

UNITARY PLAN UPDATE REQUEST MEMORANDUM

TO Peter Vari - Team Leader, North, West and Islands

FROM Dave Paul - Senior Policy Planner, North, West and Islands

DATE 30 March 2022




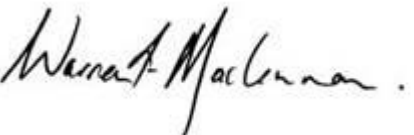
SUBJECT **Plan Modification section 292 Amendment to Chapter I of the Auckland Unitary Plan (AUP) Operative in part (15 November 2016)**



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

Reason for update – To correct an error under section 292 of the RMA as directed by the Environment Court	
Chapter	I Precincts
Section	I506 Dairy Flat Precinct
Designation only	
Designation #	N/A
Locations:	N/A
Lapse Date	N/A
Purpose	N/A
Changes to text (shown in underline and strikethrough)	<p>I506.4. Activity table</p> <p><i>The provisions in any relevant overlays, zone and Auckland-wide provisions apply in this precinct unless otherwise specified below:</i></p> <p><i><u>The following provisions do not apply:</u></i></p> <p><i>(1) <u>Chapter D24 Aircraft Noise Overlay Activity Table D24.4.1; and</u></i></p> <p><i>(2) <u>Chapter D24 Aircraft Noise Overlay Standard D24.6.1.</u></i></p> <p><i>Table I506.4.1 Activity table specifies the activity status of land use, development and subdivision activities in the Dairy Flat Precinct pursuant to sections 9(3) and 11 of the Resource Management Act 1991 or any combination of all of these sections where relevant.</i></p>
Changes to diagrams	N/A
Changes to spatial data	N/A
Attachments	Attachment A: Environment Court Decision Attachment B: Updated text to I506 Dairy Flat Precinct (Strikethrough/underlined)

	Attachment C: Updated text to I506 Dairy Flat Precinct (Clean)
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Prepared by: Dave Paul Senior Policy Planner, North, West and Islands	Text Entered by: Sarah El Karamany Planning Technician
Signature: 	Signature: 
Maps prepared by: N/A Geospatial Specialist	Reviewed by: Peter Vari Team Leader, North, West and Islands
Signature:	Signature:  31/3/2022
Signed off by: Warren MacLennan Manager Regional, North, West and Island	
Signature:  31 March 2022	

Attachment A: Environment Court Decision

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision [2022] NZEnvC 50

IN THE MATTER OF

an application under s 292 of the
Resource Management Act 1991

BETWEEN

AUCKLAND COUNCIL

(ENV-2022-AKL-20)

Applicant

Court: Judge MJL Dickey, sitting alone under s 279(1)(b) of the Act

Hearing: On the papers

Last case event: Memorandum of North Shore Aero Club filed 11 March 2022

Counsel: C Faesenkloet for Auckland Council

Date of Decision: 30 March 2022

Date of Issue: 30 March 2022

DECISION OF THE ENVIRONMENT COURT

A: Auckland Council is **directed** under s 292 of the Resource Management Act 1991 to amend the Dairy Flat Precinct provisions in I506 Dairy Flat Precinct in the Auckland Unitary Plan. The directed corrections are underlined as follows:

I506.4. Activity table

The provisions in any relevant overlays, zone and the Auckland-wide provisions apply in this precinct unless otherwise specified below:

The following provisions do not apply:

- (1) Chapter D24 Aircraft Noise Overlay Activity Table D24.4.1; and
- (2) Chapter D24 Aircraft Noise Overlay Standard D24.6.1.



Re Auckland Council

Table I506.4.1 Activity table specifies the activity status of land use, development and subdivision activities in the Dairy Flat Precinct pursuant to sections 9(3) and 11 of the Resource Management Act 1991 or any combination of all of these sections where relevant.

B: There is no order as to costs.

REASONS

Introduction

[1] Auckland Council applies under s 292 of the RMA for a direction by this Court to amend the Dairy Flat Precinct provisions in I506 Dairy Flat Precinct in the Auckland Unitary Plan (**AUP**) to remedy a mistake or defect.

Application

[2] The mistake relates to the lack of a rule in the Dairy Flat Precinct that specifies that the Aircraft Noise Overlay provisions in D24 of the AUP provisions do not apply to new dwellings and subdivision in the Dairy Flat Precinct.

[3] The mistake was first identified when an application was received by the Council seeking consent for a new dwelling at 1 Runway Rise, Dairy Flat. The Dairy Flat Precinct provides for one dwelling per site as a controlled activity where the site has been subdivided, in general accordance with the Subdivision Plan shown in Dairy Flat: Precinct plan 1 – subdivision plan. However, the D24 Aircraft Noise Overlay provisions provide that any new activities sensitive to aircraft noise within the 65dB Ldn noise boundary (excluding Lot 3 DP 104718) are a prohibited activity.

[4] The Council explains that this results in new dwellings proposed in the Precinct and that are within the 65dB Ldn noise boundary being prohibited rather than controlled activities as intended for the Dairy Flat Precinct.

[5] The Council considers that this mistake needs amendment. It does not consider this is a ‘minor error’ and as a result, clause 20A of Schedule 1 of the RMA could not be used to correct the omission.

[6] Accordingly, pursuant to s 292 of the RMA it seeks that the Court direct the Council to amend the Dairy Flat Precinct provisions by adding the following underlined wording:

I506.4. Activity table

The provisions in any relevant overlays, zone and the Auckland-wide provisions apply in this precinct unless otherwise specified below:

The following provisions do not apply:

- (1) *Chapter D24 Aircraft Noise Overlay Activity Table D24.4.1; and*
- (2) *Chapter D24 Aircraft Noise Overlay Standard D24.6.1.*

Table I506.4.1 Activity table specifies the activity status of land use, development and subdivision activities in the Dairy Flat Precinct pursuant to sections 9(3) and 11 of the Resource Management Act 1991 or any combination of all of these sections where relevant.

Position of affected parties

[7] The applicant for the resource consent for the dwelling at 1 Runway Rise agrees that the Dairy Flat Precinct should be amended to correct the mistake.

[8] For completeness, I directed that the Council also contact North Shore Aero Club, as owners of North Shore Airport, and obtain its view on the application.¹ A memorandum on behalf of the Aero Club was filed on 11 March 2022, confirming its agreement to addressing the mistake under s 292 of the RMA.

Affidavit of Ewan David Paul²

[9] In support of its application, the Council also filed an affidavit from Ewan Paul, a senior policy planner for the Council.

[10] Mr Paul records that a mistake was identified in relation to the I506 Dairy Flat Precinct and its relationship with the D24 Aircraft Noise Overlay in the AUP. The mistake relates to the lack of a rule in the Precinct that specifies that the Aircraft Noise Overlay provisions in D24 of the AUP provisions do not apply to new dwellings and

¹ Minute of the Court dated 28 February 2022.

² Affirmed 17 February 2022.

subdivision in the Precinct.

[11] The Precinct provides for one dwelling per site as a controlled activity, where the site has been subdivided in accordance with the Subdivision Plan per Dairy Flat: Precinct plan 1 – subdivision plan. The site at 1 Runway Rise has been subdivided to this effect. However, the Aircraft Overlay provides that any new activities sensitive to aircraft noise within the 65d8 Ldn noise boundary (excluding Lot 3 DP 104718) is a prohibited activity. The site at 1 Runway Rise is located within the 65d8 Ldn noise boundary and is not the lot excluded from the rule's application.

[12] Mr Paul explains that where a site is subject to both the Precinct and Aircraft Noise Overlay, Chapter C of the AUP applies. Rule C1.6 provides that the activity status of an activity in an overlay takes precedence over the activity status of that activity in a precinct, unless otherwise specified by a rule in the precinct applying to the activity. Rule C1.6(4) only provides for the activity status in a precinct to take precedence over the activity status of that activity in the zone or in the Auckland-wide rules. However, Rule C1.6(4) does not provide for the activity status in a precinct to take precedence over the activity status of that activity in an overlay. This results in the proposed new dwelling at 1 Runway Rise being a prohibited activity.

[13] Mr Paul considers this to be a mistake because the Precinct provides for dwellings within the precinct, including on sites within the 65d8 Ldn noise boundary, as a controlled activity. The mistake results in property owners being unable to build dwellings within the 65dB Ldn noise boundary, which would defeat the purpose and objective of the Precinct.

[14] In Mr Paul's view, the Precinct should contain a specific rule excluding the D24 Aircraft Noise Overlay provisions from applying, so as to avoid new dwellings proposed in the Precinct and that are within the 65dn Ldn noise boundary being prohibited as opposed to controlled activities.

Section 292 RMA

[15] Section 292 of the RMA provides:

292 Remedying defects in plans

(1) The Environment Court may, in any proceedings before it, direct a local authority to amend a regional plan or district plan to which the proceedings relate for the purpose of—

- (a) remedying any mistake, defect, or uncertainty; or
- (b) giving full effect to the plan.

(2) The local authority to whom a direction is made under subsection (1) shall comply with the direction without using the process in Schedule 1.

[16] The provision has been held to be a slip rule, available to remedy clear mistakes but not used to make a significant change.³ Use of this power is also not appropriate where third parties who may be affected are unable to participate.⁴ The power is broadly discretionary, but it does not extend to determining whether particular plan provisions are adequate or appropriate.⁵

[17] The usual way to make a change to a plan is by way of the process set out in Schedule 1 of the RMA. Clause 20A of that schedule provides that a local authority can amend an operative policy statement or plan to correct any minor errors. However, a direction made under s 292 of the RMA enables a plan to be corrected where a defect is apparent in any proceeding before the Court without the need to use the Schedule 1 process. A s 292 process can also be either an originating application before the Court or an application filed during the course of other proceedings.⁶

Evaluation

[18] Having reviewed the application and the supporting affidavit of Mr Paul, I accept that this is a clear case of mistake. Given the purpose of the Dairy Flat Precinct is to provide for the construction of dwellings within the Precinct (including on sites within the 65dB Ldn noise boundary), it is clearly an error that there is no rule specifying that D24 Aircraft Noise Overlay provisions do not apply.

³ *35 Limited v Auckland Council* [2018] NZEnvC 215, at 7; *Catholic Archdiocese of Wellington Friends of Mount Street Cemetery* [2000] NZRMA 385.

⁴ *Oxford Charters Limited v Queenstown Lakes District Council* C 65/2000.

⁵ *Moriarty v North Shore City Council* [1994] NZRMA 433 (HC).

⁶ *Re Rodney District Council* A86/1994, 23 November 1994 at page 1; *Re Kapiti Coast District Council* W57/2000, 13 September 2000.

[19] I concur with counsel that the error is more than minor, so that a process under cl 20A of Schedule 1 is not appropriate. However, the proposed change is not so significant that it would be inappropriate to make a direction under s 292.

[20] I am also satisfied that the landowner at 1 Runway Rise, who the Council treated as affected by the application and the North Shore Aero Club agree to the proposed amendment under s 292.

Outcome

[21] Accordingly:

- (a) Auckland Council is **directed** under s 292 of the Resource Management Act 1991 to amend the Dairy Flat Precinct provisions in I506 Dairy Flat Precinct in the Auckland Unitary Plan. The directed amendments are underlined as follows:

I506.4. Activity table

The provisions in any relevant overlays, zone and the Auckland-wide provisions apply in this precinct unless otherwise specified below:

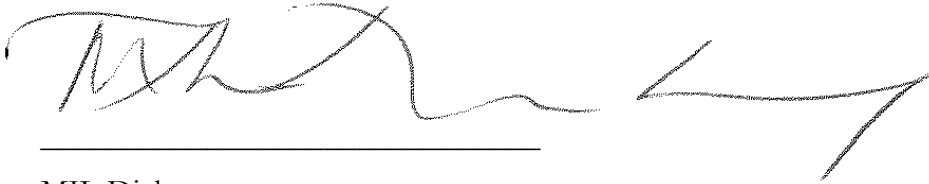
The following provisions do not apply:

- (1) Chapter D24 Aircraft Noise Overlay Activity Table D24.4.1;
and
- (2) Chapter D24 Aircraft Noise Overlay Standard D24.6.1.

Table I506.4.1 Activity table specifies the activity status of land use, development and subdivision activities in the Dairy Flat Precinct pursuant to sections 9(3) and 11 of the Resource Management Act 1991 or any combination of all of these sections where relevant.

[22] There is no order as to costs.

For the Court:



MJL Dickey
Environment Judge



**Attachment B: Updated text to I506 Dairy Flat
Precinct (~~Strikethrough~~/underlined)**

I506. Dairy Flat Precinct

I506.1. Precinct Description

The Dairy Flat precinct applies to 50ha of land immediately adjoining the North Shore Airport at Dairy Flat.

The precinct provides for a residential aero park, and allows for the creation of sites sized between 2,500m² and 8,000m² in area, which will each have sealed aircraft taxiway access to and from the North Shore Airport.

The purpose of the Dairy Flat precinct is to create an environment for aircraft enthusiasts to live in close proximity to the North Shore Airport, and to provide permanent access for aircraft from all individual properties to the Airport. In addition, this precinct provides a buffer of aviation friendly activities around the North Shore Airport, which will assist its long term survival. It is intended that the aviation park will be developed in stages to be completed in general accordance with Dairy Flat: Precinct plan 1 - subdivision plan.

A structural planting plan is also contained in Dairy Flat: Precinct plan 2 – structural planting areas, with the species for framework planting specified in Appendix 1 Dairy Flat Precinct Tree Species specifying the key areas that must be planted in order to mitigate the visual impact of development. In addition, there is a landscape development programme for the entire precinct, which must include a landscape master plan, a staging plan, a set of design standards and a landscape design plan.

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

I506.2. Objectives

- (1) The development of an aviation park for combined residential and aircraft operations is provided for, whilst retaining the rural character of this precinct.
- (2) The adverse effects of activities on the operation of the North Shore Airport are avoided, remedied or mitigated.
- (3) The adverse effects of aircraft operations on dwellings within the precinct are avoided, remedied or mitigated.

The overlay, Auckland-wide and zone objectives apply in this precinct in addition to those specified above.

I506.3. Policies

- (1) Require the location and design of buildings to avoid, remedy or mitigate adverse effects, including reverse sensitivity effects on the operation of the North Shore Airport and aircraft operations within the precinct.
- (2) Require the location, design and operation of aviation activities to avoid, remedy or mitigate adverse effects on dwellings within the precinct.
- (3) Require the design of dwellings on the site to remedy or mitigate adverse effects from aircraft operations.

- (4) Require every site created by a subdivision to have an agreed legal and physical aircraft access to the North Shore Airport, where such access is agreed between the operators of North Shore Airport and any applicant for subdivision.

The overlay, Auckland-wide and zone policies apply in this precinct in addition to those specified above.

I506.4. Activity table

The provisions in any relevant overlays, zone and the Auckland-wide apply in this precinct unless otherwise specified below.

The following provisions do not apply:

- (1) Chapter D24 Aircraft Noise Overlay Activity Table D24.4.1; and
- (2) Chapter D24 Aircraft Noise Overlay Standard D24.6.1.

Table I506.4.1 Activity table specifies the activity status of land use, development and subdivision activities in the Dairy Flat Precinct pursuant to sections 9(3) and 11 of the Resource Management Act 1991 or any combination of all of these sections where relevant.

Table I506.4.1 Activity table

Activity		Activity status
Use		
Residential		
(A1)	One dwelling per site where the site has been subdivided in general accordance with the Subdivision Plan shown in Dairy Flat: Precinct plan 1 – subdivision plan	C
(A2)	The conversion of a dwelling into two dwellings	NC
(A3)	The conversion of an accessory building into a dwelling	NC
Community		
(A4)	Activities sensitive to aircraft noise except for one dwelling per site where the site has been subdivided in general accordance with the subdivision plan shown in Dairy Flat: Precinct plan 1 – subdivision plan	NC
Development		
(A5)	Construction, operation and maintenance of aircraft taxiways	P
(A6)	Demolition of buildings	P
(A7)	Domestic housing, maintenance and restoration of aircraft	C
(A8)	Landing and take-off of helicopters	Pr
(A9)	Refuelling of aircraft	Pr
(A10)	Storage of aviation fuel	Pr
(A11)	Taxiing of jet aircraft	Pr

Subdivision		
(A12)	Subdivision of any residential lot with a legal aircraft access agreement with North Shore Airport and physical aircraft access to the North Shore Airport	RD
(A13)	Subdivision of any residential lot without a legal aircraft access agreement with North Shore Airport or physical aircraft access to the North Shore Airport	NC
(A14)	Subdivision that does not comply with Standards I506.6.7 to I506.6.11	NC
(A15)	Further subdivision of any site beyond that shown in Dairy Flat: Precinct plan 1 – subdivision plan	Pr

I506.5. Notification

- (1) An application for resource consent for a controlled activity listed in Table I506.4.1 Activity table above will be considered without public or limited notification or the need to obtain written approval from affected parties unless the Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.
- (2) Any application for resource consent for an activity listed in Table I506.4.1 Activity table and which is not listed in I506.5.(1) will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.
- (3) 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.\(4\)](#) and North Shore Airport.

I506.6. Standards

The overlay, zone and Auckland-wide standards apply in this precinct, except that the following standards do not apply:

- [H1 Residential – Large Lot Zone Standard H1.6.4 Building height](#)
- [H1 Residential – Large Lot Zone Standard H1.6.7 Building coverage](#)

All activities listed as permitted, controlled or restricted discretionary in Table I506.4.1 Activity Table must comply with the following permitted activity standards.

I506.6.1. Hours of taxiway use

- (1) Taxiways must not be used by aircraft or vehicles between the hours of 10.00pm and 7.00am.

I506.6.2. Activities sensitive to aircraft noise

- (1) All new noise sensitive land uses must enter into a no-complaints covenant in favour of:

- (a) the North Shore Airport
- (b) all other land within the precinct

unless the site containing the new noise sensitive land use is already subject to a covenant that meets the requirements of Appendix 2 Dairy Flat Precinct Covenant.

- (2) The no complaints covenant must be registered against the Certificate of Title of the site containing the new noise sensitive land use.
- (3) The no-complaints covenant must be in a form consistent with Appendix 2 Dairy Flat Precinct Covenant.

I506.6.3. Height

- (1) Buildings and trees must not exceed the lesser of:
 - (a) 10 metres in height, unless they are trees which are specifically provided for in the landscape master plan approved in terms of a subdivision consent; or
 - (b) the height limits specified in the Airport Approach Path overlay rules.

I506.6.4. Building coverage

- (1) The maximum building coverage for each site must not exceed 20 per cent of the net site area.

I506.6.5. Accessory buildings

- (1) The maximum gross floor area of detached accessory buildings on each site must not exceed 200m².
- (2) Accessory buildings must be designed and constructed with external cladding, in a manner similar to the design and external appearance of any existing or proposed dwelling on the site.
- (3) Where no dwelling currently exists, accessory buildings must be designed and constructed of materials which are typically used for residential construction and can be readily utilised in the construction of a future dwelling on the site.

I506.6.6. Acoustic design of dwellings

- (1) Activities sensitive to aircraft noise must be designed and constructed in accordance with the acoustic design report required under I506.9.1 Special information requirements.

I506.6.7. Subdivision Plan

- (1) The subdivision layout including all sites, roads, taxiways, open space and reserves, must be developed in accordance with Dairy Flat: Precinct plan 1 - subdivision plan.
- (2) The development may proceed in stages as outlined below:
 - (a) Stage 1: Lots 1 – 8

- (b) Stage 2: Lots 9 – 30
- (c) Stage 3: Lots 31 – 42
- (d) Stage 4: Lots 43 – 62
- (e) Stage 5: Lots 63 – 77

I506.6.8. Subdivision site size

- (1) The minimum net site area must be 2,500m² and the maximum net site area must be 8000m².

I506.6.9. No complaints covenant

- (1) All sites within a subdivision must enter into a no-complaints covenant in favour of:
 - (a) the North Shore Airport; and
 - (b) all other land within the precinct.
- (2) The no complaints covenant must be registered against the certificate of title of the site containing the new noise sensitive land use.
- (3) The no-complaints covenant must be in a form consistent with Appendix 2 Dairy Flat Precinct Covenant.

I506.6.10. Agreement to use the airport

- (1) At each stage of subdivision described above under I506.6.7.(6), the applicant must provide Council with evidence of an enforceable legal agreement which must:
 - (a) be between the relevant applicant/landowner and the owner of the Airport;
 - (b) attach to the land.
- (2) The legal agreement must ensure that the lots on the plan of subdivision are guaranteed access via the planned taxiways to the North Shore Airport, for as long as the Airport remains in use.
- (3) Any such agreement must be secured through an appropriate legal mechanism that is recorded on a certificate of title for any new site created.
- (4) The section 224(c) certificate for the subdivision must not be issued until the Council is satisfied that this requirement will be met.

I506.6.11. Roads

- (1) All roads must be vested in Council.
- (2) All taxiways must be designed (including safety fencing if necessary), formed and concreted in accordance with the requirements of the Civil Aviation Authority.

I506.7. Assessment – controlled activities

I506.7.1. Matters of control

The Council will reserve its control to all of the following matters when assessing a controlled activity resource consent application, in addition to the matters specified for the relevant controlled activities in the overlay, zone or Auckland-wide provisions:

- (1) one dwelling per site where the site has been subdivided in general accordance with the Dairy Flat: Precinct plan 1 – subdivision plan, and domestic housing, maintenance and restoration of aircraft:
 - (a) the effect of the building location and appearance;
 - (b) the effect of the building on the landscape development programme;
 - (c) the effect of landform modification on the rural character of the area; and
 - (d) the timing of construction.

I506.7.2. Assessment criteria

The Council will consider the relevant assessment criteria below for controlled activities, in addition to the assessment criteria specified for the relevant controlled activities in the overlay, zone or Auckland-wide provisions:

- (1) one dwelling per site where the site has been subdivided in general accordance with the Subdivision Plan shown in Dairy Flat: Precinct plan 1 – subdivision plan and domestic housing, maintenance and restoration of aircraft:
 - (a) the effect of the building's location and appearance;
 - (i) the extent to which the building is sited so as to be screened by the structural planting when viewed from existing and proposed roads in the vicinity;
 - (ii) the extent to which the building is sited so that it is not visually obtrusive when viewed from existing and proposed public roads in the vicinity;
 - (iii) whether the building is of a design and colour so as to be unobtrusive in the landscape, and in keeping with the semi-rural/countryside living style location;
 - (iv) the extent to which any reduction or removal of the structural planting is required; and
 - (v) whether planting intended to screen the development is adequate for this purpose, and of sufficient size to be an effective screen within three years.
 - (b) the effect of the building on the landscape development programme:

- (i) the extent to which the building layout, site layout and onsite landscaping is consistent with the Landscape development programme required by Special information requirement I506.9.1.
- (c) the effect of landform modification on the rural character of the area; and
 - (i) the extent to which any proposed land modification is in keeping with the rural character of the area.
- (d) the timing of construction;
 - (i) whether the structural planting for all key areas identified in the I506.10 Dairy Flat: Precinct plan 2 – structural planting areas has been completed in accordance with Appendix 0 Dairy Flat Precinct Tree Species and the specimens are of a sufficient size to screen the proposed development within three years of planting.

I506.8. Assessment – restricted discretionary activities

I506.8.1. Matters of discretion

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

- (1) subdivision of any residential lot with a legal aircraft access agreement with North Shore Airport and physical aircraft access to the North Shore Airport:
 - (a) the effect of the subdivision design on the precinct layout and topography;
 - (b) the effect of land modification;
 - (c) the effect on the planting in the precinct;
 - (d) the effect of taxiway location and construction;
 - (e) the effect of stormwater; and
 - (f) the effect on the operation of North Shore Airport.
- (2) infringement of Standards I506.6.1 to I506.6.6:
 - (a) the effect on the operation of North Shore Airport; and
 - (b) the effect on the precinct provisions.

I506.8.2. 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 overlay, Auckland wide or zone provisions:

- (1) subdivision of any residential lot with a legal aircraft access agreement with North Shore Airport and physical aircraft access to the North Shore Airport;

- (a) the effect of the subdivision design on the precinct layout and topography:
 - (i) the extent to which the site size, shape, contour, frontage and access is suitable for the intended activities;
 - (ii) whether the proposed subdivision is consistent with Dairy Flat: Precinct Plan 1 – subdivision plan; and
 - (iii) the extent to which the arrangement of sites, including roads and taxiways, result in a comprehensively designed and integrated development and avoid, remedy or mitigate reverse sensitivity effects on the airport.
 - (b) the effect of land modification:
 - (i) the extent to which any proposed land modification is in keeping with the rural character of the area; and
 - (ii) the extent to which sites are located so that they do not require substantial earthworks or land modification to obtain access to a road, or aircraft taxiway.
 - (c) the effect on the required planting in the precinct:
 - (i) whether the layout of sites is consistent with the Dairy Flat: Precinct plan 2 - structural planting areas; and
 - (ii) the extent to which the proposal is consistent with the I506.9.1Landscape development programme required by Special Information Requirement I506.9.1.
 - (d) the effect of taxiway location and construction:
 - (i) whether the proposed taxiway location and construction, together with the arrangement of sites and roads, result in a comprehensively designed and integrated development and avoid, remedy or mitigate reverse sensitivity effects on the airport.
 - (e) the effect of stormwater:
 - (i) whether stormwater systems are designed to ensure they do not attract bird wildlife that could cause bird strikes to aircraft; and
 - (ii) the extent to which the subdivision is consistent with the integrated stormwater management approach required by Special information requirement **Error! Reference source not found.**
 - (f) the effect on the operation of North Shore Airport:
 - (i) whether the arrangement of landscaping, sites and taxiways enable aircraft operations to continue without hindrance, or safety being compromised.
- (2) infringement of Standards I506.6.1to I506.6.6:

- (a) the effect on the operation of North Shore Airport:
 - (i) whether the infringement will affect aircraft operations and safety; and
- (b) the effect on the precinct provisions:
 - (i) refer to Policies I506.3.(1) to I506.3.(3)

I506.9. Special information requirements

I506.9.1. Landscape development programme

Any application for subdivision consent must be accompanied by the following:

- (1) A landscape development programme.
 - (a) The landscape development programme must include:
 - (i) a landscape master plan (scale 1:1,000) showing the layout of property boundaries, roads, taxiways, footpaths and areas of structural planting;
 - (ii) a staging plan, programme of works and species list for all structural planting;
 - (iii) all structural planting (other than for the key structural planting areas described in Dairy Flat: Precinct plan 2 - structural planting areas),
 - (iv) confirmation that the structural planting will be established immediately upon completion of the formation of the roads shown on Dairy Flat: Precinct plan 1 - subdivision plan;
 - (v) a mechanism or process to ensure the maintenance of all structural planting, such as a consent notice or covenant;
 - (vi) a set of design standards for the whole development for both buildings, structures and outdoor elements and spaces, which address location, height, form and colour;
 - (vii) the design standards must be presented in an illustrated form, to show the relationship between built elements, vegetation, access and open spaces; and
 - (viii) the paving, signs, street furniture and lighting must be designed to be in keeping with their location in a semi rural/countryside living style area; and
- (2) For each stage of the development - a landscape design plan (scale 1:200), depicting the precise layout, design and specification of all outdoor elements – paving, signs, street furniture, lighting, planting and grassing.

I506.9.2. Integrated stormwater management

Any application for subdivision consent must be accompanied by:

- (1) an integrated stormwater management approach for the entire precinct and for each stage of development.

I506.9.3. Acoustic design report

An application for a dwelling must be accompanied by:

- (1) an acoustic design report that specifies the measures necessary to achieve an internal noise level of 40dBA (Ldn) in habitable rooms and sleeping areas in a noise sensitive land use taking into account:
 - (a) the likely aircraft noise generated by North Shore Airport;
 - (b) aircraft activities anticipated by this precinct; and
 - (c) other aircraft activities which are occurring in the surrounding area.

I506.9.4. Civil Aviation requirements

An application for resource consent in this precinct must be accompanied by:

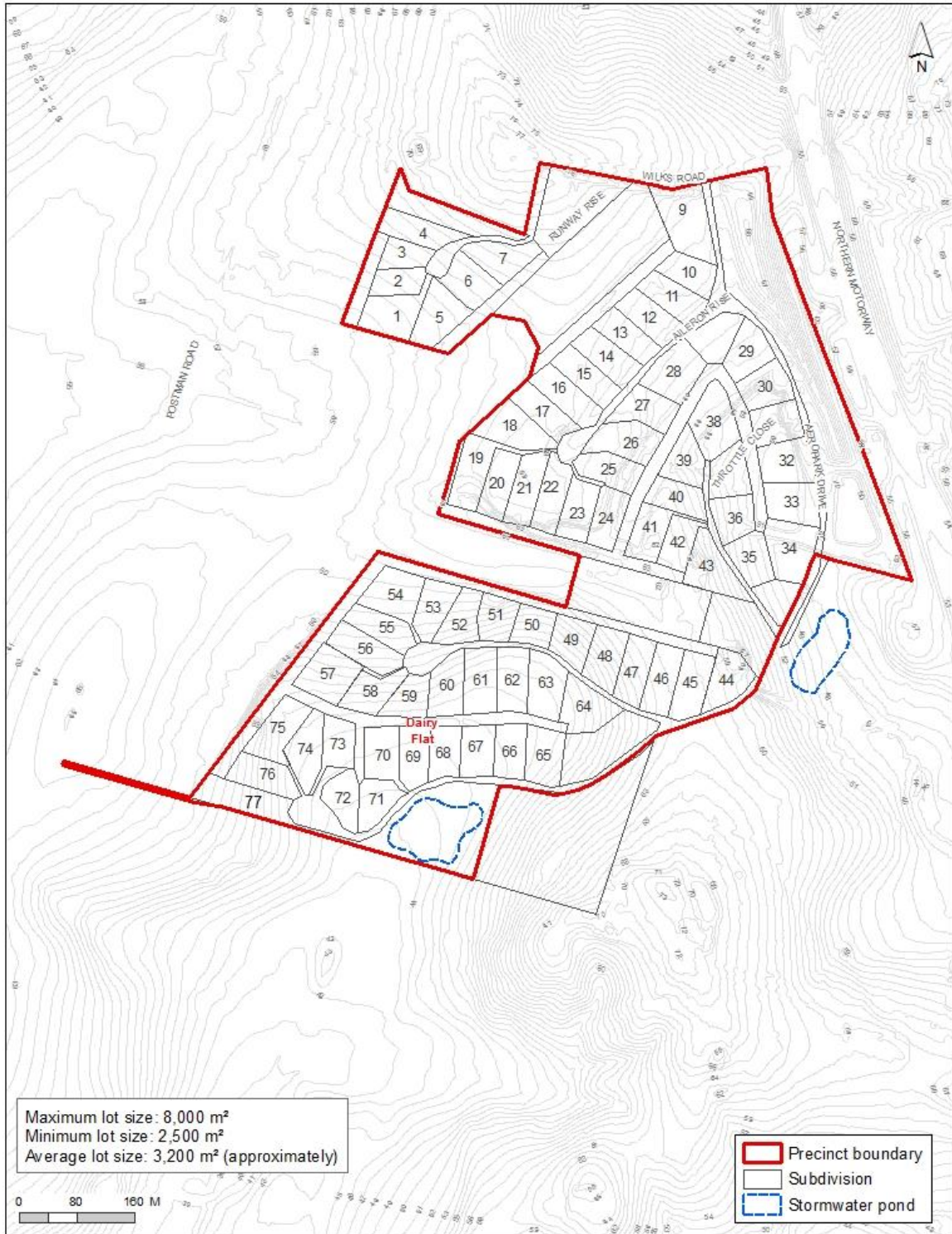
- (1) information that demonstrates compliance with any relevant Civil Aviation rule.

An application for land use or subdivision consent that includes a taxiway must be accompanied by:

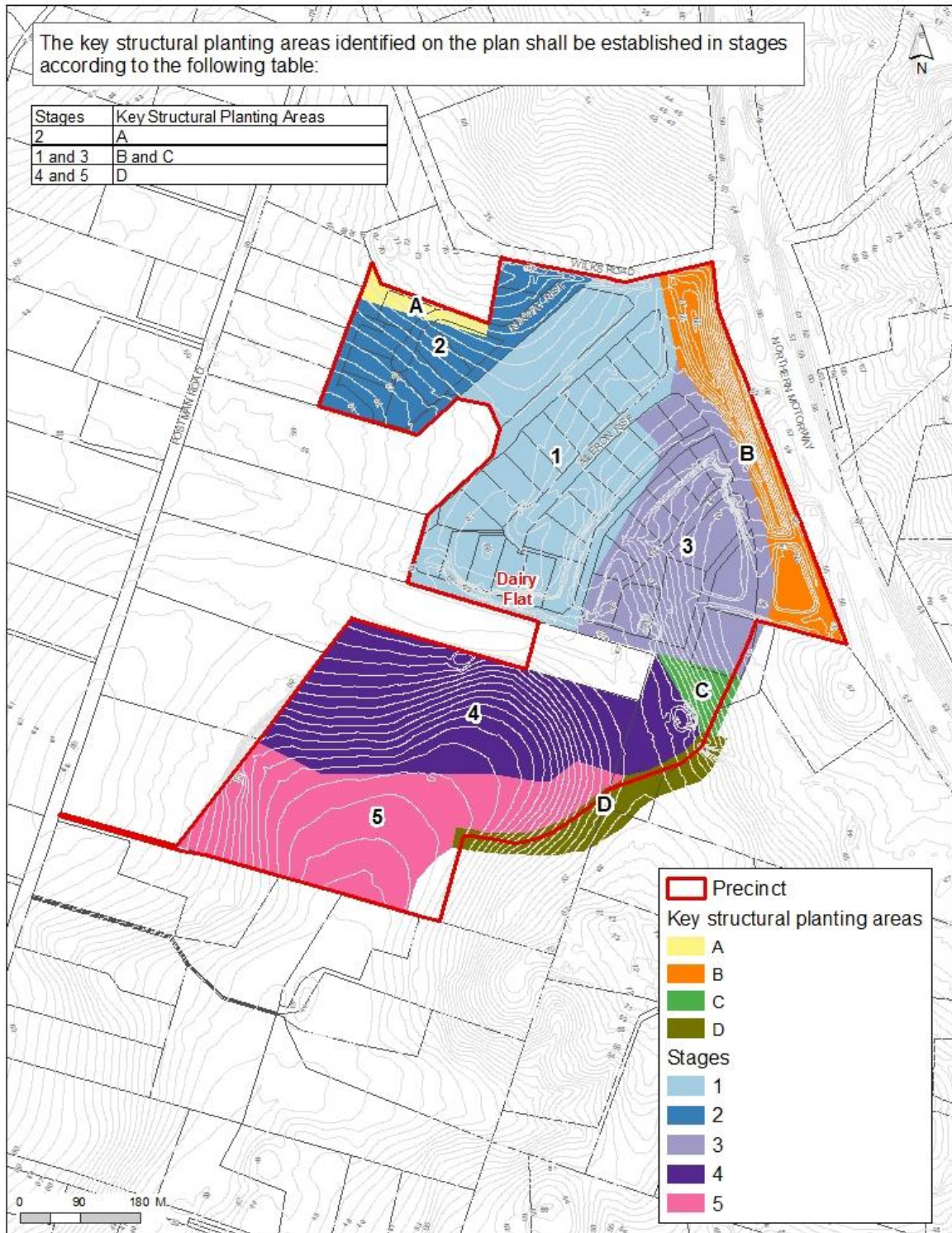
- (2) confirmation that the taxiway will be designed (including safety fencing if necessary), formed and concreted in accordance with the requirements of the Civil Aviation Authority.

I506.10. Precinct plans

I506.10.1 Dairy Flat: Precinct plan 1 – subdivision plan



I506.10.2 Dairy Flat: Precinct plan 2 – structural planting areas



I506.11. Appendices**Appendix I506.11.1 Dairy Flat Tree Species**

Fast growing species	
Alnus	Alder
Cordyline	Cabbage tree
Kunzea ericoides	Kanuka
Populus	Poplar
Salix	Willow
Pittosporum spp.	Pittosporum
Hoheria	Lacebark
Pinus spp	Pine
Shrub species	
Hebe	Hebe
Griselinia littoralis/lucida	Broadleaf
Ngaio	Ngaio
Phormium cookianum/tenax	Flax
Senecio	NZ daisy
Canopy Species	
Dacryocarpus	Rimu
Fraxinus	Ash
Metasequoia	Dawn redwood
Quercus	Oak
Taxodium	Swamp cypress
Liquidambar	Liquidambar
Beilschmiedia	Taraire
Podocarpus totara	Totara
Podocarpus Dacrydiodes	Kahikatea

Appendix I506.11.2 Dairy Flat Precinct Covenant

Refer to pdf attachment

**Attachment C: Updated text to I506 Dairy
Flat Precinct (Clean)**

I506. Dairy Flat Precinct

I506.1. Precinct Description

The Dairy Flat precinct applies to 50ha of land immediately adjoining the North Shore Airport at Dairy Flat.

The precinct provides for a residential aero park, and allows for the creation of sites sized between 2,500m² and 8,000m² in area, which will each have sealed aircraft taxiway access to and from the North Shore Airport.

The purpose of the Dairy Flat precinct is to create an environment for aircraft enthusiasts to live in close proximity to the North Shore Airport, and to provide permanent access for aircraft from all individual properties to the Airport. In addition, this precinct provides a buffer of aviation friendly activities around the North Shore Airport, which will assist its long term survival. It is intended that the aviation park will be developed in stages to be completed in general accordance with Dairy Flat: Precinct plan 1 - subdivision plan.

A structural planting plan is also contained in Dairy Flat: Precinct plan 2 – structural planting areas, with the species for framework planting specified in Appendix 1 Dairy Flat Precinct Tree Species specifying the key areas that must be planted in order to mitigate the visual impact of development. In addition, there is a landscape development programme for the entire precinct, which must include a landscape master plan, a staging plan, a set of design standards and a landscape design plan.

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

I506.2. Objectives

- (1) The development of an aviation park for combined residential and aircraft operations is provided for, whilst retaining the rural character of this precinct.
- (2) The adverse effects of activities on the operation of the North Shore Airport are avoided, remedied or mitigated.
- (3) The adverse effects of aircraft operations on dwellings within the precinct are avoided, remedied or mitigated.

The overlay, Auckland-wide and zone objectives apply in this precinct in addition to those specified above.

I506.3. Policies

- (1) Require the location and design of buildings to avoid, remedy or mitigate adverse effects, including reverse sensitivity effects on the operation of the North Shore Airport and aircraft operations within the precinct.
- (2) Require the location, design and operation of aviation activities to avoid, remedy or mitigate adverse effects on dwellings within the precinct.
- (3) Require the design of dwellings on the site to remedy or mitigate adverse effects from aircraft operations.

- (4) Require every site created by a subdivision to have an agreed legal and physical aircraft access to the North Shore Airport, where such access is agreed between the operators of North Shore Airport and any applicant for subdivision.

The overlay, Auckland-wide and zone policies apply in this precinct in addition to those specified above.

I506.4. Activity table

The provisions in any relevant overlays, zone and the Auckland-wide apply in this precinct unless otherwise specified below.

The following provisions do not apply:

- (1) Chapter D24 Aircraft Noise Overlay Activity Table D24.4.1; and
- (2) Chapter D24 Aircraft Noise Overlay Standard D24.6.1.

Table I506.4.1 Activity table specifies the activity status of land use, development and subdivision activities in the Dairy Flat Precinct pursuant to sections 9(3) and 11 of the Resource Management Act 1991 or any combination of all of these sections where relevant.

Table I506.4.1 Activity table

Activity		Activity status
Use		
Residential		
(A1)	One dwelling per site where the site has been subdivided in general accordance with the Subdivision Plan shown in Dairy Flat: Precinct plan 1 – subdivision plan	C
(A2)	The conversion of a dwelling into two dwellings	NC
(A3)	The conversion of an accessory building into a dwelling	NC
Community		
(A4)	Activities sensitive to aircraft noise except for one dwelling per site where the site has been subdivided in general accordance with the subdivision plan shown in Dairy Flat: Precinct plan 1 – subdivision plan	NC
Development		
(A5)	Construction, operation and maintenance of aircraft taxiways	P
(A6)	Demolition of buildings	P
(A7)	Domestic housing, maintenance and restoration of aircraft	C
(A8)	Landing and take-off of helicopters	Pr
(A9)	Refuelling of aircraft	Pr
(A10)	Storage of aviation fuel	Pr
(A11)	Taxiing of jet aircraft	Pr

Subdivision		
(A12)	Subdivision of any residential lot with a legal aircraft access agreement with North Shore Airport and physical aircraft access to the North Shore Airport	RD
(A13)	Subdivision of any residential lot without a legal aircraft access agreement with North Shore Airport or physical aircraft access to the North Shore Airport	NC
(A14)	Subdivision that does not comply with Standards I506.6.7 to I506.6.11	NC
(A15)	Further subdivision of any site beyond that shown in Dairy Flat: Precinct plan 1 – subdivision plan	Pr

I506.5. Notification

- (1) An application for resource consent for a controlled activity listed in Table I506.4.1 Activity table above will be considered without public or limited notification or the need to obtain written approval from affected parties unless the Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.
- (2) Any application for resource consent for an activity listed in Table I506.4.1 Activity table and which is not listed in I506.5.(1) will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.
- (3) 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.\(4\)](#) and North Shore Airport.

I506.6. Standards

The overlay, zone and Auckland-wide standards apply in this precinct, except that the following standards do not apply:

- [H1 Residential – Large Lot Zone Standard H1.6.4 Building height](#)
- [H1 Residential – Large Lot Zone Standard H1.6.7 Building coverage](#)

All activities listed as permitted, controlled or restricted discretionary in Table I506.4.1 Activity Table must comply with the following permitted activity standards.

I506.6.1. Hours of taxiway use

- (1) Taxiways must not be used by aircraft or vehicles between the hours of 10.00pm and 7.00am.

I506.6.2. Activities sensitive to aircraft noise

- (1) All new noise sensitive land uses must enter into a no-complaints covenant in favour of:

- (a) the North Shore Airport
- (b) all other land within the precinct

unless the site containing the new noise sensitive land use is already subject to a covenant that meets the requirements of Appendix 2 Dairy Flat Precinct Covenant.

- (2) The no complaints covenant must be registered against the Certificate of Title of the site containing the new noise sensitive land use.
- (3) The no-complaints covenant must be in a form consistent with Appendix 2 Dairy Flat Precinct Covenant.

I506.6.3. Height

- (1) Buildings and trees must not exceed the lesser of:
 - (a) 10 metres in height, unless they are trees which are specifically provided for in the landscape master plan approved in terms of a subdivision consent; or
 - (b) the height limits specified in the Airport Approach Path overlay rules.

I506.6.4. Building coverage

- (1) The maximum building coverage for each site must not exceed 20 per cent of the net site area.

I506.6.5. Accessory buildings

- (1) The maximum gross floor area of detached accessory buildings on each site must not exceed 200m².
- (2) Accessory buildings must be designed and constructed with external cladding, in a manner similar to the design and external appearance of any existing or proposed dwelling on the site.
- (3) Where no dwelling currently exists, accessory buildings must be designed and constructed of materials which are typically used for residential construction and can be readily utilised in the construction of a future dwelling on the site.

I506.6.6. Acoustic design of dwellings

- (1) Activities sensitive to aircraft noise must be designed and constructed in accordance with the acoustic design report required under I506.9.1 Special information requirements.

I506.6.7. Subdivision Plan

- (1) The subdivision layout including all sites, roads, taxiways, open space and reserves, must be developed in accordance with Dairy Flat: Precinct plan 1 - subdivision plan.
- (2) The development may proceed in stages as outlined below:
 - (a) Stage 1: Lots 1 – 8

- (b) Stage 2: Lots 9 – 30
- (c) Stage 3: Lots 31 – 42
- (d) Stage 4: Lots 43 – 62
- (e) Stage 5: Lots 63 – 77

I506.6.8. Subdivision site size

- (1) The minimum net site area must be 2,500m² and the maximum net site area must be 8000m².

I506.6.9. No complaints covenant

- (1) All sites within a subdivision must enter into a no-complaints covenant in favour of:
 - (a) the North Shore Airport; and
 - (b) all other land within the precinct.
- (2) The no complaints covenant must be registered against the certificate of title of the site containing the new noise sensitive land use.
- (3) The no-complaints covenant must be in a form consistent with Appendix 2 Dairy Flat Precinct Covenant.

I506.6.10. Agreement to use the airport

- (1) At each stage of subdivision described above under I506.6.7.(6), the applicant must provide Council with evidence of an enforceable legal agreement which must:
 - (a) be between the relevant applicant/landowner and the owner of the Airport;
 - (b) attach to the land.
- (2) The legal agreement must ensure that the lots on the plan of subdivision are guaranteed access via the planned taxiways to the North Shore Airport, for as long as the Airport remains in use.
- (3) Any such agreement must be secured through an appropriate legal mechanism that is recorded on a certificate of title for any new site created.
- (4) The section 224(c) certificate for the subdivision must not be issued until the Council is satisfied that this requirement will be met.

I506.6.11. Roads

- (1) All roads must be vested in Council.
- (2) All taxiways must be designed (including safety fencing if necessary), formed and concreted in accordance with the requirements of the Civil Aviation Authority.

I506.7. Assessment – controlled activities

I506.7.1. Matters of control

The Council will reserve its control to all of the following matters when assessing a controlled activity resource consent application, in addition to the matters specified for the relevant controlled activities in the overlay, zone or Auckland-wide provisions:

- (1) one dwelling per site where the site has been subdivided in general accordance with the Dairy Flat: Precinct plan 1 – subdivision plan, and domestic housing, maintenance and restoration of aircraft:
 - (a) the effect of the building location and appearance;
 - (b) the effect of the building on the landscape development programme;
 - (c) the effect of landform modification on the rural character of the area; and
 - (d) the timing of construction.

I506.7.2. Assessment criteria

The Council will consider the relevant assessment criteria below for controlled activities, in addition to the assessment criteria specified for the relevant controlled activities in the overlay, zone or Auckland-wide provisions:

- (1) one dwelling per site where the site has been subdivided in general accordance with the Subdivision Plan shown in Dairy Flat: Precinct plan 1 – subdivision plan and domestic housing, maintenance and restoration of aircraft:
 - (a) the effect of the building's location and appearance;
 - (i) the extent to which the building is sited so as to be screened by the structural planting when viewed from existing and proposed roads in the vicinity;
 - (ii) the extent to which the building is sited so that it is not visually obtrusive when viewed from existing and proposed public roads in the vicinity;
 - (iii) whether the building is of a design and colour so as to be unobtrusive in the landscape, and in keeping with the semi-rural/countryside living style location;
 - (iv) the extent to which any reduction or removal of the structural planting is required; and
 - (v) whether planting intended to screen the development is adequate for this purpose, and of sufficient size to be an effective screen within three years.
 - (b) the effect of the building on the landscape development programme:

- (i) the extent to which the building layout, site layout and onsite landscaping is consistent with the Landscape development programme required by Special information requirement I506.9.1.
- (c) the effect of landform modification on the rural character of the area; and
 - (i) the extent to which any proposed land modification is in keeping with the rural character of the area.
- (d) the timing of construction;
 - (i) whether the structural planting for all key areas identified in the I506.10 Dairy Flat: Precinct plan 2 – structural planting areas has been completed in accordance with Appendix 0 Dairy Flat Precinct Tree Species and the specimens are of a sufficient size to screen the proposed development within three years of planting.

I506.8. Assessment – restricted discretionary activities

I506.8.1. Matters of discretion

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

- (1) subdivision of any residential lot with a legal aircraft access agreement with North Shore Airport and physical aircraft access to the North Shore Airport:
 - (a) the effect of the subdivision design on the precinct layout and topography;
 - (b) the effect of land modification;
 - (c) the effect on the planting in the precinct;
 - (d) the effect of taxiway location and construction;
 - (e) the effect of stormwater; and
 - (f) the effect on the operation of North Shore Airport.
- (2) infringement of Standards I506.6.1 to I506.6.6:
 - (a) the effect on the operation of North Shore Airport; and
 - (b) the effect on the precinct provisions.

I506.8.2. 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 overlay, Auckland wide or zone provisions:

- (1) subdivision of any residential lot with a legal aircraft access agreement with North Shore Airport and physical aircraft access to the North Shore Airport;

- (a) the effect of the subdivision design on the precinct layout and topography:
 - (i) the extent to which the site size, shape, contour, frontage and access is suitable for the intended activities;
 - (ii) whether the proposed subdivision is consistent with Dairy Flat: Precinct Plan 1 – subdivision plan; and
 - (iii) the extent to which the arrangement of sites, including roads and taxiways, result in a comprehensively designed and integrated development and avoid, remedy or mitigate reverse sensitivity effects on the airport.
 - (b) the effect of land modification:
 - (i) the extent to which any proposed land modification is in keeping with the rural character of the area; and
 - (ii) the extent to which sites are located so that they do not require substantial earthworks or land modification to obtain access to a road, or aircraft taxiway.
 - (c) the effect on the required planting in the precinct:
 - (i) whether the layout of sites is consistent with the Dairy Flat: Precinct plan 2 - structural planting areas; and
 - (ii) the extent to which the proposal is consistent with the I506.9.1Landscape development programme required by Special Information Requirement I506.9.1.
 - (d) the effect of taxiway location and construction:
 - (i) whether the proposed taxiway location and construction, together with the arrangement of sites and roads, result in a comprehensively designed and integrated development and avoid, remedy or mitigate reverse sensitivity effects on the airport.
 - (e) the effect of stormwater:
 - (i) whether stormwater systems are designed to ensure they do not attract bird wildlife that could cause bird strikes to aircraft; and
 - (ii) the extent to which the subdivision is consistent with the integrated stormwater management approach required by Special information requirement **Error! Reference source not found.**
 - (f) the effect on the operation of North Shore Airport:
 - (i) whether the arrangement of landscaping, sites and taxiways enable aircraft operations to continue without hindrance, or safety being compromised.
- (2) infringement of Standards I506.6.1to I506.6.6:

- (a) the effect on the operation of North Shore Airport:
 - (i) whether the infringement will affect aircraft operations and safety; and
- (b) the effect on the precinct provisions:
 - (i) refer to Policies I506.3.(1) to I506.3.(3)

I506.9. Special information requirements

I506.9.1. Landscape development programme

Any application for subdivision consent must be accompanied by the following:

- (1) A landscape development programme.
 - (a) The landscape development programme must include:
 - (i) a landscape master plan (scale 1:1,000) showing the layout of property boundaries, roads, taxiways, footpaths and areas of structural planting;
 - (ii) a staging plan, programme of works and species list for all structural planting;
 - (iii) all structural planting (other than for the key structural planting areas described in Dairy Flat: Precinct plan 2 - structural planting areas),
 - (iv) confirmation that the structural planting will be established immediately upon completion of the formation of the roads shown on Dairy Flat: Precinct plan 1 - subdivision plan;
 - (v) a mechanism or process to ensure the maintenance of all structural planting, such as a consent notice or covenant;
 - (vi) a set of design standards for the whole development for both buildings, structures and outdoor elements and spaces, which address location, height, form and colour;
 - (vii) the design standards must be presented in an illustrated form, to show the relationship between built elements, vegetation, access and open spaces; and
 - (viii) the paving, signs, street furniture and lighting must be designed to be in keeping with their location in a semi rural/countryside living style area; and
- (2) For each stage of the development - a landscape design plan (scale 1:200), depicting the precise layout, design and specification of all outdoor elements – paving, signs, street furniture, lighting, planting and grassing.

I506.9.2. Integrated stormwater management

Any application for subdivision consent must be accompanied by:

- (1) an integrated stormwater management approach for the entire precinct and for each stage of development.

I506.9.3. Acoustic design report

An application for a dwelling must be accompanied by:

- (1) an acoustic design report that specifies the measures necessary to achieve an internal noise level of 40dBA (Ldn) in habitable rooms and sleeping areas in a noise sensitive land use taking into account:
 - (a) the likely aircraft noise generated by North Shore Airport;
 - (b) aircraft activities anticipated by this precinct; and
 - (c) other aircraft activities which are occurring in the surrounding area.

I506.9.4. Civil Aviation requirements

An application for resource consent in this precinct must be accompanied by:

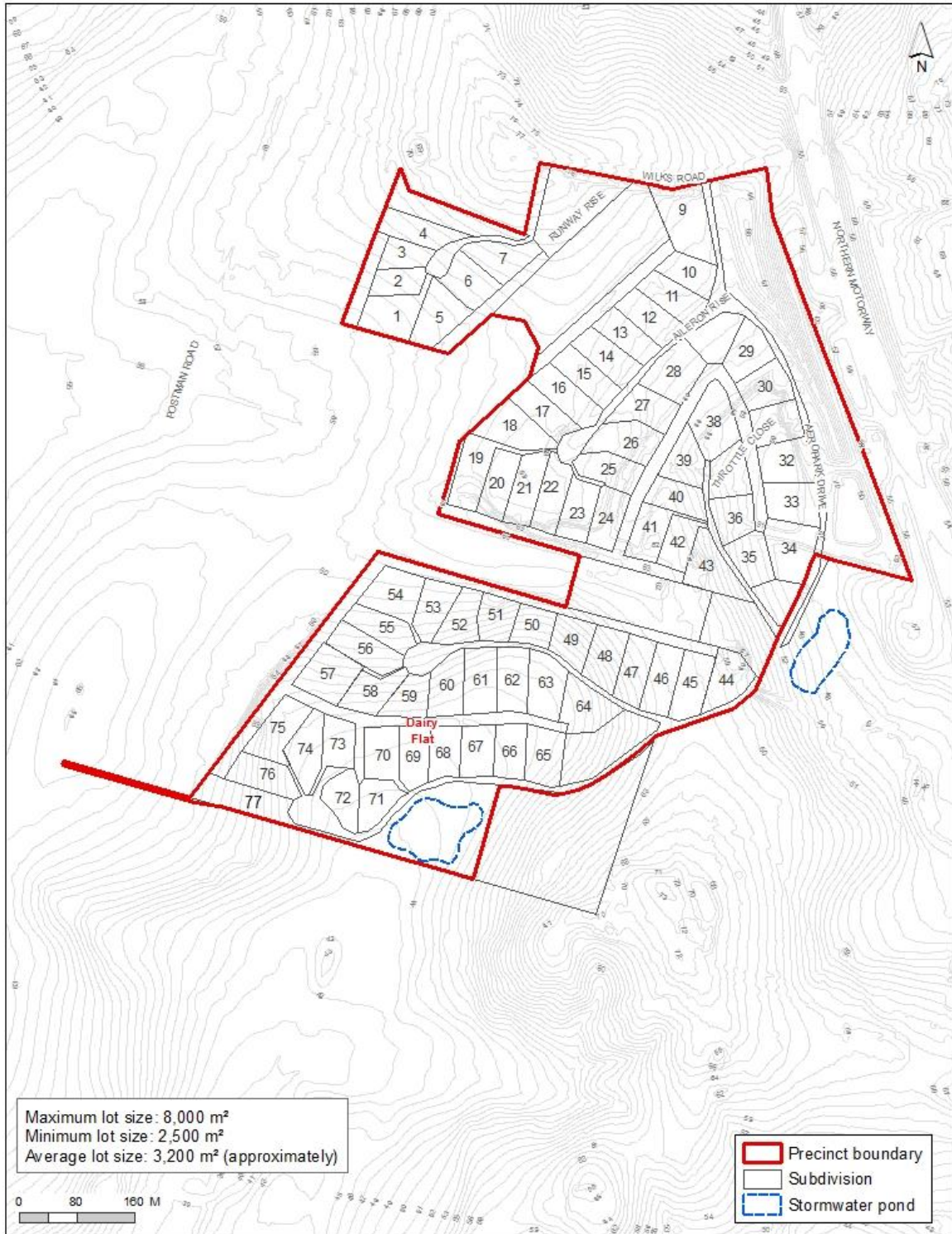
- (1) information that demonstrates compliance with any relevant Civil Aviation rule.

An application for land use or subdivision consent that includes a taxiway must be accompanied by:

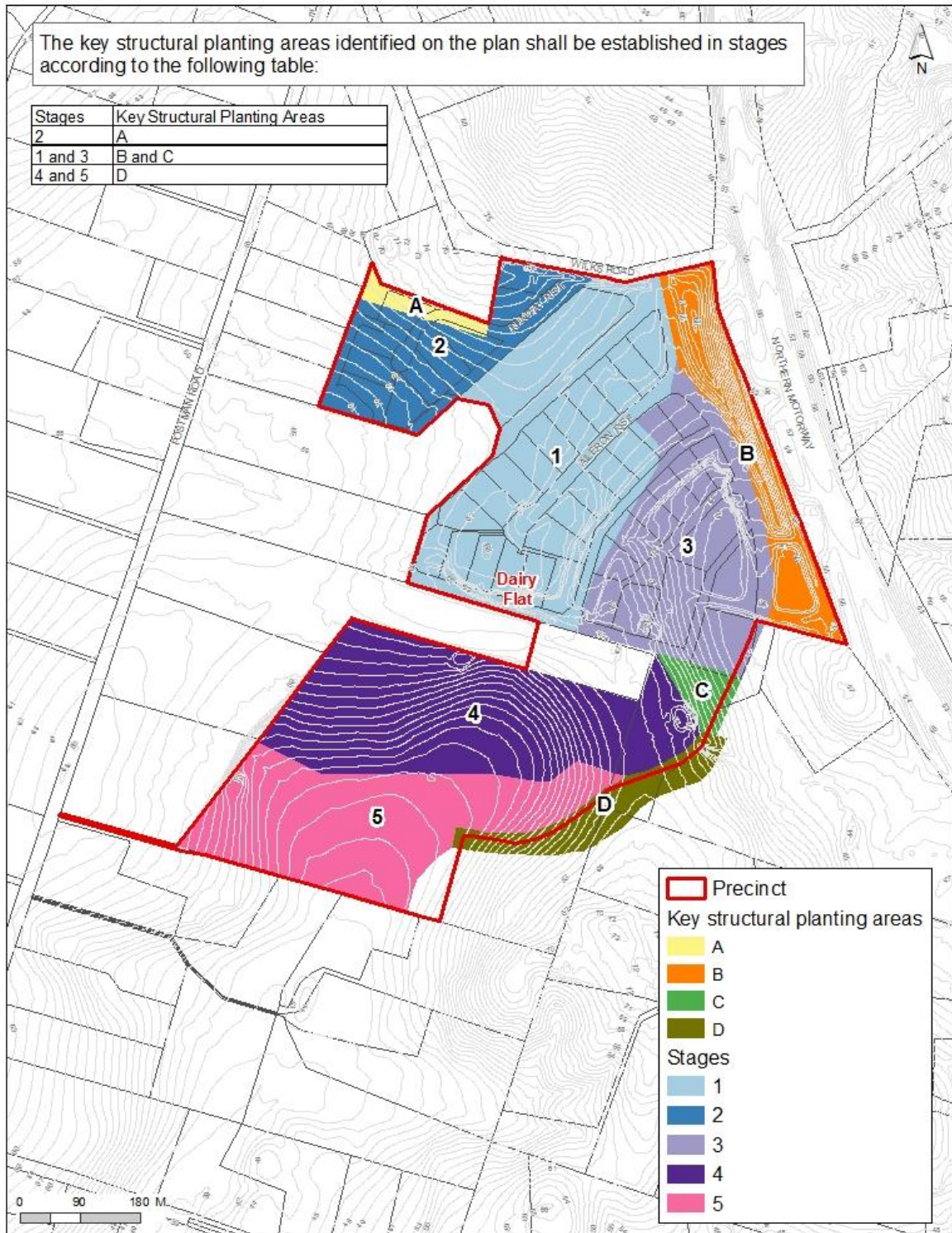
- (2) confirmation that the taxiway will be designed (including safety fencing if necessary), formed and concreted in accordance with the requirements of the Civil Aviation Authority.

I506.10. Precinct plans

I506.10.1 Dairy Flat: Precinct plan 1 – subdivision plan



I506.10.2 Dairy Flat: Precinct plan 2 – structural planting areas



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Appendix I506.11.2 Dairy Flat Precinct Covenant

Refer to pdf attachment