

TO Celia Davison, Manager Planning, Central South Unit

FROM Jimmy Zhang, Reporting Planner, Central South Unit

DATE 27 March 2024






SUBJECT **Update requested to the Auckland Unitary Plan (Operative in Part 2016) (AUP)**



I request an update to the AUP as outlined below:

Reason for update – To make Private Plan Change 87 – 301 and 303 Buckland Road, Pukekohe to the Auckland Unitary Plan (Operative in Part) operative.	
Chapter(s)	Chapter I Precincts South – I455 Buckland Road Precinct
Changes to text (shown in underline and strikethrough)	New Precinct to be inserted. <ul style="list-style-type: none"> • I455 Buckland Road Precinct <i>Refer to Attachment B & C.</i>
Changes to diagrams	New Precinct Plan to be inserted. <ul style="list-style-type: none"> • I455.9 Buckland Road Precinct Plan 1 <i>Refer to Attachment B & C.</i>
Changes to spatial data	New Precinct to be inserted. <ul style="list-style-type: none"> • Add new Precinct boundary for I455 Buckland Road Precinct. • Change Zone from Future Urban Zone to Business - General Business Zone. • Add SMAF1 Overlay. <i>Refer to Attachment D.</i>
Attachments	Attachment A – Decision to PC87 Attachment B – Updated text (Strikethrough and Underlined) Attachment C – Updated Text (Clean) Attachment D – Updated GIS Viewer

Maps prepared by: Danica Torres Geospatial Specialist	Text Entered by: Sophia Coulter Planning Technician
Signature:	Signature:

	
prepared by: Jimmy Zhang Reporting Planner	Reviewed by: Craig Cairncross Team Leader
Signature: 	Signature: 
Authorised by: Celia Davison Manager Planning	
Signature: 	

Attachment A:
PC 87 - Decision

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



Proposal

This private plan change aims to rezone 7.8 hectares of land at 301 and 303 Buckland Road, Pukekohe from Future Urban Zone to Business – General Business Zone.

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

Private Plan Change:	87 - 301 and 303 Buckland Road, Pukekohe
Applicant:	Pukekohe Limited
Hearing commenced:	Thursday 31 August 2023, 9.30 a.m.
Hearing panel:	Dave Serjeant (Chairperson) Michael Parsonson Nigel Mark-Brown
Appearances:	<p><u>For the Applicant:</u></p> <p>Pukekohe Limited represented by: Jeremy Brabant, Legal Counsel Kelly Bosgra, Civil Engineering Steven Smith, Corporate/landowner Jason Woodyard, Corporate/landowner Leo Hills, Transport Adam Thompson, Economics Robert Scott, Planning</p> <p><u>For the Submitters:</u></p> <p>Jessica Bates, Enviro NZ (Via TEAMS) Baj Hira Bhana</p> <p><u>For Council:</u></p> <p>Craig Cairncross, Team Leader Jimmy Zhang, Planner Wes Edwards, Traffic Engineer Derek Foy, Economics Expert</p> <p>Chayla Walker, Kaitohutohu Whakawātanga, Hearings Advisor Sidra Khan, Kaitohutohu Whakawātanga, Hearings Advisor</p>
Hearing adjourned	Thursday 31 August 2023
Commissioners' site visit	Thursday 31 August 2023
Hearing Closed:	Wednesday 27 September 2023

INTRODUCTION

1. This decision is made on behalf of the Auckland Council (**the Council**) by Independent Hearing Commissioners Dave Serjeant (Chairperson), Michael Parsonson and Nigel Mark-Brown appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (**the RMA**).
2. The Commissioners have been given delegated authority by the Council to make a decision on Plan Change 87 (**PC87**) to the Auckland Council Unitary Plan Operative in Part (**the Unitary Plan**) after considering all the submissions, the section 32 evaluation, the reports prepared by the officers for the hearing, evidence presented during the hearing and the applicant's reply following the hearing.
3. PC87 is a private plan change that has been prepared following the standard RMA Schedule 1 process (that is, the plan change is not the result of an alternative, 'streamlined' or 'collaborative' process as enabled under the RMA).
4. The plan change was publicly notified on 27 October 2022 following a feedback process involving iwi, as required by Clause 4A of Schedule 1. Notification involved a public notice as well as letters to directly affected landowners and occupiers 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.
5. The submission period closed on 1 December 2022. A total of six submissions were received. A summary of submissions was notified for further submissions on 10 February 2023 and one further submission was received.

PROCEDURAL MATTERS

Introduction of the Buckland Road Precinct

6. We note that, procedurally, the Council's section 42A report must confine its commentary to PC87 as notified, and not subsequent amendments, such as the introduction of the Buckland Road Precinct (**BRP**). Commentary on the BRP was able to be provided however by the Council through its addendum section 42A report, which followed the opportunity for submitters to comment on the BRP proposal. This procedure addressed any potential issues arising relating to principles of natural justice. In any event, as there was no adverse commentary on the introduction of the BRP, no such issues have arisen. We address the submissions that were received in more detail below.

Site Visit

7. Prior to the hearing, the Commissioners visited the plan change area and the local surroundings.

SUMMARY OF PLAN CHANGE

8. The proposed plan change is described in detail in the hearing report. A summary of key components of the plan change is set out below.

Plan Change Area

9. The land subject to the plan change request (**plan change area**) comprises two neighbouring properties at 301 and 303 Buckland Road and is approximately 7.8 hectares in total area. The ownership and legal descriptions are recorded in Table 1.¹

Street Address	301 Buckland Road, Pukekohe	303 Buckland Road, Pukekohe
Legal Description	Pt Lot 1, DP 3363 – NA56A/559	Lot 1, DP 64805 – NA21A/288
Site Owner	Peterex Properties Limited	Pukekohe Limited (PL)
Site Area (ha)	4.3639 ha	3.5038 ha

Table 1: Legal description, ownership and site area

10. The key components of the plan change area can be summarised as follows:
- (i) The majority of the plan change area is currently comprised of pasture. There is no indigenous vegetation and no streams or wetlands present. The topography rises away from Buckland Road to the west.
 - (ii) The plan change area straddles two catchments that drain in an easterly direction towards the Tutaenui Stream and Whakapipi Stream, and eventually into the Waikato River.
 - (iii) Both sites within the plan change area have a single dwelling and other rural use buildings.
 - (iv) Land use within the wider landscape includes agricultural activities to the south and west and urban land uses, including Pukekohe Park, to the north and east. In zoning terms these activities are within a Rural Production Zone, a Special Purpose – Major Recreation Facility Zone (for Pukekohe Park), Business - Light Industry Zone (**LIZ**) and Business – General Business Zone (**GBZ**) (north of the plan change area), and Future Urban Zone (**FUZ**) (south of the plan change area).
 - (v) Buckland Road is a rural road running in a north-south alignment connecting to Manukau Road to the north and George Street, Tuakau to the south. It currently has an approximate carriageway width of 16 metres,

¹ By the time that PC87 came to hearing Peterex Properties Limited had joined Pukekohe Limited in applying for the plan change and PC87 was advanced on a joint basis: Applicant's Legal Submissions footnote 1.

accommodating one traffic lane in each direction. There are currently no pedestrian footpaths on either side of Buckland Road near the vicinity of the plan change area.

- (vi) Webb Street currently provides legal access to the southwestern corner of 301 Buckland Road.
- (vii) The plan change area has two approved resource consents, allowing for a trade supplier (warehouse and distribution centre) on 301 Buckland Road, and an industrial service storage yard on 303 Buckland Road, which has been implemented.

Plan Change Proposal

- 11. PC87, as publicly notified, was to change the zoning of the plan change area from FUZ to GBZ. No other changes were proposed. The plan change was comprehensively prepared and supported by a number of specialist documents, as listed in paragraph 34 of the Hearing Report. Following the completion of further information requests the Council accepted PC87 pursuant to Clause 25(2)(b) of Part 2 of Schedule 1 to the RMA on 6 September 2022.
- 12. In response to submissions by Auckland Transport, and other submitters, the applicant further proposed that the plan change area be subject to a precinct to address transport and roading matters. The BRP was promulgated as a result. Essentially, the BRP provides that any subdivision or development within the precinct triggers the undertaking of specific infrastructure upgrades, including the extension of Webb Street east to Buckland Road, the establishment of an intersection for that extension, and the upgrading of footpath and cycling facilities along Buckland Road.

PLANNING CONTEXT

- 13. We note that the AEE prepared in support of PC87 provided a planning context by referring to the strategic planning documents for Auckland. These documents are part of the overall statutory planning framework within which PC87 must be considered and we return to consider that overall framework below. For the present purpose we summarise the strategic planning documents for Auckland as follows.

Auckland Plan 2050

- 14. The Auckland Plan 2050 identifies Pukekohe as a “rural node” and a “satellite town” with the potential to accommodate up to 14,000 additional dwellings. Pukekohe is expected to *“function semi-independently from the main urban areas of Auckland. This can reduce the need for travel out of Pukekohe to access services, facilities and employment. An increase in business land will help achieve this aim”*.²

² Auckland Plan 2050 page 205

15. The Auckland Plan strategic vision for Pukekohe is being implemented through the structure plan for Pukekohe and Paerata which refines the staging and timing of development and identifies the mix and location of housing, employment, retail, commercial and community facilities required. The development strategy for Pukekohe in the Auckland Plan identified the plan change area for urban zoning from 2023 onwards.

Pukekohe-Paerata Structure Plan

16. The Pukekohe-Paerata Structure Plan 2019 (**Structure Plan**) was prepared under the provisions of the Local Government Act 2002. It was also prepared in accordance with the structure plan guidelines as set out in Appendix 1 of the Unitary Plan. While it is a non-statutory document under the RMA, it forms the basis of future Auckland Council or privately initiated plan changes. The proposed Structure Plan map shows the location of new zoning areas including 80 – 100 hectares of new business zoned land, including the plan change area within an area denoted 'Area H'. The Structure Plan adopts a broad approach to indicating future business zones by only differentiating business land into Local Centre Zone or LIZ amongst the business zone options in the Unitary Plan. The latter zoning was indicated for the plan change area.
17. The Structure Plan recognised the favourable location of Area H for future business land for the reasons we summarise as:
 - (i) good access to the existing and proposed road network, especially freight routes and routes that will limit the need for traffic to travel through the Pukekohe town centre;
 - (ii) relatively flat land to reduce the need for future earthworks and to enable larger floor areas and outdoor storage areas often needed by industrial activities;
 - (iii) proximity to existing business zoned areas, e.g. Manukau Road, so that the addition of new industrial areas to established industrial areas limits potential reverse sensitivity issues between zones and allows the opportunity for the co-location of similar activities and businesses;
 - (iv) proximity to existing "less sensitive" activities which limits potential reverse sensitivity issues, such as the Rural Production Zone and Special Purpose – Major Recreation Facility Zone (e.g. the Pukekohe Park Raceway).

Future Urban Land Supply Study

18. The Future Urban Land Supply Strategy (**FULSS**) identifies a programme to sequence future urban land over 30 years. The plan change area is identified in the FULSS to be 'development ready' between 2023-2027. Land is considered development ready once the land is zoned FUZ in the Unitary Plan planning phase, structure planning is completed, land is rezoned for urban uses; and bulk infrastructure is provided. We note in regard to the latter step that bulk infrastructure is available to the site.

Draft Future Development Strategy

19. Mr Scott's evidence reviewed the above strategic planning documents and also the Council's Draft Proposed Future Development Strategy (**FDS**) required under Section 3.12 of the National Policy Statement – Urban Development (**NPS-UD**).³ Mr Scott noted that the FDS recognises the importance of zoning of business land to support planned and zoned residential growth areas. Also that the FDS recognises that it is important to manage the supply of different types of future business land thus ensuring opportunity, flexibility and choice over the long-term. However, as the FDS is only in public consultation stage, Mr Scott considered that little weight should be given to its direction or provisions and that greater weight should be placed on the FULSS as the guiding document for the focus and timing of future growth areas.
20. Overall, it was the applicant's evidence that the strategic planning context supported the rezoning of the plan change area. We address the specific choice of zoning – as GBZ and not LIZ – in further detail below.

SUBMISSIONS AND OTHER INTERESTED PARTIES

Submitters

21. Section 6 of the section 42A report addressed the matters raised in submissions by the submitters identified in Table 2.

Submission No.	Name
1	Buckland Road Trustees Limited
2	Auckland Thoroughbred Racing Incorporated
3	Auckland Transport
4	EnviroWaste Services Limited
5	Nomita Singh
6	Hira Bhana

Table 2: Submitters

22. Buckland Road Trustees Limited supported PC87 and sought that it be approved as notified. They took no further part in these proceedings.
23. Auckland Thoroughbred Racing Incorporated (**ATRI**) sought that if PC87 was approved then the owners of the plan change area be required to share the costs of the upgrade to the Manukau Road, Buckland Road, Kitchener Road intersection. ATRI tabled a letter from its legal advisers for our consideration.

³ Scott Evidence in Chief paras. 32-60

24. The background to the ATRI submission was that the ATRI site, being Pukekohe Park, had been the subject of a plan change, PC30, approved in July 2020. The approved plan change included a covenant that required the upgrade of the intersection to a single roundabout upon subdivision or development of the site. The matter of this upgrade is addressed in more detail below. ATRI did not attend the hearing.
25. Auckland Transport sought that PC87 be declined unless the matters in its submission could be adequately addressed. As noted above, Auckland Transport's concerns were addressed through the introduction of the BRP. The applicant and Auckland Transport worked together to agree on the provisions of the BRP so that by the time the matter came to hearing Auckland Transport tabled a letter for our consideration confirming that all matters raised in its submission had been satisfactorily addressed. Auckland Transport further noted in relation to the upgrade of the Manukau Road, Buckland Road, Kitchener Road intersection, that it agreed with the applicant's position that PC87 did not need to address this upgrade. Auckland Transport did not attend the hearing.
26. Envirowaste Services Limited (now Enviro NZ) sought that the zoning of the plan change area be LIZ, not GBZ. It supported its submission at the hearing as addressed below.
27. Nomita Singh, a neighbouring property owner at the eastern end of Webb Street, sought that PC87 be approved with the GBZ zoning as proposed and that developers of the land be responsible for relevant infrastructure upgrades. Ms Singh tabled a letter from her planning adviser for our consideration confirming her support for the zoning and the provisions of the BRP. Ms Singh did not attend the hearing.
28. Hira Bhana and Co submission focussed on reverse sensitivity effects. The company owns and uses neighbouring land for horticultural purposes. Mr Bhana attended the hearing in support of this submission and we address the matter of reverse sensitivity below.

Mana Whenua

29. Section 3.4 of the section 42A report refers to the record of consultation with mana whenua in the AEE. The applicant sent a consultation pack to the seven mana whenua groups whose rohe covered the plan change area. This resulted in both Ngāti Te Ata and Ngāti Tamaoho preparing Cultural Value Assessments (**CVA**). The section 42A report summarises these assessments and identifies specific matters of interest or concern to each iwi, some of which might be addressed at the resource consent stage.
30. The CVAs supported the proposal in principle at this stage of the planning process, "subject to ongoing meaningful engagement with the applicant at the resource consenting stage". No submissions were received from any mana whenua groups in response to the public notice. Matters raised in the CVA assessments are discussed further below.

Local Board Comments

31. We note that the section 42A report included the following comments from the Franklin Local Board on PC87:
- “i) support the proposed plan change, and note the board’s preference that the site be developed to accommodate light industrial versus general business as this would deliver better employment opportunity outcomes for locals, and would align better with activity on adjacent land that business that is retail-based.*
 - ii) consider that a reasonable buffer zone is appropriate if planted suitably, however note that there are likely to be some issues between urban business and food production (rural business) activities. It will be important that developers design and develop the site in a way that considers adjacent activity i.e. mitigating through building positioning, planting etc and that future tenants understand and accept the implications of adjacent activities i.e. the need for extra cleaning, seasonal noise issues etc.*
 - iii) recommend reference to the National Policy Statement for Highly Productive Land (NPS-HPL) 2022 (mitigation of reverse sensitivity to protect rural production)”*
32. The Local Board declined the opportunity to appear at the hearing. We note that each of the local board’s comments are relevant to our discussion below.
33. As is evident from the review of submissions above, by the time the hearing was reached several matters raised in the submissions had been addressed. As a consequence, the evidence we heard from the applicant and submitters, and the applicant’s reply after the hearing, were focussed on the following matters:
- (i) the upgrade to the Manukau Road, Buckland Road, Kitchener Road intersection;
 - (ii) provisions for waste management through LIZ zoning;
 - (iii) reverse sensitivity and a potential buffer between the plan change area and adjacent rural land;
 - (iv) the related matter of whether the provisions of the NPS-HPL were relevant to reverse sensitivity; and
 - (v) mana whenua values.
34. We note that the latter two of these matters were raised by us during the hearing.

APPLICANT'S SUBMISSIONS AND EVIDENCE

35. Mr Jeremy Brabant provided legal submissions for the Applicant. Mr Brabant addressed the legal framework and statutory matters relevant to a plan change request, and an overview of the primary matters to be addressed through the evidence. He drew our attention to the recommendations of the section 42A report that PC87 be approved subject to two matters:
- (i) The introduction of a precinct (including a precinct plan) to manage transport effects; and
 - (ii) The introduction of the Stormwater Management Area Flow 1 control.
36. Mr Brabant confirmed that the applicant supported the introduction of these two matters and that this support was set out in the evidence of Messrs Scott, Hills and Bosgra.
37. The section 42A Addendum Report raised the matter of the need for additional BRP provisions to address the performance of the Manukau Road, Buckland Road, Kitchener Road intersection. The applicant did not agree with the Council on this point and thus Mr Brabant's submissions and Messrs Scott and Hills evidence-in-reply statements focused on this matter, being the only point of disagreement between the applicant and Council.
38. Mr Brabant concluded his submission with the following summary in support of PC87:⁴
- a. *"The PC87 Precinct provisions appropriately give effect to all applicable higher order planning instruments (including all national policy statements and national environmental standards, and regional policy statement), and are not inconsistent with any directive objectives, policies or constraints from such higher order instruments. The rules which will apply will appropriately implement the policies.*
 - b. *In terms of s 32 of the RMA, PC87 is the most appropriate means of achieving the purpose of the RMA, and the proposed provisions are the most appropriate ways to achieve the objectives of the AUP. There is agreement between PL and AT that there is no need for PC87 to provide for or address the future upgrade of the Manukau Road/Kitchener Road/Buckland Road intersection.*
 - c. *Approving PC87 would result in amendments to the AUP that accord with the Council's functions under s 31 of the RMA.*
 - d. *Approving PC87 would be consistent with and promote sustainable management of resources, as required by s 5 of the RMA, because:*

⁴ Applicant's Legal Submissions para. 82

- i. *Potential adverse effects are appropriately avoided, remedied or mitigated;*
- ii. *The proposed PC87 Precinct provisions will enable efficient use of land on the Site and its natural and physical resources, which can be undertaken in a manner that ensures appropriate integration of development outcomes and infrastructure provision;*
- iii. *PC87 will enable communities to provide for their social, economic, and cultural wellbeing and for their health and safety; and*
- iv. *Development of land subject to the Buckland Road Precinct can be undertaken in a manner that will ensure GBZ activities and development can occur without causing significant adverse effects on the environment.”*

39. The applicant had prepared eight statements of evidence, including one from each of the landowners. Messrs Scott (planning) and Hills (traffic) had also prepared evidence in reply. As a result of our pre-reading we determined that the evidence from Mr Matthew Wansbone, on geotechnical matters, and Ms Kelly Diehl, on land contamination, was uncontested and we had no questions for these witnesses. They were therefore excused from attending the hearing. In addition to Messrs Scott and Hills we heard from Messrs Stephen Smith and Jason Woodyard as landowners/PC87 applicants, Mr Kelly Bosgra on infrastructure and Mr Adam Thompson on economics and property matters.

40. Mr Stephen Smith, a director of Peterex Properties and CEO of Franklins European Bathrooms took us through the key points of his evidence which emphasised the adverse effects that a shortage of zoned and available land can have on operating an efficient business.

41. Mr Jason Woodyard is a director of Pukekohe Limited. Mr Woodyard has qualifications in valuation and property management, but his evidence was not given in that professional capacity. He supported Mr Smith’s statements about the shortage of zoned business land in Pukekohe. Pursuant to the resource consents referred to above, Pukekohe Limited had constructed 4300m² of industrial storage yards on 303 Buckland Road. This space had been taken up so that an additional resource consent had now provided for a further 7200m² of industrial storage yards. We note that the each of these consents provided for both “industrial yard and industrial trade activity”, so it was not limited to ‘storage’. Mr Woodyard provided us with his opinion, based on his 17 years of property experience in Pukekohe, that while large format retail (**LFR**) might develop on the flatter land along the Buckland Road frontage of the plan change area, the economics of contouring the sloping site further west would make this land more suitable for multiple platforms and light industrial uses.

42. Mr Kelly Bosgra, a registered surveyor and land development adviser addressed services and infrastructure matters. Mr Bosgra had prepared the wastewater, water and stormwater reports in support of the PC87 request. Mr Bosgra

summarised the matters in his evidence for us. He confirmed that the plan change area can be appropriately serviced with the relevant infrastructure connections and that stormwater can be appropriately managed. He agreed that the Stormwater Management Area Flow 1 (**SMAF1**) overlay should apply to the plan change area, noting that the stormwater treatment he had recommended in his report was equivalent to SMAF1. In relation to a question from the Panel on water re-use Mr Bosgra opinion was that this was not required to enable compliance with SMAF requirements and was in his experience not practical for LFR developments which had low water use requirements. However, we note that Mr Bosgra's stormwater report referred to 'reuse' being considered to achieve SMAF-1 retention requirements, provided that this was practical and feasible.

43. Mr Adam Thompson, an independent economic and property market consultant had provided a cost-benefit analysis of the proposed rezoning and development of land within the plan change area. Mr Thompson confirmed the evidence from Messrs Smith and Woodyard that Pukekohe had a shortage of land for all types of business activity. With reference to the potential for the development of LFR activity within the plan change area, as enabled by the proposed GBZ zoning, Mr Thompson's findings were that the Pukekohe CBD had little land available for such activity and was in a "strong commercial position, with very low vacancies and strong rental rates". Consequently, the proposed GBZ zoning for the plan change area should not adversely affect the role and function of the CBD. Mr Thompson also advised that he thought it unlikely that LFR would develop over the whole of the site due to its contour.
44. Mr Leo Hills, an independent transportation consultant and professional engineer addressed transport matters. He noted his experience in other recent plan changes in Pukekohe in his introduction.
45. Mr Hills summarised his evidence which included the findings from his initial Integrated Transport Assessment and the extensive discussions that he had conducted with the Council peer reviewer, Mr Edwards, and Auckland Transport to resolve the matters raised in its submission. As noted above, this resolution took the form of the BRP proposal for transport infrastructure upgrades.
46. On the matter of the proposed additions by Council to the BRP in relation to the need for a traffic assessment to demonstrate that there is sufficient capacity at the Manukau Road/Buckland Road/Kitchener Road intersection, Mr Hills opinion was that this provision was unnecessary and that such assessment would be triggered by the existing provisions of the Unitary Plan, citing Rules E27.6.1 Trip generation and E27.6.4.1 Vehicle Access Restrictions for any development being caught by those rules. In answer to a specific question from the Panel on the matter, Mr Hills' opinion was that the Unitary Plan rules would be sufficient to address all of the transport related matters addressed in the BRP and that it was not necessary.
47. Overall, Mr Hills concluded that the full extent of development enabled by PC87 can be appropriately supported by the existing road network and the upgrades detailed in the BRP and will maintain appropriate levels of safety and efficiency on the surrounding transport network.

48. Mr Hills evidence in reply augmented the conclusions of his evidence in chief. In particular he advised that adopting 'real world' assumptions for the development of the plan change area, his modelling demonstrated that the Manukau Road/Buckland Road/Kitchener Road intersection operated with an acceptable performance at all times except being slightly over its capacity if a Saturday racing event was held at the Pukekohe Park. He considered that the rarity, small scale and limited duration of this situation would not justify any upgrade.
49. Mr Robert Scott, independent planning consultant, had prepared the assessment of effects and section 32 analysis in support of PC87. Mr Scott's evidence traversed the background details of PC87, including the plan change area characteristics and the strategic planning framework, which we have summarised above, and which is not contested by any party.
50. On the matter of the most appropriate zoning, Mr Scott provided useful discussion on the application of the GBZ throughout Auckland, noting that it was limited but that it had an important role in providing for growth in commercial activities and employment and managing the effects of large format retail activity. In terms of general retail activity he pointed to the policies that guard against the establishment of small scale retail activity within the zone, thus preserving such activity largely for town centres. In terms of the reference to just LIZ in the Structure Plan, Mr Scott's opinion was that this reference was a general one to employment-based zoning, a category that would include GBZ as well.
51. Mr Scott addressed the matter of reverse sensitivity in response to the Enviro NZ submissions and evidence. He advised that both zones provided for "industry" as a permitted activity, a very broad definition of activity many of which had some potential to be subject to reverse sensitivity. In his reply, Mr Scott provided detailed analysis of the degree to which either LIZ or GBZ had the potential to generate reverse sensitivity effects within the zone, due to their provisions for sensitive activities. He concluded that both zones provided for some sensitive activities, either as permitted or discretionary activities, and that the risk of reverse sensitivity in the GBZ was not "materially greater" than in the LIZ.
52. In relation to the Manukau Road/Buckland Road/Kitchener Road intersection, Mr Scott relied on the analysis of Mr Hill and agreed that the Unitary Plan had sufficient discretion in Chapter E27 to address the capacity of the intersection.
53. In terms of positive effects Mr Scott's evidence was that the GBZ enables a wide range of employment based activities for the growing local population, reducing the need for this population to travel to other urban areas for work. A reduction in travel also had benefits in lower emissions and less vehicles on the transport network. The employment potentially offered ranged from light industrial activities to office, large format retail and a range of food and beverage services.
54. Mr Scott's evidence also summarised the section 32 analysis that was undertaken in support of PC87 as notified and the section 32 AA that addressed the addition of the BRP to PC87. The section 32 analysis considered the zoning options including the status quo (FUZ), the LIZ and GBZ plus the Business – Mixed Use Zone

(**MUZ**). Some of the key points in this analysis which were determinative of Mr Scott's support for a GBZ were:

- (i) FUZ would not enable the development of employment land to keep pace with the ongoing rezoning for residential growth elsewhere in Pukekohe;
- (ii) MUZ enabled residential activities that had potential reverse sensitivity effects and small format retail which had potential adverse effects on the Pukekohe CBD;
- (iii) LIZ and GBZ were both potential candidates for the plan change area, however GBZ was to be preferred for its ability to support a wider range of employment opportunities.

55. The section 32 analysis also addressed the adoption of the GBZ provisions without amendment, relevant environmental effects of the proposal for the local environment, including the natural environment, cultural issues and infrastructure provision, and considered the zoning consistency with other nearby land.

56. Social and economic effects were considered, drawing on the cost-benefit analysis prepared by Mr Thompson as noted above, and the potential for employment to support planned growth in Pukekohe, consistent with the strategic planning direction.

57. Acknowledging that additional provisions were needed to address the transport matters raised in the Auckland Transport submission and the plan change area should be included within the SMAF1 overlay, Mr Scott had conducted a section 32 AA analysis to augment PC87 with such provisions. The introduction of the SMAF1 overlay is self-evident with support from the applicant's engineers and acceptance of the overlay by Council.

58. For alternative provisions on transport Mr Scott had compared a covenant instrument, existing Unitary Plan provisions and the use of the precinct technique. Mr Scott discounted a covenant due to the lack of transparency and rigidity of the technique (with the covenant being registered on the title). While he considered that the Unitary Plan provisions were adequate and could be relied on, in his opinion they lacked the certainty and specificity on which parties are responsible for the identified transport upgrades.

SUBMITTERS IN ATTENDANCE

59. Ms Jessica Bates, for Enviro NZ, attended the hearing by online video link. Ms Bates is an environmental adviser for the company, with 10 years' experience in resource consents and compliance. She addressed the hearing on the evidence that had been provided by Ms Kaaren Rosser who was unavailable. Ms Bates summarised the Enviro NZ submission as follows:

- (i) The company has an existing transfer station in Pukekohe but will potentially need a larger site in the future;

- (ii) There is a shortage of LIZ zoned sites in Pukekohe within which transfer stations are controlled activities provided they have a 300m separation distance to residential activities (AUP Rule E14.6.2.4), whereas in the GBZ they are non-complying activities;
 - (iii) The company is concerned about the proposed GBZ for the plan change area, which may lead to the same zoning on the FUZ land to the south, thus reducing the relocation alternatives for the company;
 - (iv) The 300m separation distance reduces the opportunities, even within LIZ zoned land;
 - (v) The Structure Plan indicates LIZ for the plan change area;
 - (vi) The GBZ introduces more sensitive activities than the LIZ.
60. Ms Bates also made the general point with reference to the New Zealand's Emission Reduction Plan that resource recovery has CO₂ emissions reductions benefits.
61. Mr Hira Bhana provided verbal evidence in support of his submission on the potential for reverse sensitivity. He clearly had extensive practical experience in managing such effects. He detailed the obligations he had communicating with neighbours when spraying operations were to take place, and the restrictions on such activities when sensitive properties were downwind in adverse weather conditions. However, in answer to a question from the Panel, he confirmed that he was dealing with residential neighbours, not business activities. Mr Bhana did not provide any evidence about the type of buffer (width, vegetation etc.) that might be needed to mitigate reverse sensitivity effects.

COUNCIL SECTION 42A RESPONSE

62. The reporting planner, Mr Jimmy Zhang, was accompanied in the Council response by Mr Derek Foy (economics) and Mr Wes Edwards (transport).
63. Mr Foy confirmed his general support for the PC87 proposal and agreement with Mr Thompson's economic and property analysis. He commented in relation to the potential for LFR on the site that the proportion of this activity in the GBZ was typically in the 30% to 40% range. He noted that, at almost 8ha, the plan change area was quite large, but that he anticipated that LFR may take some time to be developed, with industrial activities being prevalent in the short term.
64. Mr Edwards acknowledged that almost all the transport issues have been resolved with the introduction of the BRP proposal. He accepted that the development of the site with 100% LFR was unlikely, but we note from his report that he considered other activities on the site could well produce similar traffic generation rates taking up capacity at the Manukau Road/Buckland Road/Kitchener Road intersection.⁵

⁵ Technical Specialist Report- Transport by Arrive dated 24/07/23 Agenda page 1004

65. His comments focused then on the additional BRP provision to address the capacity of this intersection. Mr Edwards explained his continuing concern with the eventual need for the upgrade to be undertaken in response to the cumulative effects of increasing traffic from both residential and business activities in the southern FUZ area. He considered that the BRP provisions established a methodology to identify the capacity situation and methods for addressing this, but did not require the developer to fund or undertake the works. He acknowledged that the Unitary Plan rules in E27 could be used to achieve the same result. Mr Edwards continued to support the 10 year time frame for the analysis.
66. Mr Zhang addressed key elements in his report that related to remaining differences with the applicant or matters raised by submitters. We summarise his comments as follows.
67. He supported the proposed GBZ zoning, noting that this zone was a 'limited resource' in the Unitary Plan that had no parallel in any of the legacy plan provisions. The use of the zone requires careful consideration and in this case he considered that it was warranted by the current business land shortage.
68. He commented that the use of the precinct technique in the Unitary Plan was to address specific environmental or infrastructure characteristics of a zoned area and that in this case the provisions were needed to address the absence of transport infrastructure adjacent to the plan change area. He supported the precinct as it provided greater certainty than a future application under the Unitary Plan. This included the Manukau Road/Buckland Road/Kitchener Road intersection provision.
69. In relation to the matter of potential reverse sensitivity, Mr Zhang had included a comprehensive analysis of this matter in relation to a rural/business zone interface in his section 42A report. He considered that this interface would have less sensitivity than a rural/residential interface that was common elsewhere in Pukekohe and that the requirement for a buffer strip was unnecessary.
70. In relation to the Enviro NZ submission, he considered that the overall future supply of suitably zoned land for transfer stations was adequate and that the zoning of the plan change area should not be LIZ just to address this need.

PRINCIPAL ISSUES IN CONTENTION

71. Having considered the submissions and further submissions received, the hearing report, the submissions and evidence presented at the hearing and the Council officers' response to questions, we identified the following principal issues in contention:
 - Zoning of the plan change area – LIZ or GBZ?
 - The need for the Buckland Road Precinct
 - Reverse sensitivity matters

- Provisions for the capacity assessment of the Manukau Road/Buckland Road/Kitchener Road intersection
- Recognition of cultural values

Zoning of the plan change area - LIZ or GBZ?

72. There was agreement between the applicant and the Council that the plan change area should be zoned GBZ. The two matters of assessment in terms of potential adverse effects was the potential adverse effect on the Pukekohe 'CBD' of too much LFR, and increased traffic generation. Mr Thompson's evidence was that there was a demand for GBZ zoned land and that any effect on the vitality of the CBD was unlikely. Mr Foy agreed with his assessment.
73. The traffic modelling showed that even with an extreme assumption about the extent of LFR within the plan change area, the immediate roading network had sufficient capacity for the anticipated traffic. Having viewed the site and noting its slope, particularly further west away from Buckland Road, we accept the applicant's evidence that the economics of forming the large floor plates for LFR make extensive LFR on the site unlikely. Mr Foy's opinion on the extent of LFR was consistent with this finding.
74. The only party seeking LIZ was Enviro NZ. There appeared to be no disagreement amongst the parties that Pukekohe is short of available business land and Enviro NZ's evidence was that available sites for its waste management operations were scarce. However, we find that the characteristics of the plan change area, including its slope and its prominent location on Buckland Road, make it better suited for the mix of activities enabled by GBZ. The plan change area also has existing sensitive neighbours within the 300m radius, making it less suitable for industrial activities that generate noise or adverse effects on air quality. Looking at the Structure Plan and the FUZ zoning to the south there appears to be better opportunities for Enviro NZ elsewhere, including the newly zoned PC74 land, some of the details of which were discussed at the hearing. Overall, Mr Scott's evidence in reply on this matter that supported a GBZ zoning was more persuasive than the Enviro NZ evidence.

The need for the Buckland Road Precinct

75. The BRP had been added to PC87 by the applicant in response to submissions, made principally by Auckland Transport. Following its addition, the parties had the opportunity to comment on the precinct provisions as part of submissions to this hearing. There was no opposition by any party to the concept of introducing the precinct. The final wording of the precinct was agreed with the exception of the Manukau Road/ Buckland Road/Kitchener Road intersection matter, which we address below.
76. During the hearing the Panel asked questions of the applicant as to the need for the precinct, noting that one of the 'objectives' of the Unitary Plan preparation process had been to reduce the number of special 'one off' type provisions that

were common in the legacy district plans. Whilst we noted the candid response of Mr Hills above on the precinct not being necessary, we are nevertheless persuaded by the section 32AA analysis of Mr Scott that the precinct was the most efficient approach. The Council and other parties also supported it for the certainty it provided on the implementation of transport infrastructure.

77. In summary, we have no sound reasons to undo the agreement amongst the parties that the BRP should be part of PC87.

Reverse sensitivity effects

78. The matter of reverse sensitivity effects was before us in two forms, between zones and within zone. The description of this effect in the Affco case⁶ is relevant in both forms as follows:

“Reverse sensitivity is the legal vulnerability of an established activity to complaint from a new land use. It arises when an established use is causing adverse environmental impact to nearby land, and a new, benign activity is proposed for that land. The “sensitivity” is this: if the new use is permitted, the established use may be required to restrict its operations or mitigate its effects so as to not adversely affect the new activity.”

79. Reverse sensitivity effects are often considered in resource consent cases. They are also relevant in plan changes, where the outcome sought should be to reduce the potential for future reverse sensitivity scenarios to arise. This outcome is sought by Regional Policy Statement policies in Unitary Plan Chapter B.⁷
80. In terms of reverse sensitivity between zones, Mr Bhana provided evidence of his experience with residential neighbours who were sensitive to his farming operations. He sought a buffer to avoid or minimise these effects. Both Mr Scott, in his evidence in reply, and Mr Zhang provided comprehensive evidence on the proposed GBZ as being a suitable neighbouring zone to rural production activities. Mr Zhang gave these reasons in support of the GBZ:
- (i) new businesses establishing within the plan change area would be aware of the existing surrounding rural uses given their location at the edge of Rural Urban Boundary and would have to accept that effects associated with rural production such as noise, dust and odour within the area are expected when the existing use has been legally established;
 - (ii) while there is the potential for reverse sensitivity between land uses the complainants would need to establish that they have been exposed to nuisances that are unlawful and/or unreasonable in order to have reasonable grounds for curtailing such activities. The policy direction of the RPZ seeks to ensure that the adverse environmental effects of the activities are kept on-site to the ‘fullest extent possible’, acknowledging that it is not possible to always contain such effects within a site and as such, it would be

⁶ Affco NZ Ltd v Napier City Council (W082/04) para. 29

⁷ See for example Urban Growth Policy B2.5.2(10) and Rural Environment Policy B9.2.2(2)

unreasonable for new occupiers to expect restrictions if rural production activities are operating within the confines established by the AUP; and

- (iii) while the GBZ did provide for sensitive activities, including residential, education and healthcare facilities, these were by way of discretionary activity consent, the application for which must be publicly notified and the effects of which could be avoided or mitigated by site-specific conditions as part of any consent granted.

81. The matter of within zone reverse sensitivity was raised by Enviro NZ where its submission sought to have the plan change area LIZ and not GBZ. The submission considered that GBZ enabled more sensitive activities than the LIZ. Mr Scott disagreed with this conclusion. Our finding is that the range of activities and the activity status of activities within LIZ or GBZ is very similar, such that the zoning of the land should not be determined on the basis of the potential for reverse sensitivity, but rather the matters we have already referred to above in terms of the most suitable zone.

82. On the related matter of whether the provisions of the National Policy Statement – Highly Productive Land (**NPS-HPL**) were relevant to reverse sensitivity, we raised this matter for the consideration of the applicant at the hearing. Our particular focus was on Policy 9 and Clause 3.13(1)(b). Policy 9 states:

“Reverse sensitivity effects are managed so as not to constrain land-based primary production activities on highly productive land.”

83. Clause 3.13(1)(b) is in Part 3: Implementation of the NPS-HPL, the purpose of which is outlined in Clause 3.1 as follows:

“This Part sets out a non-exhaustive list of things that local authorities must do to give effect to the objective and policies of this National Policy Statement, but nothing in this Part limits the general obligation under the Act to give effect to that objective and those policies.”

84. Clause 3.13(1)(b) states:

“3.13 Managing reverse sensitivity and cumulative effects

(1) Territorial authorities must include objectives, policies, and rules in their district plans that:

....

(b) require the avoidance if possible, or otherwise the mitigation, of any potential reverse sensitivity effects from urban rezoning or rural lifestyle development that could affect land-based primary production on highly productive land (where mitigation might involve, for instance, the use of setbacks and buffers); and”

85. Mr Brabant's advice was that the clause was not relevant because it relates to "urban rezoning", which is defined in the NPS-HPL as:

"urban rezoning means changing from a general rural or rural production zone to an urban zone"

86. PC87 involves the change from FUZ to GBZ, and as the FUZ is not a general rural or rural production zone, Clause 3.13 (1)(b) does not apply.
87. We accept Mr Brabant's interpretation of Clause 3.13(1)(b). We also note that the same conclusion had been reached in the section 42A report on the relevance of the NPS-HPL. However, we consider that the outline of the implementation section in Clause 3.1, with the references to the methods of implementation being "a non-exhaustive list of things" and that the list is not to limit "the general obligation under the Act to give effect to that objective and policies" might give rise to alternative legal interpretation. We say this in particular as the step-wise transition under the Unitary Plan from rural zone to FUZ to urban zone appears to ignore the potential effects of reverse sensitivity in the first of those steps and the provisions of the NPS-HPL, adopting Mr Brabant's interpretation, prevents consideration of these effects in the second step.
88. However, for the purposes of PC87 we have found above that the rezoning to GBZ is appropriate in terms of any potential reverse sensitivity effects and that there is no need for any mitigation of such effects, for instance, the use of setbacks or buffers to be included in the precinct provisions. We also note that the orientation of the site and likely development within the site, including the provision of access to commercial and light industrial premises, suggests that the buildings would "have their backs" to the rural boundary. Effectively, it is likely that the buildings would create a buffer between the rural and urban land uses.

Provisions for the capacity assessment of the Manukau Road/Buckland Road/Kitchener Road intersection

89. The single point of disagreement between the applicant and the Council was the additional provision in the BRP for assessing the capacity of the Manukau Road/Buckland Road/Kitchener Road intersection. We have traversed the evidence from the Council by Messrs Edwards and Zhang, and the applicant's evidence from Messrs Hills and Scott. As noted above, ATRI also tabled a letter in support of its submission seeking that if PC87 was approved then the owners of the plan change area be required to share the costs of the upgrade to the intersection. That requirement would sit alongside ATRI's own requirement in the approved PC30 to upgrade the intersection.
90. The applicant's disagreement on the need for the provision was based on the existence of the PC30 requirements and the likely triggering of the resource consent provisions in the Unitary Plan Chapter E27 which would address the need for an upgrade as part of development within the plan change area. Mr Hills had modelled the performance of the intersection under different scenarios of development. He concluded that if development of the PC30 land resulted in the

upgrade of the intersection to a roundabout, then additional upgrades would be unlikely as a result of PC87 enabled developments, although in the long term a signalised intersection might be needed. In the absence of PC30 land development, and assuming a realistic scenario for land use within the PC87 land, the intersection appeared to operate well on weekdays, but was slightly over its capacity on a Saturday, but only if a horse racing event was occurring. Mr Hills noted that such an event was now a rare occurrence.

91. In commenting on the Council's proposed wording, Mr Hill concluded that if we were of a mind to include a provision on assessing the capacity of the intersection then the reference to that assessment accounting for traffic volumes over the next 10 years was not appropriate. Mr Scott supported that position.
92. As a general principle, with considering either plan changes or resource consents, the mitigation of effects on the environment, such as infrastructure upgrades, must be proportionate to the significance of the effects. The measure of proportionality should take into account the absolute size of the effect and its relative contribution to overall cumulative effects occurring.
93. The BRP provisions, as agreed between the applicant and Council, include a number of upgrades to transport infrastructure immediately adjacent to, and within, the plan change area including the formation of the Webb Street extension and the intersection of Webb Street with Buckland Road. In each case, the proximity of the plan change area results in its development having significant effects on the immediate transport network. The further away from the plan change area, such transport effects reduce and become one of many contributors to cumulative effects within the network. This is the case at the Manukau Road/ Buckland Road/Kitchener Road intersection. In considering PC30, the development of that plan change area connects to the transport network at the intersection, and so was determined as being significant. By comparison, the development of the PC87 land would be one of many contributors to traffic at the intersection, particularly from the south, where the development of FUZ land around Buckland and the township of Tuakau would increase traffic over time.
94. The applicant did not oppose outright the requirement for an assessment of traffic effects from the development of PC87 land, including such effects on the Manukau Road/ Buckland Road/Kitchener Road intersection. However, the evidence of its experts was that such an assessment was already provided for by Unitary Plan Chapter E27.
95. The Council must have the ability to assess traffic effects of development, with the scope of such an assessment, both in time and space, to be determined at the time of the proposal. The corollary of that assessment is determining whether a financial contribution to implementing any required upgrade is necessary. Our finding is that the Council has this ability already under the provisions of E27, and that these powers do not need replicating within the PC87 provisions. The provisions of E27 are sure to be triggered, and at that time the parameters of the assessment can be decided in terms of its spatial extent and appropriate traffic projections over time. The existing provisions of the BRP appropriately distinguish

and provide certainty for those transport upgrades that are needed within and adjacent to the plan change area.

Recognition of cultural values

96. We recorded above the input of the two mana whenua groups, in response to the applicant's consultation effort, and their preparation of CVAs. Although the CVAs supported PC87 in principle, this was with some expectation of "meaningful engagement at the time of resource consents. We asked the applicant during the hearing as to whether any additional provisions were necessary, possibly in the BRP, to address any of the matters raised in the CVAs. Mr Brabant noted that he had also been legal counsel for recently approved PC74, on which the same two mana whenua groups had submitted and then appealed the approval by Council. He advised that the appeal was to be settled by consent order, with additional provisions on some matters of cultural concern being added to the precinct provisions for PC74. However, Mr Brabant also pointed out that PC74 applied to an area of land that contained sensitive environments in terms of waterways and vegetation. We accept that this is not the case with the plan change area for PC87.
97. The applicant's response to our query in its reply emphasised this difference in the receiving environment and also considered that any matters of cultural concern would be addressed at the time of resource consent, this point being supported by Mr Scott's evidence.
98. While accepting that the site has no sensitive environments, and therefore many of the listed concerns of the two mana whenua groups are unlikely to arise, the CVAs also contain concerns on broader sustainability matters, including water re-use. We noted above that Mr Bosgra's report referred to water re-use as part of his SMAF-1 equivalent hydrological treatment for all impervious areas, although the preferred method was ground soakage.
99. We have turned to relevant Unitary Plan provisions for guidance as to this matter in the process of plan-making and consider that support for the sustainable use of the freshwater resource is found in Objectives E2.2 (4) and (5) and Policy E2.3 (4)(e).
100. Our finding on this matter is that there should be a response in the PC87 provisions to matters raised in the CVAs, but that this should be limited to water re-use, by way of storage of roof runoff in tanks on site. Water re-use should be considered as part of the menu of hydrological treatment as recommended by Mr Bosgra as well as considered on its own merits from considerations of efficiency of water allocation, i.e. by reducing the demand on water take from the Waikato River.

RELEVANT STATUTORY PROVISIONS CONSIDERED

101. The RMA sets out an extensive set of requirements for the formulation of plans and changes to them. These requirements are set out in section 4.1 of the section 42A report. As noted above, a comprehensive section 32 evaluation accompanied

the application. We have reviewed that evaluation and find it 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 PC87. Mr Scott also provided a section 32AA evaluation that addressed the addition of the BRP to the plan change documentation which we also largely adopt. To the extent that his section 32AA evaluation may be incomplete or inconsistent with our findings we refer to our findings in the section above on principal issues in contention.

102. Sections 74 and 75 of the RMA respectively require that PC87 is “in accordance with” and “give effect to” higher level statutory planning documents.

National Policy Statements

103. The section 42A report addressed the NPS-UD, the National Policy Statement for Freshwater Management 2020 (**NPS-FM**) and the NPS-HPL.
104. In relation to the NPS-UD, the section 42A report referred to the analysis provided by the applicant at section 8.2.1 of the AEE, which stated that PC87 sought to give effect to the NPS-UD through:
- *Rezoning the land from the FUZ to the BGBZ;*
 - *Enabling the growth of Pukekohe and catering for current demand and the anticipated future growth of the business sector in Pukekohe;*
 - *Locating close to current business and future business areas that are well connected through proposed footpaths and roads;*
 - *Providing for development which can be serviced by current or funded infrastructure which has been planned to enable growth in Pukekohe;*
 - *Adopting the existing BGBZ provisions for consistency with other Auckland areas and to facilitate a employment focussed zone with quality urban design outcomes; and*
 - *The ability to facilitate efficient development of key infrastructure to service the sites principally through the resource consent, engineering approval and building consent processes.*
105. The section 42A report largely agreed with this assessment, subject to resolution on transport matters.
106. On freshwater matters, it was the agreed position of the applicant and the Council, as we have recorded above, that there are no freshwater ecosystems on the site and that stormwater can be appropriately managed. Accordingly, it was also agreed that PC87 gave effect to the NPS-FM.
107. We have previously discussed the relevance of the NPS-HPL above, particularly in relation to reverse sensitivity matters.

108. Further to the above national policy statements, Mr Scott advised in his evidence in chief that since the preparation of the plan change the National Policy Statement for Indigenous Biodiversity 2023 (**NPS-IB**) had come into effect. Noting the absence of either freshwater or terrestrial ecological values, Mr Scott's opinion was that the NPS-IB was not relevant to the consideration of PC87.⁸
109. In summary, we accept the analysis and advice from the applicant and Council that PC87 is in accordance with and gives effect to the relevant national policy statements.
110. Finally, with reference to the Supreme Court decision in the *Port Otago* case,⁹ we find that there is no conflict between any of the national policy statements that requires resolution in the context of PC87.

National Environmental Standards

111. The section 42A report addressed two relevant national environmental standards, being the National Environmental Standard for Freshwater (**NES-F**) and National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**NES-CS**). As with the NPS-FW, NES-F is not particularly relevant to PC87, but the plan change gives effect to it. In relation to the NES-CS, a Preliminary Site Investigation had been undertaken for the plan change area and the requirements under the NES-CS and potentially Chapter E30 of the AUP (regarding Contaminated Land) would be triggered by any future development undertaken within potentially affected areas. We find that PC87 does not conflict with the NES-CS.

Regional Policy Statement and Regional and District Plan Provisions

112. There are a number of provisions of the Unitary Plan that are relevant to PC87 and the Section 42A report listed these as:

AUP-RPS B2 Urban Growth and Form;
 B2.3 A Quality Built Environment;
 B2.4 Residential Growth; and
 B2.5 Commercial and Industrial Growth

to which we have added Policy B9 Rural Environment; and the following regional and district plan provisions:

E1 Water Quality and integrated management;
E8 Stormwater – Discharge and diversion;

⁸ Scott Evidence in Chief para. 96

⁹ PORT OTAGO LIMITED v ENVIRONMENTAL DEFENCE SOCIETY INCORPORATED [2023] NZSC 112

E11 Land disturbance – Regional;

E12 Land disturbance – District;

E25 Noise and Vibration;

E27 Transport; and

E30 Contaminated Land.

to which we have added E2 on water resources.

113. Earlier in our decision we summarised relevant strategic planning documents that provided planning context to PC87. These included Auckland Plan 2050 and its companion-piece, the FULSS, which addresses the sequencing of land development, and the Structure Plan, all of which are prepared under the Local Government Act. To this list the section 42A report added the Franklin Board Plan 2020 and the Pukekohe Area Plan 2014.
114. Te Tāruke-ā-Tāwhiri: Auckland's Climate Plan 2020 is a management plan that responds to several relevant Acts. The section 42A report noted the core goals of the plan and in relation to PC87 noted:

“Development of the plan change area as proposed may have an impact on greenhouse gas emissions given the anticipated increases in the use of private vehicles and limited public transport. However, this is offset by the provision of local employment opportunities (reducing the need to travel further afield for employment) and improved access to business services, both of which help to sustain Pukekohe as a self-sufficient rural community.”

115. Having considered the evidence and relevant background documents, we are satisfied, overall, that PC87 has been developed in accordance with the relevant statutory and policy matters. The plan change will clearly assist the Council in its effective administration of the Unitary Plan.

DECISION

116. That pursuant to Schedule 1, Clause 10 of the Resource Management Act 1991, that Proposed Plan Change 87 to the Unitary Plan be approved, subject to the modifications as set out in this decision.
117. Submissions on the plan change are accepted and rejected in accordance with this decision. In general, these decisions follow the recommendations set out in the Council's section 42A report, except as identified above in relation to the Manukau Road/Buckland Road/Kitchener Road intersection matter and the matter of water re-use.
118. The reasons for the decision are that PC87:

- (i) will assist the Council in achieving the purpose of the RMA;
- (ii) is consistent with the higher order documents as referred to above;
- (iii) is consistent with the provisions of Part 2 of the RMA;
- (iv) is supported by necessary evaluation in accordance with section 32;
- (v) will help with the effective implementation of the plan;
- (vi) the GBZ zoning will meet the current demand for LFR and other business uses that will provide for local employment, and that the development of LFR will not detract from the Pukekohe CBD;
- (vii) the GBZ provisions and, where relevant, the Auckland-wide chapters of the Unitary Plan are sufficiently robust to manage the effects of urban development on the plan change area.
- (viii) any environmental effects which may arise from the rezoning to GBZ, including reverse sensitivity effects, can be avoided, remedied or mitigated;
- (ix) the provisions of the BRP provide certainty that the transport infrastructure within and adjacent to the site will be provided;
- (x) the plan change area is able to be provided with the necessary infrastructure for the water, wastewater and stormwater and other services;
- (xi) the sustainable management of water resources is supported through the consideration of water re-use as part of stormwater management, such consideration also addressing a concern raised by mana whenua in their CVAs.



Dave Serjeant
Chairperson

Date: 17 October 2023

Attachment B:
Updated text (Strikethrough and
Underlined)

I455. Buckland Road Precinct

I455.1. Precinct Description

The Buckland Road Precinct covers approximately 7.8 hectares of land at 301 and 303 Buckland Road and is located to the south of the Pukekohe Town Centre.

The Buckland Road Precinct is zoned Business – General Business Zone and enables a wide range of business and employment related activity to complement existing Business zoned land to the northeast and opposite at Pukekohe Park. It also complements planned Business - Light Industrial zoning identified in the Pukekohe-Paerata Structure Plan. Other than the precinct provisions set out below, the activity and development standards for the Business-General Business Zone has not been changed.

The purpose of the precinct is to ensure that subdivision and development of land:

- is coordinated with upgrades necessary to avoid, remedy or mitigate adverse effects on the local and wider transport network; and
- recognises the need for safe, efficient, and effective access to the Precinct; and
- provides for the comprehensive and integrated development of the sites within the Precinct, to ensure the efficient use of land and water resources and infrastructure.

The transport network in the wider area will be progressively upgraded over time to support planned urban growth in this part of Pukekohe as identified in the Pukekohe- Paerata Structure Plan.

The zoning of land within this Precinct is the Business – General Business Zone.

I455.2. Objectives [rp/dp]

- (1) Provide a well-connected and safe urban transport network that supports a range of travel modes.
- (2) Transport infrastructure is integrated and coordinated with subdivision and development and provides safe and efficient connections to the wider transport network and upgrades to the transport network adjoining and/or immediately beyond the Precinct.
- (3) Water resources are managed to maximise the efficient allocation and efficient use of available water.

I455.3. Policies [rp/dp]

Subdivision and development

- (1) Require that the design of any subdivision and development within the precinct is undertaken in general accordance with the Buckland Road precinct plan.

Transport and Infrastructure

- (2) Require subdivision and development to provide for a transport network that:
 - (a) Integrates with, and avoids, remedies or mitigates adverse effects on the safety and efficiency of the transport network of the surrounding area by:

- (i) Providing for a road between Webb Street and Buckland Road as fixed by the Buckland Road Precinct Plan.
- (ii) Providing for a controlled access intersection on Buckland Road in the location as fixed by the Buckland Road Precinct Plan.
- (iii) Providing a safe internal transport network within the site and providing for safe intersections onto collector and arterial roads.
- (iv) Delivering an urban standard of frontage to Buckland Road including at a minimum, footpaths and cycling connectivity.
- (v) Providing for active mode connections beyond the precinct and where identified in the Precinct Plan.
- (vi) Restricts or manages vehicle access directly off Buckland Road.
- (b) Facilitates transport choices by providing for pedestrians, cyclists, public transport facilities, and vehicles, including (as far as practicable given the local area's constraints and characteristics) to the Pukekohe Town Centre.
- (c) Is designed and constructed in a manner that is appropriate having regard to the requirements of Auckland Transport's relevant code of practice or engineering standards.

Water Resources

- (3) Water re-use is implemented by way of on-site storage of roof runoff with use for non-potable water demand on site as part of on-site stormwater management systems, where practical and feasible.

I455.4. Activity table

The activity tables in any relevant overlays, Auckland-wide and zones apply unless the activity is listed in Table I455.4.1 below.

Table I455.4.1 specifies the activity status of land use and subdivision activities in the precinct pursuant to sections 9(2), 9(3) and section 11 of the Resource Management Act 1991.

Note 1

A blank cell in the activity status means the activity status of the activity in the relevant overlays, Auckland-wide or zones applies for that activity unless that activity is specifically listed in Table I455.4.1.

Table I455.4.1 Activity table

<u>Activity</u>	<u>Activity status</u>
<u>Use and Development</u>	

(A1)	<u>Activities listed as permitted, restricted discretionary, discretionary, or non-complying activities in Table H14.4.1 in the Business –General Business Zone</u>	
(A2)	<u>Any activity not complying with the standards under I455.6.1</u>	<u>RD</u>
<u>Subdivision</u>		
(A3)	<u>Subdivision not complying with the standards under I455.6.1</u>	<u>RD</u>

I455.5. Notification

- (1) Any application for resource consent for an activity listed in Table I455.4.1 Activity table will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.
- (2) When deciding who is an affected person in relation to any activity for the purposes of section 95E of the Resource Management Act 1991 the Council will give specific consideration to those persons listed in Rule C1.13(4).

I455.6. Standards

All relevant overlay, Auckland-wide and zone standards apply to the activities listed in Activity Table I455.4.1.

All activities listed in Table I444.4.1 Activity Table must comply with the following standards.

I455.6.1 Precinct Plan and infrastructure requirements

All development and subdivision must comply with the following standards:

I455.6.1.1 Precinct Plan requirements

- (1) All roads, lanes and active mode connections must be as fixed in the Buckland Road: Precinct Plan 1 such as to achieve the same level of connectivity to adjacent sites and roads as shown on the Precinct Plan.

I455.6.1.2 Transport

Purpose:

- Mitigate the adverse effects of traffic generation on the surrounding local and wider transport network.
 - Achieve the integration of land use and transport.
 - To ensure that the construction of PU-NS-2 (Proposed Collector Road) or the upgrade of Buckland Road to an urban standard complies with Appendix 1: Minimum Road Width, Function and Required Design Elements.
- (1) Subdivision and development (including construction of any new road) must comply with the standards in Table I455.6.1.2.1

Table I455.6.1.2.1 Transport Infrastructure Requirements

<u>Transport Infrastructure Upgrade</u>		<u>Trigger</u>
<u>(T1)</u>	<u>New Collector Road between Buckland Road and Webb Street along the full length of the shared boundary of 301 and 303 Buckland Road and as fixed in Precinct Plan 1 in accordance with I455.10: Appendix 1.</u>	<u>Any subdivision or development with frontage to 301 or 303 Buckland Road.</u>
<u>(T2)</u>	<u>Establish a key intersection with Buckland Road as fixed in Precinct Plan 1</u>	
<u>(T3)</u>	<u>Upgrading of Buckland Road to an urban standard (west side/site frontage) including the footpath and cycling facilities in accordance with I455.10: Appendix 1.</u>	
<u>(T4)</u>	<u>Development of cycle facilities and extension of the pedestrian footpath on Buckland Road are to continue north, beyond the plan change boundary to Kitchener Road as shown on the Precinct Plan 1.</u>	

I455.6.1.3 Water resources

The stormwater management device or system for the site shall include water re-use, subject to the practicality and feasibility of re-use.

I455.7. Assessment – restricted discretionary activities

I455.7.1 Matters of discretion

The Council will restrict its discretion to all the following matters when assessing a restricted discretionary activity resource consent application for activities listed in Table I455.4.1 Activity Table, in addition to the matters specified for the relevant restricted discretionary activities in the overlay, Auckland wide or zone provisions:

(1) Non-compliance with the standards I455.6.1

- (a) Consistency with the Buckland Road Precinct Plan I455.9 and I455.10: Appendix 1.**
- (b) Safe and efficient operation of the current and future transport network.**
- (c) Consistency with the objectives and policies of the Precinct.**

I455.7.2. Assessment criteria

The Council will consider the relevant assessment criteria below for restricted discretionary activities, in addition to the assessment criteria specified for the relevant restricted discretionary activities in the overlays, Auckland-wide or zones provisions:

(1) Subdivision and development:

- (a) The extent to which frontage along Buckland Road is designed and constructed to an urban standard, including at a minimum footpath, and connectivity to the footpath network, including on the necessary connection required north of the precinct boundary to connect to Kitchener Road.
- (b) The extent to which the collector road connection known as PU-NS-2 (Buckland Road to Webb Street) is provided along the full length of the shared boundary with 301 and 303 Buckland Road in the location fixed on Precinct Plan 1 to achieve a well-connected street layout that integrates with the transport network and is to Auckland Transport standards.
- (c) The extent to which the intersection of Buckland Road / PU-NS-2 operates in a safe and efficient manner.
- (d) The extent to which the active mode connections are provided for as shown in the Precinct Plan:
 - (i) Along the frontage of the Precinct boundary.
 - (ii) To the north, beyond the Precinct to connect to the Kitchener Road / Manukau Road / Buckland Road intersection.

I455.8. Special information requirements

I455.8.1 Traffic Assessment

- (1) At the first stage of subdivision or development of any site existing at (date of plan change approval); and

I455.8.2 Transport Design Report

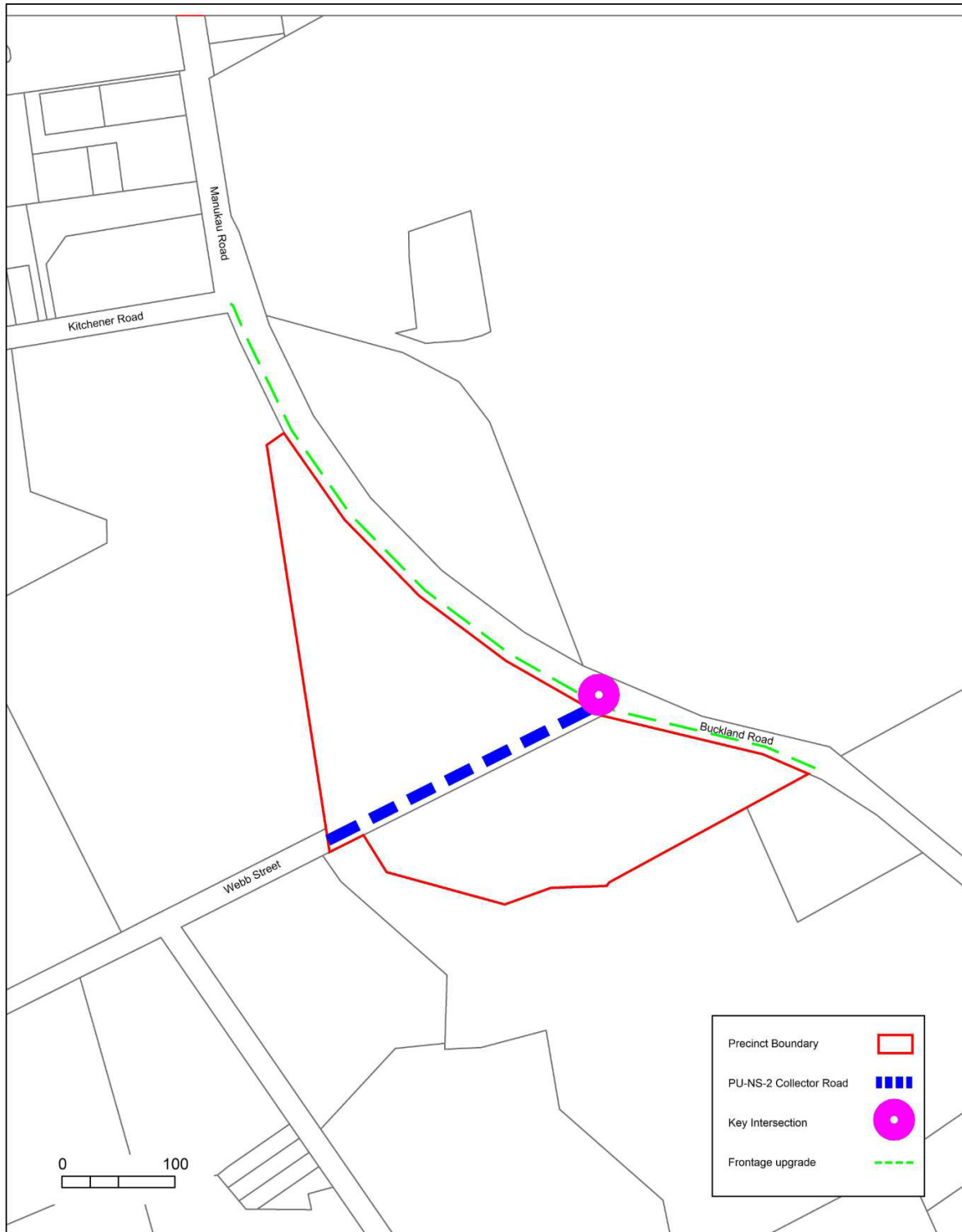
- (1) Any proposed new key intersection or upgrading of existing key intersections, and, any proposed new key roads or upgrading of existing key roads are illustrated on the Precinct Plan must be supported by a Transport Design Report and Concept Plans (including forecast transport modelling and land use assumptions), prepared by a suitably qualified transport engineer confirming that the location and design of any road and its intersection(s) supports the safe and efficient function of the existing and future (ultimate) transport network and can be accommodated within the proposed or available road reserves. This may be included within a transport assessment supporting land use or subdivision consents.

In addition, where an interim upgrade is proposed, information must be provided, detailing how the design allows for the ultimate upgrade to be efficiently delivered.

I455.8.3 Water resources

- (1) A report that assesses the practicality and feasibility of water-reuse as part of the SMAF1 stormwater management system for the site.

1455.9 Buckland Road Precinct Plan 1



1455.10 Appendix 1

Appendix 1 – Minimum Road Width, Function and Required Design Elements

<u>Name</u>	<u>Role and function of road</u>	<u>Minimum Road Reserve</u>	<u>Total no. of lanes</u>	<u>Design Speed</u>	<u>Median</u>	<u>Cycle provision</u>	<u>Pedestrian provision</u>	<u>Freight or heavy vehicle route</u>	<u>Access Restrictions</u>	<u>Bus Provision</u>
<u>Buckland Road</u>	<u>Arterial Road</u>	<u>30m</u>	<u>2</u>	<u>50km/h</u>	<u>No</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>	<u>yes</u>
<u>PU-NS-2 (Proposed Collector)</u>	<u>Collector, unless Auckland Transport issues a notice of requirement for an arterial.</u>	<u>22m</u>	<u>2</u>	<u>50km/h</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>

Attachment C:
Updated Text (Clean)

I455. Buckland Road Precinct

I455.1. Precinct Description

The Buckland Road Precinct covers approximately 7.8 hectares of land at 301 and 303 Buckland Road and is located to the south of the Pukekohe Town Centre.

The Buckland Road Precinct is zoned Business – General Business Zone and enables a wide range of business and employment related activity to complement existing Business zoned land to the northeast and opposite at Pukekohe Park. It also complements planned Business - Light Industrial zoning identified in the Pukekohe-Paerata Structure Plan. Other than the precinct provisions set out below, the activity and development standards for the Business-General Business Zone has not been changed.

The purpose of the precinct is to ensure that subdivision and development of land:

- is coordinated with upgrades necessary to avoid, remedy or mitigate adverse effects on the local and wider transport network; and
- recognises the need for safe, efficient, and effective access to the Precinct; and
- provides for the comprehensive and integrated development of the sites within the Precinct, to ensure the efficient use of land and water resources and infrastructure.

The transport network in the wider area will be progressively upgraded over time to support planned urban growth in this part of Pukekohe as identified in the Pukekohe- Paerata Structure Plan.

The zoning of land within this Precinct is the Business – General Business Zone.

I455.2. Objectives [rp/dp]

- (1) Provide a well-connected and safe urban transport network that supports a range of travel modes.
- (2) Transport infrastructure is integrated and coordinated with subdivision and development and provides safe and efficient connections to the wider transport network and upgrades to the transport network adjoining and/or immediately beyond the Precinct.
- (3) Water resources are managed to maximise the efficient allocation and efficient use of available water.

I455.3. Policies [rp/dp]

Subdivision and development

- (1) Require that the design of any subdivision and development within the precinct is undertaken in general accordance with the Buckland Road precinct plan.

Transport and Infrastructure

- (2) Require subdivision and development to provide for a transport network that:
 - (a) Integrates with, and avoids, remedies or mitigates adverse effects on the safety and efficiency of the transport network of the surrounding area by:

- (i) Providing for a road between Webb Street and Buckland Road as fixed by the Buckland Road Precinct Plan.
 - (ii) Providing for a controlled access intersection on Buckland Road in the location as fixed by the Buckland Road Precinct Plan.
 - (iii) Providing a safe internal transport network within the site and providing for safe intersections onto collector and arterial roads.
 - (iv) Delivering an urban standard of frontage to Buckland Road including at a minimum, footpaths and cycling connectivity.
 - (v) Providing for active mode connections beyond the precinct and where identified in the Precinct Plan.
 - (vi) Restricts or manages vehicle access directly off Buckland Road.
- (b) Facilitates transport choices by providing for pedestrians, cyclists, public transport facilities, and vehicles, including (as far as practicable given the local area's constraints and characteristics) to the Pukekohe Town Centre.
 - (c) Is designed and constructed in a manner that is appropriate having regard to the requirements of Auckland Transport's relevant code of practice or engineering standards.

Water Resources

- (3) Water re-use is implemented by way of on-site storage of roof runoff with use for non-potable water demand on site as part of on-site stormwater management systems, where practical and feasible.

I455.4. Activity table

The activity tables in any relevant overlays, Auckland-wide and zones apply unless the activity is listed in Table I455.4.1 below.

Table I455.4.1 specifies the activity status of land use and subdivision activities in the precinct pursuant to sections 9(2), 9(3) and section 11 of the Resource Management Act 1991.

Note 1

A blank cell in the activity status means the activity status of the activity in the relevant overlays, Auckland-wide or zones applies for that activity unless that activity is specifically listed in Table I455.4.1.

Table I455.4.1 Activity table

Activity	Activity status
Use and Development	

(A1)	Activities listed as permitted, restricted discretionary, discretionary, or non-complying activities in Table H14.4.1 in the Business –General Business Zone	
(A2)	Any activity not complying with the standards under I455.6.1	RD
Subdivision		
(A3)	Subdivision not complying with the standards under I455.6.1	RD

I455.5. Notification

- (1) Any application for resource consent for an activity listed in Table I455.4.1 Activity table will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.
- (2) When deciding who is an affected person in relation to any activity for the purposes of section 95E of the Resource Management Act 1991 the Council will give specific consideration to those persons listed in Rule C1.13(4).

I455.6. Standards

All relevant overlay, Auckland-wide and zone standards apply to the activities listed in Activity Table I455.4.1.

All activities listed in Table I444.4.1 Activity Table must comply with the following standards.

I455.6.1 Precinct Plan and infrastructure requirements

All development and subdivision must comply with the following standards:

I455.6.1.1 Precinct Plan requirements

- (1) All roads, lanes and active mode connections must be as fixed in the Buckland Road: Precinct Plan 1 such as to achieve the same level of connectivity to adjacent sites and roads as shown on the Precinct Plan.

I455.6.1.2 Transport

Purpose:

- Mitigate the adverse effects of traffic generation on the surrounding local and wider transport network.
 - Achieve the integration of land use and transport.
 - To ensure that the construction of PU-NS-2 (Proposed Collector Road) or the upgrade of Buckland Road to an urban standard complies with Appendix 1: Minimum Road Width, Function and Required Design Elements.
- (1) Subdivision and development (including construction of any new road) must comply with the standards in Table I455.6.1.2.1

Table I455.6.1.2.1 Transport Infrastructure Requirements

Transport Infrastructure Upgrade		Trigger
(T1)	New Collector Road between Buckland Road and Webb Street along the full length of the shared boundary of 301 and 303 Buckland Road and as fixed in Precinct Plan 1 in accordance with I455.10: Appendix 1.	Any subdivision or development with frontage to 301 or 303 Buckland Road.
(T2)	Establish a key intersection with Buckland Road as fixed in Precinct Plan 1	
(T3)	Upgrading of Buckland Road to an urban standard (west side/site frontage) including the footpath and cycling facilities in accordance with I455.10: Appendix 1.	
(T4)	Development of cycle facilities and extension of the pedestrian footpath on Buckland Road are to continue north, beyond the plan change boundary to Kitchener Road as shown on the Precinct Plan 1.	

I455.6.1.3 Water resources

The stormwater management device or system for the site shall include water re-use, subject to the practicality and feasibility of re-use.

I455.7. Assessment – restricted discretionary activities**I455.7.1 Matters of discretion**

The Council will restrict its discretion to all the following matters when assessing a restricted discretionary activity resource consent application for activities listed in Table I455.4.1 Activity Table, in addition to the matters specified for the relevant restricted discretionary activities in the overlay, Auckland wide or zone provisions:

- (1) Non-compliance with the standards I455.6.1
 - (a) Consistency with the Buckland Road Precinct Plan I455.9 and I455.10: Appendix 1.
 - (b) Safe and efficient operation of the current and future transport network.
 - (c) Consistency with the objectives and policies of the Precinct.

I455.7.2. Assessment criteria

The Council will consider the relevant assessment criteria below for restricted discretionary activities, in addition to the assessment criteria specified for the relevant restricted discretionary activities in the overlays, Auckland-wide or zones provisions:

(1) Subdivision and development:

- (a) The extent to which frontage along Buckland Road is designed and constructed to an urban standard, including at a minimum footpath, and connectivity to the footpath network, including on the necessary connection required north of the precinct boundary to connect to Kitchener Road.
- (b) The extent to which the collector road connection known as PU-NS-2 (Buckland Road to Webb Street) is provided along the full length of the shared boundary with 301 and 303 Buckland Road in the location fixed on Precinct Plan 1 to achieve a well-connected street layout that integrates with the transport network and is to Auckland Transport standards.
- (c) The extent to which the intersection of Buckland Road / PU-NS-2 operates in a safe and efficient manner.
- (d) The extent to which the active mode connections are provided for as shown in the Precinct Plan:
 - (i) Along the frontage of the Precinct boundary.
 - (ii) To the north, beyond the Precinct to connect to the Kitchener Road / Manukau Road / Buckland Road intersection.

I455.8. Special information requirements

I455.8.1 Traffic Assessment

- (1) At the first stage of subdivision or development of any site existing at (date of plan change approval); and

I455.8.2 Transport Design Report

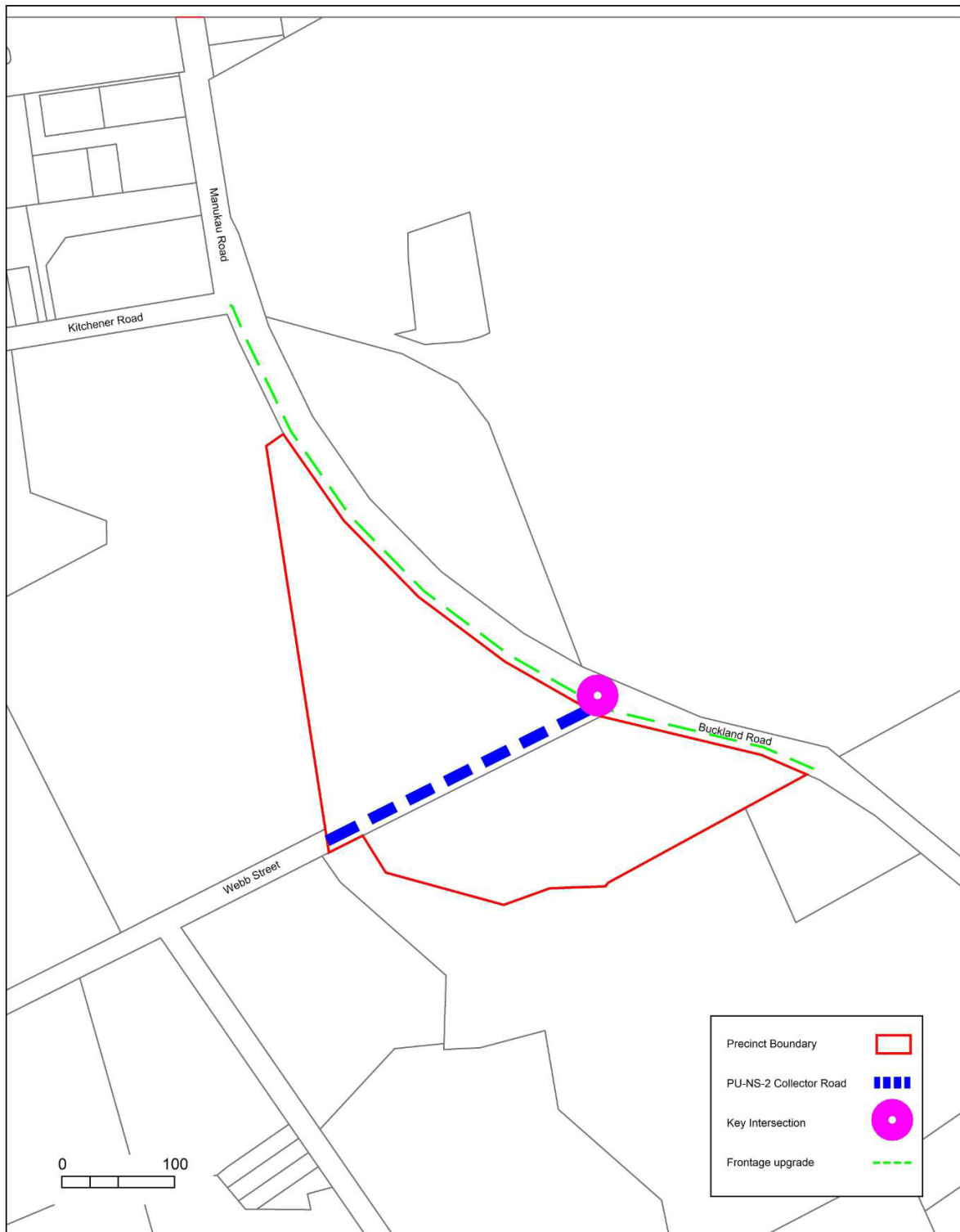
- (1) Any proposed new key intersection or upgrading of existing key intersections, and, any proposed new key roads or upgrading of existing key roads are illustrated on the Precinct Plan must be supported by a Transport Design Report and Concept Plans (including forecast transport modelling and land use assumptions), prepared by a suitably qualified transport engineer confirming that the location and design of any road and its intersection(s) supports the safe and efficient function of the existing and future (ultimate) transport network and can be accommodated within the proposed or available road reserves. This may be included within a transport assessment supporting land use or subdivision consents.

In addition, where an interim upgrade is proposed, information must be provided, detailing how the design allows for the ultimate upgrade to be efficiently delivered.

I455.8.3 Water resources

- (1) A report that assesses the practicality and feasibility of water-reuse as part of the SMAF1 stormwater management system for the site.

1455.9 Buckland Road Precinct Plan 1

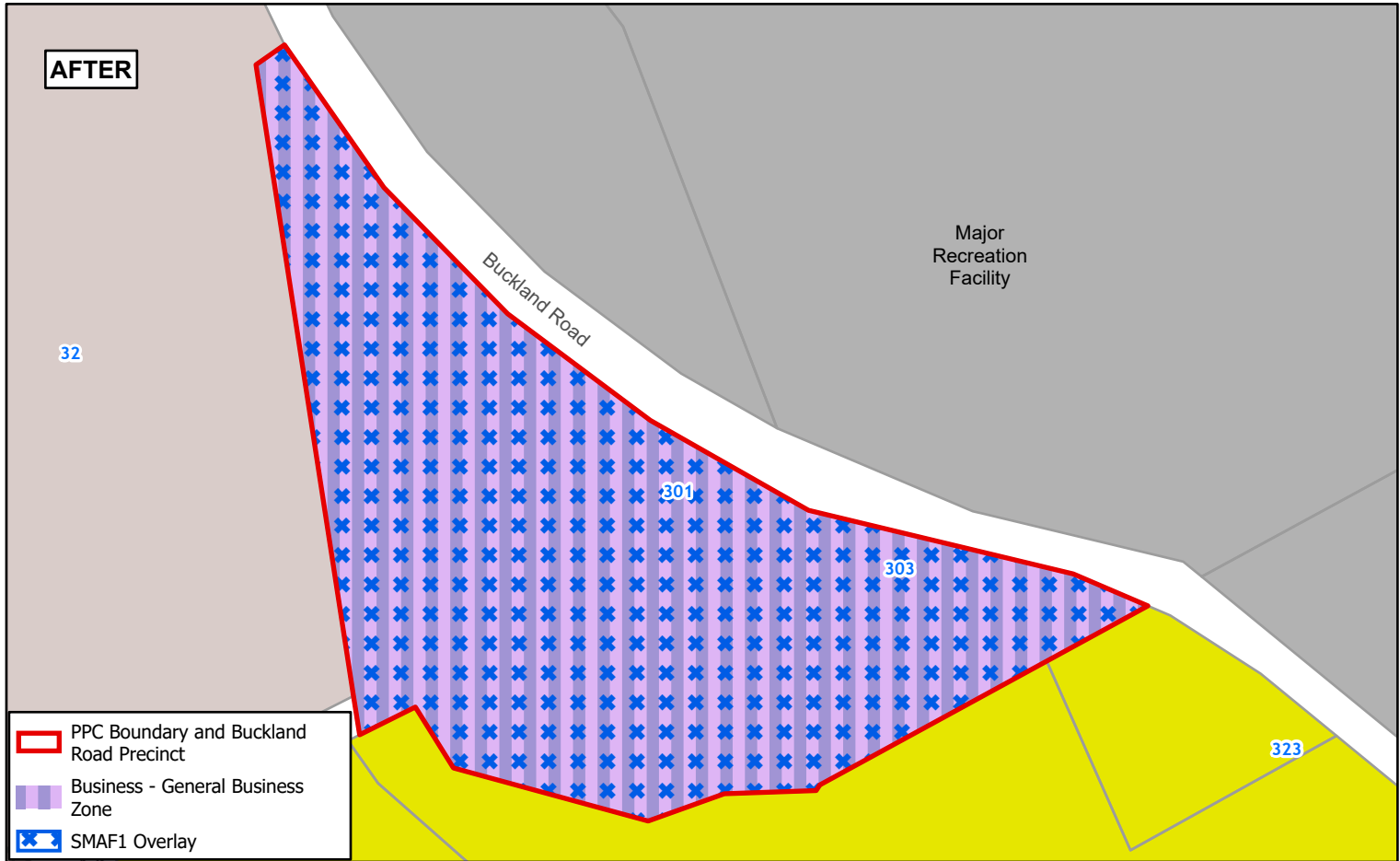


1455.10 Appendix 1

Appendix 1 – Minimum Road Width, Function and Required Design Elements

Name	Role and function of road	Minimum Road Reserve	Total no. of lanes	Design Speed	Median	Cycle provision	Pedestrian provision	Freight or heavy vehicle route	Access Restrictions	Bus Provision
Buckland Road	Arterial Road	30m	2	50km/h	No	yes	yes	yes	yes	yes
PU-NS-2 (Proposed Collector)	Collector, unless Auckland Transport issues a notice of requirement for an arterial.	22m	2	50km/h	No	No	Yes	Yes	No	No

Attachment D:
Updated GIS Viewer



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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: 26/02/2024

Private Plan Change 87 - Before and After