoe) stems from its historical cultural associations as opposed to physical archaeology and in the case of Rangihoua Park, these associations include it being a battle site, a refuge, a hilltop pā (the main pā on Waiheke) and its

⁶³ Ashby, E., Statement of Evidence, 25 June 2020, para 7.2 at Appendix 4, s42A report

⁶⁴ Ashby, E., Evidence, para 7.3-7.4

⁶⁵ Ashby, E., Evidence, para 7.10

⁶⁶ Ashby, E. Evidence. Section 5

⁶⁷ Ashby, E., Evidence, para 5.2

supporting kāinga (village). Also important is the area as a source of rawa tūturu (customary resources) including mānuka (tea tree), taro, and other flora and fauna.⁶⁸

223. Mr Gouge was clear in his opinion that these values extend beyond the physical (archaeological) and are no less relevant in qualifying this site for scheduling under B6.5.2(2) of the RPS. He therefore disagreed with this aspect of the submitter's reasoning. We agree and accept that assessment.
224. We found the evidence of Mr Ashby of particular assistance to the Panel and consider that in hearings of this nature, having specialist evidence that can properly navigate both Te Ao Māori (Māori worldview) and Te Ao Pākehā (European worldview) perspectives, such that they can be translated into environmental concepts that decision-makers understand, is essential.
225. Mr Gouge then recorded that he concurred with the views of Mr Ashby in paragraphs 4.2 and 5.8 of his evidence that Part 2 of the RMA requires greater consideration of matters pertaining to the relationship of Māori and their culture and traditions with their wāhi tapu sites (s6(e)), the ability to exercise kaitiakitanga (s7(a)) and the principles of the Treaty of Waitangi (s8). He stated that in his view, this places considerable weight on the importance of the cultural recognition of this site, however, it is not the only consideration for achieving sustainable management.⁶⁹
226. Turning then to the importance of the Onetangi Sports Park as one of only two sports parks on the island and its primary recreational reserve, Mr Gouge noted the site has long been considered an important community asset, that the provision of social facilities (including open space) is an important planning consideration within the Auckland region and that this park in particular is a prominent part of the island's open space network plan, with the recreational activities undertaken within the park being explicitly provided for through the objectives, policies and rules of Land Unit - Open Space 3.
227. In Mr Gouge's view, the scheduling in its current form sets up a tension between the cultural recognition and protection of this site and its long established and strategically important use for a range of recreation activities. This tension is specifically with respect to any ground disturbance activities.
228. Turning again to the views of Mr Ashby, Mr Gouge reiterated that often what Mana Whenua are seeking is a genuine relationship between parties⁷⁰ to guide the future development of culturally sensitive areas and provide for lasting mutual benefits, that mutual benefit is also a commonly accepted Treaty principle and that mutual benefit in the case of Rangihoua Park 'could be easily achieved through maintenance of the site for example, provided mana whenua tīkanga and participation was provided for'.⁷¹

⁶⁸ S42A report, p. 72, paras 282-283

⁶⁹ S42A report, p. 72, para 284

⁷⁰ Ashby, E. Evidence. para 4.10.

⁷¹ S42A report, p. 73, para 288; E. Ashby Evidence. Footnote page 26.

229. The s42A report then sets out objective 10a.24.3.4 HGIDP which seeks to provide a level of certainty that where appropriate, recreational uses and community activities within the park will be provided for. Mr Gouge interpreted this to mean that already established facilities will be provided for in a practical manner, and that there are appropriate mechanisms in place to consider the appropriate location of future recreational uses.

230. As Mr Gouge stated:

“As I interpret it, the CVA provided by Ngāti Paoa and included in Appendix 1 identifies that it is intangible cultural values as opposed to any identified physical remnants that are culturally significant in the lower lying areas of the park surrounding the maunga (hill) which contain the sports facilities.

Even so, based on the archaeological assessment, it is my view that physical remnants of early Māori occupation of the site may be present in undisturbed land within the sports park itself.

I acknowledge that matters pertaining to ground disturbance as they apply to Māori cultural values extend beyond the physical. As stated by the Independent Māori Statutory Board during the hearings on the AUP, ‘Land disturbance can affect the mauri, mana, and tapu imbued in important sites’. These concepts are also reiterated from paragraph 7.15 of Mr. Ashby’s evidence. In my experience, culturally appropriate responses to such disturbance can include providing for tikanga (corrects customs and protocols), preventing earth entering waterways and other ecological areas, and retaining any earth disturbed within the boundaries of the site.”⁷²

231. Mr Gouge then confirmed that he had considered the most appropriate resource management approach to address this policy tension within the scope of the notified plan change and the submissions received, while recognising that the operative provisions of the HGIDP have already been found to achieve Part 2 of the RMA. In recognising that there is a history of ground modification on this site to create and operate these facilities, and considering the Treaty principles of mutual benefit and partnership, Mr Gouge’s view was that it is appropriate to provide for a limited amount of ground disturbance as a Permitted Activity in order to enable the ongoing operation and maintenance of the sports park.⁷³ We find this approach particularly persuasive and we are also persuaded by Mr Gouge’s confirmation, both in his report and also in response to questions from the Panel at the hearing, that this approach is consistent with the approach taken in the AUP in relation to ground disturbance on Sites of Significance to Mana Whenua.

232. Mr Gouge noted that this recommended approach is partially in response to Mr Ashby’s evaluation, with which he agreed, that a highly administered site is likely to have no perceivable mutual benefit for the community or Mana Whenua. In addition, Mr Gouge considered it is likely that such a scenario would place a large

⁷² S42A report, p. 73, paras 291-293

⁷³ S42A report, pp. 73-74, paras 294-295

administrative burden on Mana Whenua themselves to respond to resource consent applications for minor operational matters.

233. Mr Gouge does not support ground disturbance to further develop the site unless it provides an opportunity for Mana Whenua to be involved in a resource consent process and in this regard he agreed with the evidence of Mr Ashby where he identifies the cultural degradation to a wāhi tapu site that can occur through the accumulation of 'noa' (normal/profane) activities.⁷⁴
234. In Mr Gouge's opinion, requiring further development activities to undergo a resource consent process will provide an opportunity for Council to consider the cultural significance of such activities. The reporting planner can engage with Mana Whenua and impose any conditions considered appropriate to recognise and address the cultural values of the site. We accept that is a sensible approach.
235. We agree with Mr Gouge, for the reasons set out in his report, that it would not be appropriate to remove the overlay from areas currently used for recreational activities and nor would it be appropriate to apply a 'blanket' (global) resource consent or to simply require resource consent to be sought for operational and maintenance activities being conducted within the park which involve any ground disturbance.⁷⁵
236. In our view, removal of the overlay from areas currently used for recreational activities would be the antithesis of what the overlay is trying to achieve and in terms of Te Rangihoua, would not reflect the extent of the site that holds the values which the scheduling is intended to protect.
237. We further agree with his view that a reliance on existing use rights (in terms of section 10 RMA) is limited in this application, for the reasons set out in the s42A report.
238. Accordingly, with respect to the ground disturbance on the MHS and as is consistent with the approach taken in the AUP, Mr Gouge recommended that:
- The HGIDP be amended to allow ground disturbance for the operation and maintenance of the recreation areas of the sports park area (Area A in Figure 3) to remain a Permitted Activity where this can be limited to areas and to a depth of earth previously disturbed or modified.
 - Any permitted level of ground disturbance outlined above must still be subject to Rule 10c.5.5.1 of the earthworks development controls for land units and settlement areas thereby requiring a specific process to be followed in the case of the accidental discovery of artefacts of Māori or European origin. The site is also still subject to the regional land disturbance standards of the AUP for more significant earthworks.

⁷⁴ S42A report, p. 74, para 296

⁷⁵ S42A report, p. 74, paras 298-299

- Any ground disturbance proposed that cannot meet the above criteria or which is sought to further develop the park would require consideration as a Discretionary Activity. This is generally consistent with the approach taken in the AUP and would allow a fulsome consideration of all the matters pertaining to the site, including the cultural effects on Mana Whenua.

239. In Mr Gouge's view, the most efficient and effective manner in which to achieve the identified outcomes is an amendment to the HGIDP rules in Part 7.13.3 Rules for MHS and an addition to Part 14 – Definitions to include a definition for 'Parks Maintenance'.⁷⁶

240. Both Mr Ashby and Mr Gouge emphasised the particular relevance of the reserve management plan being developed for Rangihoua Onetangi Sports Park. While Mr Gouge acknowledged that it was perhaps beyond the control of the HGIDP, he noted that these plans are required to give effect to the principles of te Tiriti o Waitangi (the Treaty of Waitangi) and their development requires actively working with Mana Whenua. To that extent he agreed with the observations of Mr Ashby in his evidence that these strategic plans created under the Reserves Act 1977 offer a significant opportunity for the park to be developed in a culturally appropriate manner. The scheduling of Rangihoua Park as an MHS will aid the recognition of this culturally important site in subsequent strategic plans both within and outside the RMA.

241. For the reasons set out in his report, Mr Gouge recommended that Submission 1.1 be accepted in part and the recommended amendments to Part 7.13.3 and Part 14 of the HGIDP be approved.

242. We form the view, from the evidence of Mr Gouge and Mr Ashby in particular, that this recommendation provides an appropriate balance to achieve sustainable management whilst in keeping with the very strong directives for Council to identify and schedule Māori cultural sites of significance.

243. We therefore reiterate our decision as set out at para 197 above that **Submission point 1.1 is accepted in part and the recommended amendments to Part 7.13.3 and Part 14 of the HGIDP are approved**, for the reasons set out above.

244. We consider Mr Ashby's evidence provides the optimum conclusion regarding this matter:

“Te Rangihoua (Te Pūtiki o Kahumatamomoe) is a site of cultural significance to Ngāti Pāoa and likely to other hapū and iwi who whakapapa to or hold customary interests with the place. The site and its associated values exist in a very real sense irrespective of its schedule status in the AUP/HGIDP, and adverse impacts to it have caused harm to the wellbeing of mana whenua in the past and are likely to do so in the future unless the site is recognised and protected. The spatial extent of the site is based on the CVA provided by Ngāti Pāoa and was agreed by them and the council planners at the time, and from my review the extent should not be reduced because the presence of significant

⁷⁶ The recommended wording was included at Appendix 3 to the s42A report.

Māori cultural associations and values have clearly been established. I do not accept the submission points made by Mr Ridley as these hinge on an incorrect understanding of the purpose of the schedule, confuse archaeological values with Māori cultural values, and overstate the weight of rights of existing community uses of the reserve when measured against the Treaty relationship. I consider that while scheduling this site is warranted, there may be pragmatic issues to be worked through regarding the triggering of resource consents in relation specifically to minor maintenance and repair activities that are required in the normal day to day operation of the sports park. It is my view that a positive working relationship between the parties is key to a genuine implementation of tikanga and kaitiakitanga over the site and that this needs to occur in addition to, rather than driven by, planning provisions. In my view the reserve management plan provides an excellent opportunity to formalise and operationalise the relationship, and to provide for the detail and guidance around embedding tikanga into the strategic and day to day management of the place.”⁷⁷

SECTION 32AA RMA EVALUATION

245. Section 32AA of the RMA requires a further evaluation for any changes that are proposed to the notified plan change after the s32 evaluation was carried out.⁷⁸ This further evaluation must be undertaken at a level of detail that corresponds to the scale and significance of the changes.⁷⁹
246. In our opinion the amendments made to PC22, as detailed in this report, are minor in scale and significance. These amendments either correct minor errors or improve consistency of terms used. No amendments are recommended to the extent of the SSMW Overlay and the recommended amendments do not alter the management regime applicable to any sites or the intent of the notified plan change.
247. While the amendments made to PM12 in this report are more noteworthy in scale and significance, we agree that they are within the scope of the submissions made; do not pose substantively new matters; are essentially mechanical or administrative; support the purpose, objectives and policies of the HGIDP and AUP (where applicable); and having been recommended by the s42A Officer, require no further evaluation. As such the recommended amendments do not alter the management regime applicable to any sites or the intent of the notified plan change.
248. In our opinion PC22 and PM12 (with the amendments we have made) will still efficiently and effectively achieve the SSMW Overlay objectives and the purpose of the plan changes as described in the s32 evaluation. No additional costs will result from these amendments, but they will benefit users of the AUP and HGIDP.
249. We are satisfied that PC22 and PM12, as amended by us, are consistent with the sustainable management of natural and physical resources purpose of the RMA and further, consistent with its principles.

⁷⁷ Ashby, E. Evidence, para 8.2

⁷⁸ RMA, section 32AA(1)(a)

⁷⁹ RMA, section 32AA(1)(c)

250. Having considered the relevant background documents, we are satisfied, overall, that PC22 and PM12, as amended by us, have been developed in accordance with the relevant statutory and planning policy requirements, and will assist the Council in its effective administration of the AUP and HGIDP.

SUBMISSIONS

251. For the record we note that we have accepted the s42A Officer recommendations, on submissions made, in the s42A report – these are summarised in Appendix 8.

APPENDICES

252. Attached and integral to this decision are eight (8) appendices as follows:

- Appendix 1 = PC22 AUP - Mapping Error – Schedule ID - 076;
- Appendix 2 = PC22 AUP – Naming Error on Map – Schedule ID – 101;
- Appendix 3 = PC22 AUP – Schedule of Historic Heritage - Schedule ID 1591 - criterion 'c' be included into the heritage values.
- Appendix 4 = PM12 HGIDP – Amendments to Part 7 (wording introduced through the hearing), Heritage & Part 14 Definitions (Track changes);
- Appendix 5 = PM12 HGIDP – Amendments to Part 7 (wording introduced through the hearing), Heritage & Part 14 Definitions;
- Appendix 6 = Notified PC22;
- Appendix 7 = Notified PM12;
- Appendix 8 = Summary Table of Decisions on Submissions.

DECISION

253. That pursuant to Schedule 1, Clause 10 of the Resource Management Act 1991, that Proposed Plan Change 22 to the Auckland Unitary Plan (Operative in Part) is approved, subject to the modifications as set out in this decision.

254. That pursuant to Schedule 1, Clause 10 of the Resource Management Act 1991, that Proposed Plan Modification 12 to the Hauraki Gulf Islands District Plan is approved, subject to the modifications as set out in this decision.

255. Submissions on the plan changes are accepted, accepted in part and rejected in accordance with this decision. In general, these decisions follow the recommendations set out in the Council's s42A report, and the reporting planner's introductory hearing statement, except as identified above in relation to matters in contention.

256. In addition to the reasons set out above, the overall reasons for the decision are that Plan Change 22 and Plan Modification 12:

- a. will assist the Council in achieving the purpose of the RMA;
- b. are consistent with the Auckland Regional Policy Statement;

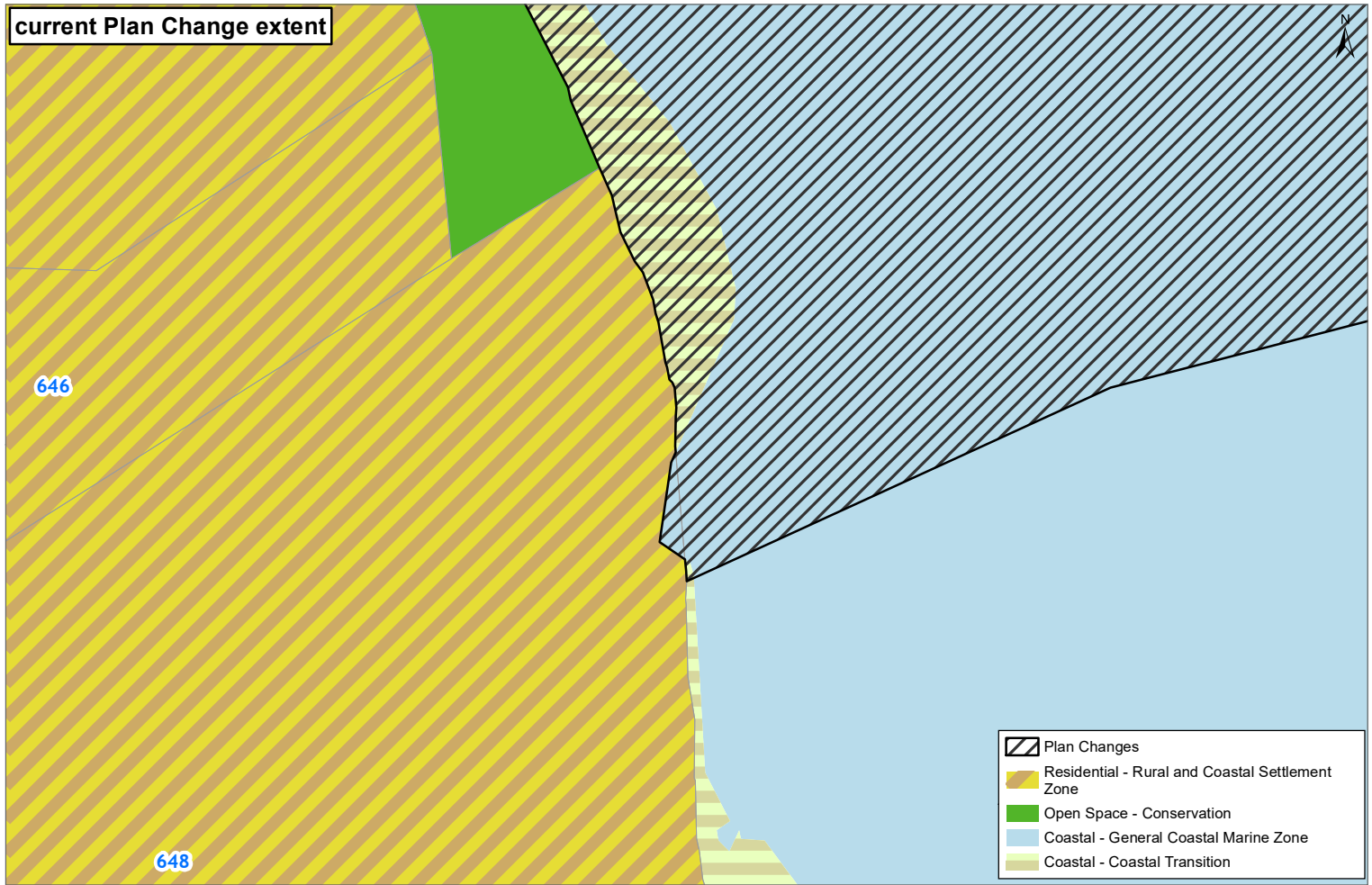
- c. are consistent with the provisions of Part 2 of the RMA;
- d. are supported by necessary evaluation in accordance with section 32 and section 32AA RMA; and
- e. will help with the effective implementation of the relevant plans.



Sheena Tepania - Chairperson
for Commissioners Alan Watson and Bill Kapea
Date: 4 November 2020

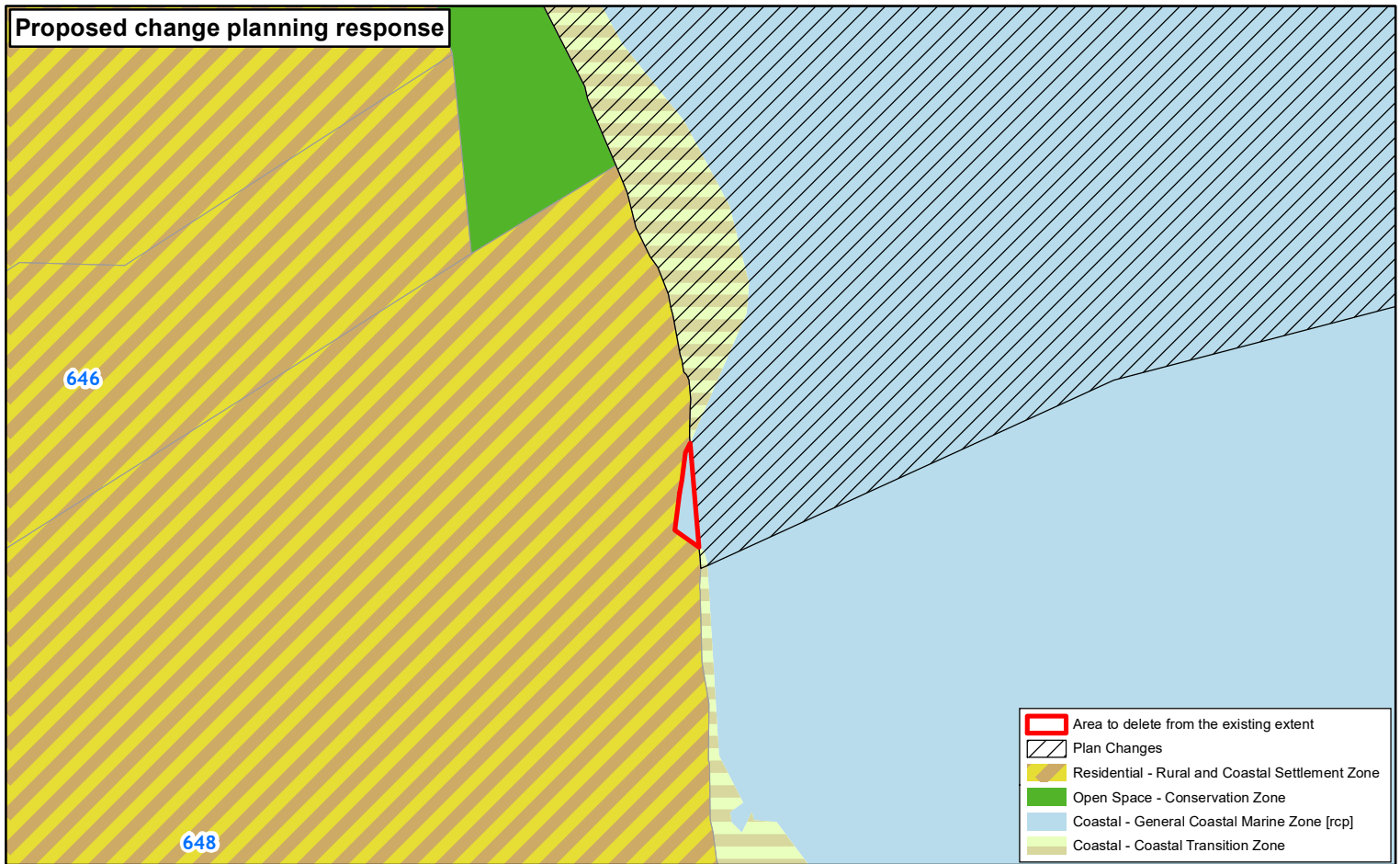
APPENDIX 1: PC22 AUP - MAPPING ERROR – SCHEDULE ID - 076

current Plan Change extent



- Plan Changes
- Residential - Rural and Coastal Settlement Zone
- Open Space - Conservation
- Coastal - General Coastal Marine Zone
- Coastal - Coastal Transition Zone

Proposed change planning response



- Area to delete from the existing extent
- Plan Changes
- Residential - Rural and Coastal Settlement Zone
- Open Space - Conservation Zone
- Coastal - General Coastal Marine Zone [rcp]
- Coastal - Coastal Transition Zone

0 5 10 20 Metres

Whilst due care has been taken, Auckland Council gives no warranty as to the accuracy and completeness of any information on this map/plan and accepts no liability for any error, omission or use of the information.

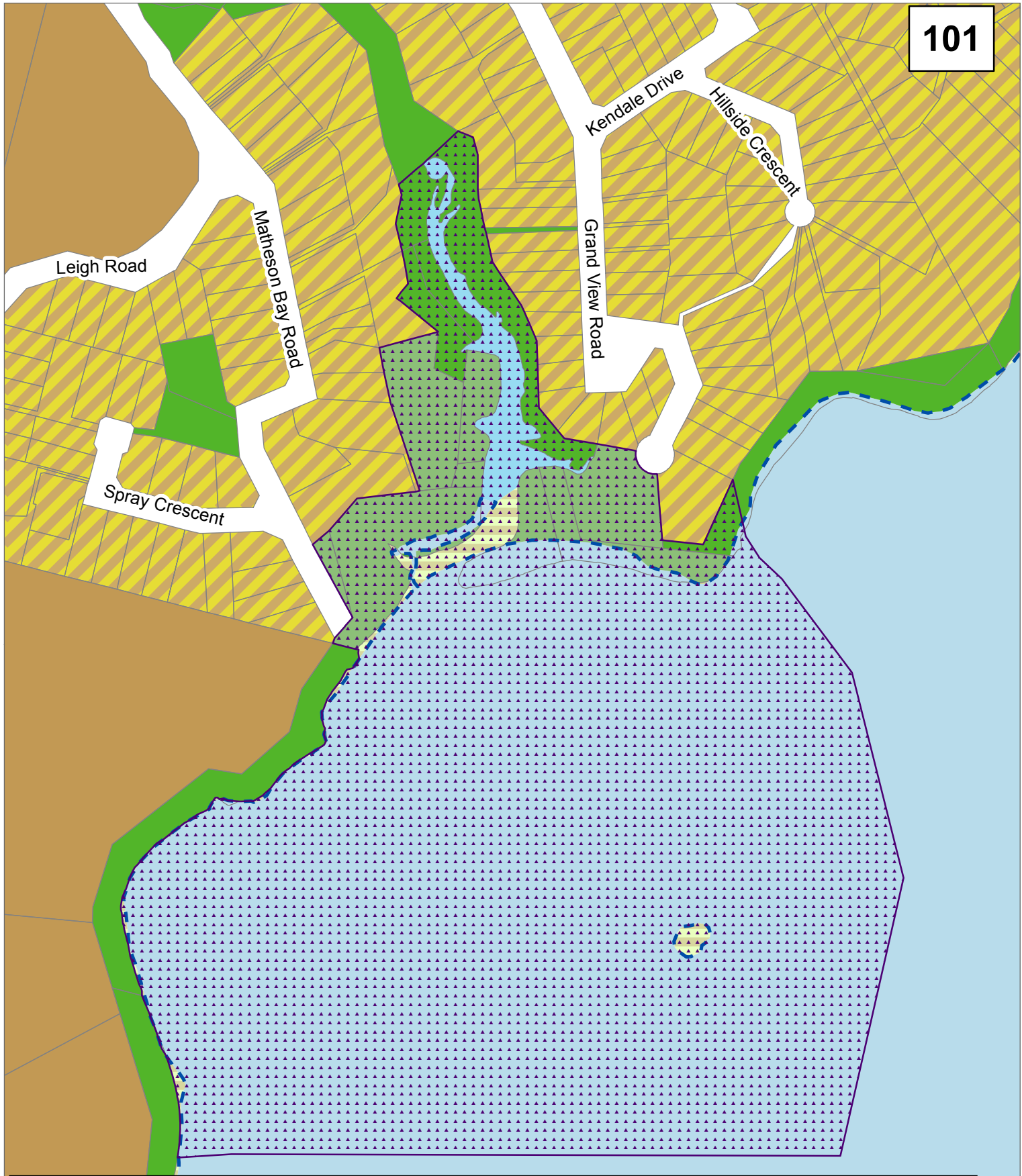
Date: 5/06/2020

**Plan Change 22 Mapping Error
Schedule ID - 076 (648 Huia Road, Parau)**



Plans and Places

**APPENDIX 2: PC22 AUP – NAMING ERROR ON MAP – SCHEDULE
ID – 101**



<ul style="list-style-type: none"> Indicative Coastline (i) Sites and Places of Significance to Mana Whenua to be added to AUP through Plan Change 22 Parcel boundary 	<p>Auckland Unitary Plan Operative in part (28th September 2018)</p> <ul style="list-style-type: none"> Residential - Rural and Coastal Settlement Zone Open Space - Conservation Zone Open Space - Informal Recreation Zone 	<ul style="list-style-type: none"> Rural - Rural Coastal Zone Coastal - General Coastal Marine Zone [rcp] Coastal - Coastal Transition Zone Water [j] Road [j]
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Whilst due care has been taken, Auckland Council gives no warranty as to the accuracy and completeness of any information on this map/plan and accepts no liability for any error, omission or use of the information.

Date: 15/03/2019

Sites and Places of Significance to Mana Whenua - Te Kohuroaora



**APPENDIX 3: PC22 AUP – SCHEDULE OF HISTORIC HERITAGE -
SCHEDULE ID 1591 - CRITERION 'C' INCLUDED IN THE HERITAGE
VALUES**

Schedule 14.1 Schedule of Historic Heritage

[rcp/dp]

Introduction

The criteria in [B5.2.2\(1\) to \(5\)](#) have been used to determine the significant historic heritage places in this schedule and will be used to assess any proposed additions to it.

The criteria that contribute to the heritage values of scheduled historic heritage in Schedule 14.1 are referenced with the following letters:

A: historical

B: social

C: Mana Whenua

D: knowledge

E: technology

F: physical attributes

G: aesthetic

H: context.

Information relating to Schedule 14.1

Schedule 14.1 includes for each scheduled historic heritage place;

- an identification reference (also shown on the Plan maps)
- a description of a scheduled place
- a verified location and legal description and the following information:

Reference to Archaeological Site Recording

Schedule 14.1 includes in the place name or description a reference to the site number in the New Zealand Archaeological Association Site Recording Scheme for some places, for example R10_709.

Categories of scheduled historic heritage places

Schedule 14.1 identifies the category of significance for historic heritage places, namely:

- (a) outstanding significance well beyond their immediate environs (Category A); or
- (b) the most significant scheduled historic heritage places scheduled in previous district plans where the total or substantial demolition or destruction was a discretionary or non-complying activity, rather than a prohibited activity (Category A*). This is an interim category until a comprehensive re-evaluation of these places is undertaken and their category status is addressed through a plan change process; or

- (c) considerable significance to a locality or greater geographic area (Category B).

Further information on the categories of scheduled historic heritage places is contained in [D17 Historic Heritage Overlay](#).

Primary feature

Schedule 14.1 lists the primary feature of historic heritage significance for a scheduled place. Not all primary features of Category B places have been identified. Until such time as the primary features of Category B places are identified, all features within the extent of Category B places, where the primary features are not identified, will be considered a primary feature.

Extent of a scheduled historic heritage place

Schedule 14.1 refers to the 'extent of place' of a scheduled historic heritage place. In most cases reference is made to the extent of a scheduled historic heritage place being shown on the Plan maps. The historic heritage overlay rules apply to all land and water (including the foreshore and seabed) within the identified extent of a scheduled historic heritage place.

Where a scheduled historic heritage place is annotated with a # symbol in Schedule 14.1 an extent of place has yet to be defined. For places annotated with a # symbol the rules in [D17 Historic Heritage Overlay](#) apply to all land and water (including the foreshore and seabed) within 50 metres of the feature named or described in the schedule.

For Historic Heritage Areas the maps and statements of significance in Schedule 14.2 describe the identified extent of place. When the extent of place for a scheduled historic heritage place is shown on a map in Schedule 14.2 it shall take precedence over the extent of place shown on the Plan maps.

Exclusions

Schedule 14.1 identifies as 'exclusions' those sites, features or elements of a historic heritage place that do not have historic heritage value. Excluded features are subject to different rules than those that apply to the scheduled place (refer to [D17 Historic Heritage Overlay](#)).

Additional rules for archaeological sites or features

Schedule 14.1 identifies those scheduled historic heritage places with archaeological values where additional archaeological rules apply (refer to [D17 Historic Heritage Overlay](#)).

Place of Māori significance

Schedule 14.1 identifies scheduled historic heritage places that are sites or places of significance to Mana Whenua. These places may also be subject to [D21 Sites and Places of Significance to Mana Whenua Overlay](#).

Requirements of the Heritage New Zealand Pouhere Taonga Act 2014

In addition to the Plan provisions relating to scheduled historic heritage places the provisions of the Heritage New Zealand Pouhere Taonga Act 2014 apply.

Historic heritage places subject to heritage orders

Historic heritage places that are subject to Heritage Orders under the Heritage New Zealand Pouhere Taonga Act 2014 are included in Schedule 13 Heritage Orders Schedule.

Heritage New Zealand Pouhere Taonga (Heritage New Zealand)

Heritage New Zealand maintains the New Zealand Heritage List/ Rārangī Kōrero which is a list of historic places, historic areas and wahi tapu areas. Heritage New Zealand is also required to establish and maintain the list of National Historic Landmarks/ Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu. A scheduled historic heritage place in this Plan may also be on the New Zealand Heritage List.

In addition to the requirements of this Plan, the Heritage New Zealand Pouhere Taonga Act 2014 requires an authority to be obtained from Heritage New Zealand to modify or destroy any archaeological site meeting the criteria set out in that Act, whether or not it is recorded or scheduled.

If works are proposed to a scheduled historic heritage place, and the place meets the definition of an 'archaeological site' in the Heritage New Zealand Pouhere Taonga Act 2014, then the works will be subject to the provisions of that Act in addition to this Plan. Some places that meet the definition of an 'archaeological site' under the Heritage New Zealand Pouhere Taonga Act 2014 will not be included in Schedule 14.1, and an authority to modify an archaeological site will be required from Heritage New Zealand.

Prior to starting work, or making an application for a resource consent affecting a historic heritage place Heritage New Zealand should be contacted to confirm whether, in addition to any rules applying in this Plan;

- (1) an authority is required from Heritage New Zealand to modify an archaeological site; or
- (2) the place is on the New Zealand Heritage List/ Rārangī Kōrero or list of National Historic Landmarks.

PC 27 (See modifications)

ID	Place Name and/or Description	Verified Location	Verified Legal Description	Category	Primary Feature	Heritage Values	Extent of Place	Exclusions	Additional Rules for Archaeological Sites or Features	Place of Maori Interest or Significance
01587	Midden R11_2158	18C Watene Road Panmure	LOT 13 DP 103106	B		D	Refer to planning maps		Yes	Yes
01588	Tahuna Torea Sandspit site R11_220, R11_827, R11_830, including fish traps	Tahuna Torea Nature Reserve, 340 West Tamaki Road and 20-22 Roberta Avenue, Glendowie	LOT 156 DP 41926; LOT 30DP 42881; ALLOT 65 DIST OF TAMAKI; ALLOT 208 DIST OF TAMAKI; ALLOT 209 DIST OF TAMAKI; ALLOT 374 DIST OF TAMAKI; CMA	B		A,C,D,G, H	Refer to planning maps		Yes	Yes
01589	Takaparawha Pa R11_92	Takaparawha Point, 2-56 Kitemoana Street, Orakei	SEC 2 SO 446761	B		A,D,G	Refer to planning maps		Yes	Yes
01590	Orakei World War II heavy anti-aircraft gun battery R11_1720	Takaparawha Point, 2-56 Kitemoana Street, Orakei	SEC 2 SO 446761	A*		A,D,F,G,H	Refer to planning maps		Yes	
01591	Taylor's Hill/Taurere R11_96, including karaka trees	Taylor's Hill Reserve, 46 Crossfield Road, 250 West Tamaki Road, and 51 Cranbook Place, Glendowie	LOT 27 DP 45088; LOT 103 DP 19506; LOT 104 DP 19506; LOT 105 DP 19506; LOT 106 DP 19506; LOT 107 DP 19506; LOT 108 DP 19506; LOT 109 DP 19506; LOT 110 DP 19506; LOT 111 DP 19506; LOT 124 DP 19506; LOT 2 DP 45876; LOT 1 DP 171105	B		A,C,D,G	Refer to planning maps		Yes	Yes
01592	Headland pa site (Te Whau Pa) R11_102, R11_441, R11_958, R11_442, including karaka trees	Blockhouse Bay Beach Reserve, 69-79 Endeavour Street, Blockhouse Bay	ALLOT 727 PSH OF WAIKOMITI; road reserve; PART TIDAL LANDS MANUKAU HARBOUR SURVEY OFFICE PLAN 53502; CMA	B		A,D,G	Refer to planning maps		Yes	Yes
01593	Pollen's brickworks/Wright's pottery site R11_1509	Whau River, Patiki Reserve, 2 and 2A Patiki Road, Avondale	LOT 1 DP 351484; LOT 4DP 136572; CMA	B		A,D,F,G,H	Refer to planning maps		Yes	
01595	Mount Albert Grammar School	Mount Albert Grammar School, 36 Alberton Avenue, Mount Albert	PART ALLOT 41 PSH OF TITIRANGI	B		A,B,F,G	Refer to planning maps			
01596	St Benedict's Catholic Church and Presbytery	5 Alex Evans Street (also known as 1 St Benedicts Street), Newton	LOT 30 DEEDS 1332; LOT 31 DEEDS 1332; LOT 32 DEEDS 1332; LOT 33 DEEDS 1332; LOT 34 DEEDS 1332; PART LOT 35 DEEDS 1332; LOT 36 DEEDS 1332; LOT 37 DEEDS 1332; road reserve	A	Church; presbytery	A,B,F,G,H	Refer to planning maps	Interior of presbytery; accessory buildings; car parking areas and gardens		
01597	Stoneleigh (former)/Epworth (former)	4 Alexis Avenue, Mount Albert	LOT 1 DP 481269	B		F,G	Refer to planning maps	Interior of building(s)		
01598	Stone garage and fences	14, 16, 18 and 20 Alexis Avenue, Mount Albert	LOT 5 DP 21190; LOT 1 DP 59317; LOT 2 DP 59317; LOT 1 DP 47311; Lot 1 DP 67672; road reserve	B		F,H	Refer to planning maps	Interior of building(s)		
01599	Old Railway Station	38 Alfred Street, Onehunga	LOT 1 DP 37335	B		A,B,F	Refer to planning maps	Interior of building(s)		
01600	Rannoch House	77 Almorah Road, Epsom	PART LOT 6 DP 10257	B		A,B,F,G	Refer to planning maps			
01601	Hanna House	11 Arney Road, Remuera	Lot 3 DP 49896	B		A,F,H	Refer to planning maps	Interior of building(s)		
01602	Residence	27 Arney Road, Remuera	Lot 5 DP 419720	B		A,F,G,H	Refer to planning maps			
01603	St Aidan's Church	3-9 Ascot Avenue, Remuera	Lot 13 DP 279, Pt Lot 14 DP 279; Lot 21 DP 15262, Part Lot 22 DP 15262, Part Lot 23 DP 15262; Lot 32 DP 15262	B		A,B,F	Refer to planning maps			
01604	Kinder House	2 Ayr Street (also known as 482 Parnell Road), Parnell	Lot 1 Deeds 582; Part Lot 2 Deeds 582	A	Residence	A,F,G	Refer to planning maps			
01605	Ewelme Cottage and grounds	14 Ayr Street, Parnell	Lot 2 DP 39658	A	Residence	A,F	Refer to planning maps		Yes	
01606	Residence	15 Bassett Road, Remuera	Lot 1 DP 413746, Lot 1 DP 369241	B		F,G	Refer to planning maps	Interior of building(s)		
01607	Fairley	39 Bassett Road, Remuera	LOT 1 DP 199657	B		F,H	Refer to planning maps			
01608	Bray's Landing	Onehunga Bay Reserve, 71-91 Beachcroft Avenue, Onehunga	LOT 1 DP 126904	B		A,D	Refer to planning maps			
01609	St Michael's Catholic Church	6 Beatrice Road, Remuera	LOT 1 DP 209735	B	Church	A,B,F,G	Refer to planning maps	Interior of Parish House		

PC 27 (See modifications)

PC 27 (See modifications)

APPENDIX 4: PM12 HGIDP – AMENDMENTS TO PART 7 (WORDING INTRODUCED THROUGH THE HEARING), HERITAGE & PART 14 DEFINITIONS (TRACK CHANGES)

7.12.6.2 Scheduled site surrounds

For restricted discretionary activities identified in [rule 7.12.5.2](#), the council has restricted its discretion to considering the following matters:

1. The extent to which the works or activities detract from the visual or physical context of the scheduled geological items contained within the scheduled site surrounds.
2. The extent to which the application is consistent with objectives and policies for geological sites, and the overall heritage objectives.

See [clause 7.6](#) for notification requirements for restricted discretionary activities.

7.13 Maori heritage

The relationship of Maori and their culture and traditions to their ancestral lands, sites, waterways, waahi tapu, wai tapu, and other taonga is of national importance under the RMA. The Plan must therefore recognise and provide for that relationship. This can be done by identifying sites and areas of significance to Maori, and establishing appropriate protection.

At the time of notification of the Plan, Maori heritage sites were not included because essential information collected by the council about archaeological sites had not yet been considered by iwi. This information will assist iwi to determine which Maori heritage sites or areas to request for inclusion in the Plan, whether these are archaeological sites or not.

In consultation with tangata whenua, a variation or change to the Plan may be introduced to identify, protect, and recognise such sites in accordance with good RMA practice and the principles of Te Tiriti o Waitangi. These sites may include waahi tapu, tauranga waka, urupa, kauhanga riri, mahinga maataitai, wai tapu and other taonga. (Refer to [clause 7.17](#) for a glossary of Maori terms).

The custody of privileged information about Maori heritage sites will be retained and managed by identified heritage staff within the council. It will be held in a form that is not at risk of disclosure (unless this has been specifically authorised by iwi on a case-by-case basis). At the same time, landowners need to be provided with sufficient information about acceptable activities on the sites so as to maximise protection of the sites without unnecessarily constraining the activities of landowners.

The Plan will accurately identify all sites that iwi request be protected under the Plan. The council will work with iwi to develop criteria and protocols applicable to the individual sites or areas.

7.13.1 Issue

How to ensure that Maori heritage sites are not accessed or modified in such a way that detracts from their cultural value.

7.13.2 Objective

To recognise and protect sites of spiritual, cultural or tikanga value to Maori.

Policies

1. By identifying and protecting, in consultation and partnership with tangata whenua, significant Maori spiritual, cultural or tikanga sites.
2. By avoiding a reduction in the historical, cultural and spiritual values associated with Maori heritage sites.
3. By ensuring that tangata whenua (and other relevant iwi authorities) will be consulted over the use, development or protection of natural and physical resources where these affect Maori heritage sites.

7.13.3 Rules for Maori heritage sites

7.13.3.1 Permitted activities

Any activity or work located within an area scheduled as a Maori heritage site which does not involve either of the following:

- ground disturbance (excluding within Area A of Land Unit - Open Space 3 (Rangihoua Park) earthworks for parks maintenance and the use of park facilities limited to areas and ground depths which have previously been disturbed or modified and which comply with the earthworks development controls in Part 10c).
- toilets (including portaloos) or changing facilities.

7.13.3.2 Discretionary activities

Any activity or work within an area scheduled as a Maori heritage site which involves either or both of the following:

- ground disturbance not otherwise provided for in Rule 7.13.3.1.
- toilets (including portaloos) or changing facilities.

7.13.4 Assessment criteria for discretionary activities

The council's assessment of applications for a discretionary activity will include consideration of the following matters:

1. Whether the proposal is consistent with the objectives and policies for Maori heritage sites.
2. Whether the proposal has appropriate regard to the protocol for Maori heritage sites.
3. Whether an archaeological assessment has been undertaken to assess the archaeological values of the site.
4. Whether the modification is necessary, and any alternative methods available to the applicant for carrying out the work and activities.
5. Whether there has been consultation with the relevant tangata whenua.
6. Whether tangata whenua will have access to the site for karakia and monitoring.

7.14 Trees

Trees are an important element of the islands' resources. They contribute positively to the amenity values experienced by visitors and residents alike, and their retention helps enable the people and communities of the islands to provide for their social and cultural wellbeing.

Individual trees and groups of trees can have significant arboricultural, community, amenity and historic values, which collectively endow the landscape with distinctive environmental quality and charm. The Plan recognises the value of significant trees and groups of trees as community assets and has adopted a system of identifying and protecting them, both as individual specimens and as groups of specimens. These are denoted as scheduled trees. The continued existence of scheduled trees is important to the heritage and legacy left to future generations.

As well as scheduling trees with particular heritage value, other parts of the Plan have more general controls protecting indigenous vegetation throughout the islands, and larger exotic trees on Waiheke.

7.14.1 Issue

How to address the potential loss of trees and subsequent loss to the general environment and amenity values, health and wellbeing of the community and heritage values of the islands.

Part 14

Definitions

Contents	Page
14.1 Introduction	3
14.2 List of abbreviations used in the Plan	3
14.3 Definitions of terms used in the Plan.....	3
14.4 Definitions from the Resource Management Act 1991	28

Diagrams	Page
Figure 14.1 Entrance strip	11
Figure 14.2 Height	13
Figure 14.3 Yards.....	28

Annotations key

[DRx] indicates where the content is affected by decision report x


Underlined content to be inserted.


~~Struck through~~ content to be deleted.

where this annotation appears next to a figure, this indicates that the figure has been amended or deleted, or a new figure inserted.

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Plan modification annotations

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Underlined content to be inserted.

~~Struck through~~ content to be deleted.

Noise Sensitive Activity	Means any of the following activities that are sensitive to air transport noise: dwellings: educational facilities, care centres; healthcare services; accommodation for care: accommodation for retired, elderly or disabled people; boarding house or hostel, visitor facilities.
Non-complying activity	has the same meaning as in the RMA.
Notional boundary	means: 'The notional boundary is defined as a line 20 metres from any side of a dwelling or the legal boundary where this is closer to the dwelling.' This is the same meaning as NZS 9801:1999 Acoustics - Measurement of Sound. The term 'notional boundary' is used in the Plan in the context of measuring noise.
Offices	means land or buildings used for administration, consultation, or management of business transactions. It includes any of the following: <ol style="list-style-type: none"> 1. Administrative offices for managing the affairs of an organisation, whether or not trading takes place. 2. Commercial offices such as banks, insurance agents, or real estate agents where trade (other than the immediate exchange of money for physical goods) is transacted. 3. Professional offices such as the offices of accountants, solicitors, architects, engineers, surveyors, stockbrokers and consultants where a professional service is available and carried out. This does not include healthcare services.
Open air market	means an outdoor market which sells goods including bric a brac, produce, food and drink, art and cottage industry goods.
Outdoor adventure activities	means an adventure sport undertaken outdoors. It includes paintball, mountain biking and associated tracks, bungyjumping, kayaking, and other outdoor pursuits. It does not include motorised activities such as motorcross or go-karting.
Papakainga housing	means residential accommodation on any land classified as Maori land by the Maori Land Court.
Park and ride facilities	means all day carparking provided for commuters so that they can use passenger transport (ie bus) for all or part of their journey to and from work.

Paf_g
a UjbeUW means maintenance and repair undertaken within parks. It includes:

1. Maintenance and repair of any buildings and structures.
2. Maintenance and repair of footpaths (concrete, gravel and shell).
3. Track and trail maintenance and repair including re-metalling and re-surfacing of bush tracks.
4. Clearing and reforming drainage channels.
5. Re-topsoiling, reseedling, sandslitting for sports fields and parks.
6. Weed management.
7. Grass mowing.
8. Replacement, repairs, maintenance or upgrading of existing bridges, boardwalks, and culverts.
9. Resealing and sealing metal parking and access drives and internal park roads.
10. Maintenance of jetties and boat ramps.
11. Ecosystem restoration by replanting and re-vegetation.
12. Maintenance and construction of sand carpet surfaces.
13. Maintenance and repair of golf courses within parks.
14. Pest Management

APPENDIX 5: PM12 HGIDP – AMENDMENTS TO PART 7 (WORDING INTRODUCED THROUGH THE HEARING), HERITAGE & PART 14 DEFINITIONS

7.12.6.2 Scheduled site surrounds

For restricted discretionary activities identified in [rule 7.12.5.2](#), the council has restricted its discretion to considering the following matters:

1. The extent to which the works or activities detract from the visual or physical context of the scheduled geological items contained within the scheduled site surrounds.
2. The extent to which the application is consistent with objectives and policies for geological sites, and the overall heritage objectives.

See [clause 7.6](#) for notification requirements for restricted discretionary activities.

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The relationship of Maori and their culture and traditions to their ancestral lands, sites, waterways, waahi tapu, wai tapu, and other taonga is of national importance under the RMA. The Plan must therefore recognise and provide for that relationship. This can be done by identifying sites and areas of significance to Maori, and establishing appropriate protection.

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The custody of privileged information about Maori heritage sites will be retained and managed by identified heritage staff within the council. It will be held in a form that is not at risk of disclosure (unless this has been specifically authorised by iwi on a case-by-case basis). At the same time, landowners need to be provided with sufficient information about acceptable activities on the sites so as to maximise protection of the sites without unnecessarily constraining the activities of landowners.

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7.13.3 Rules for Maori heritage sites

7.13.3.1 Permitted activities

Any activity or work located within an area scheduled as a Maori heritage site which does not involve either of the following:

- ground disturbance (excluding within Area A of Land Unit - Open Space 3 (Rangihoua Park) earthworks for parks maintenance and the use of park facilities limited to areas and ground depths which have previously been disturbed or modified and which comply with the earthworks development controls in Part 10c).
- toilets (including portaloos) or changing facilities.

7.13.3.2 Discretionary activities

Any activity or work within an area scheduled as a Maori heritage site which involves either or both of the following:

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- toilets (including portaloos) or changing facilities.

7.13.4 Assessment criteria for discretionary activities

The council's assessment of applications for a discretionary activity will include consideration of the following matters:

1. Whether the proposal is consistent with the objectives and policies for Maori heritage sites.
2. Whether the proposal has appropriate regard to the protocol for Maori heritage sites.
3. Whether an archaeological assessment has been undertaken to assess the archaeological values of the site.
4. Whether the modification is necessary, and any alternative methods available to the applicant for carrying out the work and activities.
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Individual trees and groups of trees can have significant arboricultural, community, amenity and historic values, which collectively endow the landscape with distinctive environmental quality and charm. The Plan recognises the value of significant trees and groups of trees as community assets and has adopted a system of identifying and protecting them, both as individual specimens and as groups of specimens. These are denoted as scheduled trees. The continued existence of scheduled trees is important to the heritage and legacy left to future generations.

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How to address the potential loss of trees and subsequent loss to the general environment and amenity values, health and wellbeing of the community and heritage values of the islands.

Part 14

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Papakainga housing	means residential accommodation on any land classified as Maori land by the Maori Land Court.
Park and ride facilities	means all day carparking provided for commuters so that they can use passenger transport (ie bus) for all or part of their journey to and from work.
Paf_g` a UjblebUbWV`	means maintenance and repair undertaken within parks. It includes: <ol style="list-style-type: none"> 1. Maintenance and repair of any buildings and structures. 2. Maintenance and repair of footpaths (concrete, gravel and shell). 3. Track and trail maintenance and repair including re-metalling and re-surfacing of bush tracks. 4. Clearing and reforming drainage channels. 5. Re-topsoiling, reseeding, sandslitting for sports fields and parks. 6. Weed management. 7. Grass mowing. 8. Replacement, repairs, maintenance or upgrading of existing bridges, boardwalks, and culverts. 9. Resealing and sealing metal parking and access drives and internal park roads. 10. Maintenance of jetties and boat ramps. 11. Ecosystem restoration by replanting and re-vegetation. 12. Maintenance and construction of sand carpet surfaces. 13. Maintenance and repair of golf courses within parks. 14. Pest Management

APPENDIX 6: NOTIFIED PC22

Attachment B: Changes to text

Proposed amendments to Chapter L: Schedule 12 - Sites and Places of Significance to Mana Whenua Schedule - Text

Notes:

1. New text is shown as underlined and deleted text as strikethrough.
2. Only the amendments to the schedule proposed to be amended are shown.
3. * Denotes that the site exception rule applies

Chapter L: Schedules

Schedule 12 Sites and Places of Significance to Mana Whenua

Proposed change/s:

Add the following text for 15 additional sites and places of significance

Schedule ID	Name	Location	Description	Nominated by Mana Whenua
<u>077.</u>	<u>Onepū Whakatakataka</u>	<u>Western section of Paritai Reserve, extending to Tamaki Drive and coast from Ngapipi road to Ngaiwi Street.</u>	<u>Battle site</u>	
<u>078*.</u>	<u>Te Ipu Pakore</u>	<u>14-22 Boston Road, Mount Eden</u>	<u>Fresh water spring / Battle site</u>	
<u>079.</u>	<u>Te Rehu</u>	<u>Jaggers Bush reserve, 180 Meola Road Point Chevalier</u>	<u>Kāinga</u>	
<u>082.</u>	<u>Tuna Mau</u>	<u>Western Park, Ponsonby</u>	<u>Mahinga tuna and kāinga</u>	
<u>083.</u>	<u>Te Ako o Te Tui</u>	<u>Stream – Auckland Domain running from the Duck Ponds to Stanley Street.</u>	<u>Awa</u>	
<u>084*.</u>	<u>Horotiu Stream</u>	<u>Queen Street road reserve from Victoria Street to Swanson Street</u>	<u>Awa</u>	
<u>085.</u>	<u>Waiparuru</u>	<u>Stream at the bottom of Symonds Street cemetery</u>	<u>Awa</u>	
<u>088.</u>	<u>Te Pokanoa a Tarahape</u>	<u>131 Paritai Drive Orakei</u>	<u>Pā site / wāhi whakahirahira</u>	
<u>089.</u>	<u>Takāraro</u>	<u>Mt Cambria Reserve, Devonport</u>	<u>Maunga</u>	
<u>095.</u>	<u>Kohuora</u>	<u>Kohuora Park - Papatoetoe</u>	<u>Pā, kāinga, wāhi tapu</u>	
<u>096.</u>	<u>Te Tapuwae O Mataaoho</u>	<u>Sturges Park, Mt Robertson Otahuhu</u>	<u>Pā, kāinga, wāhi tapu</u>	
<u>097.</u>	<u>Te Taurere</u>	<u>Taylor's Hill, Glendowie</u>	<u>Pā, kāinga, wāhi tapu</u>	
<u>098.</u>	<u>Mutukaroa</u>	<u>Hamlins Hill, Mt Wellington</u>	<u>Pā, kāinga, wāhi tapu</u>	
<u>102.</u>	<u>Te Kiri-Pātu-Parāoa</u>	<u>Pakiri Regional Park and 1066 Pakiri Road</u>	<u>Ancient pā and kāinga</u>	
<u>104.</u>	<u>Hihiorapa</u>	<u>Falls Road, Papakura</u>	<u>Puna, wāhi tapu and ara</u>	

Proposed amendments to Chapter L: Schedule 6 - Outstanding Natural Features Overlay Schedule - Text

Notes:

1. New text is shown as underlined and deleted text as strikethrough.
2. Only the amendments to the schedule proposed to be amended are shown.

Chapter L: Schedules

Schedule 6 Outstanding Natural Features Overlay Schedule

Proposed change/s:

Add the following text to 5 existing scheduled locations

ID	Name	Location	Site type	Description	Unitary Plan criteria
38	Hamlins Hill sandstone ridges and rhyolitic tuff	Penrose	A - ridge E - rhyolite	Hamlins Hill is one of the least modified sandstone ridge complexes remaining in Auckland. Ridges like it are some of the most common landforms beneath urban Auckland, but unmodified and undeveloped examples are rare. Hamlins Hill also includes the best inland exposure of rhyolitic tuff in Auckland City, in an exposure 10m wide and up to 2m high. Its position on top of the hill suggests the rhyolitic ash is from airfall or a pyroclastic flow and not reworked by water as is more common.	a, b, c, e, f, g, h, <u>l</u> , <u>k</u>
51	Hunua Falls volcanic neck	Hunua	C	The Wairoa River forms a scenic 30m high waterfall where it cascades over a basalt plug in the neck of a volcano, which has intruded up a fault line (an unusual feature). Volcanic tuff ring deposits and lava bombs are exposed in true right bank of the waterfall	a, b, d, e, f, g, <u>l</u> , <u>k</u>
69	Kohuora explosion crater	Papatoetoe	V	Kohuora is a large, low-profile, double-lobed explosion crater and tuff ring. It is the only one of this shape in the Auckland volcanic field. Although modified by erosion and subdivision, the crater walls indicate that there were at least four explosive vents. The crater floor has been artificially drained, leaving only a small part of the original wetland intact.	a, b, c, d, e, f, g, <u>h</u> , <u>k</u>
112	Mt Robertson (Sturges Park)	Ōtahūhū	V	Mt Robertson volcano consists of a large, swamp-filled, tuff ring forming a "castle-andmoat" structure around a small, cratered, scoria cone. Part of the Ōtahūhū commercial area is built on the northeastern rim of the tuff ring.	a, c, d, e, f, g, h, <u>l</u> , <u>k</u>
210	Taylor Hill scoria cone (Taurere)	Glendowie	V	Taylor Hill volcano produced a simple tuff crater about 900m in diameter, with several small scoria cones around at least five vents. Two small lava flows moved down valleys to the east (where there is now a freshwater spring) and northwest. Much of the central scoria cone cluster is within Taylors Hill Reserve	a, c, d, e, f, g, h, i, <u>k</u>

Proposed amendments to Chapter L: Schedule 14.1 - Historic Heritage Schedule

Notes:

1. New text is shown as underlined and deleted text as strikethrough.
2. Only the amendments to the schedule proposed to be amended are shown.

Chapter L: Schedules

Schedule 14.1 Historic Heritage Schedule

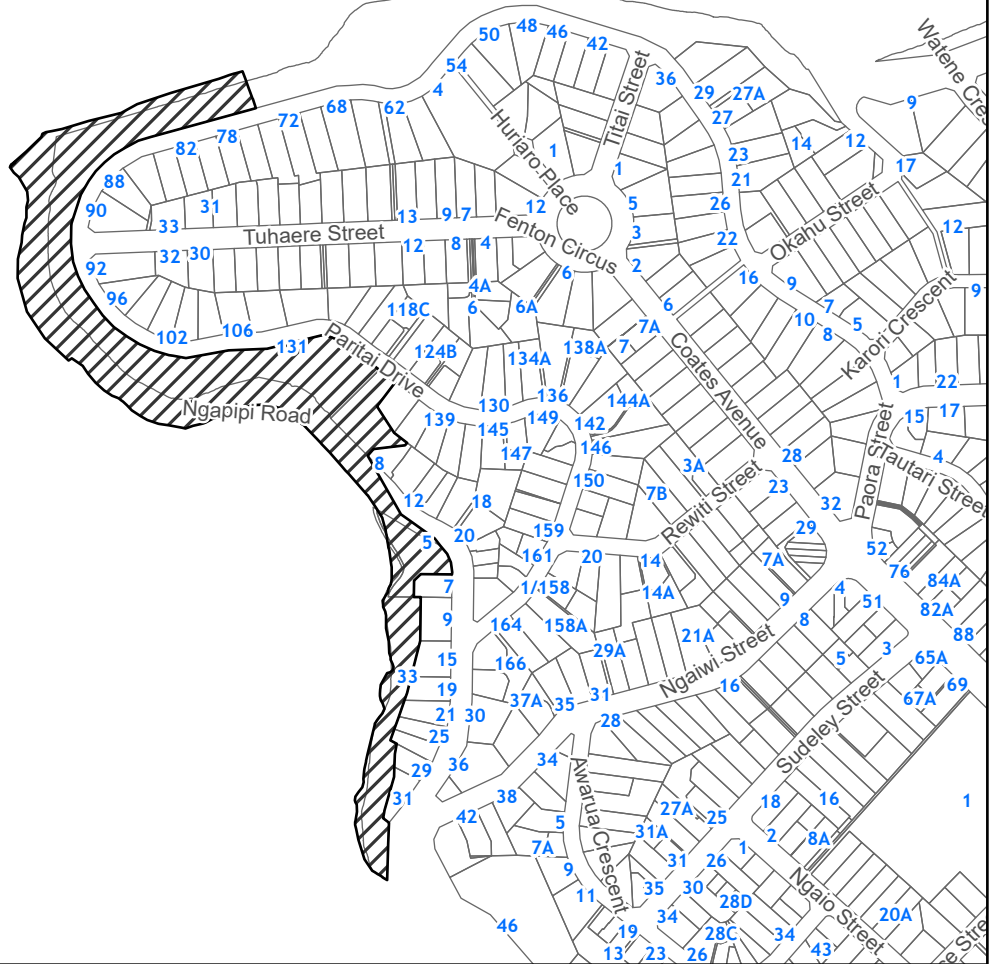
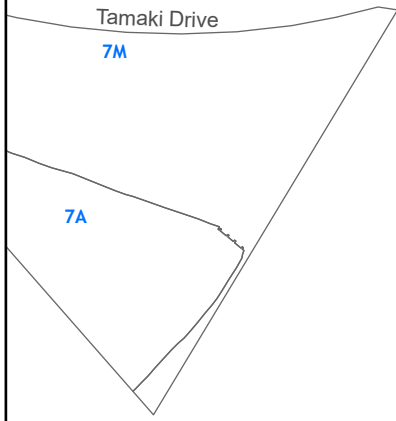
Proposed change/s:

Add the following text to 4 existing scheduled locations

ID	Place Name and/or Description	Verified Location	Verified Legal Description	Category	Primary Feature	Heritage Values	Extent of Place	Exclusions	Additional Rules for Archaeological Sites or Features	Place of Maori Interest or Significance
00396	Te Kiri's Pa R09_7	Pakiri Regional Park, M Greenwood Road; 1066 Pakiri Road; Witten Road, Pakiri	Lot 11 DP 312790; SEC 49 PSH OF PAKIRI SO 5563; Lot 10 DP 312790; PT ALLOT 33 PSH OF PAKIRI SO 480	B		C, D	Refer to planning maps		Yes	Yes
00727	Takararo/Mount Cambria Pa R11_110	Mount Cambria Reserve, R 33A Vauxhall Road, Devonport	Pt Lot 4 DP 131812; Lot 3 DP 131812; Lot 2 DP 131812; Pt Lot 5 DP 131812	B		C, D	Refer to planning maps		Yes	Yes
01572	Hamlins Hill/Mutukarao Pa site R11_142	10-18 Sylvia Park Road, and 1014 Great South Road, Mount Wellington	PART LOT 5 DP 20687; PART LOT 2 DP 120402; LOT 1 DP 38773; LOT 1 DP 45017; PART LOT 5 DP 20687; LOT 1 DP 75757; LOT 2 DP 75757; PART HAMLINS GRANT	B		A, C, D, G	Refer to planning maps		Yes	Yes
01591	Taylor's Hill/Taurere R11_96, including karaka trees	Taylor's Hill Reserve, 46 Crossfield Road, 250 West Tamaki Road, and 51 Cranbook Place, Glendowie	LOT 27 DP 45088; LOT 103 DP 19506; LOT 104 DP 19506; LOT 105 DP 19506; LOT 106 DP 19506; LOT 107 DP 19506; LOT 108 DP 19506; LOT 109 DP 19506; LOT 110 DP 19506; LOT 111 DP 19506; LOT 124 DP 19506; LOT 2 DP 45876; LOT 1 DP 171105	B		A, C, D, G	Refer to planning maps		Yes	Yes

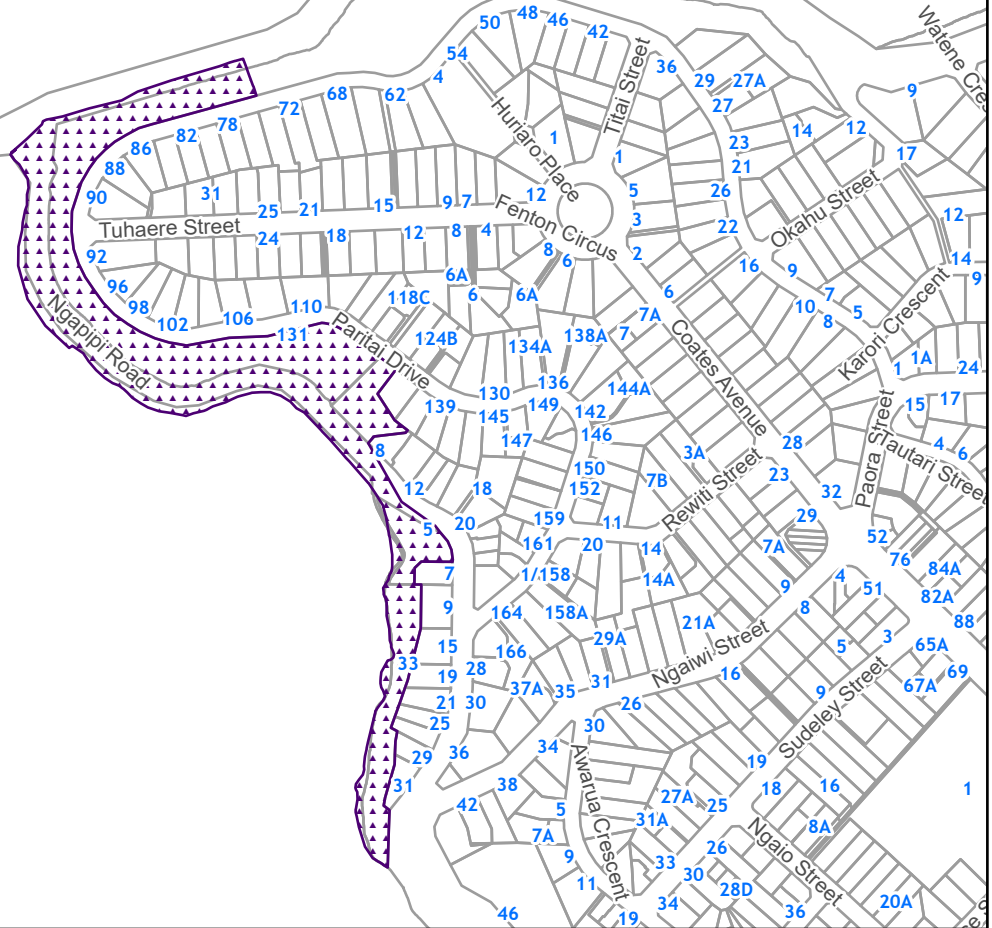
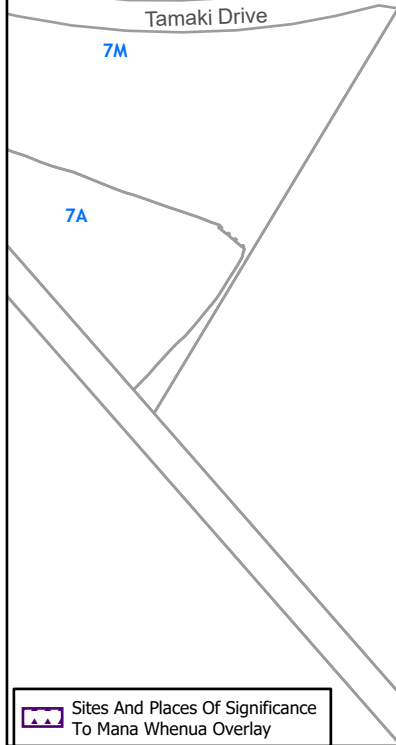
Attachment C: Updated GIS Viewer

BEFORE

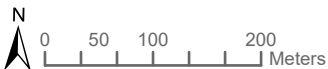


▨ Plan Changes

AFTER



▨ Sites And Places Of Significance To Mana Whenua Overlay



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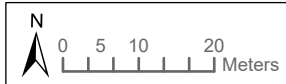
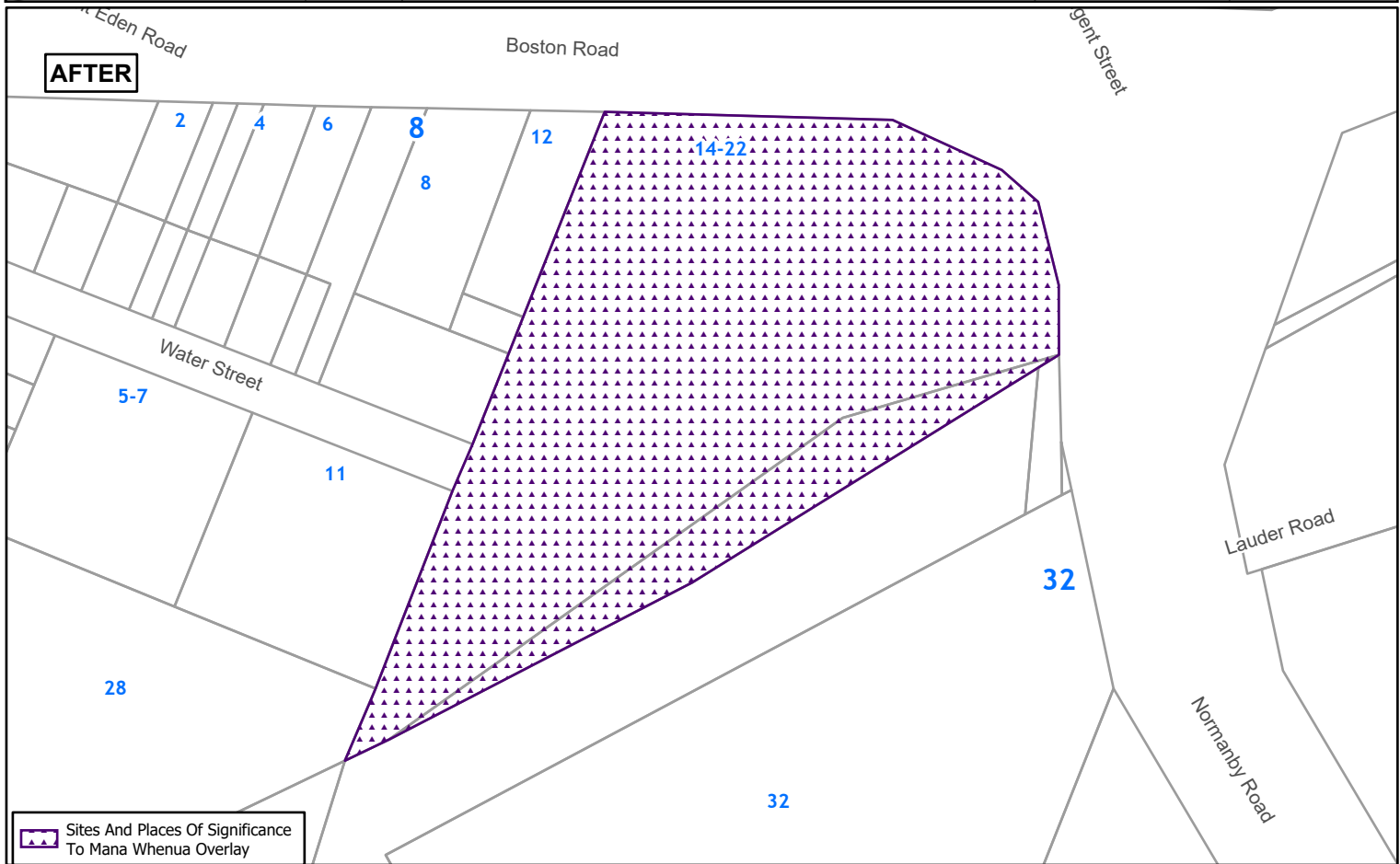
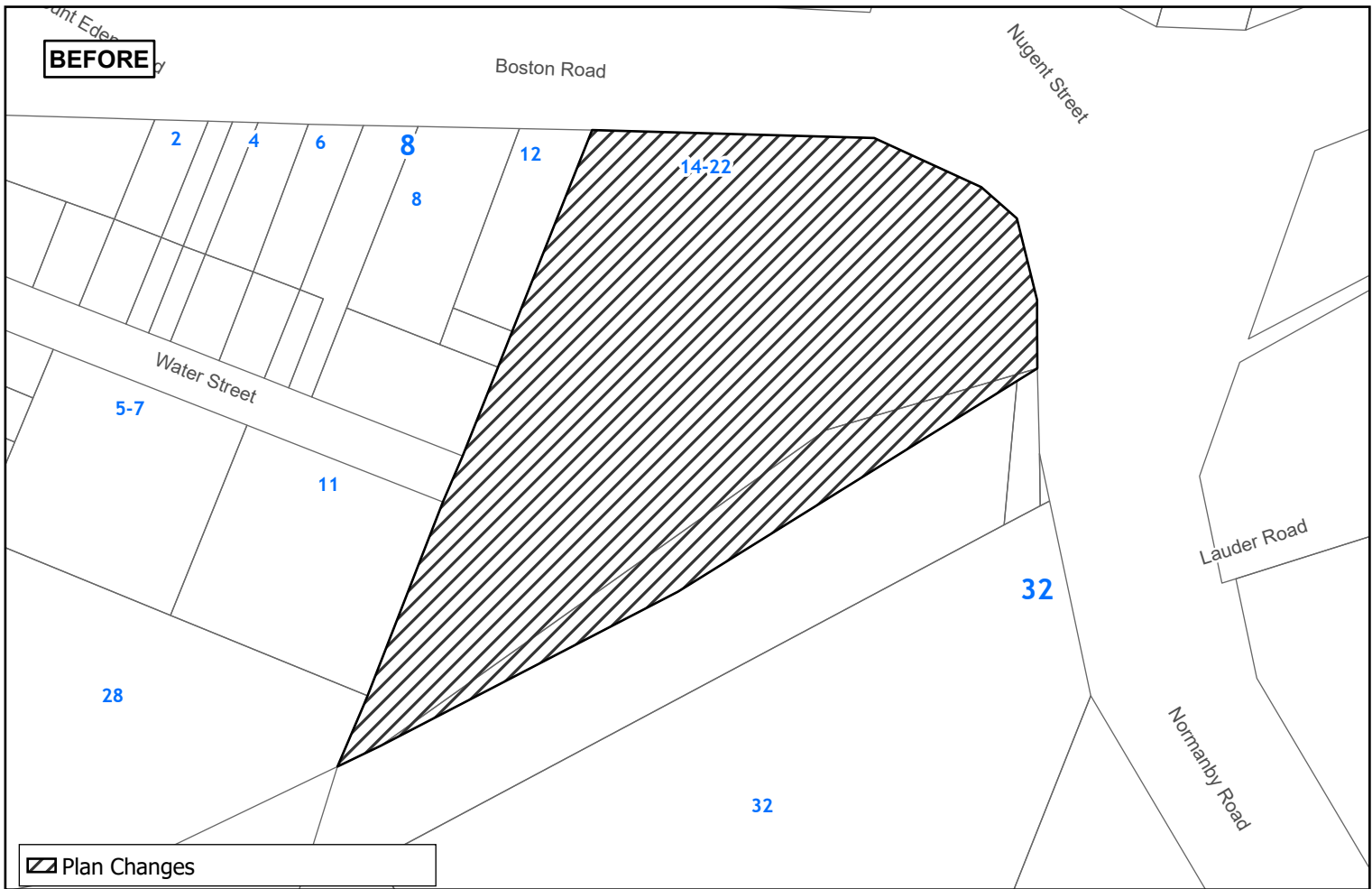
Date: 9/03/2021

Plan Change 22 - Operative in part

ID- 077 - Onepū Whakatakataka



Plans and Places



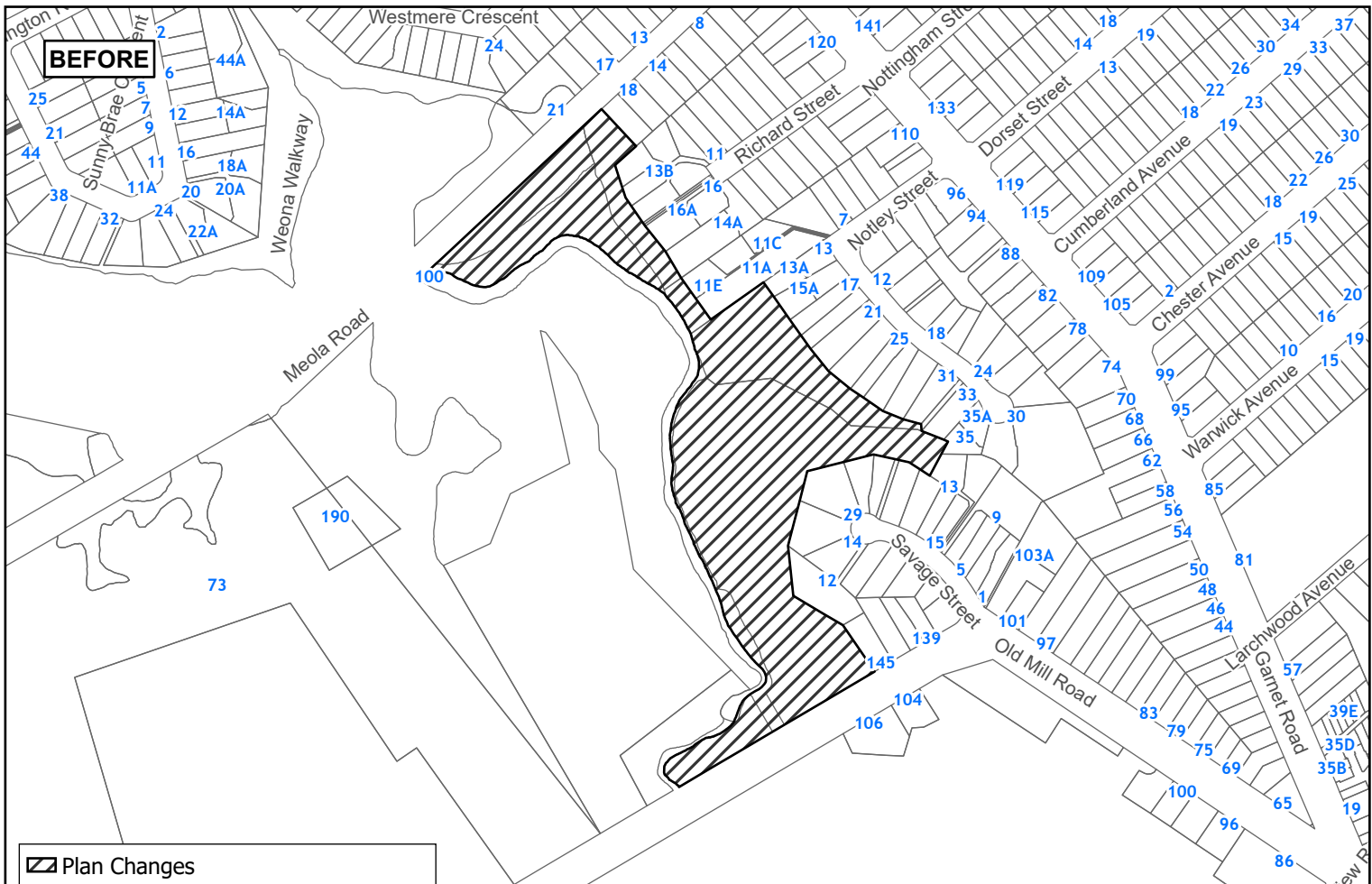
Plan Change 22 - Operative in part

ID- 078 - Te Ipu Pakore

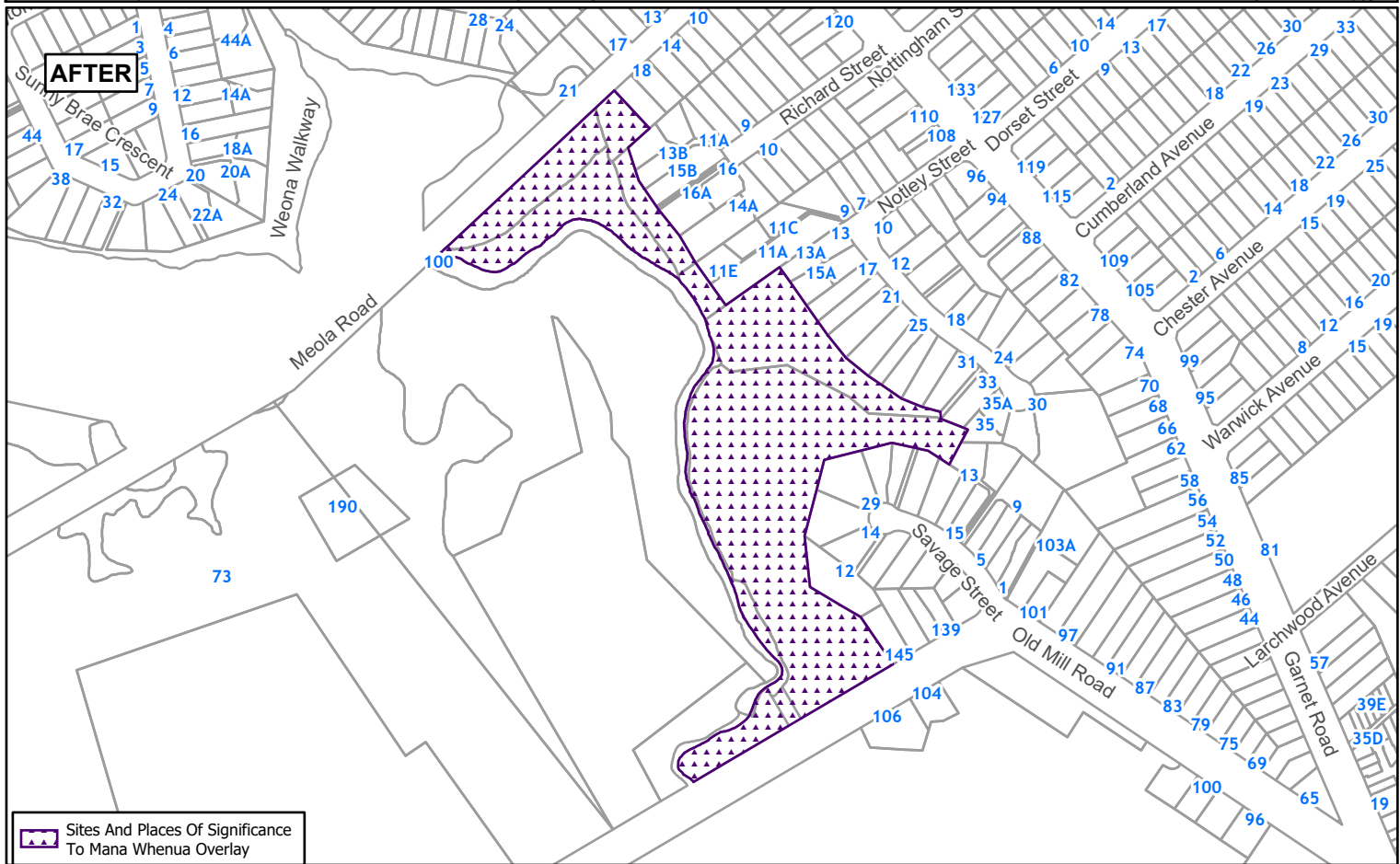


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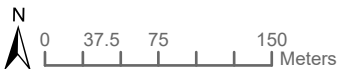
Date: 9/03/2021



 Plan Changes



 Sites And Places Of Significance To Mana Whenua Overlay



Plan Change 22 - Operative in part

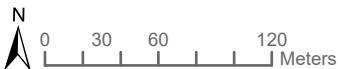
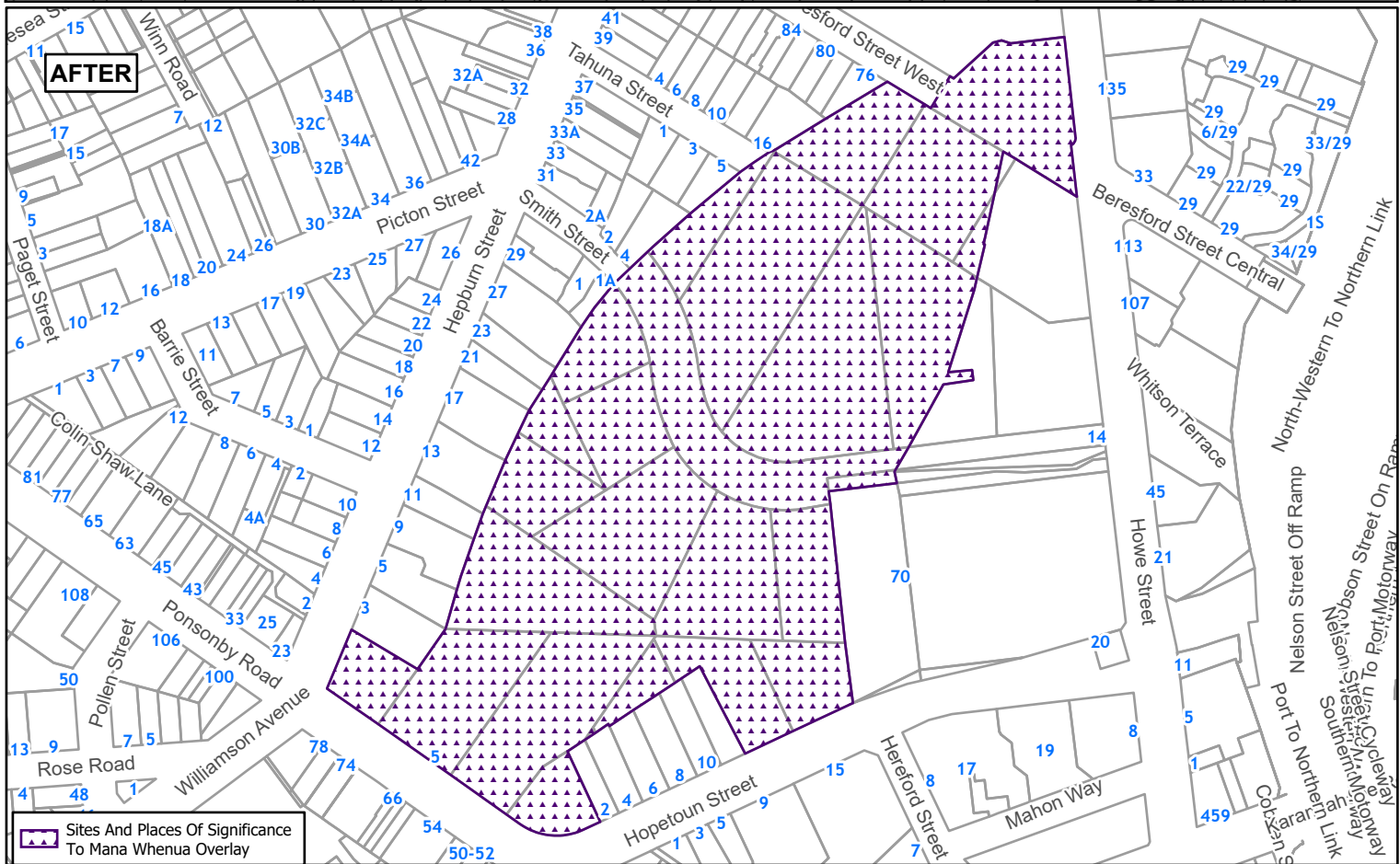
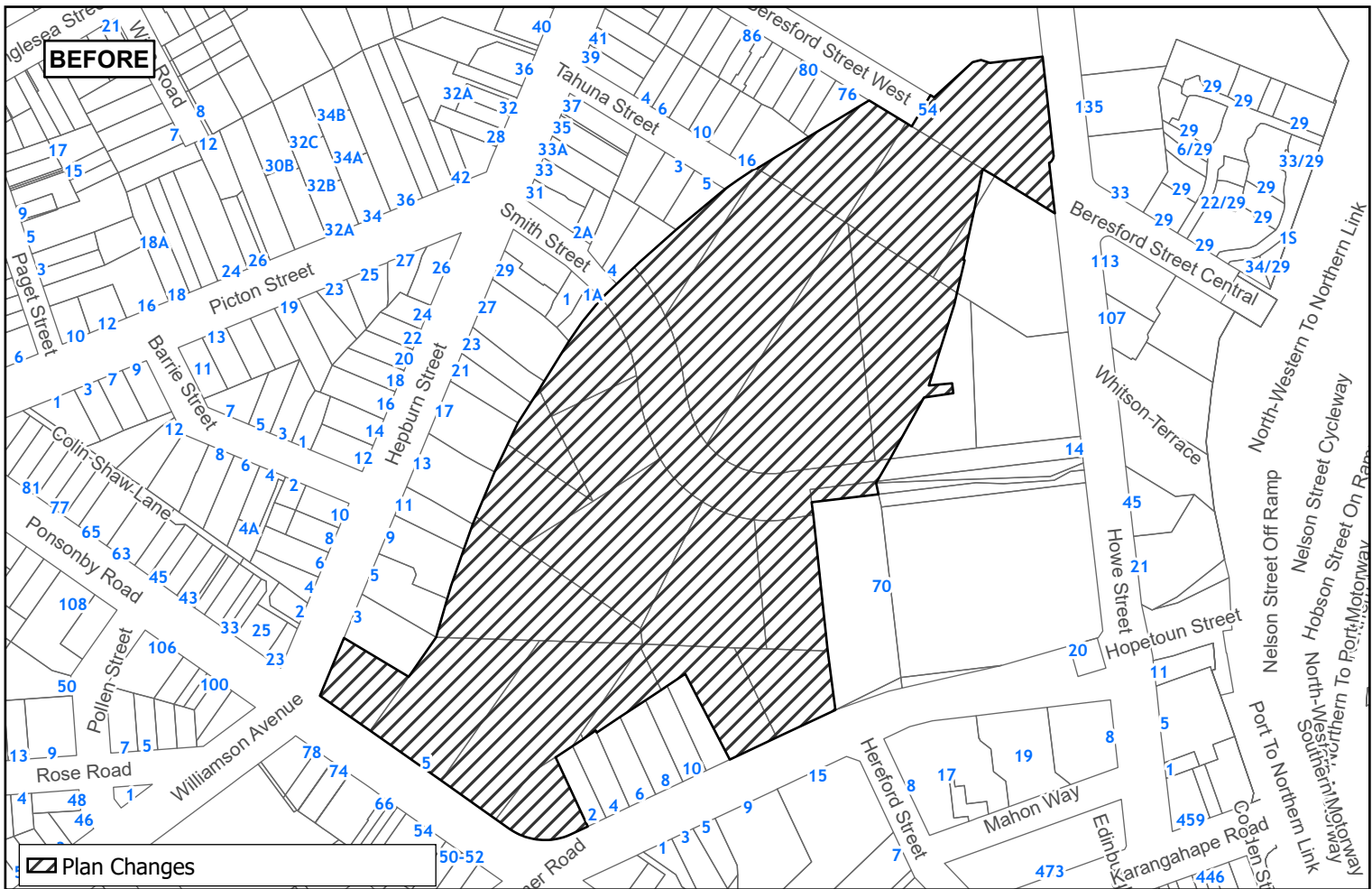
ID- 079 - Te Rehu



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Plans and Places



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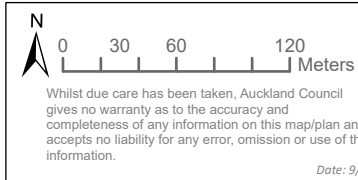
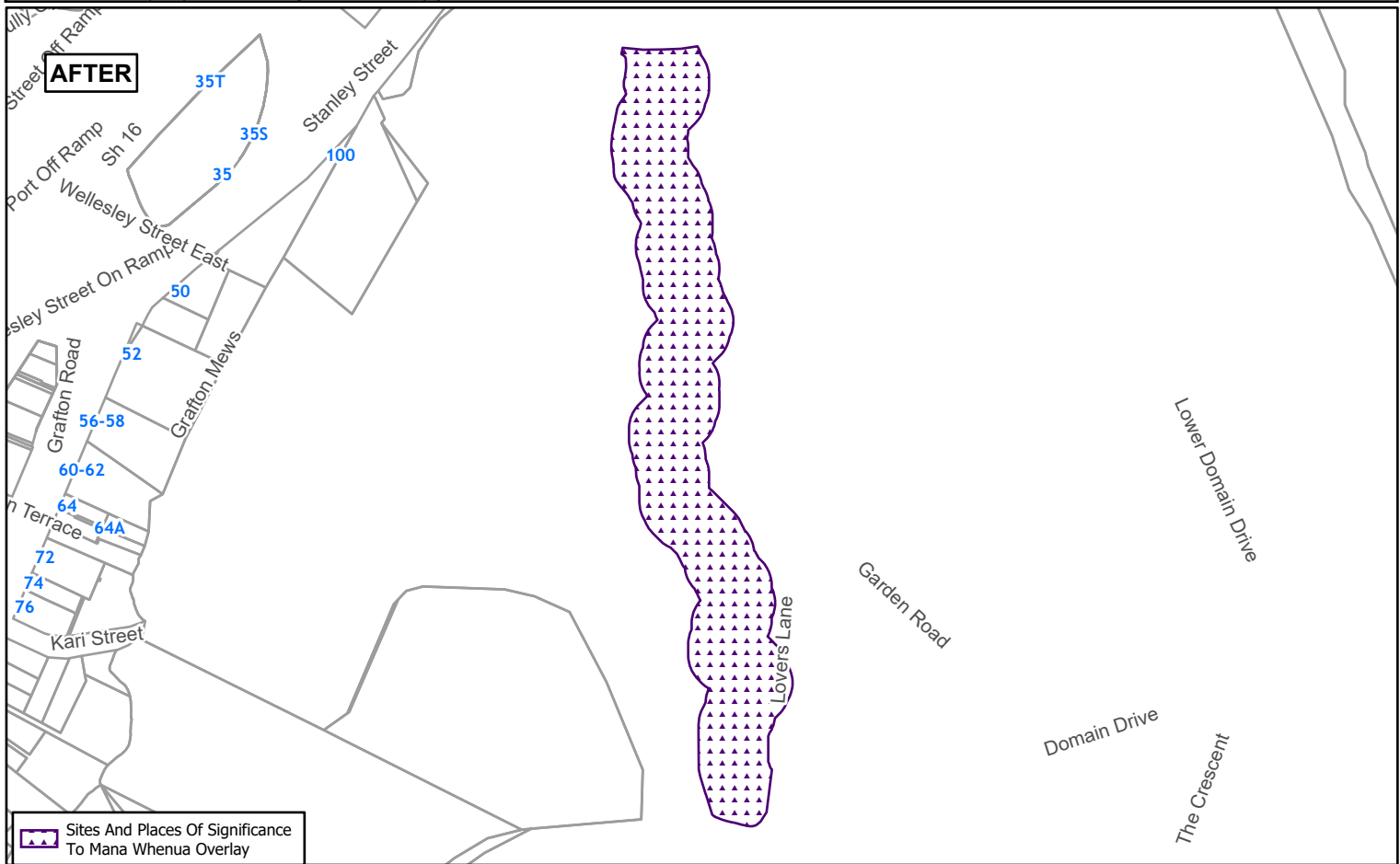
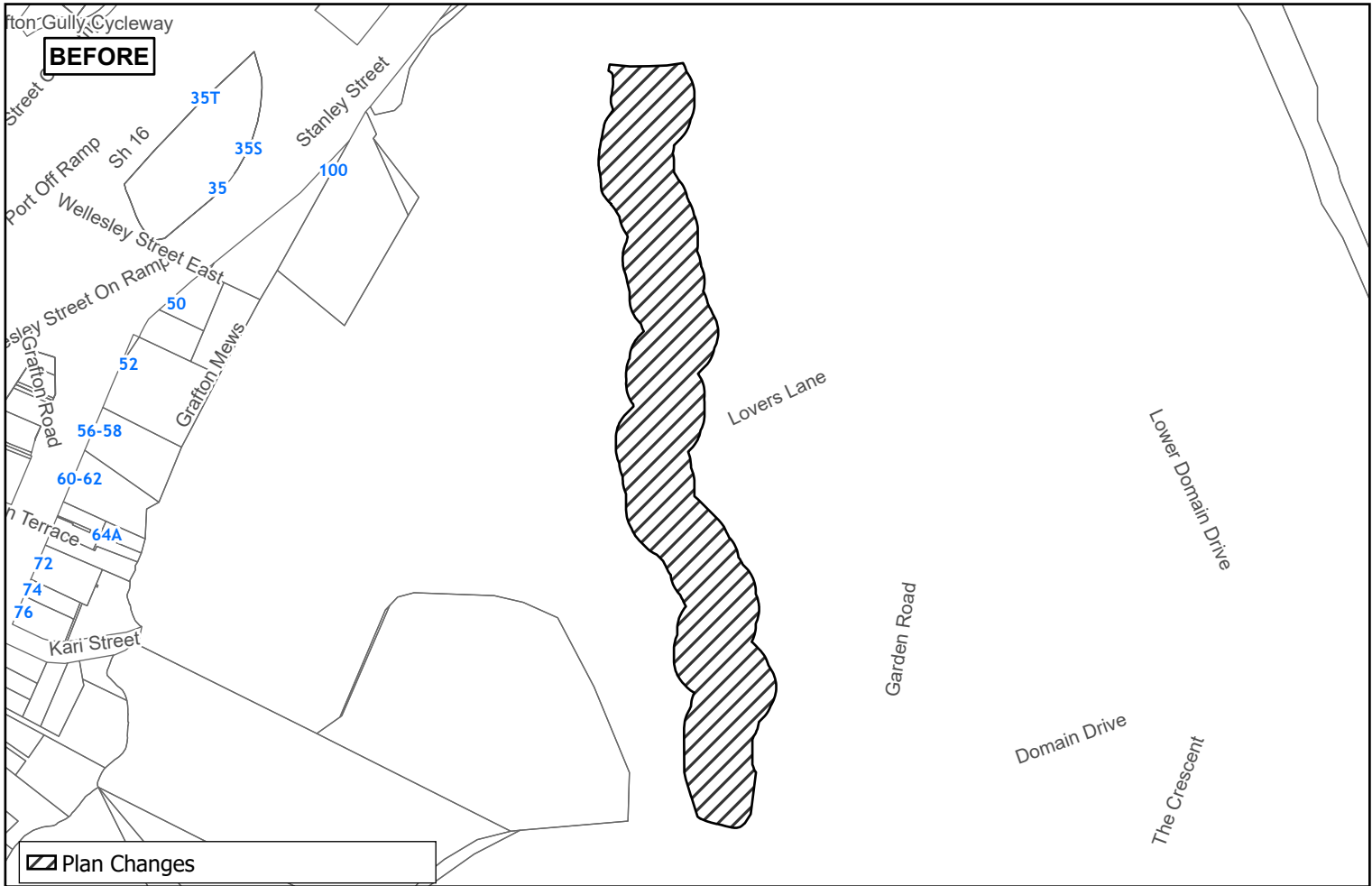
Date: 9/03/2021

Plan Change 22 - Operative in part

ID- 082 - Tuna Mau



Plans and Places

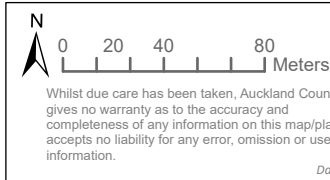
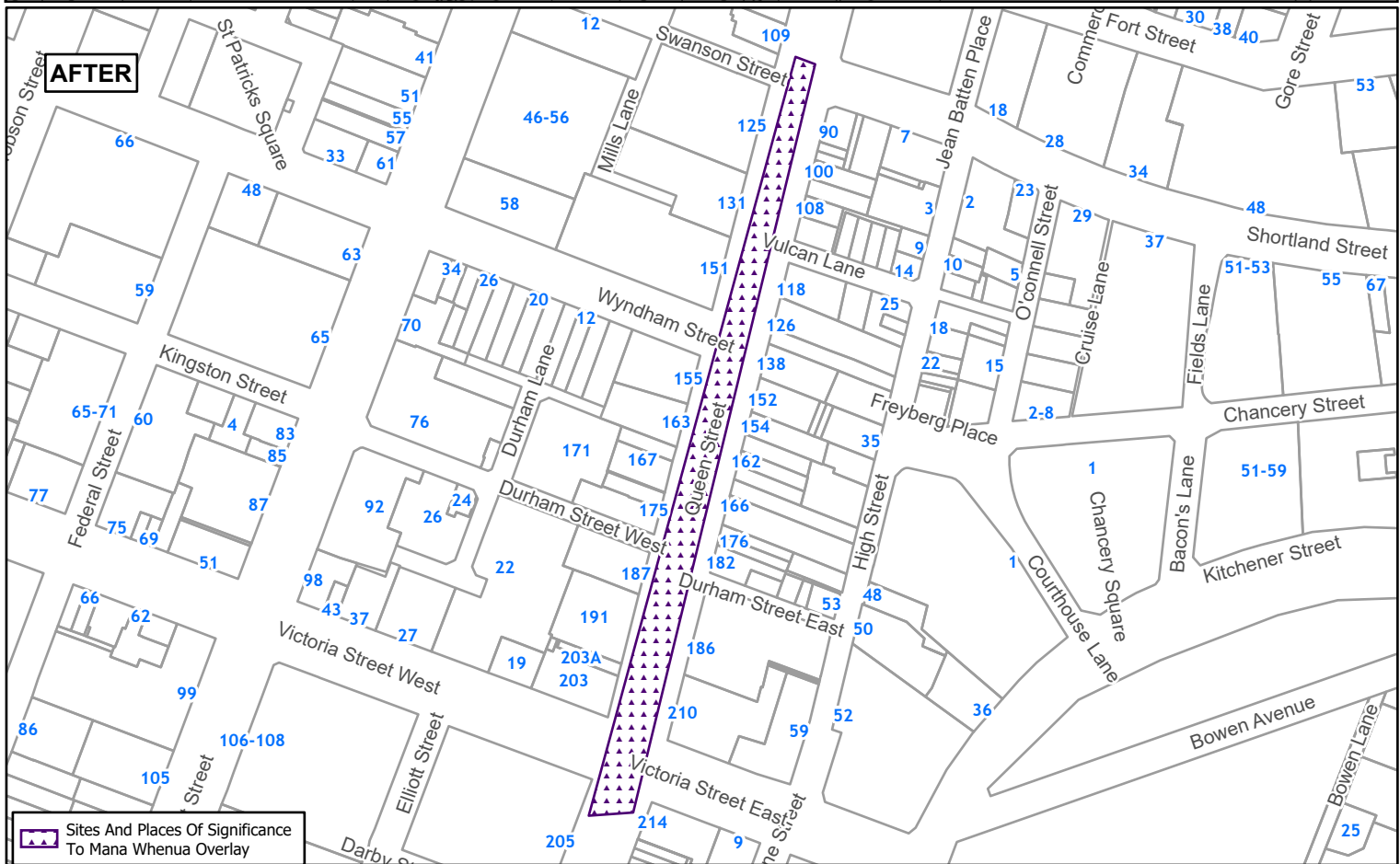


Plan Change 22 - Operative in part

ID- 083 - Te Ako o Te Tui



Plans and Places



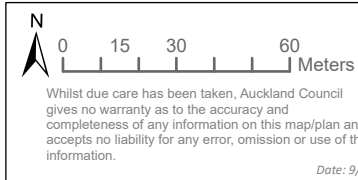
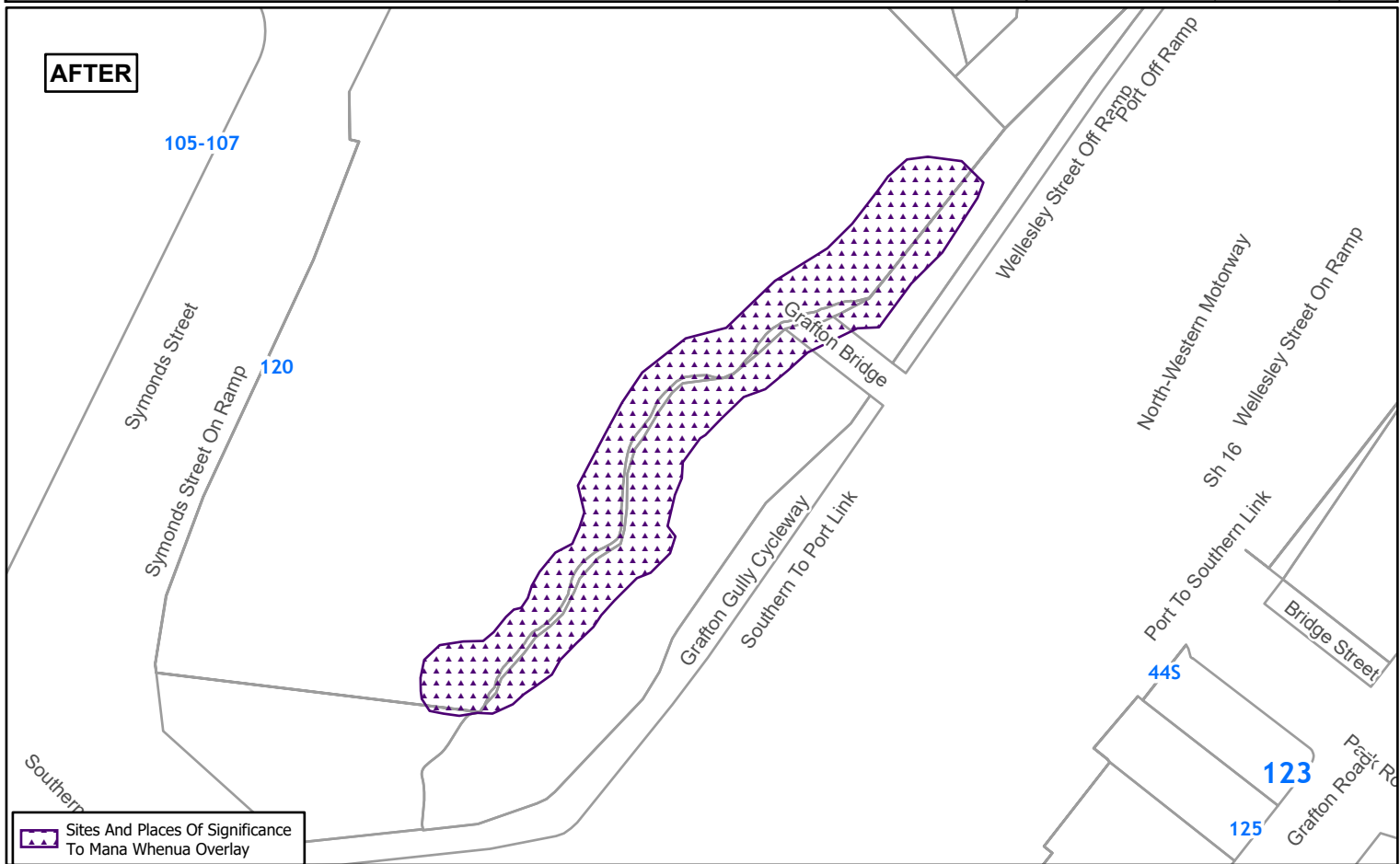
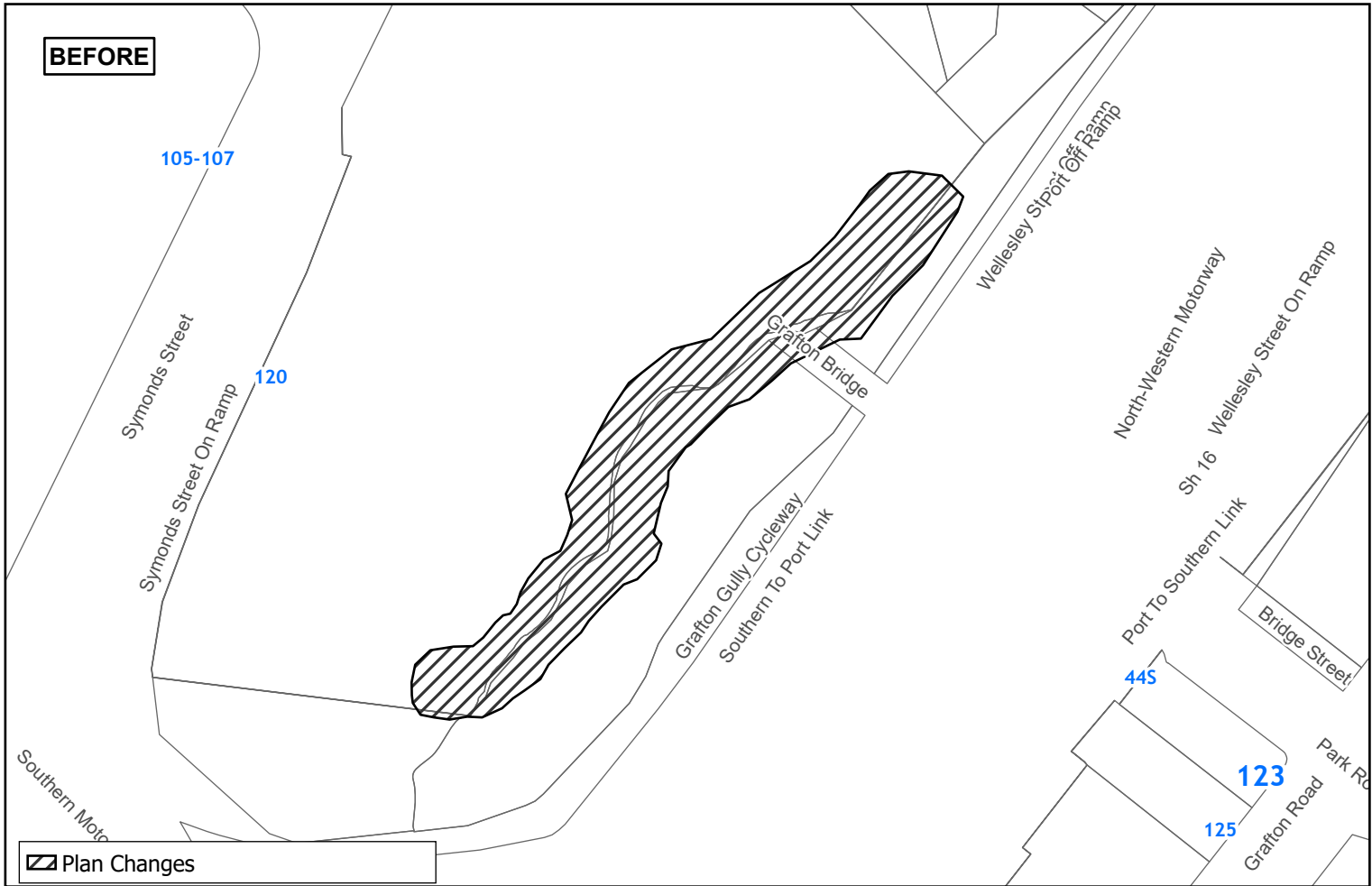
Plan Change 22 - Operative in part
 ID- 084 - Horotiu Stream



Plans and Places

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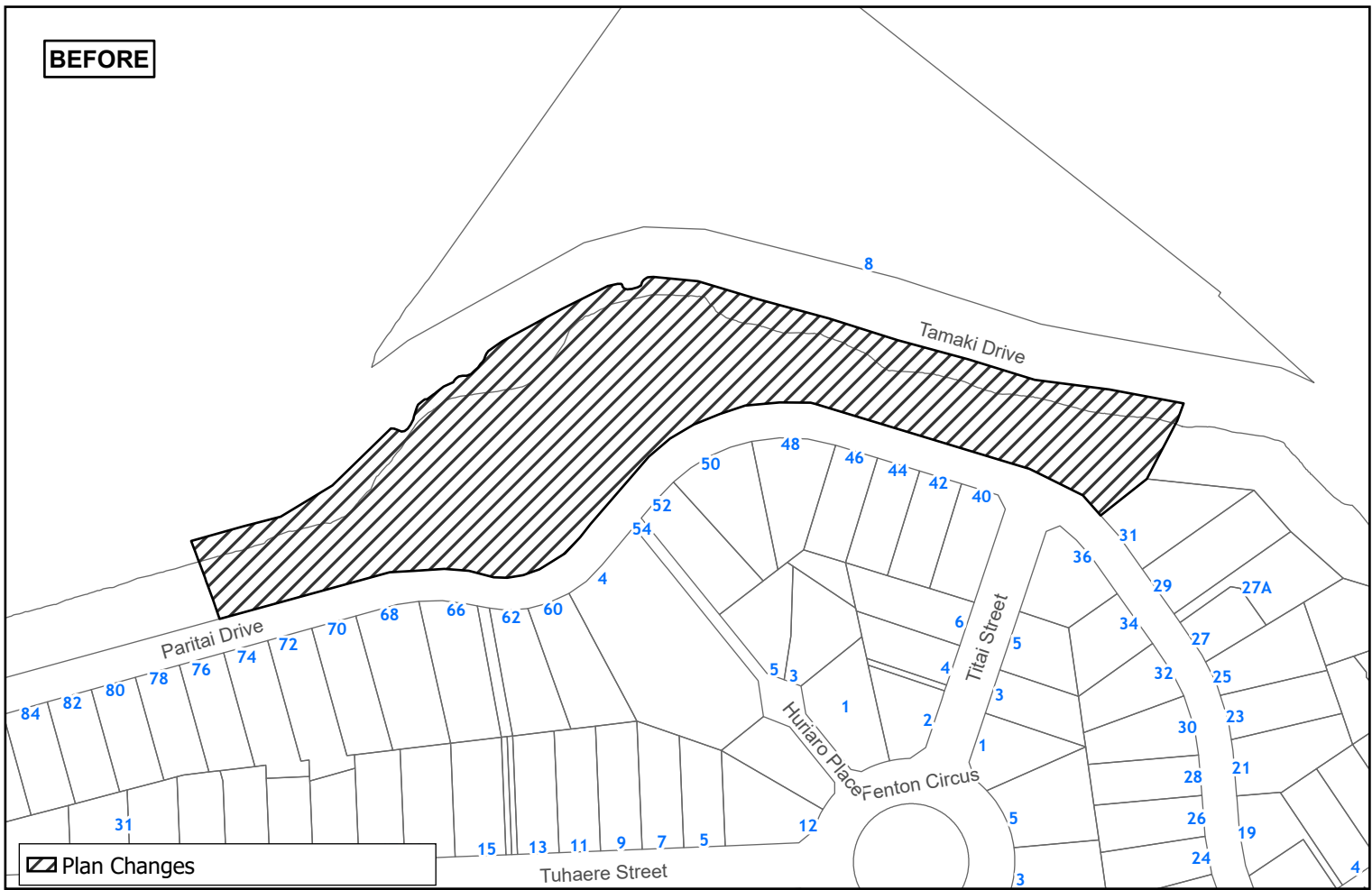
Plan Change 22 - Operative in part

ID- 085 - Waiparuru



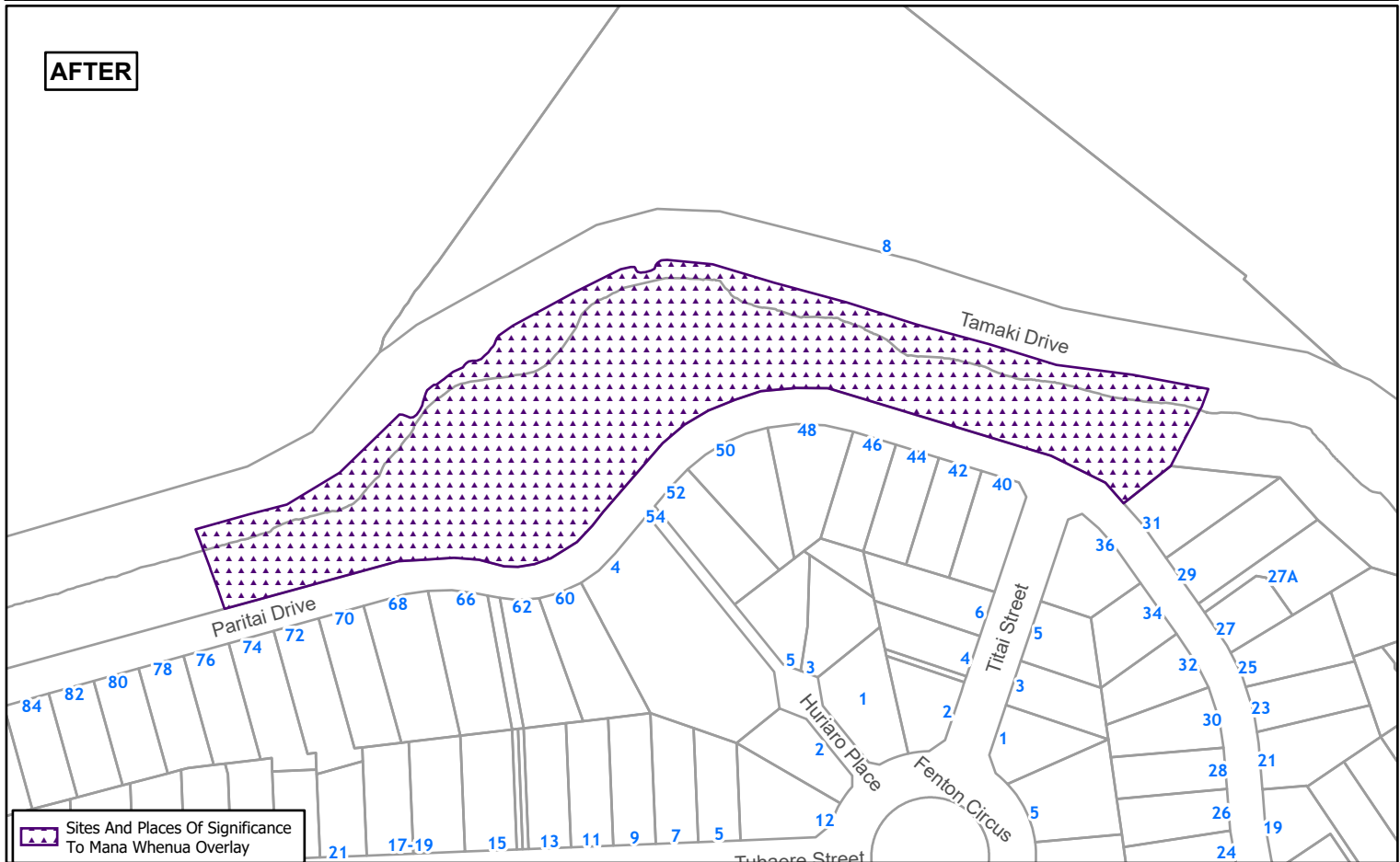
Plans and Places

BEFORE



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▨ Sites And Places Of Significance To Mana Whenua Overlay



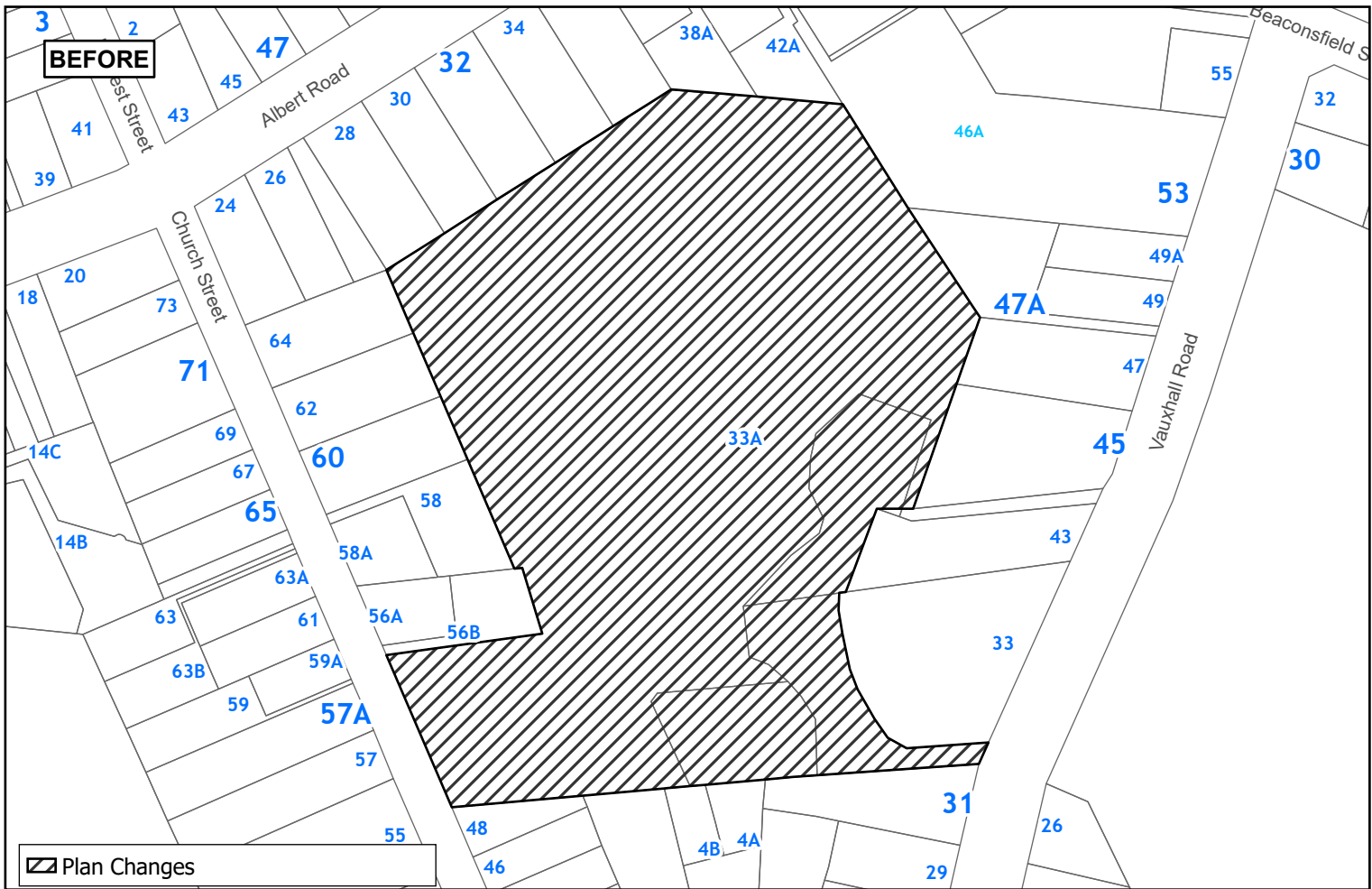
Plan Change 22 - Operative in part

ID- 088 - Te Pokanoa a Tarahape

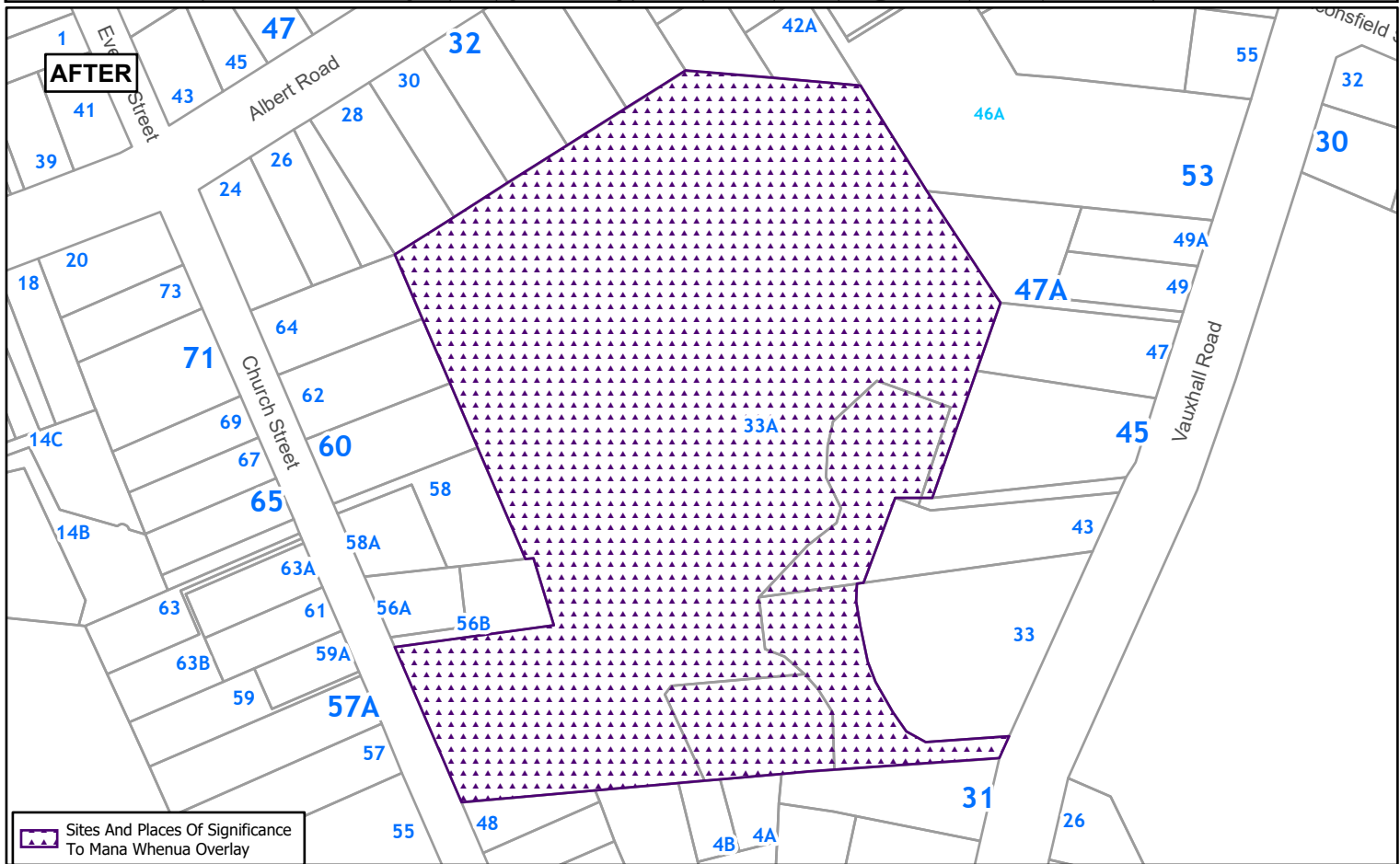


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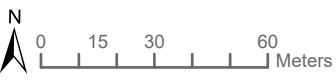
Date: 9/03/2021



▨ Plan Changes



▨ Sites And Places Of Significance To Mana Whenua Overlay



Plan Change 22 - Operative in part

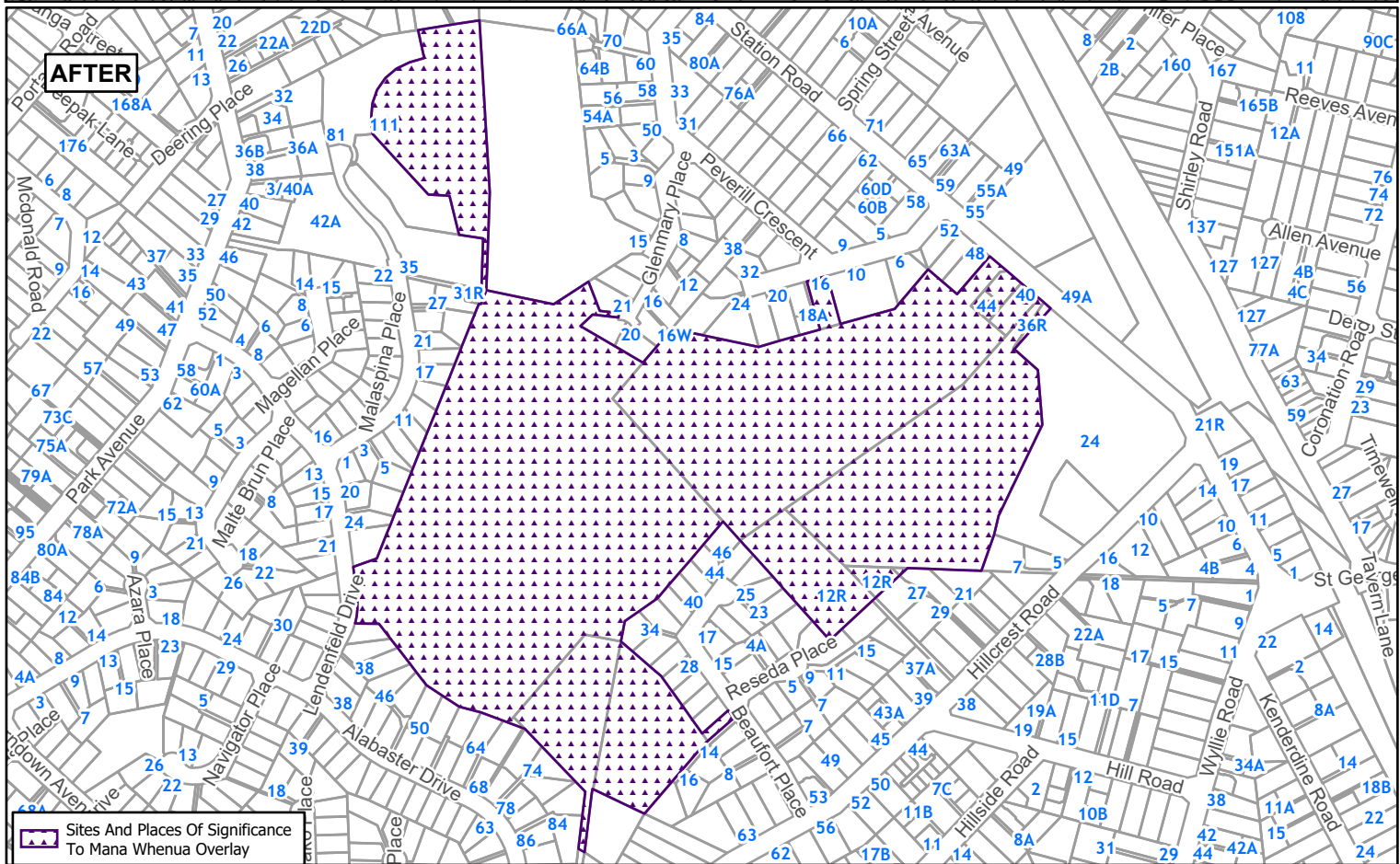
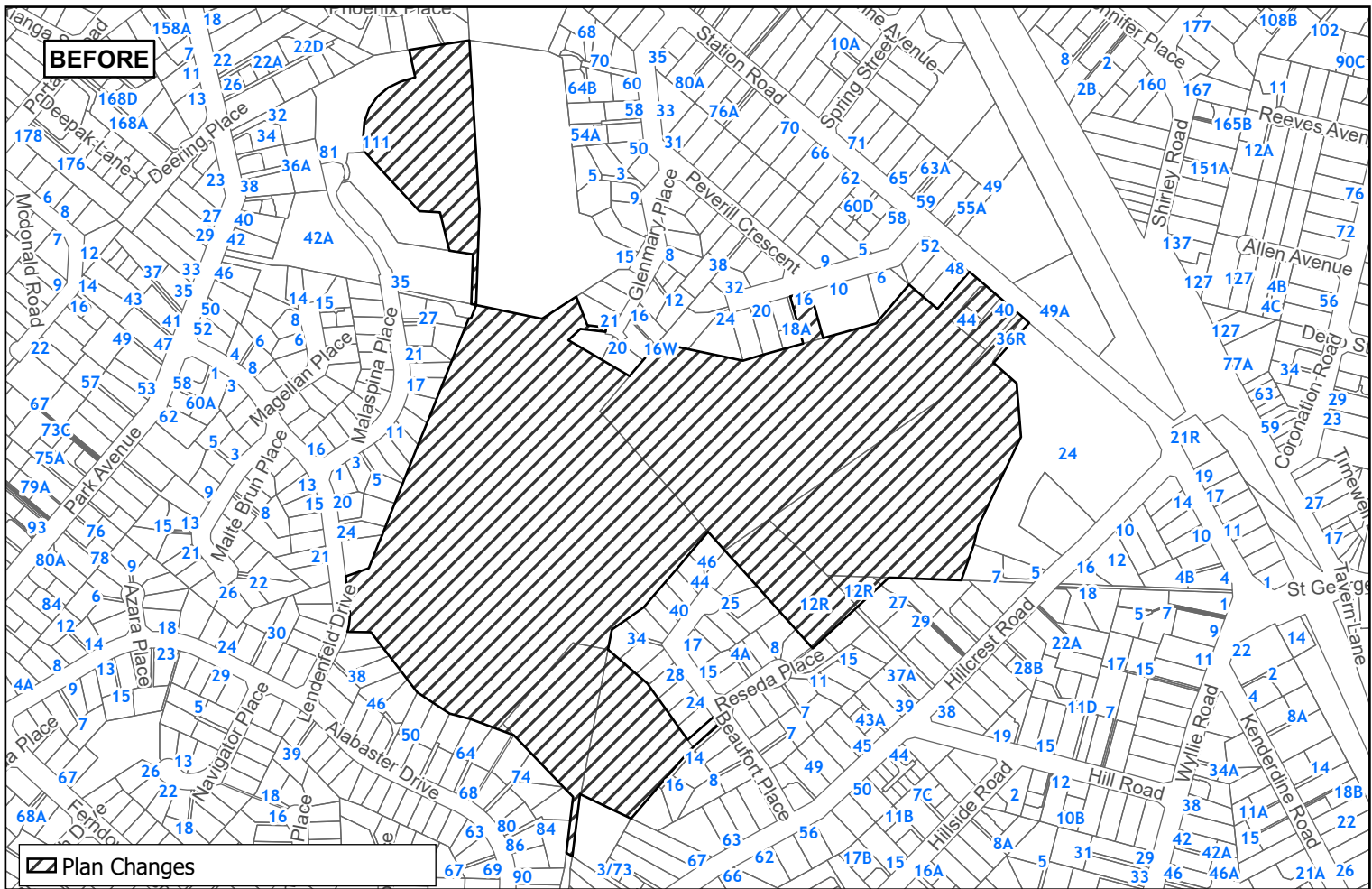
ID- 089 - Takāroa



Plans and Places

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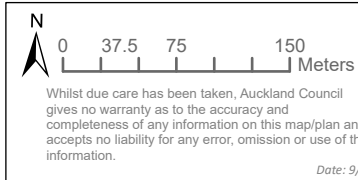
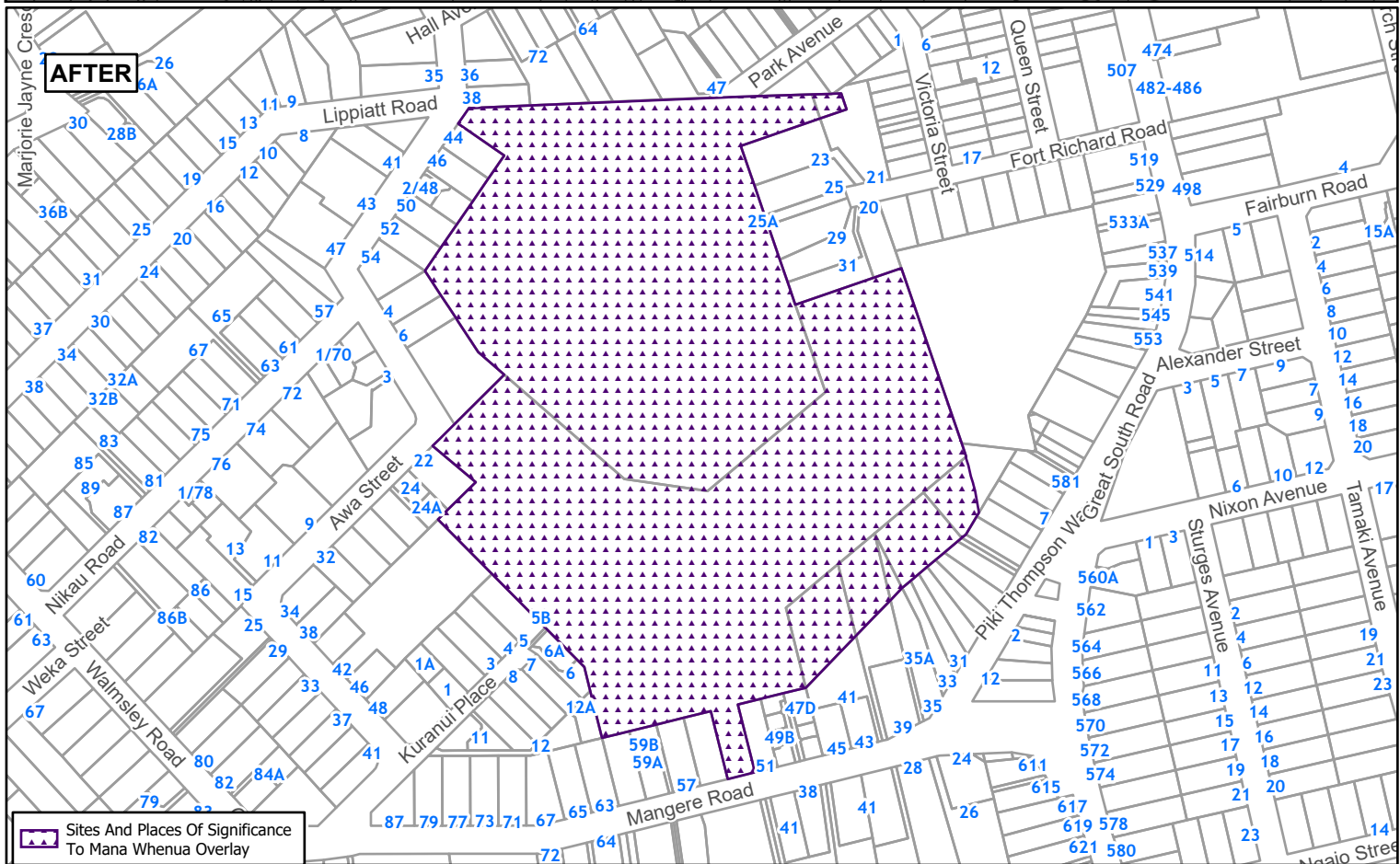
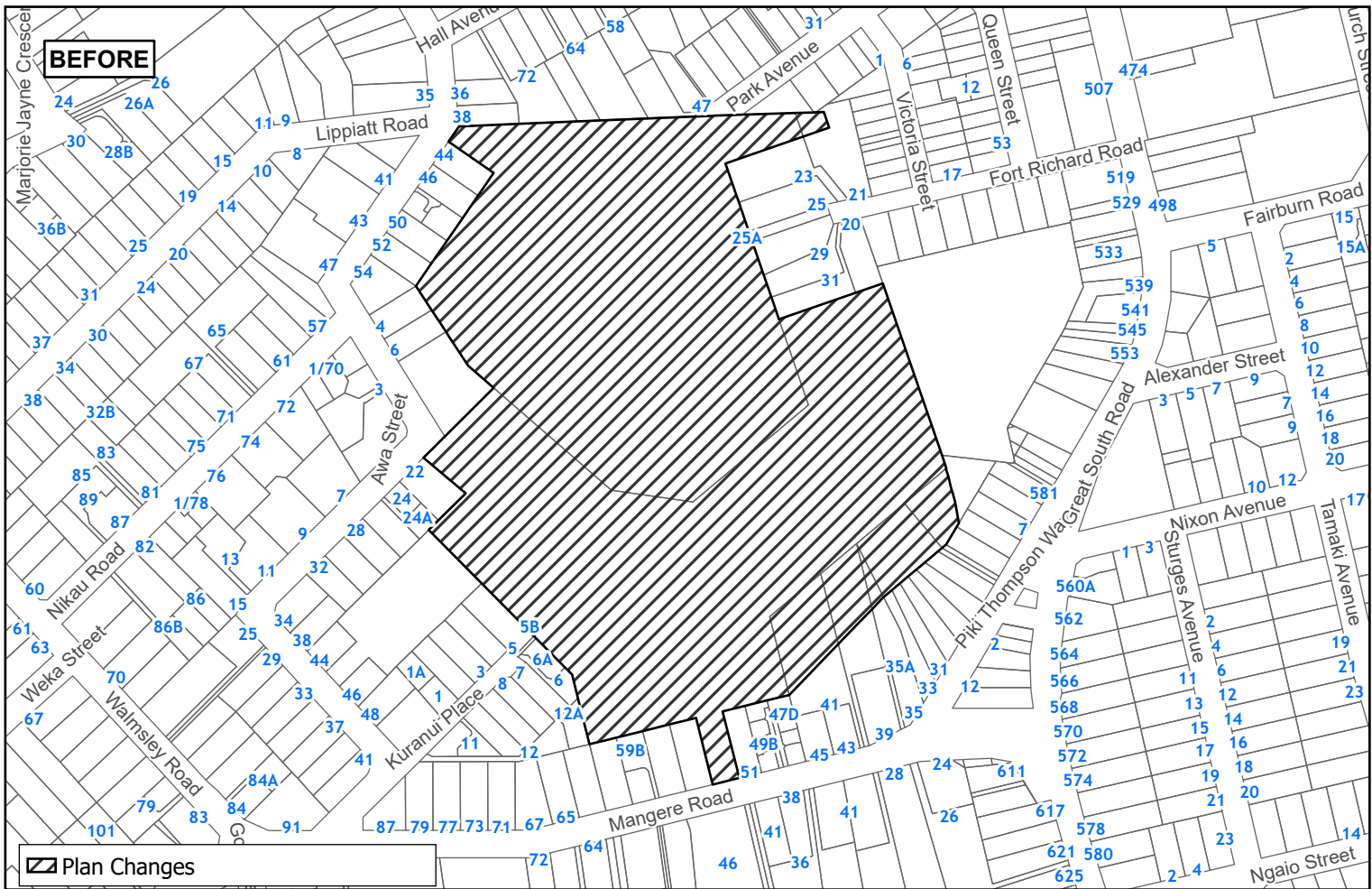
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ID- 095 - Kohuora



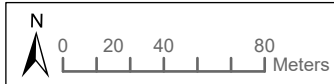
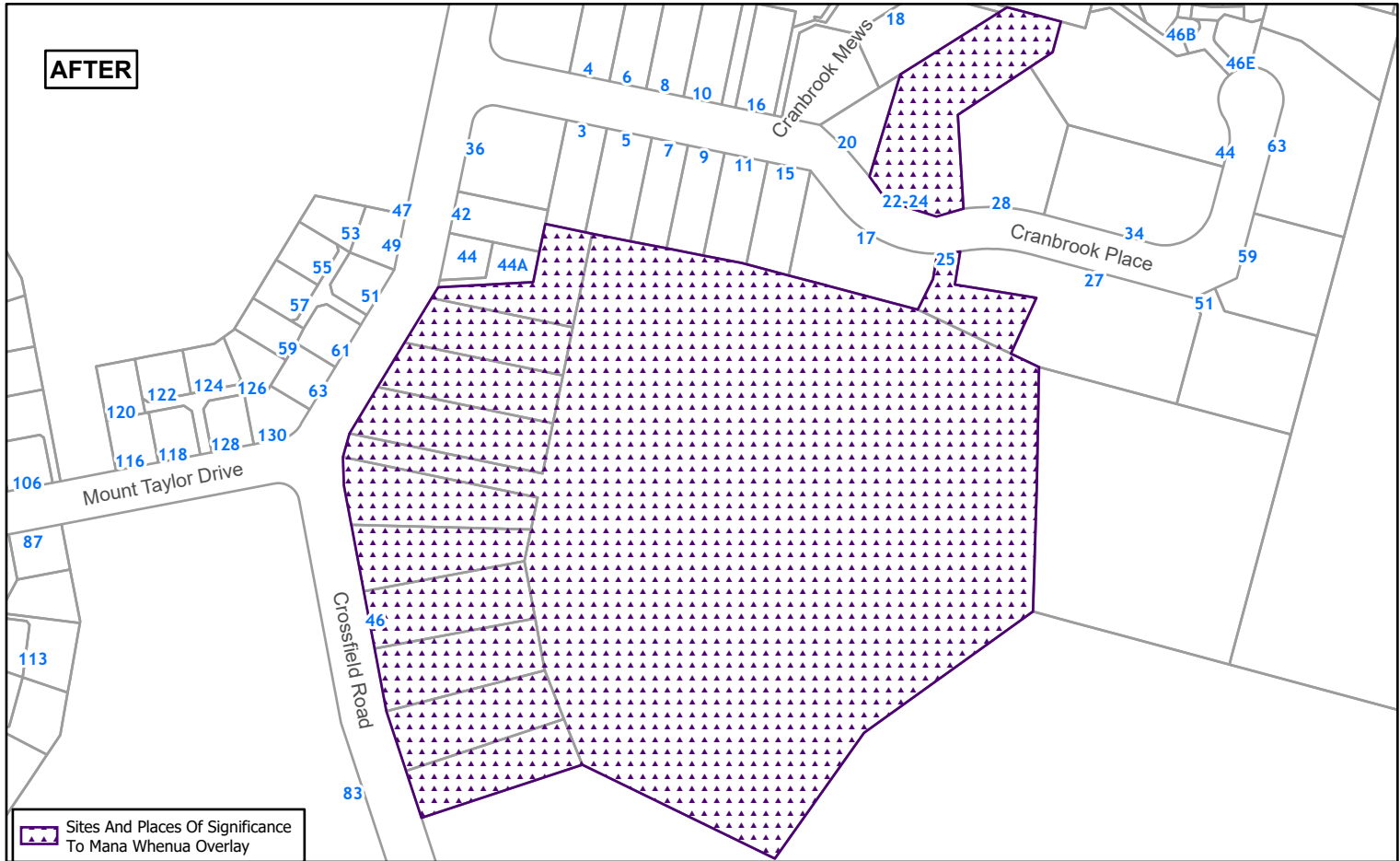
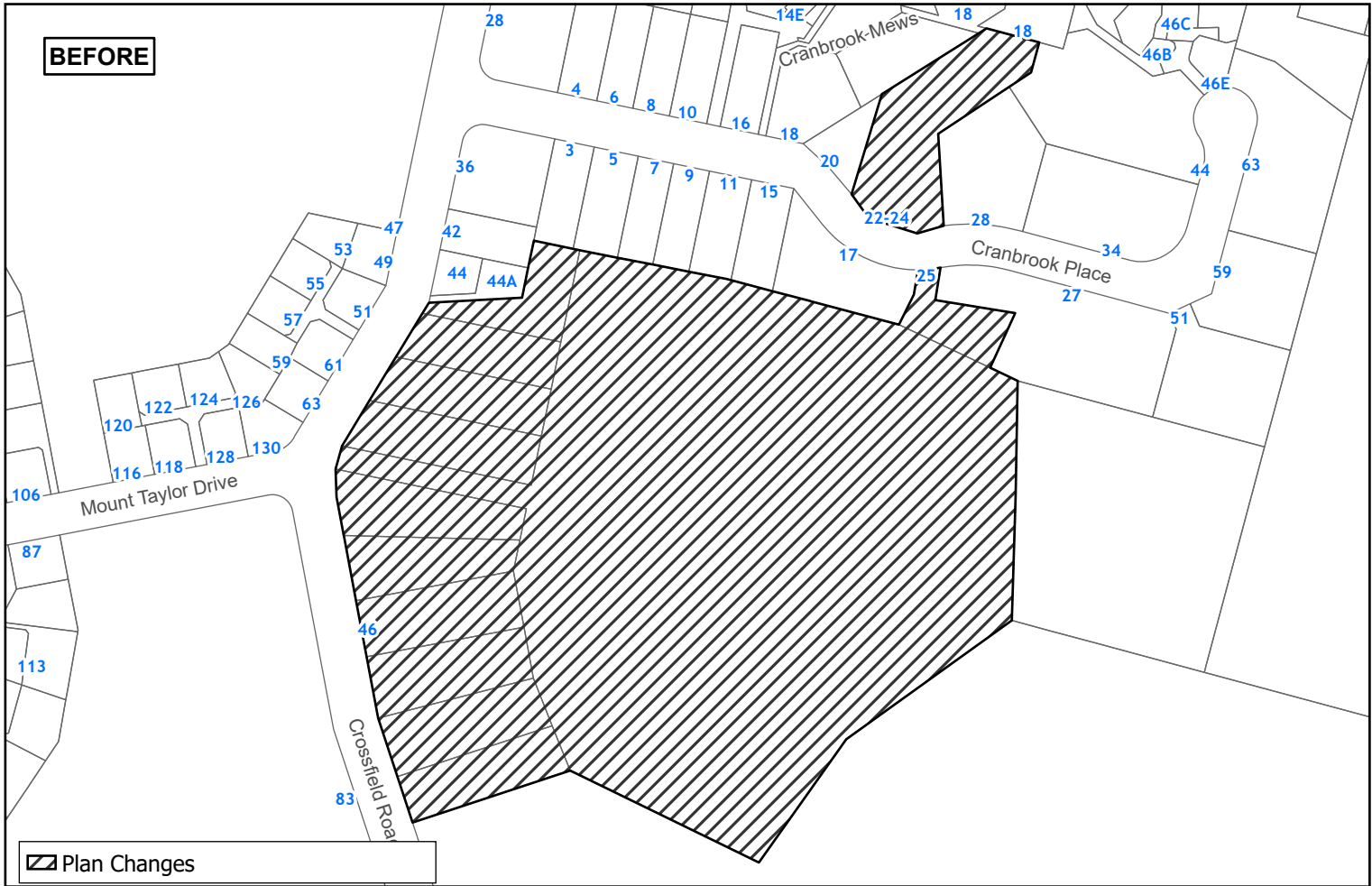


Plan Change 22 - Operative in part

ID- 096 - Te Tapuwae o Mataaoho



Plans and Places



Plan Change 22 - Operative in part

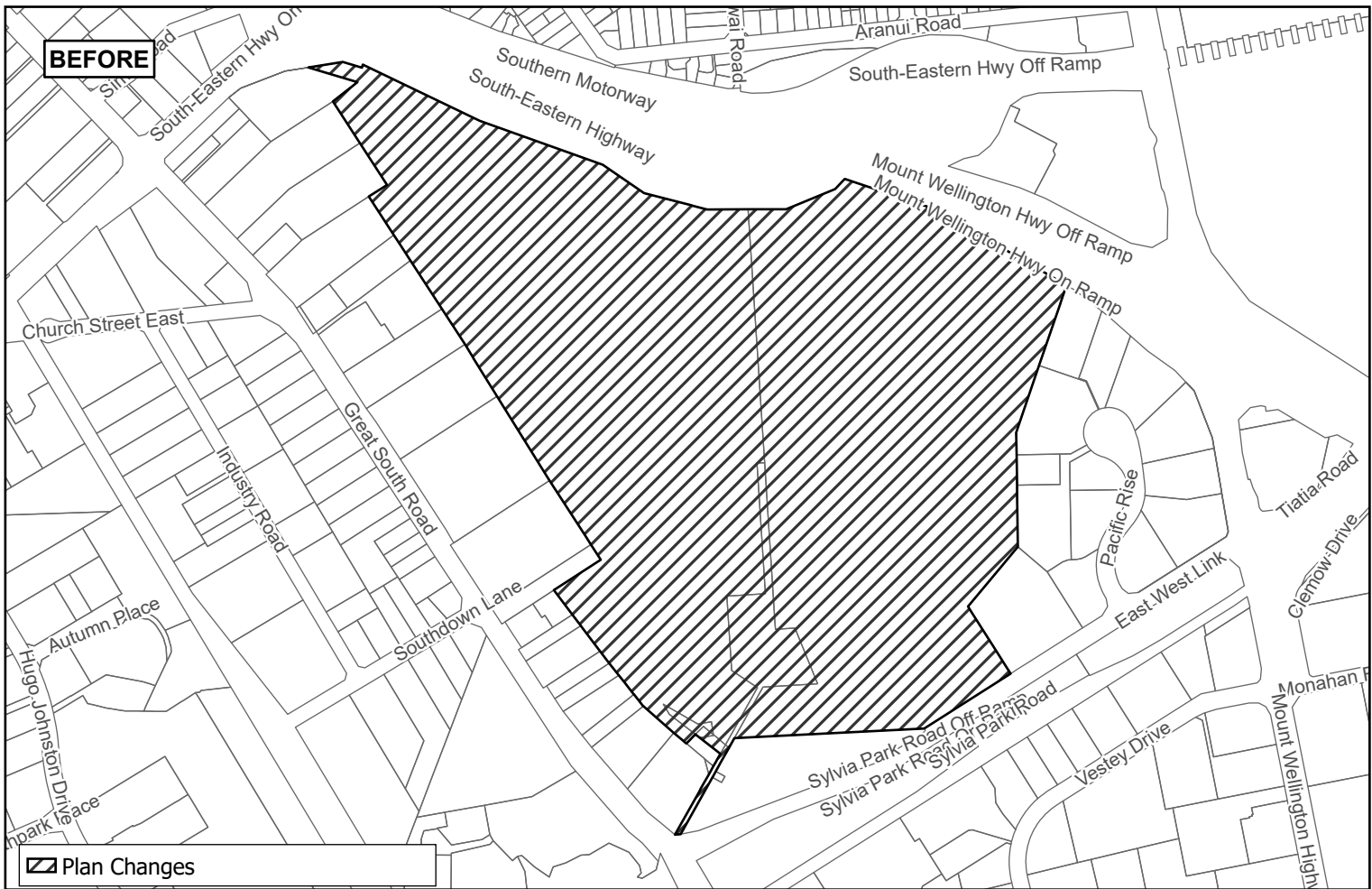
ID- 097 - Te Taurere



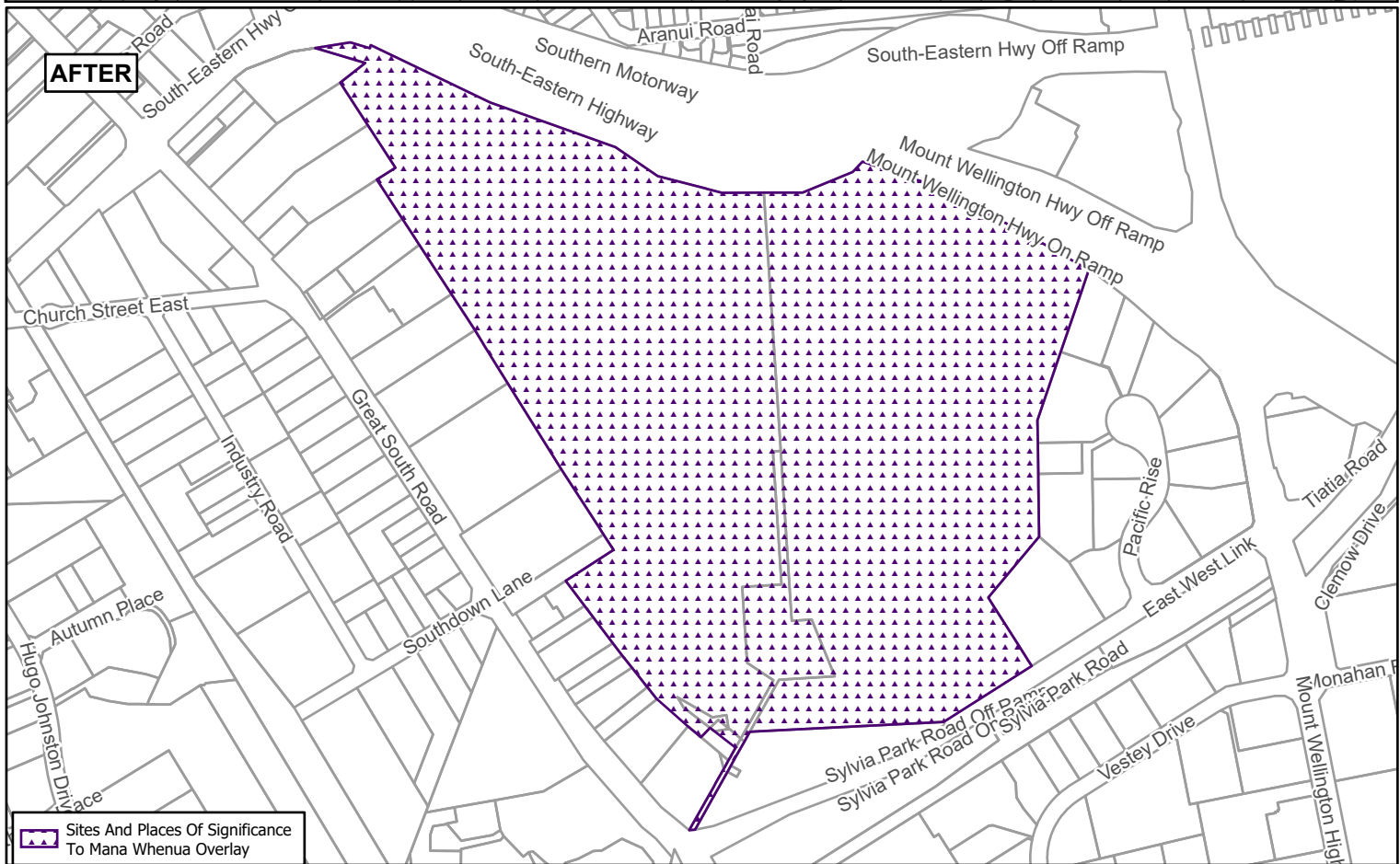
Plans and Places

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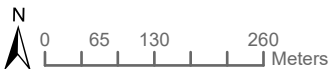
Date: 9/03/2021



Plan Changes



Sites And Places Of Significance To Mana Whenua Overlay



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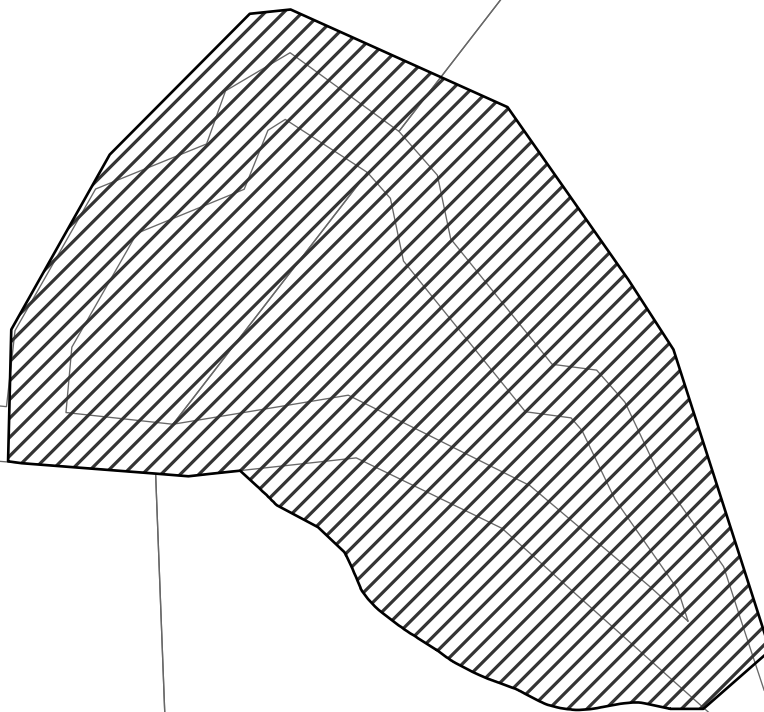
Plan Change 22 - Operative in part

ID- 098 - Mutukaroa



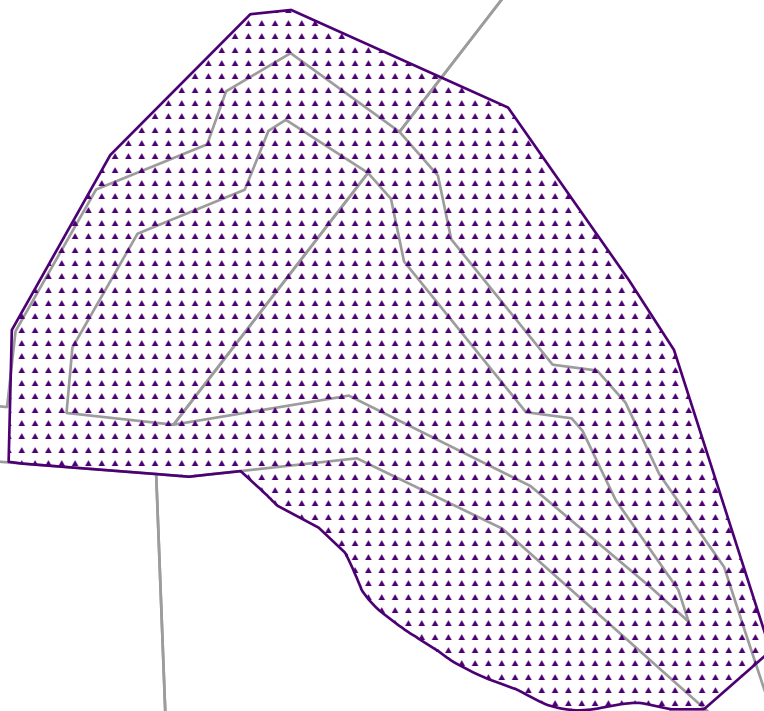
Plans and Places

BEFORE



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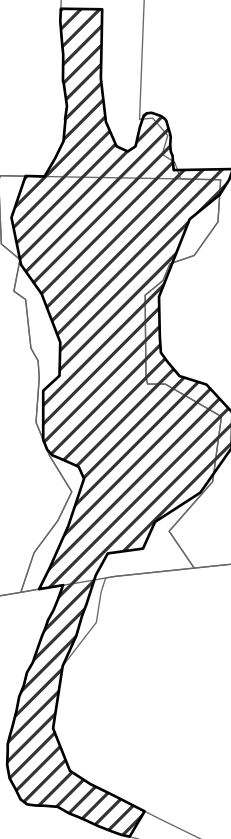
Plan Change 22 - Operative in part

ID- 102 - Te Kiri-p ātu-p arāoa



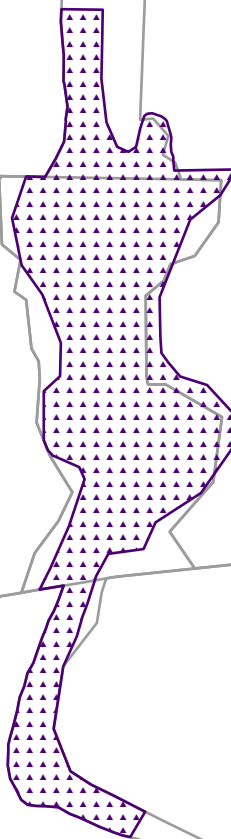
Plans and Places

BEFORE

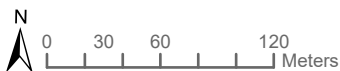


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ID- 104 - Hihiorapa



Plans and Places