

**IN THE ENVIRONMENT COURT
AUCKLAND REGISTRY**

ENV-2016-AKL-

IN THE MATTER of the Local Government (Auckland Transitional Provisions) Act 2010 ("**LGATPA**") and the Resource Management Act 1991 ("**RMA**")

AND

IN THE MATTER of an appeal under section 156(3) of the LGATPA against a decision of the Auckland Council on a recommendation of the Auckland Unitary Plan Independent Hearing Panel ("**Hearing Panel**") on the proposed Auckland Unitary Plan ("**Proposed Plan**")

AND

IN THE MATTER of Proposed Plan Hearing Topic 080/081 – Zoning and Precincts (Silverdale North Precinct)

BETWEEN **HIGHGATE BUSINESS PARK LIMITED** (Submitter 5736;
Further Submitter 2034)

Appellant

A N D **AUCKLAND COUNCIL**

Respondent

NOTICE OF APPEAL

RE: PROPOSED PLAN TOPIC 080/081 – SILVERDALE NORTH PRECINCT

DATED: 12 September 2016

**ELLIS GOULD
SOLICITORS
AUCKLAND**

REF: Douglas Allan

**Level 17 Vero Centre
48 Shortland Street, Auckland
Tel: (09) 307 2172 Fax: (09) 358 5215
PO Box 1509
DX: CP22003
AUCKLAND**

TO: The Registrar
Environment Court
AUCKLAND

1. **Highgate Business Park Limited** (“**the Appellant**”) appeals against a part of a decision of **Auckland Council** (“**the Council**”) on the proposed Auckland Unitary Plan (“**Proposed Plan**”).
2. The Appellant has the right to appeal the Council’s decision to the Environment Court under section 156(3) of the LGATPA because the Council accepted a recommendation of the Auckland Unitary Plan Independent Hearing Panel (“**the Hearing Panel**”) in relation to provisions or matters relating to the Proposed Plan:
 - (a) With regard to which the Appellant sought relief in its submission concerning land owned by it subject to the Silverdale North Precinct (Development Areas 8 and 9C on Precinct Plan 3) (submission number 5736) (“**the Submission**”);
 - (b) That resulted in new provisions being included in the Proposed Plan and other provisions being excluded from the Proposed Plan;
 - (c) In relation to which the Hearing Panel identified that its recommendation to delete the Silverdale North Precinct was beyond the scope of the submissions made on the Proposed Plan; and
 - (d) In relation to which the Appellant is unduly prejudiced by the inclusion of new provisions and the exclusion of other provisions.
3. The Appellant provides further details of the reasons for its Appeal below.
4. The Appellant is not a trade competitor for the purposes of section 308D of the RMA. In any event, the Appellant is directly affected by effects of the subject of the Appeal that:
 - (a) Adversely affect the environment; and
 - (b) Do not relate to trade competition or the effects of trade competition.
5. Notice of the decision that is being appealed, being the decision on Proposed Plan Hearing Topic 080/081 – Silverdale North Precinct and Rezoning (“**the Decision**”), was received by the Appellant on or about 19 August 2016.
6. The Decision was made by the Council.

7. The provisions and parts of the Decision that are being appealed are the package of provisions in the Proposed Plan that apply to part of Development Area 8 of the Silverdale North Precinct, as notified, as a consequence of the Hearing Panel's out of scope recommendation pursuant to Hearing Topic 081 to delete the Silverdale North Precinct. Plans identifying the part of Development Area 8 subject to this Appeal are **attached as Annexure A**.
8. The reasons for this Appeal are:
 - (a) The Appellant (submitter 5736) lodged a submission dated 28 February 2014 relating to the package of Proposed Plan provisions governing land comprising Development Areas 8 and 9C subject to the Silverdale North Precinct ("**the Submission**"). A copy of the Submission is **attached as Annexure B**.
 - (b) The Appellant is the owner of most of the land comprised in Development Areas 8 and 9C, which is subject to the relevant part of the Decision.
 - (c) Activities on and development of Development Areas 8 and 9C in terms of the Proposed Plan as notified were governed by a package of provisions including:
 - (i) The underlying zoning of the land;
 - (ii) The additional constraints and opportunities provided for in the Silverdale North Precinct;
 - (iii) The general provisions in the Proposed Plan; and
 - (iv) The other Proposed Plan overlays that applied to the site.
 - (d) The Hearing Panel in its recommendation report on Hearing Topic 080/081 - Silverdale North Precinct and Re-zoning ("**the Report**"):
 - (i) Canvassed some of the relief sought by submitters on the Silverdale North Precinct and Development Area 8 in particular;
 - (ii) Recommended deletion of the Silverdale North Precinct, and acknowledged that the deletion was beyond the scope of submissions;
 - (iii) Changed the underlying zoning of the majority of the land comprised in Development Area 8 from General Business to Light Industry; and

- (iv) Retained the Neighbourhood Centre zoning on land in Development Area 8 but reduced its size.
- (e) As a consequence, the Hearing Panel replaced the package of provisions governing Development Area 8 in the Proposed Plan as notified with a package of provisions that is quite unlike:
 - (i) The package of provisions in the Proposed Plan as notified;
 - (ii) The package of provisions in the operative Auckland Council District Plan (Rodney Section) ("**the Operative Plan**"); and
 - (iii) The package of Proposed Plan provisions sought by any submitter or any combination of submitters.
- (f) The Operative Plan provisions applying to Development Area 8 reflect the Council's long-standing vision for the area that it develop into a high quality, high amenity, intensive employment area including in particular offices, healthcare facilities, educational facilities, entertainment facilities and commercial services.
- (g) The Proposed Plan as notified sought to retain the vision exemplified by the Operative Plan provisions and proposed to do so through implementation of underlying General Business and Neighbourhood Centre zones, augmented by the provisions of the Silverdale North Precinct.
- (h) The Appellant is not aware of the Council having resiled from that vision, which was reflected in the evidence presented on behalf of Council to the Hearing Panel through the Topic 081 hearing.
- (i) The Report does, however, resile from the Council's vision by:
 - (i) Imposing a Light Industrial zoning on most of the land, together with a reduced Neighbourhood Centre zoning; in conjunction with
 - (ii) Removing the supplementary provisions set out in the Silverdale North Precinct.
- (j) As a consequence, the Report and the Decision:
 - (i) Enable as of right a wide range of industrial activities in the Light Industry zone, being activities that the Council had endeavoured to constrain in the Proposed Plan through Restricted Discretionary Activity status;

- (ii) Make no provision for the offices, healthcare facilities, educational facilities, entertainment facilities and commercial services anticipated by Council (as they are all non-complying or full discretionary activities in the Light Industry zone), being activities that the Council had endeavoured to encourage in the Proposed Plan through Permitted Activity status;
 - (iii) Require a lower standard of urban design and envisage a lesser quality of amenity than that in the Operative Plan and in the Proposed Plan as notified;
 - (iv) Reduce the scale of the Neighbourhood Centre anticipated for Development Area 8 in comparison with that envisaged in the Operative Plan and in the Proposed Plan as notified;
 - (v) Relocate and change the orientation of the Neighbourhood Centre anticipated for Development Area 8; and
 - (vi) In summary, constitute a departure from and reversal of the planning policies for Development Area 8 inherent in both the Operative Plan and the Proposed Plan as notified.
- (k) While one submitter (being a trade competitor) sought to constrain the scale of the Neighbourhood Centre zoning anticipated for Development Area 8, no submission sought to challenge or depart from the Council's vision that Development Area 8 become a high amenity, intensive employment area including offices, healthcare facilities, educational facilities, entertainment facilities and commercial services.
- (l) Accordingly, the package of relief for Development Area 8 recommended by the Hearing Panel in the Report and upheld by the Council in the Decision is beyond the scope of submissions, as identified by the Hearing Panel with respect to the removal of the Precinct.
- (m) The Decision will generate the following adverse effects:
- (i) It will enable the construction over time of industrial and other activities that are inherently incompatible with the high quality residential development surrounding Development Area 8, in circumstances where the additional controls on amenity imposed through the Precinct will no longer be available.

- (ii) It will prevent the development of a high amenity, intensive employment area including offices, healthcare facilities, educational facilities, entertainment facilities and commercial services, being the form of development that was the reason why the land was given business zonings under the Operative Plan and the Proposed Plan.
 - (iii) It will prevent the development of an appropriately oriented and located Neighbourhood Centre of sufficient scale and variety to serve the surrounding residential and employment catchments, that being the intention of the provisions in both the Operative Plan and the Proposed Plan as notified.
- (n) The Appellant is prepared to accept the Light Industry zone on the western and southern flanks of Development Area 8. The Appellant proposes to develop that land in accordance with the Light Industry zone but subject to additional contractual constraints on the quality and nature of activities that may occur, so as to minimise adverse effects on surrounding amenity.
- (o) The Appellant considers that it is neither realistic nor appropriate to retain Light Industry zoning on the balance of Development Area 8 in the absence of a precinct. Accordingly the Appellant seeks reinstatement, via an appropriate precinct in conjunction with suitable underlying zoning, of provisions that:
 - (i) Give effect to the Council's historical vision for the land; and
 - (ii) Enable development of an appropriate range of activities, together with a suitable level of amenity
- (p) The Appellant considers that, in the absence of appropriate precinct provisions, it is inappropriate and unnecessary to constrain the scale and change the orientation and location of the Neighbourhood Centre zoning in Development Area 8 to the extent proposed in the Decision.
- (q) Unless and until the Proposed Plan provisions for Development Area 8 of the Silverdale North Precinct are amended in accordance with the relief sought below they will not:
 - (i) Promote the sustainable management of resources;
 - (ii) Otherwise be consistent with Part 2 of the RMA;

- (iii) Be appropriate in terms of section 32 of the RMA; or
- (iv) Be consistent with the balance of the provisions of the Proposed Plan.

9. The Appellant seeks the following relief with respect to the part of Development Area 8 shown in Annexure 1:

- (a) That the Appeal be allowed.
- (b) That the Decision subject to this Appeal be disallowed.
- (c) Reinstatement, via an appropriate precinct in conjunction with suitable underlying zoning, of provisions that:
 - (i) Give effect to the Council's historical vision for the land, as embodied in the Operative Plan and Proposed Plan as notified; and
 - (ii) Enable development on the land of an appropriate range of activities, together with a suitable level of amenity.

By way of illustration, the package of provisions implemented through the Precinct and underlying zoning should:

- (iii) Provide for the establishment as of right throughout the area subject to the Appeal of offices, healthcare facilities, educational facilities, entertainment facilities and commercial services;
 - (iv) Locate and orientate the Neighbourhood Centre in a manner consistent with the Proposed Plan as notified;
 - (v) Enable the establishment of compatible and complementary activities in the immediate vicinity of the Neighbourhood Centre; and
 - (vi) Be no less enabling than the provisions in the Operative Plan and the Proposed Plan as notified.
- (d) Such other orders, relief or other consequential amendments as are considered appropriate or necessary by the Court to address the concerns set out in this Appeal.
 - (e) Costs of and incidental to the Appeal.

10. The Appellant **attaches** the following documents to this Notice of Appeal:

- (a) Plans identifying the part of Development Area 8 subject to this Appeal (**Annexure A**).
- (b) A copy of the Appellant's submission relating to Development Areas 8 and 9C subject to the Silverdale North Precinct (**Annexure B**).
- (c) A copy of the relevant parts of the Report, which are accepted in the Decision (**Annexure C**).
- (d) A record that Auckland Council will be served with a copy of this Notice in accordance with the decision of the Environment Court granting waivers (Refer: [2016] NZ EnvC 153) concerning the service of notices of appeal on the Proposed Plan (**Annexure D**).

DATED at Auckland this 12th day of September 2016

Highgate Business Park Limited by its solicitors and duly authorised agents Ellis Gould

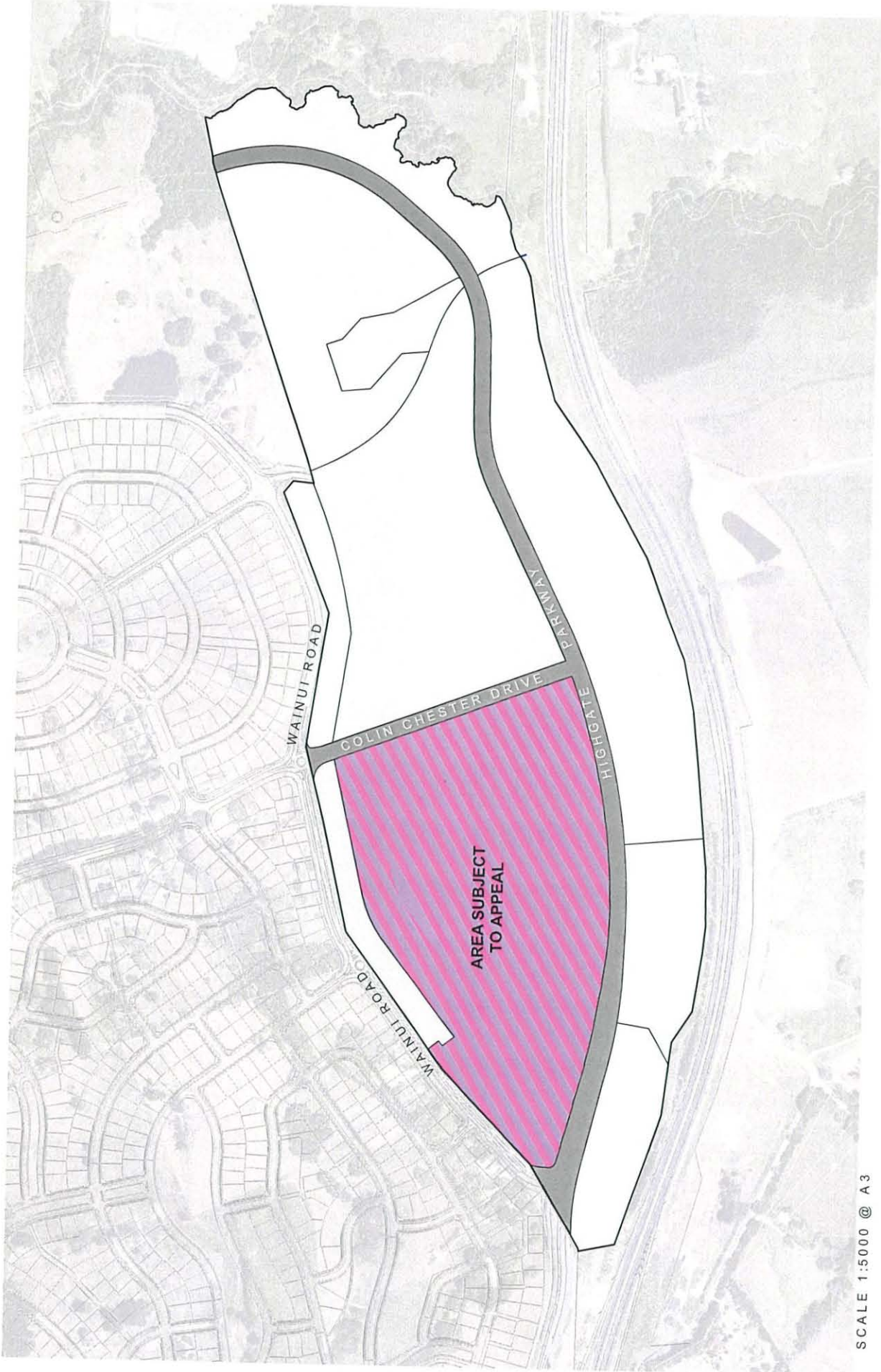


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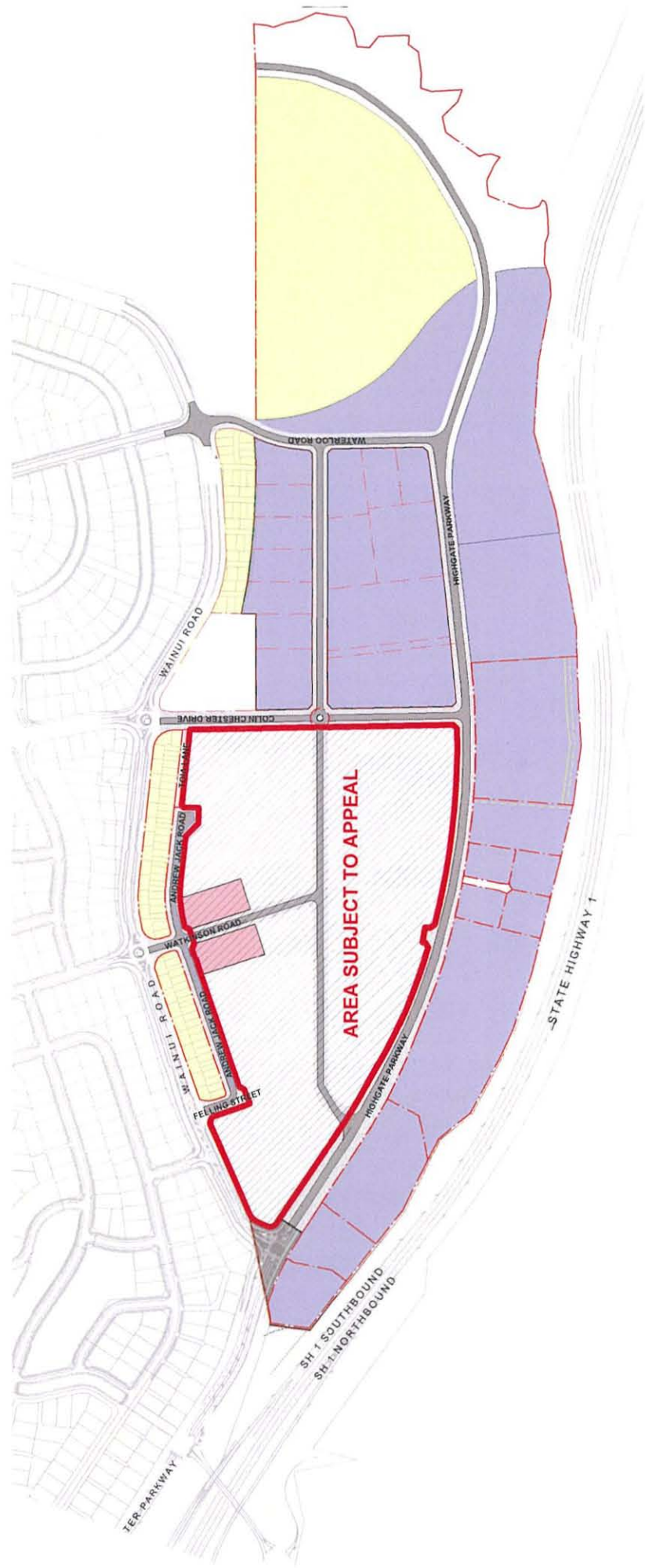
ADDRESS FOR SERVICE: The offices of Ellis Gould, Solicitors, Level 17 Vero Centre, 48 Shortland Street, PO Box 1509, Auckland, DX CP22003, Auckland, Telephone: (09) 307-2172, Facsimile: (09) 358-5215.

ANNEXURE A

Plans identifying the part of Development Area 8 subject to this Appeal

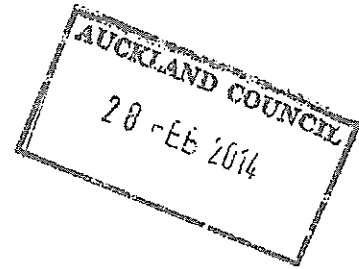


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ANNEXURE B

**Copy of the Appellant's Submission on Development Areas 8 and 9C subject to
the Silverdale North Precinct**



Submission on Proposed Auckland Unitary Plan

**Section 123 of the Local Government (Auckland Transitional Provisions) Act 2010 and Clause 6 of
Schedule 1 to the Resource Management Act 1991**

Highgate Business Park Limited

To: Auckland Council

Name of Submitter: Highgate Business Park Limited ('HBPL'), c/- the address for service set out below.

1. This is a submission on the Proposed Auckland Unitary Plan ("PAUP").
2. This submission is made on behalf of HBPL.
3. The aspects of the PAUP that this submission concerns are the provisions primarily relating to the green-field property comprising the vast majority of Precinct 8 and Precinct 9C, Silverdale North ("the Site"). (Refer to PAUP K.5.44.9 Precinct plans, Precinct Plan 1: Silverdale North Precinct). The large irregular shaped Site extends north from the Weiti River and is located between Wainui Road and the Millwater residential development to the east and the Northern Motorway to the west. Bulk excavations are currently underway in anticipation of development.
4. HBPL could not gain an advantage in trade competition through this submission. In any event, HBPL is directly affected by effects of the subject matter of the submission that:
 - (a) Adversely affect the environment; and
 - (b) Do not relate to trade competition or the effects of trade competition.
5. HBPL's submissions as follows are divided into general points, points related to the respective PAUP precincts comprising the Site, and then some other matters:

5.1 General:

- (a) The underlying General Business and Neighbourhood Centre zones are supported, subject to the relief sought below, because those zones are considered most appropriate for the Site, but the underlying Single House zone for the residential parts of the site is considered wholly inadequate for the situation.
- (b) The Silverdale North Precinct includes staging provisions that require various road improvements as development progresses within the Silverdale North Development Area. The only remaining network upgrade necessary is the construction of the 'Wainui South-Facing Ramps'. The design of the Wainui South-Facing Ramps has been completed and consented, and construction will commence in 2014. The traffic effects of the Silverdale North Development Area are isolated from the likes of 'PENLINK'. The staging provisions are now inappropriate and unnecessary and should be removed.

There is also a staging provision delaying the extension of East Coast Road over the Weiti River until after PENLINK or the widening of Whangaparoa Road. This rule should be removed from the PAUP. It is submitted that road provides part of an important link between Silverdale North, the Wainui South-Facing Ramps and the Silverdale town centre. More permeability in the traffic network should be encouraged rather than discouraged.

- (c) The strip of residential zoned land on the western side of Wainui Road is of insufficient width to accommodate residential lots two deep along this interface, which is considered of merit to reinforce the residential nature of this road and to take advantage of the ridgeline setting and proximate services and employment-zoned land. To accommodate an increased depth of residential development, the boundary between Sub-Precinct A and Sub-Precinct B (General Business and Residential Zones) should be moved slightly further to the west as per the plan appended as Annexure 1.

Furthermore, residential development is considered more appropriate than commercial land uses in the south-western quadrant of Sub-Precinct A due to the topographical, geological and landscape qualities in that part of the site. The plan appended as Annexure 1 includes an additional area of residential in this part of the Site (and along Wainui Road).

- (d) The width of the "Gateway Area" (Refer to PAUP K.5.44.9 Precinct plans, Precinct Plan 1: Silverdale North precinct) is in excess of 120m and is considered to be disproportionate with the intention of this overlay. A reduced overlay width of 20m would not compromise the objective of managing adverse visual effects of development when viewed from the Northern Motorway.
- (e) The Weiti Landscape Area is a remnant of previous zoning that contemplated business development within this area. Residential development will require substantially less earthworks and therefore retain more of the existing landform and landscaped appearance from the Silverdale Interchange. This is a more responsive land-use to fulfill the objectives of the overlay and will supplement the landscape values of the area.
- (f) The smaller of the two areas of proposed reserve adjoining the southern end of Precinct A, between a larger area of reserve and the western boundary of the site, relates to a stand of vegetation that will need to be removed as part of the construction of the primary road that will bisect the site. Also, the pedestrian access strip linking this reserve to the future Weiti esplanade reserve also appears out of scale to its intended 8m width. It is noted that this strip will also need to accommodate maintenance vehicle access and civil services to support the esplanade strip and the proposed batter slope to the Northern Motorway. These changes are included in the plan attached as Annexure 1.

5.2 Precinct A

- (a) Under the PAUP, Sub-Precinct A forms the majority of the commercial component of the Site and is particularly encouraging of offices, healthcare facilities and educational activities. These uses are fully supported, but the Site comprises approximately 60

hectares and there will be insufficient demand from offices, healthcare facilities and educational activities to occupy the Site in the short, medium or longer term. It would be an unwise use of resources to leave large tracts of the Site undeveloped, particularly when preparation of the Site will expend considerable resources and there is demand from other activities. It is submitted that light industrial activities should be provided for as a permitted activity and that industrial activities of a heavier nature require consent as discretionary activities.

There is limited light industrial land available north of the Auckland Harbour Bridge, and these uses will contribute to local employment and assist in servicing the recent rapid growth of the area. Development of light industrial activities would still require resource consent (as new buildings) and be tested against the controls of the PAUP, notably around urban design, so there need not be any concern that the quality of the environment will be compromised. Enabling industrial activities would also be consistent with the underlying General Business zone and the existing provisions of the Operative District Plan.

- (b) Also, we see no reason why, from a resource management perspective, trade suppliers should not be encouraged as permitted activities in Sub-Precinct A. Trade suppliers are more suited to industrial areas than retail areas, and are better located away from high-order commercial centers such as Metropolitan and Town Centres where they are permitted by the PAUP. Trade suppliers should be encouraged in areas of high development activity and growth. Trade suppliers are considered entirely appropriate for Sub-Precinct A, particularly with the safeguards that exist that require good design and any outdoor storage areas to be effectively screened from public view.
- (c) HBPL supports drive-through facilities as restricted discretionary activities at the northern end of Sub-Precinct A. In particular, this would enable a vehicle-orientated convenience centre anchored by a service station and drive-through restaurant immediately north of

the entrance to the Site and proximate to the Wainui South-Facing Ramps to the Northern Motorway.

- (d) Interest from a retirement village operator towards the southern end of the Site is anticipated and it is our submission that such a use would be appropriate in this location. Accordingly, we seek the opportunity to develop a retirement village within Sub-Precinct A be added into the Activity Table as a restricted discretionary activity, with appropriate assessment criteria. Such a use should adjoin residential or open space and will serve as a land-use transition, but will necessitate appropriate reverse sensitivity safeguards.
- (e) It is submitted that there is no resource management reason why hospitals should not be encouraged to establish in Sub-Precinct A given that healthcare facilities, offices, education facilities and other such activities are permitted. Indeed, a [day] hospital was envisaged when the legacy zone was promulgated.
- (f) It is also submitted and generally accepted that ancillary food and beverage tenancies are an expected and acceptable component of larger-scale office, education and medical campuses and should be appropriately enabled.
- (g) Finally, the 18 metre setback requirement from the Northern Motorway is excessive and will result in the inefficient utilisation of land. A narrower planted setback will be sufficient to protect the amenity of the Northern Motorway. 10 metres is considered adequate, noting also that the finished levels of the Site are expected to be higher than the Northern Motorway and the batters will be vegetated.

5.3 Precinct B

- (a) It is submitted that the proposed Single House Zoning is an inefficient use of the Site considering the infrastructure can accommodate higher density development and will be located adjacent to an employment centre and proximate other services such as schools,

community facilities and transport opportunities. The Mixed Housing Urban zone is sought along Wainui Road and the Mixed Housing Suburban zone for the balance residential areas within the Site.

5.4 Precinct D3

- (a) The Precinct provisions are supported but the 100m² ceiling for food and beverage facilities is considered inadequate for such offerings. Taverns should also be permitted because they are typical of such precincts.

5.5 Other

- (a) Rule 3.H.6.4.2 requires a Green Star rating of industrial and commercial buildings over a certain scale. It is submitted that the PAUP is an inappropriate mechanism to introduce a Green Star Rating requirement. Such measures would be more appropriately introduced through a National Environmental Standard to ensure parity across regions.
- (b) Finally, it is submitted that the PAUP zoning of the northern part of the Silverdale South block (between the Northern Motorway, Hibiscus Coast highway and East Coast Road) as 'Future Urban' is sensible. The capacity of the roading network in this vicinity is such that very limited urban activity could occur within this northern part of the Silverdale South block until substantial infrastructural improvements are undertaken. Unless any alternative uses have the same traffic generation characteristics as recreation and entertainment activities (which is the zoning of the sites immediately to the south upon which all traffic modeling in the area is based), any development of this part of Silverdale South needs to be staged relative to the capacity of the roading network. Furthermore, any non-residential use of this land could compromise the sustainability of Precinct 8 at Silverdale North. In the same vein, it is submitted that it is important that the land known as Silverdale West, located between Dairy Flat Highway and the Northern Motorway, should remain Future Urban.

- 5.6 Unless and until the Unitary Plan provisions are amended in accordance with the relief sought below they will not:

- (a) Promote the sustainable management of resources;
- (b) Otherwise be consistent with Part 2 of the Resource Management Act 1991 ("RMA"); or
- (c) Be appropriate in terms of section 32 of the RMA.

6. HBPL seeks the following relief:

General

- (a) Retain the underlying General Business and Neighbourhood zones but replace the Single House zone with the Mixed Housing Urban zone along Wainui Road and Mixed Housing Suburban for the balance residential areas within the Site.
- (b) Adjust the various zone boundaries per the plan attached as Annexure 1; including a slight increase to the depth of the residential along Wainui Road and the extension of residential in the south-western quadrant of the Site, the deletion of an area of reserve at the southern end of the Site and the narrowing of the reserve that links the large reserve at the southern end of the Site with the future esplanade reserve.
- (c) Remove all references to development staging, including K.5.44.5.5.1 Roads: requirement for the construction of PENLINK or Whangaparoa Road widening prior to the road connection over Weiti River to East Coast Road.
- (d) Amend K.5.44.4.9.5 Sub-Precinct A: the required setback for buildings adjoining State Highway 1 from 18m to 10m and reduce the width of the Gateway Area (on Precinct Plan 1) from 120m to 20m.
- (e) The Subdivision Controls for Precinct A (PAUP K.5.44.5, Subdivision controls) should be amended by removing the staging provisions as per (c) above.

- (f) That the Weiti Landscape Area be removed from PAUP K.5.44.9 Precinct plans, Precinct Plan 1: Silverdale North Precinct.
- (g) The assessment criteria Restricted Discretionary Activities (PAUP K.5.44.6 Assessment – Restricted Discretionary Activities) should be amended as per the following:
 - (i) PAUP K.5.44.6.2.1(b)(i) should be reworded to read *"involve unscreened outdoor storage areas."*
 - (ii) PAUP K.5.44.6.2.2(b)(iii) should be amended to read *"The design and external appearance of a building should not have an adverse visual impact when viewed from State Highway 1."*

Precinct A

- (h) The Activity Table for Precinct A (PAUP K.5.44.1, Table 1: Activity table sub-precinct A) should be amended:
 - (i) by removing reference to "industrial", "food and beverage", "trade suppliers" and drive-through facilities" so the underlying rules of the General Business zone apply;
 - (ii) by making "retirement villages" and "supported residential care" restricted discretionary activities where they abut residential or open space activity, and;
 - (iii) by changing "care centres" and hospitals" to "restricted discretionary" activities.
- (i) Add an additional assessment criterion under 6.2.b (Sub-precinct A) requiring applications for "retirement villages", supported residential care", and care centres to be assessed with regard to reverse sensitivity effects from existing or potential future industrial activities.

7. Precinct B

- (a) The Single House Zoning should be replaced by Mixed Housing Urban along Wainui Road and Mixed Housing Suburban for the balance residential areas within the Site, with associated development controls; and any density provisions in the Silverdale North Precinct removed.
- (b) The Activity Table for Precinct B (PAUP K.5.44.1, Table 2: Activity table sub-precinct B) should be amended as per the following:
 - (i) Other than those provisions requiring the submission of a framework plan, the Activity Table for Precinct B should be replaced by the relevant Mixed Housing provisions.

8. Precinct D3

- (a) Amend the Activity Table for Precinct D (PAUP K.5.44.1, Table 4: Activity table sub-precinct D) by:
 - (i) deleting reference to food and beverage activities, with reliance instead on the underlying Neighbourhood Centre zone, and;
 - (ii) Inserting "taverns" as a permitted activity.

Objectives and Policies F.5.44:

- (b) F.5.44 References to Single Housing should be replaced with Mixed Housing.
- (c) References to staging provisions: ("The precinct includes staging provisions that determine the sequencing and staging of earthworks, civil works, subdivision and the construction of buildings depending on the provision of particular transport infrastructure should" and "The precinct includes subdivision and development controls to: Restrict

urban development ahead of necessary improvements being made to the primary roads network") should be deleted.

- (d) Objectives 2 and 3 and Policy 2 should be deleted as they relate to staging provisions. 1/13
- (e) Policy 11 should be reworded to read: "Enable and encourage the establishment of land use activities that will attract knowledge and people based businesses and a more limited or different range of business activities than might expect to be found in an industrial zone." 17
- (f) Delete Policy 17 entirely. 18
- (g) Amend Policy 18 to read "Encourage higher densities around commercial activities and public open space and roads such as Wainui Road." 19
- (h) Amend Policy 23 to read: "Discourage an extent of retail in sub-precinct D3 that could compromise the commercial viability of the Silverdale town centre." 20
- (i) Delete Policy 30 entirely. 21


Other

- (j) Delete the obligations in regards Green Star rating from the PAUP. 22
 - (k) Retain the Future Urban zoning of Silverdale West and the northern part of Silverdale South. 23
 - (l) Such other and consequential relief to give effect to this submission.
9. HBPL wishes to be heard in support of this submission.
10. If others make a similar submission HBPL will consider presenting a joint case with them at the hearing.

#5736

Dated this 28th day of February 2014

Highgate Business Park Limited its planner and duly authorised agent, Planning Focus Limited:



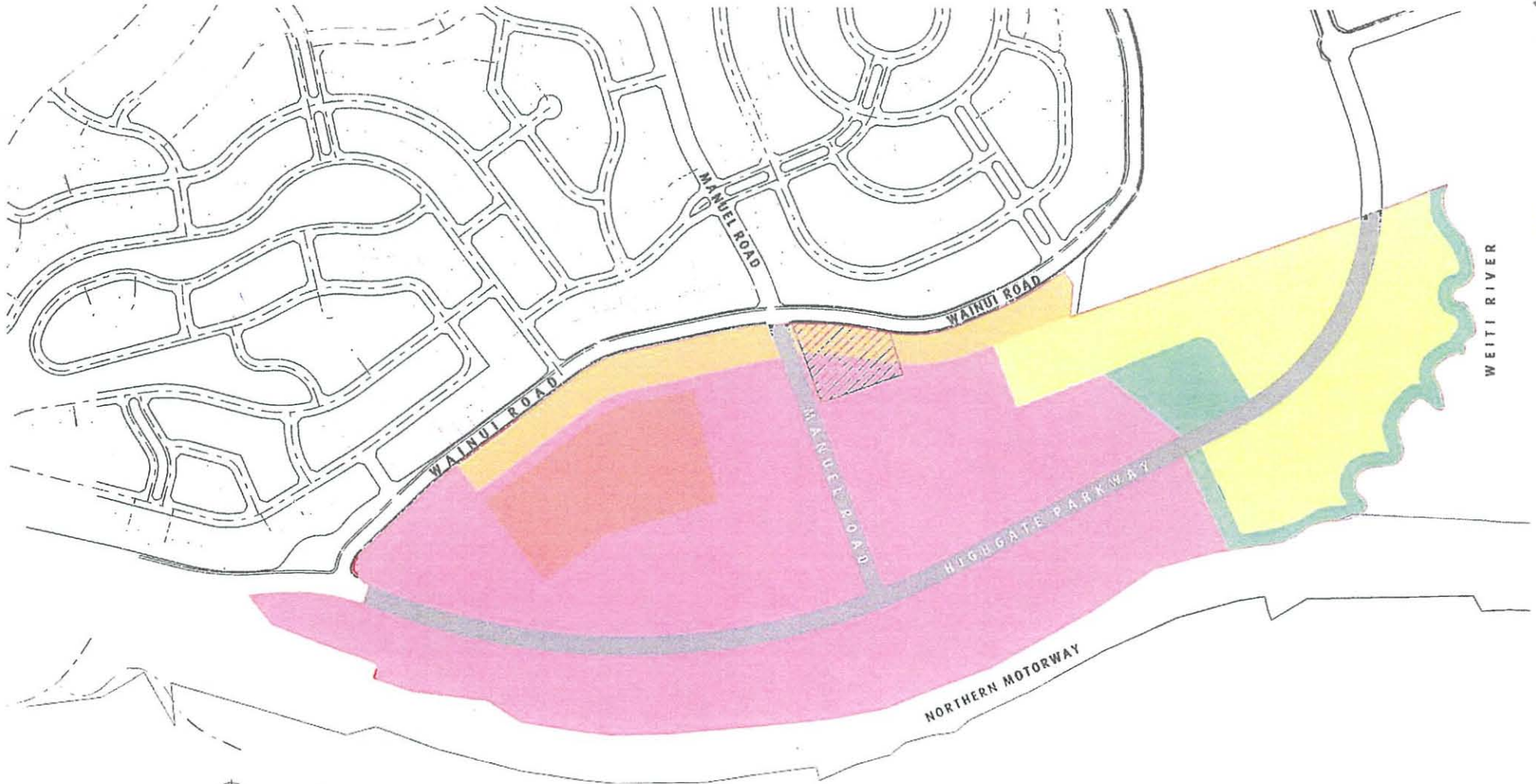
Alistair White

Address for Service: Highgate Business Park Limited, c/- Planning Focus Limited, PO Box 911-361,
Auckland 1142; Attention: Alistair White

Copy To: Highgate Business Park Limited, PO Box 58545, Botany, Manukau 2163

#5736.

Annexure 1



- Legend**
-  General Business
 -  Neighbourhood Centre
 -  Residential - Mixed Housing Urban
 -  Residential - Mixed Housing Suburban
 -  Reserve
 -  Property Not Owned By HBPL

13/13

HIGHGATE BUSINESS PARK

HBPL

ZONE ACTIVITY PLAN



Construkt
Urban Design > Architecture

brewer davidson

planning f·cus

#5736
SKOT
22/02/18

ANNEXURE C

Copy of the relevant parts of the Report (which are accepted in the Decision)

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

**Report to Auckland Council
Overview of recommendations on
the proposed Auckland Unitary
Plan**

22 July 2016

Appendix 3 Summary of recommendations out of scope

Topic	Matter(s) that is out of scope
006 Natural Resources	Objective 1 - Minerals objective. The Panel has redrafted the Objective from "Auckland's mineral needs are met largely from within Auckland" to "an objective requiring that mineral resources are effectively and efficiently utilised"
027 Artworks, signs and temporary activities	Exemption to definition of 'billboard' for election signage approved under the Auckland Transport Election Signs Bylaw 2013
028 Future Urban	Deletion of the Green Infrastructure Corridor Zone Deletion of indicative roads and open space overlays
032 Historic heritage schedules	Amendments to Schedule 14.1 Historic Heritage: inclusion of the interior of the Corban's Estate Winery homestead; exclusion of the 1960s shed and rear pavilion
080 Rezoning and precincts (general)	See below for precincts
081 Rezoning and precincts (geographical areas)	See below for precincts
Precinct	Matter(s) that is out of scope
Bombay 1	Include BP service centre at 216 Mill Road as sub-precinct A (Council)
Greenhithe	Extension of sub-precinct B into A
Hayman Park	Deletion of Precinct
Karaka North	Relief sought by Karaka North Village Limited not as in the original submission.
Matakana 2	Relief sought following Environment Court decision on Plan Change 148 and after the close of submissions on the notified proposed Auckland Unitary Plan
Newmarket 2	Deletion of precinct - rezoned wider area to Metropolitan Centre
Papakura	Reduction in the extent of the precinct.
Silverdale North	Deletion of precinct not sought in original submission of

	Highgate Business Park Limited but proposed at hearing.
Swanson North	Amend Precinct Plan 1 to remove the subdivision allocation number from 37 and 44 Crow's Road and 39 Sunnysdale Road

Silverdale North Precinct and rezoning

1. Summary of recommendations

The Panel does not support this precinct. The precinct was proposed by Council in order to incorporate the provisions of Special 19 (Silverdale North) Zone of the Auckland Council District Plan - Operative Rodney Section 2011 into the proposed Auckland Unitary Plan Unitary Plan.

This precinct was heard in Topic 081.

2. Precinct description

The Silverdale North Precinct comprises approximately 490ha of land to the north of the original town of Silverdale. The precinct is bounded by State Highway 1 to the west, Ōrewa Estuary to the north, Jelas Road to the east and Hibiscus Coast Highway to the south.

The purpose of the proposed precinct is to ensure that the development of Silverdale North is carried out in an integrated way, and that urban development is restricted ahead of necessary improvements being made to the primary roads network. The provisions ensure that development in advance of infrastructure does not create significant adverse effects on the primary road network and connections to that network.

The underlying zoning under the notified proposed Auckland Unitary Plan Unitary Plan was Business - General Business Zone, Residential - Single House Zone, Business - Town Centre Zone and Business - Neighbourhood Centre Zone.

3. Key issues

The key issues between the Council and the various submitters were firstly if a precinct should be retained and, secondly, what zone provisions should be applied to the land within the proposed precincts.

3.1. Should the precinct be retained?

The Council supported the proposed precinct for the reason set out in legal submissions dated 3 March 2016 that summarised the Council's evidence in relation to the proposed Silverdale North Precinct.

5. The Council's evidence regarding the precinct is contained in the evidence report of Ewan Paul dated 26 January 2016 and rebuttal evidence report dated 24 February 2016. Mr Paul supports the proposed precinct, which is sought to incorporate the provisions of Special 19 (Silverdale North) zone of the Auckland Council District Plan Operative Rodney Section 2011 (**Operative Plan**) into the PAUP. These provisions were the result of a complex plan change (Plan Change 52), and were the subject of Environment Court consent orders in 2008 and 2009.

6. The precinct is divided into sub-precincts as follows:

a. Sub-precinct A: (General Business) - enables and encourages the establishment of land use activities that will attract knowledge and people based businesses and a more limited or different range of business activities than might expect to be found in

an industrial zone. Industrial activities that could compromise the campus like appearance of sub-precinct A are discouraged.

b. Sub-precinct B: (Single House) – provides for medium density residential with a limited percentage of higher density.

c. Sub-precinct C: (Town Centre) – limits on larger scale retail and industry.

d. Sub-precincts D1 and D2 (Neighbourhood Centre) and D3 (Local Centre) – limits on large scale retail.

7. The main differences between the precinct provisions and the underlying zones are set out at **Table 1** in the evidence report of Mr Paul, at paragraph 1.5. Those variations reflect the previous plan changes and judicial process relating to the precinct area.

Mr Alistair White in his planning evidence on behalf of Highgate Business Park Limited, the owners of a significant portion of the land within the proposed precinct, did not support the need for the precinct. In his paragraph 2.6 he stated that:

Council's evidence concerning Silverdale north recommends the retention of the precinct structure for HBPL's land and the balance of Silverdale North. I do not share the view that the precinct structure now needs to be retained for all of Silverdale North because circumstances have overtaken the substantial benefit of same. The legacy staging provisions (pacing development relative to roading improvements and capacities) are now satisfied for large tracts of Silverdale North and the development of significant areas are now completed, under construction or consented, to the extent that the remaining areas will now follow the establishing pattern which will ensure the objective of integrated development. In most cases the precinct structure is an unnecessarily heavier regulatory hand when compared to the underlying zoning, without consequential benefit. I would prefer to collapse much of the precinct structure to instead rely upon underlying zonings and remnants of the precincts where relevant. My evidence recommends removing the precinct structure at least from the HBPL's land, changes to the zonings of HBPL's land, whilst also providing recommendations on what changes I consider are necessary should the precinct structure remain, so that those remaining precinct provisions better meet the purposes and principles of the Resource Management Act 1991 and the PAUP Regional Policy Statement.

Mr Paul in his evidence in rebuttal on behalf of Council dated 24 February 2016 responded to Mr White's evidence as set out below.

4.1 The planning evidence of Alistair White on behalf of Highgate Business Park (Highgate) (5736)) addresses three main issues:

(a) The removal of the precinct from the Highgate land, because in his opinion, the provisions are largely redundant as circumstances have overtaken them, a Development Concept Plan has been approved for the substantive part of the Highgate land, earthworks have commenced, much of the balance of the land is SHA and the traffic staging provisions for much of the land have been addressed.

(b) Amendments to the activity status of various activities to generally relax the provisions.

(c) Miscellaneous rule changes.

Removal of the precinct

4.3 Removing the precinct was not sought in Highgate's submission. However, I do not support the removal of the precinct. I consider that there are provisions within the precinct that are necessary to achieve the outcomes intended for the area.

Removing the precinct and relying on the underlying zone, or alternative zones, as suggested by Mr White, would not in my opinion result in the completion of the development of the Silverdale North area as contemplated by the Silverdale North precinct.

4.4 Mr White suggests that the granting of a resource consent for a Development Concept Plan (DCP) for the land owned by Highgate means that the provisions are no longer necessary. In my opinion I do not consider that the granting of such a resource consent necessarily guarantees an outcome. An amendment to a DCP or new resource consents could be sought if the precinct provisions were removed before the consented DCP was implemented. Also, a DCP is high level and may not address all the matters that the precinct provisions cover, eg the management of retail activity.

4.5 Also, an approved DCP does not manage the development of particular activities, or limit or require particular activities to obtain resource consent to achieve the objectives of the precinct, such as for example creating a quality campus like environment and limiting retail activity. Within the Highgate area earthworks are currently being completed but the establishment of specific activities has not yet started.

4.6 Therefore, in my opinion, it is still appropriate to retain the precinct. I do not support changes to the underlying zones as suggested by Mr White while the precinct is still in place. To change the zonings while retaining the precinct would necessitate the creation of new sub-precincts for the Light Industry and Business Park zones, if these were accepted, as suggested by Mr White, to achieve the intended outcomes of the precinct.

4.7 As set out in my primary evidence report I do support amendments to the precinct where provisions have been overtaken, namely the amendment of the staging provisions to reflect that granting of resource consents and the completion of roading projects that have made the provisions redundant.

The Panel has preferred the evidence of Mr White and for the reasons contained in his evidence the Panel recommends that the Silverdale North Precinct not be adopted.

The Panel has concluded that the zonings that have been recommended below are the most appropriate way to enable the development of the proposed precinct land and to give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

3.2. Zoning

A number of submitters presented evidence in relation to the zoning of land within the proposed precinct, or lodged submissions in relation to zoning, including:

- i. Highgate Business Park Limited;
- ii. Stride Property Limited (Formerly DNZ Property Fund);

- iii. Richard and Tracey Lee Martin;
- iv. Colin Chester;
- v. Johns Creek Holdings Limited; and
- vi. WFH Properties Limited.

Each of these submitters had either specific concerns with the proposed zoning of their land, or had more general concern with the wider approach to zoning of land within the proposed precinct.

The Panel has carefully considered all of the submissions and the evidence presented on behalf of submitters and recommends the zoning of land within the proposed precinct as contained in the relevant planning maps. In summary the recommended zonings are as follows.

- i. Precinct excluding Highgate area:
 - re-zone Residential - Single House Zone areas to Residential - Mixed House Suburban Zone, retain Business - Neighbourhood Centre Zone and Open Space – Informal Recreation Zone or Open Space – Conservation Zone.
- ii. Highgate Area (Development Areas 8 and 9C on Precinct Plan 3):
 - a. rezone the Business - General Business Zone to Business - Light Industry Zone;
 - b. retain the zoning of the Business - Neighbourhood Centre Zone but reduce its area to 1ha. That is to be comprised in a more or less rectangular area 75m by 133m with the centre of the rectangle located 170m southwest of the centre of the intersection of Ridgedale Road and Wainui Road. This will result in the centre of the reduced zone being approximately in the same position as the centre of the zone as notified;
 - c. re-zone the areas shown as Residential - Single House Zone:
 - between Wainui Road and the eastern edge of the Business - Light Industry Zone boundary to Residential - Mixed Housing Urban Zone;
 - the area shown as Development Area 9C on Precinct Plan 3 to Residential - Mixed Housing Urban Zone; and
 - amend the boundary between the Business - Light Industry Zone and the Residential - Mixed Housing Urban Zone on the western side of Wainui Road so that the zone encompasses all of the subdivided land at the northern end of the Residential - Mixed Housing Urban Zone and position the interface between these two zones at 50 metres from and parallel to the western edge of Wainui Road.
- iii. Other submissions:
 - a. 2278-1 Richard and Tracy-Lee Martin land at 129 Wainui Road be rezoned from Residential - Large Lot Zone to Residential - Single House Zone as requested and supported by Council;

- b. 6592-1 Colin Chester land at 165 Wainui Road be re-zoned from General Business and Residential - Single House Zone to Residential - Mixed Housing Suburban Zone as requested;
- c. 6105-1 Johns Creek Holdings Limited land at Lots 3 and 4 DP 336198 from General Business to Residential - Mixed Housing Suburban Zone as requested and supported by Council; and
- d. 6488-1 WFH Properties Limited land at 177 Millwater Drive to Neighbourhood Centre as requested and supported by Council.

4. Panel recommendations and reasons

The Panel, having regard to the submissions, the evidence and sections 32 and 32AA of the Resource Management Act 1991, recommends that the Silverdale North Precinct not be adopted. The rezoning of the land within the proposed precinct as recommended by the Panel is considered the most appropriate way to enable the development of the proposed precinct land and to give effect to the regional policy statement and achieve the purpose of the Resource Management Act 1991.

5. Reference documents

- 081 Ak Cncl – LEGAL SUBMISSIONS (PRECINCTS ONLY) (3 March 2016) (Page 70)
- 081b Ak Cncl - Rodney - Precincts (Silverdale North) - (E Paul) - Planning (27 January 2016)
- 081b Ak Cncl - Rodney - Precincts (Silverdale North) - (E Paul) - Planning - REBUTTAL (24 February 2016)
- 081 Ak Cncl - Precincts - CLOSING REMARKS – Volume 1 – Specific Precincts - Attachments A-F - Updated - 19 May 2016 (19 May 2016) (Page 62)
- 081 Highgate Business Park Limited - Legal submissions (16 March 2016)
- 081 Highgate Business Park Limited (A White) - Planning (12 February 2016)
- 081 Highgate Business Park Limited (Alistair White) - Planning - REBUTTAL (25 February 2016)

ANNEXURE D

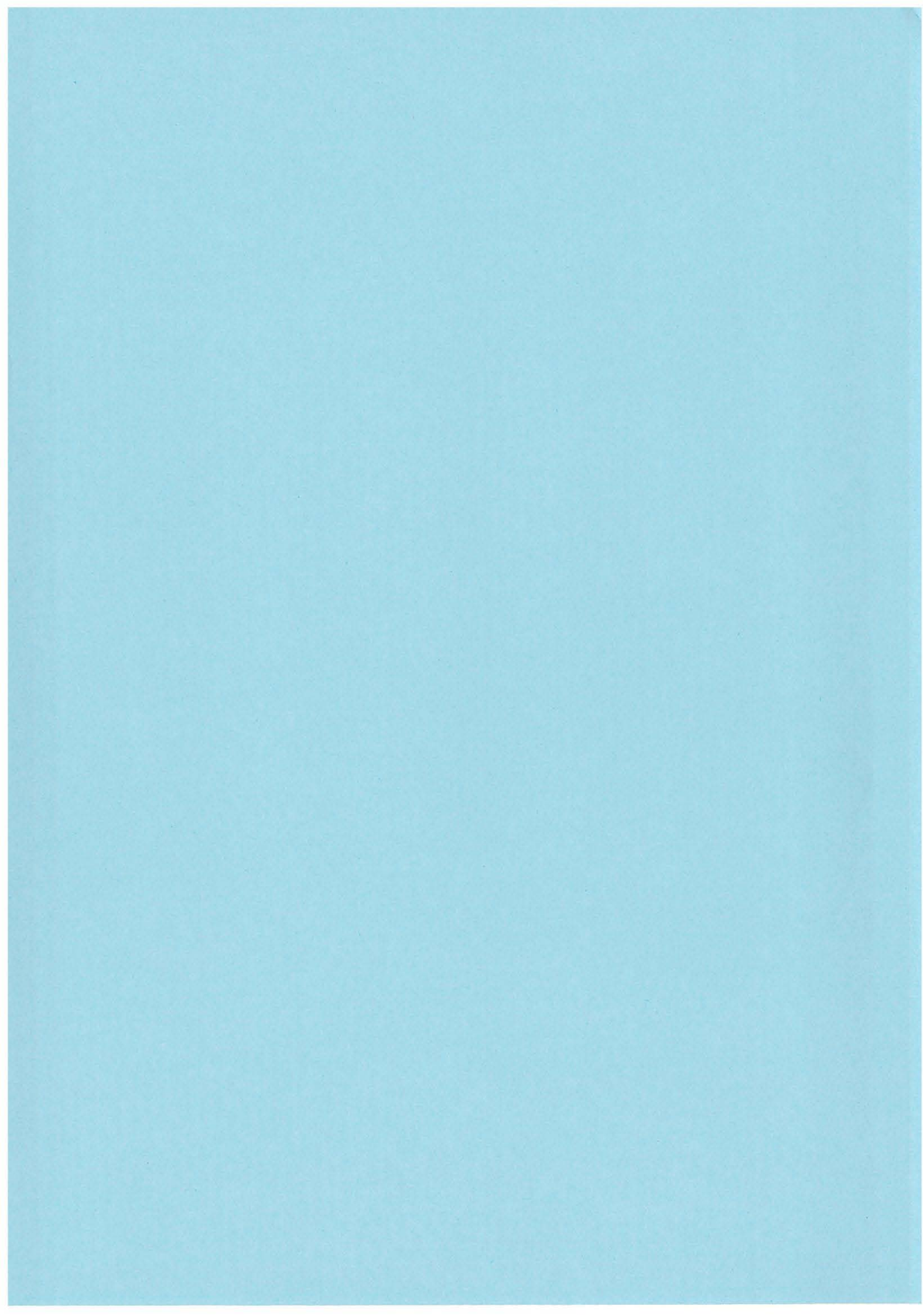
Names and addresses of persons to be served with a copy of this notice:

Name	Address for Service
Auckland Council	<u>unitaryplan@aucklandcouncil.govt.nz</u>

ANNEXURE D

Names and addresses of persons to be served with a copy of this notice:

Name	Address for Service
Auckland Council	<u>unitaryplan@aucklandcouncil.govt.nz</u>



Advice to recipients of copy of notice of appeal

How to become party to proceedings

1. You may become a party to the appeal if you are one of the persons described in section 274(1) of the RMA.
2. To become a party to the appeal, you must, within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003) with the Environment Court by email (to unitaryplan.ecappeals@justice.govt.nz) and serve copies of your notice by email on the Auckland Council (to unitaryplan@aucklandcouncil.govt.nz) and the appellant.
3. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the RMA.
4. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003).

Advice

5. If you have any questions about this notice, contact the Environment Court in Auckland.