

Attachment 1: Decision on PC71 and PM14

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

Proposal

This plan change seeks to make consequential amendments to the Auckland Unitary Plan and Hauraki Gulf Islands District Plan which lie outside the scope of the non-Schedule 1 changes required by the National Policy Statement on Urban Development.

Plan change 71 is **APPROVED**, with modifications and Plan Modification 14 is **APPROVED** as notified. The reasons are set out below.

Plan Change number:	71 to the Auckland Unitary Plan (Operative in part) and Plan Modification 14 to the Hauraki Gulf and Islands District Plan – Consequential amendments as a result of removal of car parking minimums
Plan Change initiator	Auckland Council
Hearing commenced:	Wednesday, 12 October 2022, 1pm.
Hearing panel:	Karyn Sinclair (Chairperson) Karyn Kurzeja
Appearances:	<u>For the Submitters:</u> Aaron Smail for Summerset Group Holdings Limited Terence Harpur for Takapuna Beach Business Association Craig Shearer for Empire Capital Kevin O’Leary for Business North Harbour Inc Richard Steel for Auckland Marina Users Association Inc Kaaren Rosser and Cherie Lane for Bayswater Marina Berth-Holders Association Inc <u>For Council:</u> Eryn Shields, Team Leader Jess Romhany, Planner Mat Collins, Traffic Engineer Nick Somerville, Hearings Advisor
Hearing adjourned	Wednesday, 12 October 2022, 4pm.
Hearing Closed:	Thursday 13 October 2022

Introduction

1. This decision is made on behalf of the Auckland Council (“**the Council**”) by Independent Hearing Commissioners Karyn Sinclair (Chairperson) and Karyn Kurzeja appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (“**the RMA**”).

2. The Commissioners have been given delegated authority by the Council to make a decision on Plan Change 71 (“PC71”) to the Auckland Council Unitary Plan Operative in Part (“the Unitary Plan”) and Plan Modification 14 to the Hauraki Gulf and Islands District Plan (“PM14”) after considering all the submissions, the section 32 evaluation, the reports prepared by the officers for the hearing and evidence presented during and after the hearing of submissions.
3. PC 71 and PM 14 is a Council-initiated plan change that has been prepared following the standard RMA Schedule 1 process (that is, the plan change is not the result of an alternative, 'streamlined' or 'collaborative' process as enabled under the RMA). That Schedule 1 process was initiated to implement requirements of the National Policy Statement on Urban Development (NPS-UD) with respect to the removal of parking standards as set out in Policy 11 of that NPS-UD.
4. PC71 and PM 14 was publicly notified on 24 February 2022 following a feedback process involving Iwi, as required by Clause 4A of Schedule 1. Notification involved a public notice as well as letters to directly affected landowners and occupiers. The latter step was aimed at ensuring that landowners and occupiers of properties affected by potentially significant changes were made aware of the changes.
5. The submission period closed 24 March 2022. A summary of submissions was notified for further submissions on 26 May 2022. A total of 91 submissions and 18 further submissions were made on the plan change. A total of 3 submissions were made on the plan modification, and no further submissions were made.
6. On consideration of the submissions received, Council resolved to withdraw the travel demand standard and associated provisions from PC71 under clause 8D of Schedule 1 of the RMA. The withdrawal of the travel demand standard and associated provisions was notified on 28 July 2022.

SUMMARY OF PLAN CHANGE

7. The proposed plan change is described in detail in the hearing report. A summary of key components of the plan change is set out below.
8. As noted above, PC 71 and PM 14 were promulgated to address issues with the administration of the AUP after the removal of all provisions that had the effect of requiring a minimum number of car parks. That removal of the car parking provisions was required because of Policy 11 of the NPS-UD. Those provisions were removed from the AUP on 11 February 2022.
9. PC71 and PM 14 are required to ensure alignment of the policy framework of the AUP and HGI plan with Policy 11 of the NPS-UD. They are amendments that in the opinion of the Council, were necessary, but did not fall directly out of Policy 11.

HEARING PROCESS

10. The Commissioners directed the pre-circulation of expert evidence.

11. Given the changes proposed in PC71 and PM14 were largely city wide and/or related to the alignment of the AUP a site visit was not considered necessary by either commissioner to any specific location.

PROCEDURAL MATTERS AND LATE SUBMISSIONS

12. There were no procedural matters that arose during the hearing or through the processing of the plan change. All submissions and further submissions were received within the relevant statutory time frames.

RELEVANT STATUTORY PROVISIONS CONSIDERED

13. The RMA sets out an extensive set of requirements for the formulation of plans and changes to them. These requirements are set out in detail in the Council's section 32 evaluation report and in the section 42A report prepared for the hearing, and it is not necessary to repeat that information in this decision. We note, however, that we are satisfied that the plan change has been prepared in accordance with all relevant statutory obligations and has been appropriately evaluated in a manner that meets the requirements of section 32 of the RMA.
14. Clause 10 of Schedule 1 requires that this decision must include the reasons for accepting or rejecting submissions. The decision must include a further evaluation of any proposed changes to the plan change arising from submissions; with that evaluation to be undertaken in accordance with section 32AA. With regard to Section 32AA, we note that the evidence presented by submitters and Council effectively represents this assessment, and that the material should be read in conjunction with this decision, where we have determined that a change to PC 71 and PM 14 should be made.
15. There are a number of provisions of the Unitary Plan that are relevant to PC 71 and PM 14 and these are listed as:

Auckland Unitary Plan (Operative in part):

- B8 Coastal environment
- E27 Transport E38 Subdivision – Urban
- E40 Temporary activities
- F2 Coastal - General Coastal Marine Zone
- F3 Coastal - Marina Zone
- F5 Coastal - Minor Port Zone
- F6 Coastal - Ferry Terminal Zone
- H1 Residential - Large Lot Zone
- H2 Residential - Rural and Coastal Settlement Zone
- H3 Residential - Single House Zone
- H4 Residential - Mixed Housing Suburban Zone
- H5 Residential - Mixed Housing Urban Zone
- H6 Residential - THAB Zone
- H20 Rural - Waitakere Foothills Zone
- H21 Rural - Waitakere Ranges Zone
- I100 Boat Building Precinct

- I303 Auckland War Memorial Museum Precinct
- I304 Auckland Zoo Precinct I308 Central Park Precinct
- I313 Ellerslie Racecourse Precinct
- I322 Mount Wellington 5 Precinct
- I325 Okahu Marine Precinct
- I330 Saint Lukes Precinct
- I333 Three Kings Precinct
- I401 Ardmore Airport Precinct
- I402 Auckland Airport Precinct
- I407 Bruce Pulman Park Precinct
- I418 Kingseat Precinct
- I427 Pacific Events Centre Precinct
- I502 Albany Centre Precinct
- I503 AUT MIS Precinct
- I504 Bayswater Marina Precinct
- I510 Gulf Harbour Marina Precinct
- I521 Matakana 1 Precinct
- I522 Matakana 2 Precinct
- I526 North Shore Events Centre Precinct
- I528 Omaha South Precinct
- I537 Silverdale 3 Precinct
- I547 Weiti Precinct
- I548 Whangaparoa Precinct
- I549 Akoranga Precinct
- I551 Highgate Precinct
- I603 Hobsonville Corridor Precinct
- I605 Hobsonville Point Precinct
- I613 Trusts Arena Precinct
- I614 Wainamu Precinct
- SHA Birdwood 2
- SHA Huapai Triangle
- SHA Mangere Gateway sub-precinct E
- SHA Whenuapai 1
- J Definitions

Auckland Council District Plan – Hauraki Gulf Islands Section

- Part 5: Network Utility Services
- Part 10a: Land Units
- Part 11: Assessment Matters
- Part 13: Transport
- Part 14: Definitions

SUMMARY OF EVIDENCE

16. The Council planning officer's report was circulated prior to the hearing and taken as read. All evidence was pre-circulated.

17. The evidence presented at the hearing responded to the issues and concerns identified in the Council planning officer's report, the plan change itself and the submissions made on the plan change.
18. The withdrawal of the travel demand standard and its associated provisions from the plan change on 28 July 2022 resulted in little residual interest in the provisions and limited evidence was presented to the Panel at the hearing.
19. Ms Romhany, the reporting officer, provided an opening statement and a statement of evidence that responded to evidence received from submitters.
20. A summary of key points raised in statements provided to and questioning by the Panel prior to and/or at the hearing is set out below. These are intended as a summary only, and that the full transcripts are available.
21. AMP Capital and PSPIB/CPPIB Waiheke Incorporated and Oyster Management Ltd provided a statement through their legal representative. This was pre-circulated and neither party was represented at the hearing. Their submissions to the Panel (being identical) contended that the deletion of current Policy E27.3(6) and substitution of new wording would not give effect to the NPS-UD. They were specifically concerned about the removal of perceived flexibility that the existing AUP wording gives to developers to choose whether and to what extent parking is provided.
22. Kāinga Ora provided a statement that confirmed with the withdrawal of the proposed travel demand standard and its associated provisions, the section 42A report adequately addressed the remaining concerns of the submission and further submission.
23. Amanda Coats provided a statement of evidence on behalf of North Eastern Investments Limited (NEIL). This statement confirmed that NEIL supported the withdrawal of the proposed travel demand standard and its associated provisions and noted the perceived disadvantage of proceeding with a subsequent plan change (PC 79) prior to PC71 being resolved. This is noted but not a matter that can be considered by this Panel. Ms Coats did not request any further changes in her statement.
24. Mr Smail for Summerset Group Holdings Limited appeared briefly to confirm he was satisfied that, with the withdrawal of the travel demand standard aspect of the plan change, he had no further comment to make.
25. Mr Harpur for Takapuna Beach Business Association and Mr O'Leary for Business North Harbour Inc considered that more analysis was required on the impacts of removing car parking minimums on local businesses. They both acknowledged however that this matter sits outside of this plan change / plan modification consideration and that it was a mandatory requirement of Policy 11 of the NPD UD and Council had to respond to it.
26. Mr Shearer appeared for Empire Capital. Empire Capital own three marina facilities in Auckland, which are subject to the removal of carparking as required by the NPS-UD and therefore the consequential amendments set out in PC 71 and PM 14. They submitted on a number of matters and made further submissions. Mr Shearer provided evidence that was pre circulated. Mr Shearer confirmed Empire Capital was supportive of the amendments to the relevant Coastal Zone and Precinct provisions that removed the implied

policy provisions relating to requirements for/or provision of car parking, including reference to “park and ride”. Mr Shearer sought clarification relating to wording to support the provision of car parking with boat trailers where this specifically related to use of the boat ramp. Mr Shearer noted that he did not support the submissions by Bayswater Marina Berthholders Association (BMBHA) relating to “marina carparking” as it could imply a minimum parking standard is applicable.

27. Mr Steel and Mr Little appeared on behalf of the Auckland Marina Users Association (AMUA). Mr Steel emphasised the importance of parking as part of any marina use and that they are not seeking to introduce carparking minimums, instead they simply want the effects of any car parking provided to be assessed. Mr Steel contended that the plan change was too “broad brush” and that it needed to address site specific matters that were relevant to marinas. He asked that the Panel consider referring to and relying on the draft Auckland Parking Strategy prepared by Auckland Transport and Auckland Council “Parking in Auckland” documents in making the decision on PC71 and PM 14. Mr Steel noted the AMUA support for the amendments sought by the BMBHA.
28. Ms Rosser and Ms Lane appeared on behalf of the BMBHA. Both Ms Rosser and Ms Lane acknowledged that while they are planners, they were appearing as lay people who owned berths at Bayswater, rather than in a professional capacity. They sought to have consideration of parking on the functionality of marinas included in provisions relating to the General Coastal Marine and Coastal Marina zones (Chapters F2 and F3 respectively of the AUP) and to have specific reference to the access to parking in relation to the functional needs of the minor port facilities (F5). With respect to the Bayswater Marina Precinct their evidence supported amendments to the provisions to address boat trailer parking and marina car parking, and to ensure that adequacy of car parking remained an assessment matter as part of any resource consent application.

PRINCIPAL ISSUES IN CONTENTION

29. Having considered the submissions and further submissions received, the hearing report, the evidence presented at the hearing and the Council officers’ response to questions, the following principal issues in contention have been identified:
 - Whether the proposed amendments to Chapter E27 of the AUP are appropriate, and specifically whether the proposed wording of Policy E27.3(6) will inappropriately foreclose a developer’s choice with respect to the provision of parking.
 - Whether the provisions of the plan change adequately enable the potential effects relating to car parking at marinas (and the minor port zone) to be addressed in light of the removal of the parking minimums.
 - Whether the provisions of the Bayswater Marina precinct provide sufficient latitude to appropriately evaluate any proposal with respect to parking effects.
 - Whether the Panel has scope under Policy 11 of the NPS-UD to consider consequential amendments to areas beyond the urban environment.

FINDINGS ON THE PRINCIPAL ISSUES IN CONTENTION

- Whether the proposed amendments to Chapter E27 of the AUP are appropriate and specifically whether the proposed wording of Policy E27.3(6) will inappropriately foreclose the flexibility for a developer with respect to the provision of parking
30. Both AMP and Oyster Capital provided written statements to the hearing with respect to concerns relating to the proposed amendments to E27.3(6). The concerns centred on the rewording of policies to remove a reference to “provide for flexible on site parking” in specified business zones and “not limiting parking ...” other than for specified land uses type language, and replacing it with the text in PC 71 which is focused on limiting “the supply of on site parking...” for specified land use activities in certain business zones. The Commissioners have considered the issue put forward by AMP and Oyster Capital, including putting that position in the context of the suite of policies that serve to deliver outcomes relating to development. We note that the overall intent of the objectives in E27 is not altered as part of this Plan change, and that there is still the requirement that, where provided “parking and loading is managed to support urban growth...¹” and “parking ... is safe and efficient...²”. Both serve to define the outcomes sought within the Transportation provisions. Policy changes to remove specific reference to the provision of flexible on-site car parking does not inappropriately fetter a developer’s choice, the opportunity remains, albeit in balance with other transport modes, such as public transport.
31. We agree with Ms Romhany’s analysis at para 144 – 145 of the Section 42A report and confirm that the wording put forward in the plan change is appropriate to address consequential amendments resulting from the NPS-UD without unreasonably restricting the choice for private developments.
- Whether the provisions of the plan change adequately addressed potential effects relating to car parking at marinas in light of the removal of the parking minimums.
 - Whether the provisions of the Bayswater Marina precinct provide sufficient latitude to appropriately evaluate any proposal with respect to parking effects.
32. The basis of much of the positions of the AMUA and BMBHA was that car parking was an integral component of a marina activity. Berth holders regard parking as an “inherent necessity”³. BMBHA noted that the definition of “marina” in the AUP included “land based areas for parking ...”. Ms Romhany noted in her supplementary statement provided to the Panel prior to the conclusion of the hearing that the AUP continues to enable parking. The BMBHA and AMUA position essentially came down to whether any evaluative process as part of a resource consent application would adequately recognise and provide for berth holder parking. If the plan change proceeded as publicly notified, the only changes to the I504 Bayswater Marina precinct seek to clarify that references to car parking spaces, relates to “vehicles with boat trailer parking” in the policies and it removes the minimum car parking standard as well as references to adequate carparking in the assessment criteria and special information requirements. These changes are entirely consistent with the requirement of the NPS-UD. The Panel noted that the definition of “marina” remains as is,

¹ E27.2(3) PC 71

² E27.2(4) PC 71

³ BMBHA Presentation 10 October 2022, para 2

with no edits considered necessary as a result of the NPS-UD. Marina, as defined and as noted by BMBHA, includes reference to parking as a component of any marina activity. Resource consents will continue to be assessed against the provisions of the Precinct and the Marina Zone, that include provisions that refer to marina activities such as objectives and policies and the assessment criteria regarding transport and parking (which we note is not phrased as a veto of parking). For activities that are discretionary or non-complying, there is no constraint on the consideration of parking. The only difference with PC 71 is that there is no specific minimum parking required, and the applicant will need to refer back to the definition of marina to justify parking.

33. The Commissioners do not agree with the AMUA that the AT draft parking strategy is a relevant document to our consideration, especially as the document is in draft. Furthermore, the submitters did not advise how those draft provisions would be consistent with the RPS or other statutory considerations within which we have to make our decision.
34. The Commissioners agree with Ms Romhany and find that the AUP will continue to provide an adequate basis for consideration of the effects of resource consent applications, including parking. The removal of the minimum parking standard (through the NPS-UD requirement), and explicit references in other provisions to car parking (through the PC71 process), does not inappropriately fetter the ability of decision makers to consider parking and how it is provided. This finding is applicable across the AUP, and not specific to the Marina Zone or the Bayswater Marina Precinct provisions.
35. Submitters sought a small number of modifications to wording in relation to the Bayswater Precinct provisions and our findings on these are set out below.
36. In making this finding we note that the submitters generally agreed with the provision of parking specifically for boat trailers, and the necessary vehicle to tow such a trailer, and the plan change provides for “parking for vehicles with boat trailers” in the Bayswater Marina Precinct.
37. Mr Shearer sought the removal of the reference to “park and ride” from the Bayswater Precinct provisions. Ms Romhany noted in the s42A report that this was not within the scope of the proposed plan change. The Commissioners are in agreement with Ms Romhany that the removal of the reference to park and ride is out of scope and are concerned that such a change may have other implications that have not been considered in the section 32 analysis that supported the plan change. Additionally, the Bayswater Marina Precinct is not the only location within the region where there is reference to park and ride, and Plan Change 71 is silent on other provisions relating to park and ride facilities. Without a more thorough investigation to confirm there are no unintended consequences, the Commissioners reject this submission point (60.7).
38. Mr Shearer in his hearing statement reinforced his opinion that the provisions as notified relating to assessment criteria and special information requirements specifically with respect to the Bayswater Marina Precinct left the door open for a quasi “parking minimum” to be applied. The Commissioners agree with Ms Romhany, who noted in her reply that these are matters dealt with at lodgement (special information requirements) and in the processing of a resource consent, the decision of which would not turn on the number of parks made available, but whether in providing parking, consideration had also been given

to alternative parking available and public transport. We do not consider that the assessment criteria would be determined by maths but rather analysis in the round.

- Whether the Panel has scope to consider consequential amendments to areas beyond the urban environment under Policy 11 of the NPS-UD.

39. Ms Rosser and Ms Lane in oral evidence for BMBHA stated that it was questionable whether PC71 (and PM14) should propose consequential amendments to areas that were beyond the 'urban environment', such as the Coastal Marina zone, especially when the land or precinct does not support residential use (and is a non-complying activity). The Panel sought clarification from the Council officers on this matter. Mr Eryn Shields, Team Leader advised this matter had been considered and that legal advice had been received that stated Policy 11 of the NPS-UD requires in relation to car parking "the *District Plans* of tier 1 ... territorial authorities to not set minimum car parking requirements ..." as opposed to Policy 3 for example which states "in relation to tier 1 *urban environments*...". We agree with Council, as the wording in Policy 11 is in relation to District Plans, as opposed to urban environments we consider that the consequential amendments proposed in PC71 and PM14 can be made on a district plan wide basis, as opposed to just within urban environments, and thus the proposed provisions of PC71 and PM14 are appropriate, subject to the modifications already outlined in this decision.

DECISIONS ON SUBMISSIONS

40. The following section addresses the submissions received and sets out our decision in relation to them. For efficiency reasons and given the limited evidence presented at the hearing, we have predominantly adopted the themes and submission summary within the s42A report.

41. Theme 1: Submissions seeking the plan change be declined due to the removal of parking minimums.

Decision on submissions:

That submission points [1.1], [2.1], [3.1], [4.1], [5.1], [6.1], [7.1], [8.1], [11.1], [12.1], [13.1], [14.1], [16.1], [18.1], [20.1], [21.1], [22.1], [25.1], [26.1], [29.1], [32.1], [39.1], [40.1], [42.1], [47.1], [48.1], [54.1], [55.1], [57.1], [63.1], [64.1], [83.1], [83.2], [84.1], [85.1], [85.2], [86.1], [87.1], [89.1] and [91.1] are **rejected** as they are out of scope, with the removal of parking minimums having occurred on February 11 2022 in accordance with the requirements of Policy 11 of the NPS-UD.

42. Theme 2: Submissions expressing support for proposed text amendments

Decision on submissions:

That submission points [33.2], [33.8], [33.11], [33.12], [33.17], [33.18], [33.19], [33.20], [33.21], [33.22], [33.23], [33.24], [33.25], [33.26], [33.27], [33.28], [33.29], [33.30], [33.31], [33.32], [33.33], [33.34], [33.35], [33.36], [33.37], [33.38], [51.2], [51.8], [51.11], [51.12], [51.17], [51.18], [51.19], [51.20], [51.21], [51.22], [51.23], [51.24], [51.25], [51.26], [51.27], [51.28], [51.29], [51.30], [51.31], [51.32], [51.33], [51.34], [51.35], [51.36], [51.37], [51.38], [52.2], [52.8], [52.11], [52.12], [52.17], [52.18], [52.19], [52.20], [52.21], [52.22],

[52.23], [52.24], [52.25], [52.26], [52.27], [52.28], [52.29], [52.30], [52.31], [52.32], [52.33], [52.34], [52.35], [52.36], [52.37], [52.38], [56.2], [56.8], [56.11], [56.12], [56.17], [56.18], [56.19], [56.20], [56.21], [56.22], [56.23], [56.24], [56.25], [56.26], [56.27], [56.28], [56.29], [56.30], [56.31], [56.32], [56.33], [56.34], [56.35], [56.36], [56.37], [56.38], [60.2], [60.3], [60.4], [60.5], [60.6], [65.2], [65.8], [65.11], [65.12], [65.17], [65.18], [65.19], [65.20], [65.21], [65.22], [65.23], [65.24], [65.25], [65.26], [65.27], [65.28], [65.29], [65.30], [65.31], [65.32], [65.33], [65.34], [65.35], [65.36], [65.37], [65.38], [81.7], [81.11], [81.12], [81.17], [81.18], [81.19], [81.20], [81.21], [81.22], [81.23], [81.24], [81.25], [81.26], [81.27], [81.28], [81.29], [81.30], [81.31], [81.32], [81.33], [81.34], [81.35], [81.36], [81.37], [81.38], [81.39], [81.41], [81.42] and [81.43] are **accepted / accepted in part**. The support of these submissions is noted. We have approved the Plan Change, but the Commissioners have made a small number of changes to the provisions based on the evidence before us, meaning some of the text amendments proposed have been modified from those in the notified version therefore some of the submissions cannot be accepted in full as a consequence.

43. Theme 3: Submissions seeking that the plan change be accepted

Decision on submissions:

That submission points [9.1], [15.1], [23.1] and [41.1] are **accepted in part**. The withdrawal of the provisions relating to travel demand standards and the decision in relation to the Theme 2 submissions points above mean that the provisions are modified from those in the notified version and the submissions cannot be accepted in full as a consequence.

44. Theme 4 Submissions seeking amendments to the plan change. This theme has four sub parts as discussed below.

45. Sub-theme 1: Amendments proposed to Chapter E27 – Transport

Decision on submissions:

Amendments to E27.1 Background:

That submission points [33.3], [51.3], [52.3], [56.3] and [65.3] are **rejected**. The proposed text amendments relating to car parking maximums are considered necessary and appropriate, and Policies E27.3(4) and proposed Policy E27.3(6) provide a context for assessment for car parking limits.

That submission point [81.2] is **accepted** as the text amendments enable the broad intent of the NPS-UD to be implemented.

Amendments to Objective E27.2(3) and E27.2(4)

That submission points [81.3] and [81.4] are **accepted** as the amendments sought by the submitter are necessary to provide consistency with the NPS-UD.

Amendments to Policy E27.3(3)

That submission points [33.4], [51.4], [52.4], [56.4] and [65.4] are **rejected** as the AUP retains the ability to manage the location, number, and type of parking where it is proposed, and therefore Policy E27.3(3) remains relevant.

Amendments to Policy E27.3(9)

That submission points [33.5], [51.5], [52.5], [56.5] and [65.5] are **rejected**. Retention of Policy E27.3(9) remains relevant within the context of decision making on resource consents in relation to any parking proposed.

Amendments to Policy E27.3(6) and E27.3(6A)

That submission points [33.6], [51.6], [52.6], [56.6] and [65.6] are **rejected**. The policy amendment is necessary to ensure consistency with the overarching direction of the NPS-UD, and to allow the policy context to recognise maximum parking rates.

That submission points [66.2], [66.3], [67.2], [67.3], [71.2], [71.3], [73.2], and [73.3] are **rejected** for the reasons set out in paragraph 30 above. Notably, the amendments to the wording of Policy E27.3(6) maintains flexibility, and does not provide for minimum parking standards, which is consistent with the NPS-UD.

That submission point [81.5] is **rejected**. The policy amendment proposed by the submitter would not enable an appropriate assessment where parking or trip generation forms part of a resource consent application.

That submission point [81.6] is **accepted in part**. The proposed amendment, as proposed by Ms Romhany in response to the submission point, encourages limiting or removing parking which is considered to be more aligned with the NPS-UD. Further we note that Policy 6A will replace that contained in the notified version of the plan change.

That submission point [82.2] is **accepted** as inclusion of a reference to “office activities” in Policy E27.3(6) is appropriate in the context of the provision of maximum parking standards.

Amendments to Special Information Requirement E27.9(2)(a)⁴

That submission point [81.15] is **accepted**. The amendment suggested by the submitter provides clarification and acknowledges the removal of the car parking minimums from the AUP.

⁴ Ms Romhany confirmed in her supplementary statement of evidence (para 9, 12 October 2022) that there was an error in her s42A report, and inadvertently referred to this policy as E27.3(9)(2)a

46. Sub-theme 2: Amendments proposed to the coastal chapters

Amendments to Policy F2.17.3

That submission points [43.2] and [68.2] are **rejected**. The amendments sought by the submitters are not considered to give effect to the NPS-UD, and do not assist with the administration of the AUP.

Amendments to Matter of Discretion F3.8.1(1)(e)

That submission points [43.3] and [68.3] are **accepted in part**. Marinas, by definition include parking, and it is considered that the amendments sought by the submitters would contribute to the assessment of activities within Marina zoned land, including access and parking. Ms Romhany's proposed amendment which includes "but not limited" further reinforces the context of that discretion.

Amendments to Assessment Criteria F3.8.2(3)(c)

That submission points [43.4] and [68.4] are **rejected**. The deletion of the assessment criteria in the notified version of the Plan Change was to ensure there was no implicit inference of a minimum parking standard. The amendments proposed by the submitters was to support the need for parking for berth holders in association with marina berths. We agree with Ms Romhany that there is adequate provision for consideration of parking within Assessment Criteria F3.8.2(1)(a)(x), (xii) and F3.8.2(2)(a).

Amendments to Assessment Criteria F3.8.2(4)(f)

That submission points [43.5] and [68.5] are **rejected**. As discussed in paragraph 32 above, the provisions as notified removed reference to "the need for" parking or transport facilities, while the submitters sought to include references to "proposed parking" and "travel demand for the proposal". Neither amendment is considered in the context of the Plan Change, and nor would the decision to reject the inclusions disadvantage the consideration of any restricted discretionary activities in the Marina Zone.

Amendments to Assessment Criteria F5.8.2(1)(c)

That submission points [43.6] and [68.6] are **rejected**. As noted above, provisions that imply a parking minimum are not considered consistent with Policy 11 of the NPS-UD. The amendments suggested by the submitters to assess operation/functional needs and access to parking would import a suggestion of an assessment of a resource consent that parking was an absolute necessity (with therefore the implication of a minimum standard).

47. Sub-theme 3: Amendments proposed to I504 Bayswater Marina Precinct

Amendments to I504 Bayswater Marina Precinct Policy I504.3(5)

That submission point [60.7] is **rejected**. As noted in paragraph 37, we consider this submission point to be out of scope. There is no adequate assessment of the potential removal of reference to park and ride facilities across the AUP, and to remove this provision may have unintended consequences.

Amendments to I504 Bayswater Marina Precinct Policy I504.3(7)

That submission points [43.7], [60.8] and [68.8] are **accepted in part**.

As noted in paragraphs 32 and 36 above, the submitters agreed at the hearing that appropriate provision should be made for parking of cars with boat trailers, and the discussion was largely what the appropriate reference should be. The parties all agreed at the hearing that the wording of “car with boat trailer” was appropriate and served the purpose sought by the submission points. We agree with the position of Ms Romhany that “marina car” parking and that being “commensurate with the transport demand” would not be appropriate in the context of Policy 11 of the NPS-UD.

Amendments to I504 Bayswater Marina Precinct Policy I504.3(12)

That submission point [43.8] is **accepted in part** and that submission points [60.9] and [68.9] are **rejected**. In line with decisions above, the wording suggested by BMBHA to ensure policy recognition of vehicles with boat trailer parking is acceptable, given the unique circumstances of boat owners in the vicinity of the Marina and boat ramp. Other submission points are not considered consistent with the NPS-UD.

Amendments to Activity Table I504.4.1(A1)(c) and (A4)(c)

That submission points [43.9] and [43.10] are **accepted**. In line with decisions above, the wording suggested by the submitters to ensure policy recognition of vehicles with boat trailer parking is acceptable, given the unique circumstances of boat owners in the vicinity of the Marina and boat ramp.

Amendments to Assessment Criteria I504.8.2(4)(b)

That submission points [43.11], [68.10] and [60.10] are **rejected** for the reasons set out in paragraph 32 above.

Amendments to Special Information Requirement I504.9(1)(b)(ii)

That submission points [43.12], [60.11] and [68.11] are **accepted in part**. The plan change as notified removed reference to a confirmation that parking was adequate, and during the hearing the submitter and Ms Romhany agreed that this should be limited to an assessment of parking “where provided”. This leaves the provision of parking at the discretion of the proponent of any resource consent application. The use of the wording “where provided” sends a clear signal that the parking provision is at the discretion of the proponent. We agree with Ms Romhany that “is” (submission points [43.12] and [68.11]) is a requirement to provide parking and not appropriate in the context of the NPS-UD. We disagree with the changes sought by submission point [60.11]. It does not relate to the removal of minimum parking provisions, but to effects of activities, including on or from activities within the marina precinct. The wording of the proposed plan change, as modified is preferred.

48. Sub-theme 4: Amendments proposed to Chapter J Definitions

The wording amendment to the definition of Travel Plan was specifically and unequivocally removed as part of the partial withdrawal relating to the travel demand standard and its associated provisions. This withdrawal was notified on 28 July 2022. Accordingly, there is no scope for the Commissioners to consider submission point [81.40].

49. Theme 5 Travel demand standard and its associated provisions

Decision on submissions:

As noted above, the withdrawal of the travel demand standard and its associated provisions from PC 71 was notified on 28 July 2022. Accordingly, there is no scope for the Commissioners to consider the following submission points: [33.1], [33.9], [33.10], [33.13], [33.14], [33.16], [33.39], [43.1], [44.1], [51.1], [51.9], [51.10], [51.13], [51.14], [51.16], [51.39], [52.1], [52.9], [52.10], [52.13], [52.14], [52.16], [52.39], [56.1], [56.9], [56.10], [56.13], [56.14], [56.16], [56.39], [62.1], [62.2], [62.3], [62.4], [62.5], [62.6], [62.7], [62.9], [65.1], [65.9], [65.10], [65.13], [65.14], [65.16], [65.39], [66.1], [66.4], [66.5], [66.6], [66.7], [66.8], [66.9], [67.1], [67.4], [67.5], [67.6], [67.7], [67.8], [67.9], [68.1], [70.1], [70.2], [70.3], [71.1], [71.4], [71.5], [71.6], [71.7], [71.8], [71.9], [73.1], [73.4], [73.5], [73.6], [73.7], [73.8], [73.9], [81.1], [81.8], [81.9], [81.10], [81.13], [81.14], [81.16], [82.1], [82.3] and [82.4]

50. Theme 6 Submissions on further or other relief

Decision on submissions:

That submission points [19.1], [27.1] and [34.1] are **rejected**. There is no facility within the RMA to undertake a section 32 assessment on the removal of the parking minimums given the direction of the NPS-UD.

That submission points [19.2], [27.2] and [34.2] are **rejected**. An assessment based on “sufficient parking being included in a new development would conflict with Policy 11 of the NPS-UD.

That submission points [19.3], [27.3] and [34.3] are **rejected**. To assess adequacy of other transport modes before granting consent for developments with no carparking would be contrary to the NPS-UD.

That submission points [19.4], [27.4] and [34.4] are **rejected**. The consideration of parking for electric vehicle charging is outside the scope of this plan change. We note that it is a matter for Plan Change 79.

That submission points [10.1] and [45.1] are **rejected**. These submission points are out of scope of the plan change.

That submission [62.8] is **rejected**. The removal of references to “required car parking” in I549 Akoranga Precinct is consistent with the NPS-UD.

That submission [76.1] is **rejected** as the text amendments contained in the Plan Change are necessary to ensure the appropriate administration of the AUP given the removal of parking standards.

That submission [76.2] is **rejected** as inclusion of definitions from the National Planning Standard is outside the scope of the plan change.

That submission [82.5] is **rejected**. The plan change does not anticipate the removal of parking standards associated with MOE designations.

That submission points [43.13] and [68.7] are **accepted in part**. That submission point [68.12] is **rejected**. The provisions sought by submitters, to ensure consistent application of provisions in Bayswater Marina Precinct in the Okahu and Gulf Harbour Marina Precincts is not considered appropriate as the provisions of each precinct are not directly replicable, and the provisions of each precinct directly address the site-specific features and activities. Shifting provisions in the precinct provisions into the Marina Zone are out of scope.

In making these decisions, the Commissioners have made a grammatical amendment to Whenuapai 1 Special Housing Area 5.1.2.5.

Plan Modification PM 14

Decision on submissions:

That the submission points [1.1], [1.2], [2.1] and [3.1] are **rejected**. These submissions are out of scope, given the removal of parking standards has been undertaken in accordance with Policy 11 of the NPS-UD.

STATUTORY PROVISIONS

51. The RMA sets out a range of matters that must be addressed when considering a plan change, as identified in the section 32 report accompanying the notified plan change. We note that the plan change is to ensure that the AUP can be administered appropriately given the requirement of the NPS-UD to remove all parking minimums from it.
52. We also note that section 32 clarifies that analysis of efficiency and effectiveness is to be at a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.
53. Having considered the evidence and relevant background documents, we are satisfied, overall, that PC 71 and PM 14 have been developed in accordance with the relevant statutory and policy matters. The plan change and plan modification will clearly assist the Council in its effective administration of the Unitary Plan.
54. We have considered the amendments arising from submissions in the context of the further evaluation required under section 32AA. We consider that the amended provisions meet the requirements of the RMA and are necessary to enable the consistent administration of

the AUP in light of the requirements of the NPS-UD. They are appropriate having regard to the benefits and costs of the effects anticipated by their implementation.

55. We find that Part 2 of the RMA is met for the reasons we have set out above

DECISION

56. That pursuant to Schedule 1, Clause 10 of the Resource Management Act 1991, that Proposed Plan Change 71 to the Auckland Unitary Plan (Operative in Part) and Proposed Modification 14 to the Hauraki Gulf Islands be **approved**, subject to the modifications as set out in this decision.

57. Submissions on the plan change are accepted, accepted in part and rejected in accordance with this decision. In general, these decisions follow the recommendations set out in the Council's section 42A report, response to commissioners' memo and closing statement, except as identified above in relation to matters in contention.

58. In addition to the reasons set out above, the overall reasons for the decision are that Plan Change 71 and Plan Modification 14 as amended:

- is supported by necessary evaluation in accordance with section 32 and s32AA;
- assists the Council in achieving the purpose of the Resource Management Act 1991;
- ensures that the AUP and HGI plan continue to function as intended following the removal of car parking minimum requirements;
- is consistent with the Auckland Unitary Plan Regional Policy Statement;
- is consistent with the Auckland Plan; and
- accords with the National Policy Statement – Urban Development.



Chairperson

Date: 1 December 2022

I504. Bayswater Marina

I504.1. Precinct Description

The Bayswater Marina precinct is located at O'Neills Point at the end of Bayswater peninsula in the Waitemata Harbour. The zoning of land within this precinct is Coastal - Marina Zone and Open Space – Informal Recreation Zone.

The precinct includes the coastal marine area and 4.5 hectares of reclaimed land that supports marina users, marine-related activities and the Bayswater ferry service, including providing for parking associated with these activities. The land is also used by the public for recreation, marine sports activities and for access to the coast.

The primary purpose of the Bayswater Marina precinct is to provide for marina, ferry terminal and marine-related activities, including associated parking and facilities, and for public access, community uses and marine sports uses, open space and recreation. Provision is also made for residential activities and food and beverage, subject to these activities being assessed through a resource consent process to assess the effects of the proposal on the use and function of the precinct for the purposes discussed above. Minimum standards are specified to qualify for discretionary activity status, and proposals then need to be carefully assessed to ascertain whether the proposal appropriately ensures the primary focus of the precinct is achieved.

The precinct is comprised of six sub-precincts as shown on the planning maps:

- Sub-precinct A provides for public access and open space, and for marina berth holders parking and marine-structures, around the seaward edge of the precinct land;
- Sub-precinct B provides for the marine related uses, car parking, public pedestrian access and open space areas, food and beverage, and residential development;
- Sub-precinct C provides for the main road into the precinct and a bus stop;
- Sub-precinct D provides for the existing public boat ramp, passive open space activities, marine sports activities, the development of ferry terminal facilities, including on the old wharf, and associated access, manoeuvring and parking for all of these activities;
- Sub-precinct E provides for community uses and recreation; and
- Sub-precinct F provides for marina, ferry service, marine and port activities

I504.2. Objectives [rcp/dp]

The underlying zones and Auckland-wide objectives apply in this precinct except as specified below:

- (1) Bayswater Marina precinct is a community and marina-oriented place developed in a comprehensive and integrated way with a primary focus on recreation, public open space and access to and along the coastal marine area, public transport, boating, maritime activities and maritime facilities.
- (2) Residential activities and food and beverage are enabled, provided that the focus in Objective 1 is achieved.

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

I504.3. Policies [rcp/dp]

- (1) Ensure that quality open space is made available to and around the coastal edge, including a minimum 15m esplanade strip, to maintain and enhance public access and enjoyment and to enable views out over the coastal marine area.
- (2) Require new buildings to be located and designed so that they:
 - (a) are visually appropriate for a marine environment and are designed to reflect the maritime location;
 - (b) reflect an integrated design approach incorporating open space and pedestrian focused access;
 - (c) reflect a diversity of development intensity across the precinct;
 - (d) are constructed of suitable materials for a marine environment;
 - (e) do not dominate or detract from existing landscape or coastal features, such as the cliff line;
 - (f) do not detract from the character of the scheduled historic heritage Takapuna Boating Club building;
 - (g) address and contribute to the amenity of the coastal edge;
 - (h) are compatible with the use of the area by pedestrians including access to and around the coastal edge; and
 - (i) provide a safe environment for people using facilities within the precinct.
- (3) Require significant areas of public open space on the main reclamation area (in sub-precincts A, B and C), and on other land within the precinct to be provided, to enable opportunities for recreation associated with the coastal marine area.
- (4) Encourage development to be designed and located to retain the existing mature trees, in particular the pohutukawa trees on and next to the old reclamation, and to provide new trees for amenity and shelter.
- (5) Ensure space is available for publicly managed transport facilities for the ferry, and bus, including ~~park and ride and park and ride~~ and cycle parking.
- (6) Require public vehicle, pedestrian and cycling routes within the precinct to allow easy access to the coastal margins and parking facilities.
- (7) Require the retention of appropriate facilities for boating, such as public boat ramps and parking spaces s for vehicles with boat trailers associated with the marina and boat ramp.

- (8) Provide for appropriate boating facilities to be located on land directly adjoining the coastal marine area.
- (9) Enable community uses, such as clubs directly related to the use of the adjoining coastal marine area, within the precinct provided that the scale and design of any structures are appropriate.
- (10) Promote and encourage comprehensive and integrated development and encourage consultation with any owners of land within the sub-precinct(s) and any neighbouring sub-precinct(s) when preparing resource consent applications.
- (11) Promote distinctive high quality design for all new development.
- (12) Require that, residential, or other non-marine related activities such as restaurants and cafes are provided for only where sufficient space remains available as required for marina, ferry service, and public access, recreation, public transport and boating activities, including associated parking for vehicles with boat trailers.

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

I504.4. Activity table [rcp/dp]

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

Table I504.4.1 Activity table specifies the activity status of land use and development, use or occupation of the coastal marine area activities in the Bayswater Precinct pursuant to section 9(3), 12(1), 12(2), 12(3) of the Resource Management Act 1991 or any combination of all of these sections where relevant.

Table I504.4.1 Activity table

Activity		A	B	C	D	E	F
Use							
Accommodation							
(A1)	Dwellings Dwellings in Sub-precinct B subject to the following minimum provision being available for primary activity focus within Sub-precincts A and B: (a) Gross floor area for Marine Retail and Marine Industry - 100m ² (b) Marina berth parking at a ratio of no less than 0.5 spaces per berth (c) 20 car and <u>boat trailer</u> parking	NC	D	NC	NC	NC	NC

	spaces <u>for vehicles with boat trailers</u> (d) Open space accessible to the public (not including any parking spaces or vehicle access areas) – 7,200m ² Note for (b) and (c): Approval may be given as a discretionary activity for these spaces to be shared with other non-residential activities.						
(A2)	Dwellings in Sub-precinct B not complying with (A1) above	NA	NC	NA	NA	NA	NA
Commerce							
(A3)	Food and beverage up to 100m ² gross floor area within a ferry terminal	NC	NC	NC	RD	NC	NC
(A4)	Food and beverage not otherwise provided for. Food and beverage in Sub-precinct B subject to the following minimum provision being available for primary activity focus within Sub-precincts A and B: (a) Gross floor area for Marine Retail and Marine Industry - 100m ² (b) Marina berth parking at a ratio of no less than 0.5 spaces per berth (c) 20 car and boat trailer parking spaces <u>for vehicles with boat trailers</u> (d) Open space accessible to the public (not including any parking spaces or vehicle access areas) – 7,200m ² Note for (b) and (c): Approval may be given as a discretionary activity for these spaces to be shared with other non-residential activities.	NC	D	NC	NC	NA	NA
(A5)	Food and beverage in Sub-precinct B not complying with (A4) above	NA	NC	NA	NA	NA	NA
(A6)	Offices associated with permitted activities	NC	P	NC	P	P	D
(A7)	Offices associated with discretionary activities	D	D	NC	D	D	D
(A8)	Offices existing at 30 September 2013	P	NA	NC	NA	NA	NA
Community							
(A9)	Artworks and markets	P	P	P	P	P	D
(A10)	Organised sport and recreation	P	P	P	P	P	P

Development							
(A11)	Minor cosmetic alterations to a structure or building that does not change its external design and appearance	P	P	P	P	P	P
(A12)	Buildings for dwellings	NC	D	NC	NC	NC	NC
(A13)	Buildings for food and beverage not provided for as a permitted activity	NC	D	NC	D	D	NC
(A14)	Maritime passenger facilities	RD	RD	C	C	RD	D
(A15)	Park and ride facilities	RD	P	P	P	P	NA
(A16)	Parks, playgrounds and walkways	P	P	P	P	P	P
(A17)	Public transport facilities	P	P	P	P	P	NA
(A18)	Development that exceeds Standards I504.6.1 – I504.6.4	D	D	D	D	D	D

I504.5. Notification

- (1) An application for resource consent for a controlled activity listed in Table I504.4.1 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 any of the following activities must be publicly notified:
 - (a) Dwellings; and/or
 - (b) Food and beverage
- (3) Any application for resource consent for an activity listed in Table I504.4.1 Activity table and which is not listed in I504.5(1) or I504.5(2) above will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.
- (4) 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\(4\)](#).

I504.6. Standards

The overlay, zone and Auckland-wide standards apply in this precinct.

All activities listed as permitted, controlled and restricted discretionary in Table I504.4.1 Activity table must comply with the following standards.

I504.6.1. Markets

- (1) Any markets must be open air markets.

I504.6.2. Height

- (1) Buildings up to 12m in height above ground level in Sub-precinct B.
- (2) Buildings up to 9.7m in height above NZD2016 across the rest of the precinct.

I504.6.3. Height in relation to boundary

- (1) Height in relation to boundary controls on the boundaries adjacent to any landward zoning must be the same as the height in relation to boundary controls applying to that landward zoning.

I504.6.4. Esplanade Strip

- (1) An esplanade strip of no less than 15m in width must be provided at the time of any subdivision involving sub-precincts A or B.

I504.7. Assessment – controlled activities

I504.7.1. Matters of control

The Council will restrict its discretion 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, Auckland wide or zone provisions:

- (1) Maritime passenger facilities – refer Matters in I504.8.1 below.

I504.7.2. 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, Auckland wide or zone provisions:

- (1) Maritime passenger facilities – refer Matters in I504.8.2 below.

I504.8. Assessment – restricted discretionary activities

I504.8.1. 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) All activities:
 - (a) location, extent, design and materials;
 - (a) traffic and parking;
 - (b) park and ride facilities;
 - (c) construction or works methods, timing and hours of operation; and

(d) consent duration.

I504.8.2. 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) Construction or works methods, timing and hours of operation:

(a) the extent to which construction or works methods avoid, remedy or mitigate adverse effects, on water quality and sedimentation, on marine mammals, bird roosting, nesting and feeding, and recreational users of the coastal marine area; and

(b) the extent to which construction or works hours of operation are limited to minimise effects of noise and disruption on existing activities, and on nearby residential and open space areas.

(2) Location, extent, design and materials:

(a) the extent to which the activity is complementary to, and not limiting of the primary focus of the precinct for marina purposes including the operation of marina activities, maritime passenger transport or other marine-related activities;

(b) the extent to which adequate provision is made for activities with a functional requirement for a coastal location;

(c) the extent to which measures are taken to enhance public access to the coastal marine area;

(d) the extent to which any development is of a scale, design and materials and located so that it remedies or mitigates adverse effects on the coastal environment and adjacent residential and open space zoned land, particularly the following:

(i) the natural character of the coastal environment;

(ii) the high visibility and coastal nature of the site;

(iii) effects on the recreational, visual, amenity and ecological values in the locality, including lighting effects;

(iv) public access to, along and within the coastal marine area;

(v) effects on the landscape elements and features in the locality;

(vi) effects on cultural and historic heritage values in the locality;

(vii) noise effects including ongoing operational noise, such as halyard slap, and hours of operation;

- (viii) effects on coastal processes including wave sheltering, downstream effects, sediment movement, erosion and deposits, littoral drift, and localised effects on water currents and water quality;
 - (ix) effects on existing activities in the coastal marine area and on adjacent land;
 - (x) effects on navigation and safety and the need for any aids to navigation; and
 - (xi) reverse sensitivity effects on the surrounding Coastal - Marina Zone activities.
- (e) the extent to which development is located to create clearly defined active frontages that positively contribute to open spaces and the coastal edge.
- (3) Consent duration:
- (a) the extent to which consent duration is limited to the minimum duration necessary for the functional or operational needs of the activity.
- (4) Traffic and parking:
- (a) the extent to which the proposal, including any additional vehicle movements, adversely affects the safe and efficient operation of the internal or adjacent road network, including the operation of public transport and the movement of pedestrians, cyclists and general traffic;
 - (b) the extent to which the provision of parking ~~ensures the amount of parking is adequate for the site and the proposal, and~~ considers effects on alternative parking available in the area and access to the public transport network; and
 - (c) the extent to which the generation of a need for parking or transport facilities is in conflict with the main marina use and is integrated with public transport.
- (5) Park-and-ride facilities
- (a) the extent to which the scale, design, management and operation of the parking facility and its access points adversely affects the safe and efficient operation of the transport network.
 - (b) the extent to which the location, design and external appearance of the parking facility is:
 - accessible, safe and secure for users with safe and attractive pedestrian connections within the parking building and area, and to adjacent public footpaths;

- ensures that any buildings or structures are of similar or complementary scale to other buildings or structures existing or provided for in the surrounding area; and
 - ensures that any buildings can be adapted for other uses if no longer required for parking purposes. In particular, the floor to ceiling height of a parking building at street level should be capable of conversion to other activities provided for in the zone.
- (c) the extent to which the parking facility is compatible with surrounding activities. This includes the extent to which the design and operation of the facility is in accordance with the lighting and noise standards.

I504.9. Special information requirements

The special information requirements of the underlying zones do not apply in this precinct.

- (1) An application for dwellings or food and beverage activities in Sub-precinct B must be accompanied by the following information:
- (a) the overall context of the application area relative to existing buildings, open space, boundaries between the sub-precinct and adjoining sub-precincts, and any approved buildings;
 - (b) the exact location and design of vehicle access and car parking (including any proposed shared parking) and:
 - (i) an assessment of traffic generation having regard to the safe and efficient operation of the internal and adjacent road network, including the operation of public transport and the movement of pedestrians, cyclists and general traffic;
 - (ii) an assessment of parking where provided, ~~confirming the amount of parking is adequate for the application area and the proposal~~, including consideration of effects on alternative parking available in the area and access to the public transport network.
 - (c) identification of the main pedestrian routes that provide circulation around each sub-precinct area and between sub-precincts, showing how they are integrated with the coastal margin, public transport nodes and bus stops;
 - (d) the exact location and design of proposed areas of:
 - (i) open space;
 - (ii) public pedestrian access to and along the coastal marine area;
 - (e) the location of building platforms;
 - (f) the landscape concept for the application area;

- (g) the proposed location of residential and non-residential activities;
- (h) a staging plan illustrating and explaining any intended staged implementation of all development proposed in Sub-precincts A and B and the means of managing any vacant land through the staging process;
- (i) details of how the development will be consistent with the provisions, including reference to the Standards in Table I504.4.1 (A1)(A4) Activity table, the assessment criteria in I504.8.2(2) and the assessment criteria applying to Residential - Terrace Housing and Apartment Buildings Zone in [H6.8.2](#);
- (j) how sub-precincts will integrate with each other and other surrounding land and the coast;
- (k) how the development provides or facilitates adequate transport connections, including connections to the surrounding road network;
- (l) identification of potential reverse sensitivity issues and how they are proposed to be remedied or mitigated.

I504.10. Precinct plans

There are no Precinct plans in this section.

5.59 Whenuapai 1

Precinct Description

The Whenuapai 1 precinct comprises 31.4 hectares of land located approximately 23 kilometres to the northwest of central Auckland, bound by Dale road to the north, Totara road to the east and Brigham Creek road to the south, as illustrated on the Whenuapai 1 precinct plan.

The purpose of the precinct is to provide for comprehensive and integrated development to increase the supply of housing (including affordable housing), and to encourage the efficient use of land and the provisions of infrastructure. The precinct will provide for a residential area integrated with key road links, areas of public open space, and a range of housing options.

It is envisaged that future land use and subdivision resource consents will give effect to the key elements of the Whenuapai 1 precinct plan to facilitate residential development in a co-ordinated manner.

Objectives

The objectives are as listed in the Mixed Housing Urban zone except as specified below:

1. Subdivision and development occurs in a coordinated manner that implements the Whenuapai 1 precinct plan.
2. The precinct is supported by a safe, efficient, and legible movement network with low speed internal streets and appropriate connections to future development areas surrounding the precinct.
3. Subdivision and development is integrated with the external road network and provides for improvements of the adjoining portions of Brigham Creek road, Totara road and Dale road to an urban standard.
4. Subdivision and development occurs in a manner that recognises the presence, ongoing operation and strategic importance of the RNZAF Base Whenuapai.
5. A network of three attractive, safe and functionally distinct open space areas comprising a town park, neighbourhood reserve, and a drainage reserve, which enhance the amenity of the precinct and of Whenuapai Village.
6. A town park that integrates with:
 - a. the village of Whenuapai and its main street; and
 - b. a community facility or café building immediately adjoining the south-western edge of the park.
7. Increased housing supply, variety and choice by creating a well-designed residential development comprising a range of housing densities, typologies, and affordable price options.
8. Implementation of a stormwater management network that uses water sensitive design as a core development approach, protects the ecological values of the receiving environment and integrates with the public open space network.
9. A landform outcome that uses site platforming and retaining wall design to maximise construction efficiencies and, when houses are constructed, site and street amenity.
10. The proportion of new dwellings that are affordable to households in the intermediate housing market is increased in Whenuapai.

Policies

The policies are as listed in the Mixed Housing Urban zone except as specified below:

1. Require structural elements of the Whenuapai 1 precinct plan to be incorporated into all subdivision and development to achieve:

a. a network of three open space areas, as specified in Objective 5, predominantly edged by roads or otherwise front-onto by adjoining residential development.

b. a town park which anchors and visually terminates the Whenuapai Village main street, and has a mixed recreational, site heritage, and civic function.

c. a neighbourhood park that provides for the recreational needs of the developed precinct.

d. a drainage reserve which provides attractive and functional stormwater management areas, and includes off-road pedestrian and cycleway connections linking the neighbourhood park to the western boundary of the precinct.

e. a logical and visually distinct north-south local road connection through the precinct, linking Brigham Creek road with Dale road.

f. a logical east-west local road connection through the centre of the precinct which links with Totara road to the east, and provides a road connection to the land to the west of the precinct.

g. a limited number of driveway access points onto Brigham Creek road.

h. no less than four road connections to the land to the west of the precinct.

i. visual differentiation of key road sections connecting the precinct with the surrounding road network through the provision of in-road “gateway” features.

2. Require the internal road network to comply with precinct specific road cross-sections to achieve an appropriate balance between movement and sense of place functions, recognising that appropriate calming measures may be required on some local roads to maintain a low vehicle speed environment.

3. Require development to be designed to:

a. provide for improvements to Brigham Creek road where it adjoins the precinct to balance its function as an arterial road with its future role as part of Whenuapai Village.

b. provide for improvements to Totara road and Dale road where they adjoin the precinct to safeguard their future transport function in Whenuapai.

c. facilitate the effective and safe movement of all modes of transport between the precinct and the main street of Whenuapai Village through the establishment of a signalised intersection at the corner of Brigham Creek road and Totara road. No more than 160 lots should be titled prior to the signalised intersection being established.

4. Ensure that reverse sensitivity effects in respect of noise from the RNZAF Base Whenuapai operation on residential activities, and effects of road and residential lighting on the RNZAF Base Whenuapai, are appropriately avoided, remedied and mitigated.

5. Enable the establishment of restaurant, café and community facility activities on the site immediately adjoining the town park to enhance the amenity and local identity of the Whenuapai Village (as identified on the precinct Diagram below).

6. Enable the relocation of the existing villa (located at 36 Brigham Creek road) to the site immediately adjoining the town park earmarked for a possible community facility or café building (as identified on the precinct diagram in Chapter [K7.12.6](#)).

7. Ensure that development provides a mix of lot sizes, housing typologies and densities to reflect a choice in living environments and affordability.

- 8.Ensure that, where practical, sites on roads abutting the open spaces of the development are utilised for more intensive housing typologies.
- 9.Encourage the use of rear lane developments for more intensive housing typologies as part of the mix of intensive housing solutions.
- 10.Install stormwater devices within the road corridors to retain the first 10mm of a 24hr rain event for new impervious areas associated with the road network except for:
- a.roads over a grade of 5 percent; and
 - b.the north-south road (indicated on the Whenuapai 1 precinct plan) where the space within the berm has been allocated to parking.
- 11.Require site platforms and retaining walls to be designed to:
- a.recognise likely housing and outdoor space layout, aspect and configuration on the site;
 - b.create opportunities for views and for the visual connection between the house and the street;
 - c.minimise the use and height of any retaining walls on street boundaries; and
 - d.improve the overall yield by enhancing the contour of the existing landform in conjunction with a landscape and built form strategy to mitigate any effects.
- 12.Require 10 percent of new dwellings to be relative affordable, or 5 percent to be retained affordable.

5.59 Whenuapai 1

The activities, controls and assessment criteria in the underlying Mixed Housing Urban zone and Auckland-wide rules apply in the following precinct unless otherwise specified. Refer to the Planning Maps for the location and extent of the precinct.

1. Activity Table

The activities in the Mixed Housing Urban zone and Auckland-wide rules apply in the Whenuapai 1 precinct unless otherwise specified in the activity table below.

Table 1

Activity	Activity status
Commerce	
Restaurants and cafes up to 150m ² gross floor area utilising the relocated villa on the site immediately adjoining the town park as shown on the precinct plan	P
Community facilities up to 150m ² gross floor area utilising the relocated villa on the site immediately adjoining the town park as shown on the precinct plan	P
Restaurants and cafes up to a maximum of 300m ² gross floor area utilising the relocated villa and extensions or additional buildings on the site immediately adjoining the town park as shown on the precinct plan	C
Community Facilities up to a maximum of 300m ² gross floor area utilising the relocated villa and extensions or additional buildings on the site immediately adjoining the town park as shown on the precinct plan	C

2. Notification

The notification provisions outlined in [Chapter G2.4](#) and [Chapter I1.2](#) apply.

3. Development Controls

1. The development controls in the Mixed Housing Urban zone apply in the Whenuapai 1 precinct unless otherwise specified below.

3.1 Landscaping

Purpose:

Provide for on-site amenity, traffic safety and an attractive streetscape character.

Provide for stormwater retention in accordance with [Chapter H4.14.2, Activity Table 2.1](#).

1. For proposed sites with a density less than or equal to one dwelling per 300m² at least 40 percent of the site must comprise landscaped area.
2. For proposed sites with a density greater than one dwelling per 300m² that comply with the requirements of clause 3.1.3 below, at least 30 percent must comprise landscaped area.
3. For clause 2 above the following must be met:
 - a. as part of the initial development at least 10 percent of the required landscaped area must be planted with shrubs including at least one tree that is PB95 or larger at the time of planting; and
 - b. at least 50 per cent of the front yard of residential lots must comprise landscaped area.

3.2 Dwellings fronting the street

Purpose:

Ensure dwellings are orientated to provide for passive surveillance of the street and contribute to streetscape and amenity.

1. The front façade of a dwelling or dwellings on a front site must contain:
 - a. glazing that is cumulatively at least 20 percent of the area of the front façade (excluding the garage door).
 - b. a door that is the main entrance to the dwelling.

3.3 Garages

Purpose:

Reduce dominance of garages as viewed from the street.
Avoid parked cars over-hanging the footpath.

1. A garage door facing the street must be no greater than 45 percent of the width of the front façade of the dwelling to which the garage relates.
2. Garage doors must not project forward of the front façade of the dwelling.
3. The garage door must be set back at least 5m from the site's frontage.

3.4 Brigham Creek Road vehicle access/crossing restriction

Purpose:

Limit the number of vehicle crossing directly accessing Brigham Creek road.
Reduce traffic effects on Brigham Creek road.
Avoid traffic/pedestrian/cyclist conflicts on Brigham Creek road.

1. In the location shown on the Whenuapai 1 precinct plan, a maximum of eight paired vehicle crossings may serve up to 16 individual lots (two lots for each paired vehicle crossing) fronting Brigham Creek road.
2. Sufficient vehicle manoeuvring space must be provided on-site for each lot provided with direct vehicle access to Brigham Creek road to ensure vehicles can exit the site without the need to reverse manoeuvre off, or on to, Brigham Creek road.

3.5 Lighting

Purpose:

Ensure that street lighting and outdoor lighting does not affect aircraft operations.

1. Street lighting must comply with [Chapter H6.1 Lighting](#).
2. No person must illuminate or display the following outdoor lighting between 11:00pm and 6:30am:

- a. searchlights; or
- b. outside illumination of any building or public recreational facility by floodlight.

3.6 Noise

Purpose:

Ensure that potential reverse sensitivity effects of noise from the adjacent RNZAF Whenuapai Base on residential amenity are appropriately addressed and provided for within the precinct.

1. A no-complaints covenant shall be included on each title issued within the precinct. This covenant shall be registered with the deposit of the subdivision plan, in a form acceptable to the Council under which the registered proprietor will covenant to waive all rights of complaint, submission, appeal or objection it may have under the Resource Management Act 1991 or otherwise in respect of any subdivision, use or development of the New Zealand Defence Force's land at Whenuapai Airbase.

3.7 Affordable Housing

Purpose:

Ensure that the precinct provides for affordable housing to address Auckland's housing shortage.

1. A total of 10 per cent of proposed dwellings must be relative affordable or 5 percent for retained affordable dwellings. At the time of subdivision, the applicant must:

- a. identify the lots of the subdivision allocated for the building of dwellings that are affordable; and
- b. specify the mechanism for ensuring that any building constructed on those lots is a dwelling that will meet the affordability criteria outlined in the Housing Accords and Special Housing Areas Act 2013 – (Auckland) Amendment Order 2014 for the Whenuapai Special Housing Area Act 2013 – (Auckland) Amendment Order inserted on 31 July 2014 for Whenuapai Village, Whenuapai special housing area.

4. Subdivision Controls

The controls in the Auckland-wide rules – Subdivision apply in the Whenuapai 1 precinct unless otherwise specified below.

4.1 Activity Table

The Activity Table 1 – General and Activity Table 2 – residential zones in [Chapter H5.1](#) of the Unitary Plan, apply to the Whenuapai precinct, except as specified in Table 2 below:

Table 2

Subdivision Activity	Activity status
Subdivision in accordance with the Whenuapai 1 precinct plan	RD
Subdivision not in accordance with the Whenuapai 1 precinct plan	D

4.2 Development Controls

4.2.1 Roading Standards

Purpose:

Provide a safe and legible street network within the precinct, and appropriate improvements to existing roads immediately adjoining the precinct.

1. Roads within the precinct must be located generally as illustrated on the Whenuapai 1 precinct plan.
2. All roads provided within the precinct must be constructed to the standards contained within Table 3: Road Construction Standards within (and immediately adjoining) the Whenuapai 1 precinct plan Area or, where not contained in Table 3, the relevant Auckland-wide rules will apply.
3. Subdivision applications must be accompanied by a programme detailing the upgrading of existing public roads immediately adjoining the proposed subdivision area, including a description of the road upgrade works that will be undertaken, and the timing of the upgrade works. All road upgrade works must be undertaken in accordance with the standards contained in Table 3: Road Construction Standards and road upgrade works must be undertaken along the full road frontage of all existing public roads within, or adjacent to, the area to be subdivided.
4. Traffic calming measures (such as road build-outs/pinch-points) must be provided on local roads in appropriate and logical locations, taking into consideration the location of street trees, street lighting, vehicle crossings, and on-street parking spaces.
5. All internal roads within the precinct must be constructed to local road standards, except for any jointly owned access lots.

Note: It is expected that all existing public roads within, and adjacent to, a proposed subdivision area will be upgraded prior to or concurrent with subdivision and that upgrade works must be undertaken in a manner consistent with the standards contained in Table 3: Road Construction Standards. Road upgrade works will be funded by the developer and constructed as part of the subdivision works unless otherwise agreed with the council.

Table 3: Road Construction Standards within (and immediately adjoining) the Whenuapai 1 precinct plan area

Road	Road width	Carriageway	Footpath width	Cycle Lane	Figure
Brigham Creek road	24.0m	7.0m (plus 2.5m central flush median)	1.8m	1.8m (plus 0.6m buffer on precinct side)	Figure 1
Totara road	24.5m	7.0m (plus 2.5m central flush median)	1.8m east 2m west	1.8m (plus 0.6m buffer)	Figure 2
Dale road	20.0m	6.0m	1.8m	N/A	Figure 3
North-South road	17.0m	6.0m	1.8m	N/A	Figure 4
Local road	17.0m	7.8m	1.8m	N/A	Figure 5
Parkside road	Varies	6.0m	1.8m (development side only)	N/A	Figure 6
Entrance road	17.0m	2.9m movement lanes (plus 2m central swale)	1.8m	N/A	Figure 7

4.2.2 In road gateway feature

Purpose:

Provide for the visual differentiation of key road intersections connecting the precinct with the surrounding road network.

1.Key road sections identified as Entrance road on the Whenuapai 1 precinct plan must be designed to provide an in-road gateway feature. These sections must be constructed in accordance with the Entrance road detail shown in Figure 7 which includes a central road swale. Gateway features must be designed to provide appropriate pedestrian crossing/pram crossing facilities at intersections. Gateways may be created in a number of additional ways, including but not limited to:

- feature planting, such as groups of tree/shrubs that are different to those used in other streets.
- feature signage and/or public art.

4.2.3 Road connections

Purpose:

Provide opportunities for appropriate future road connections to the west of the precinct.

1.A minimum of four road connections capable of being extended to the west of the precinct must be provided as part of the development of the Whenuapai 1 precinct.

4.2.4 Totara Road/Brigham Creek Road/Mamari Road Intersection

Purpose:

Provide an appropriate signalised intersection at any early state in the development of the precinct.

1.No more than 160 dwellings should be constructed prior to the Brigham Creek road/Totara road/Mamari road intersection being signalised.

5. Assessment

5.1 Controlled Activities

5.1.1 Matters of Control

The council will reserve its control to the matters below for the activities listed as controlled in the precinct activity table:

- Impervious areas in the Whenuapai 1 precinct unable to comply with activity controls.
- The design, size, and location of buildings required to be erected on the site.
- The relationship between the built form and the adjoining park.
- ~~Proposed number of spaces and m~~Management of parking and access arrangements.
- Noise levels and hours of operation.

5.1.2 Assessment Criteria

- The scale and location of buildings should comply with the development controls of the Mixed Housing Urban zone.
- The relevant assessment criteria under the Stormwater Management – Flow in the Auckland-wide rules.
- The design and layout of buildings should be sympathetic to the adjoining park.
- Buildings should promote an active frontage facing the park.
- The car parking provided ~~should be~~ ~~should be sufficient for the proposed uses and~~ managed appropriately to avoid conflict with the surrounding road network.

6.The hours of operation and noise levels for the proposed uses should ensure that the residential amenity of adjacent properties is protected.

5.2 Restricted Discretionary Activities

5.2.1 Matters of Discretion

Subdivision in accordance with the Whenuapai 1 precinct plan

1.The council will restrict its discretion to the matters below for the activities listed as restricted discretionary in the precinct activity table:

- a.the Whenuapai 1 precinct plan.
- b.the design and location of the subdivision.
- c.landscaping.
- d.the matters for discretion outlined in [Chapter H5.4, Table 13](#).

Development Control Infringements

2.The council will restrict its discretion to those matters listed in [Chapter I1.11](#) and [Chapter G2.3](#), for development within the Whenuapai 1 precinct unless otherwise specified below.

Brigham Creek Road vehicle access/crossing restriction

3.The council will restrict its discretion to the matters below for the activities listed as restricted discretionary in the precinct activity table to the following matters:

- a.effect on safe operation of the transport network.
- b.the total number, location and design of vehicle crossings.
- c.the ability for vehicles to safely manoeuvre on to Brigham Creek road.

5.2.2 Assessment Criteria

Impervious areas in the Whenuapai 1 precinct unable to comply with the activity controls

1.The council will consider the relevant assessment criteria listed under Stormwater Management – Flow in the Auckland-wide rules.

Subdivision in accordance with the Whenuapai 1 precinct plan

2.The council will consider the relevant assessment criteria below for the activities listed as restricted discretionary in the activity table for the Whenuapai 1 precinct.

Subdivision should implement and generally be consistent with:

- a.the Whenuapai 1 precinct plan.
- b.the roading typologies set out in Figures 1 to 7 (Road Construction Standards) to the Whenuapai 1 precinct
- c.the objectives and policies for the precinct.
- d.the rules of the Mixed Housing Urban zone.
- e.the assessment criteria outlined in [Chapter H5.4.2](#).

Development Control Infringements

3.The council will consider the relevant assessment criteria listed in [Chapter I1.11](#) and [Chapter G2.3](#), for development within the Whenuapai 1 precinct unless otherwise specified below.

Landscaping should be located and designed to:

- a. minimise any visual effects of significant retaining walls from any public space after housing development; and
- b. maintain safe sightlines for access.

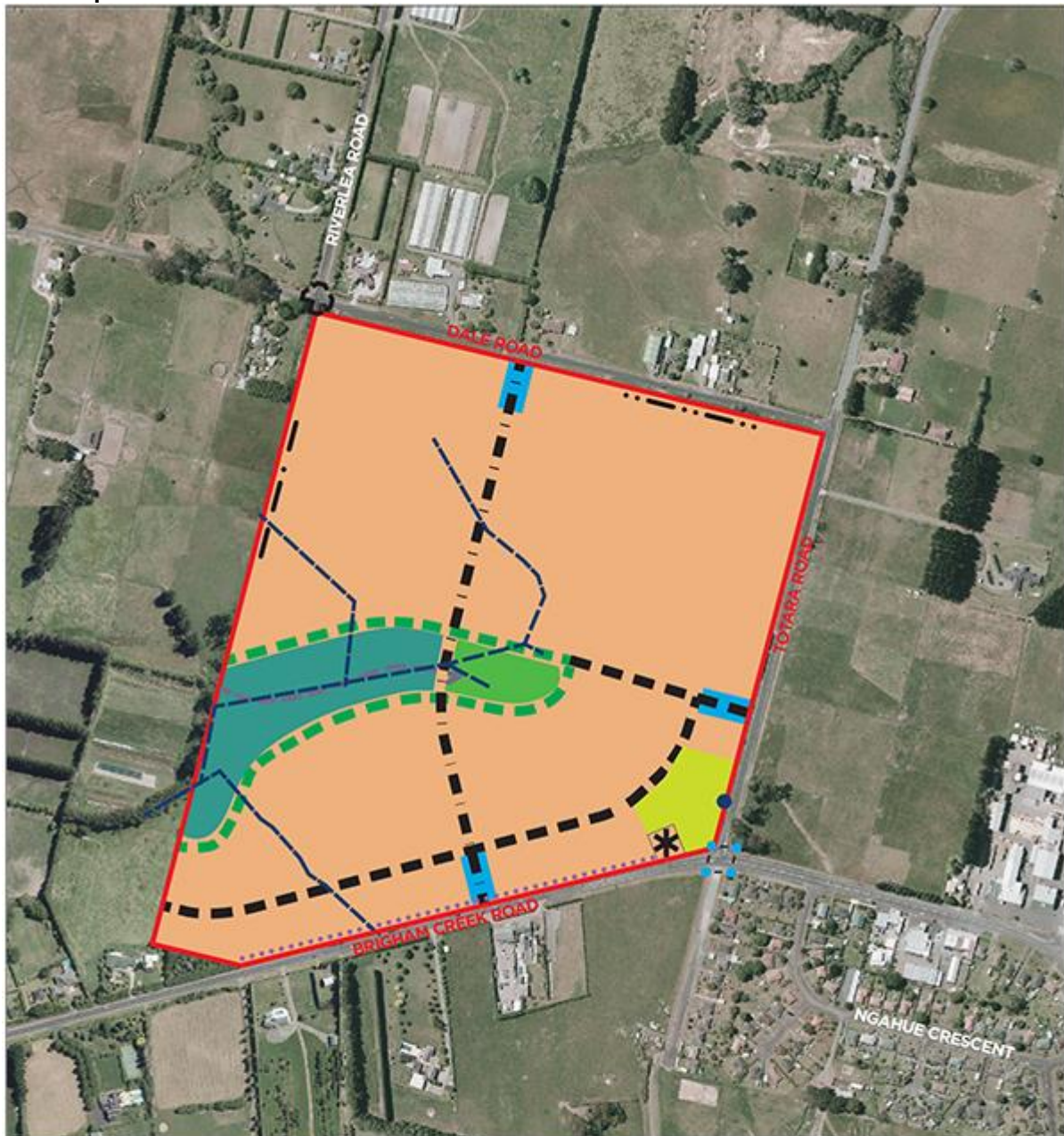
Brigham Creek Road vehicle access/crossing restriction

4. The council will consider whether effects on the transport network can be appropriately avoided or mitigated, with particular regard to:

- a. the total number, location and design of vehicle crossings serving lots fronting Brigham Creek road;
- b. the ability for vehicles to safely manoeuvre on to Brigham Creek road;
- c. the safety of pedestrians and cyclists; and
- d. streetscape amenity.

6. Precinct plans

Whenuapai 1 Precinct Plan



KEY

- | | | |
|--|---|----------------------|
| Precinct Boundary | Entrance Road (Refer Figure 7) | Drainage Reserve |
| North South Local Road (Refer Figure 4) | Additional Local Road Connection, capable of being extended to the west of the Precinct, to be provided in this area | Neighbourhood Park |
| Local Road (Refer Figure 5) | Additional Road Connection from Dale Road to be provided in this area | Town Park |
| Parkside Road (Refer Figure 6) | Access Restriction Applies (maximum 8 paired driveway access points, vehicles must exit forwards to Brigham Creek Road) | Bus Stop |
| DALE ROAD - Refer Dale Road Cross Section (Figure 3) | Signalled Intersection | Intermittent Streams |
| BRIGHAM CREEK ROAD - Refer Brigham Creek Road Cross Section (Figure 1) | Location for possible community facility or cafe building | |
| TOTARA ROAD - Refer Totara Road Cross Section (Figure 2) | Recreational Pedestrian and Cycle Route | |
| | Intersection design to be resolved prior to subdivision in this area | |

Figure 1 - Brigham Creek Road



Figure 2 - Totara Road



Figure 3 - Dale Road

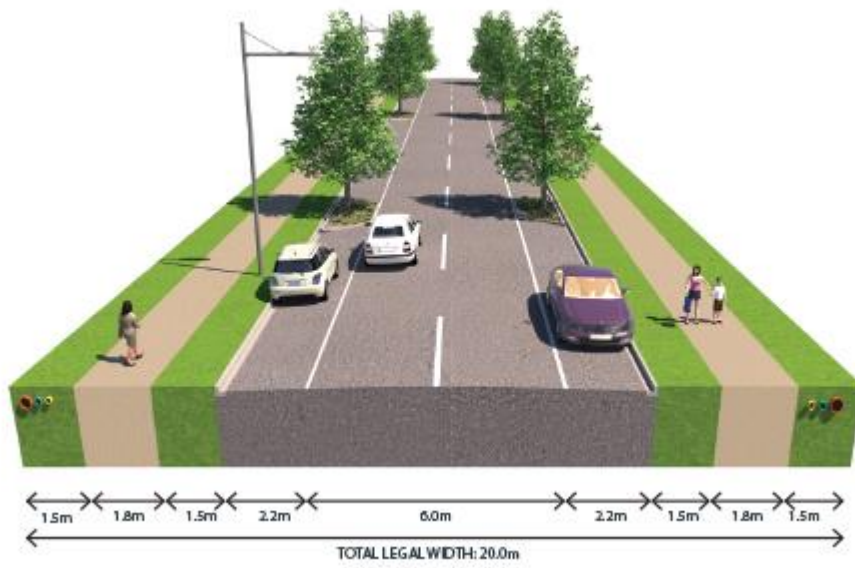


Figure 4 - North-South Road



Figure 5 - Local Road



Figure 6 - Parkside Road

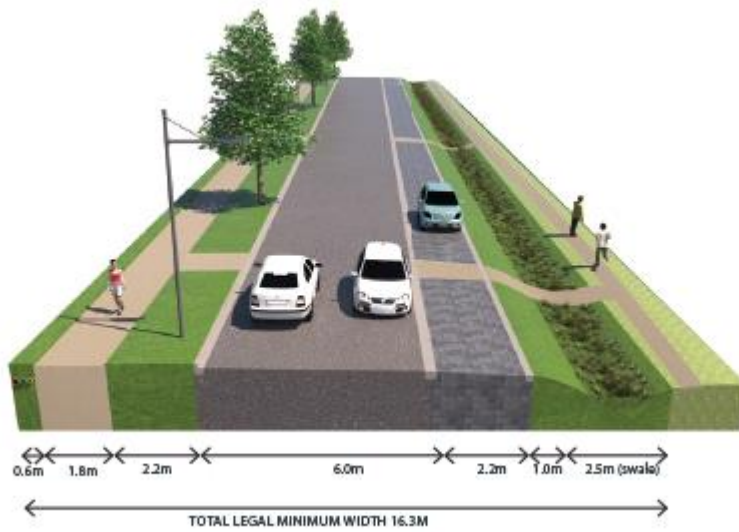
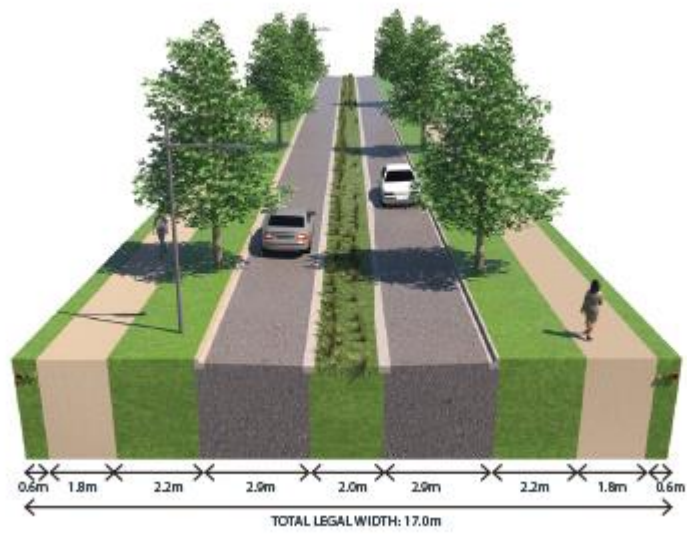


Figure 7 - Entrance Road



Attachment 2: Environment Court Consent Order

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

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

Decision [2023] NZEnvC 153

IN THE MATTER OF an appeal under clause 14 of Schedule 1
the Resource Management Act 1991

BETWEEN ARGOSY PROPERTY NO.1
LIMITED

(ENV-2023-AKL-000031)

Appellant

AND AUCKLAND COUNCIL

Respondent

AND NORTH EASTERN INVESTMENTS
LIMITED

Applicant

Court: Environment Judge MJL Dickey sitting alone under s 279 of the
Act

Last case event: 21 July 2023

Date of Order: 24 July 2023

Date of Issue: 24 July 2023

CONSENT ORDER

A: Under section 279(1)(b) of the Resource Management Act 1991, the
Environment Court, by consent, orders that:



- (1) the appeal is resolved in full, with PC71 to the Auckland Unitary Plan Operative in part approved with modifications as set out in Appendix A to this order; and
- (2) the appeal is otherwise dismissed.

B: Under section 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This appeal concerns the decision of Auckland Council, made on 1 December 2022 (and publicly notified on 26 January 2023), to approve (with modifications) Plan Change 71 (**PC71**) to the Auckland Unitary Plan Operative in part (**AUP**).

Background

[2] PC71 is a Council-initiated plan change and arose in response to the requirements of Policy 11 of the National Policy Statement on Urban Development 2020 (**NPS-UD**) to remove all car parking minimums, and provisions that had the effect of requiring car parking minimums, from the AUP. Policy 11 of the NPS-UD provides:

Policy 11: In relation to car parking

- (a) the district plans of tier 1, 2, and 3 territorial authorities do not set minimum car parking rate requirements, other than for accessible car parks; and
- (b) tier 1, 2, and 3 local authorities are strongly encouraged to manage effects associated with the supply and demand of car parking through comprehensive parking management plans.

[3] Clause 3.38 of the NPS-UD required the following to implement Policy 11:

- (1) If the district plan of a tier 1, 2, or 3 territorial authority contains objectives, policies, rules, or assessment criteria that have the effect of requiring a minimum number of carparks to be provided for a particular development, land use, or activity, the territorial authority

must change its district plan to remove that effect, other than in respect of accessible car parks.

(2) Territorial authorities must make any changes required by subclause (1) without using a process in Schedule 1 of the Act.

...

[4] All AUP provisions which directly imposed a minimum requirement for car parking were removed by the Council via a non-Schedule 1 process and PC71 was notified on 24 February 2022 to make consequential amendments to the AUP that addressed issues and inconsistencies that had arisen following the removal of car parking minimums.

[5] The objective of PC71 was to:¹

Give effect to Policy 11 of the NPS-UD

Address consequential technical amendments to the AUP and HGI Plan that are necessary to give effect to Policy 11 of the NPS-UD but fall outside the scope of non-Schedule 1 changes as described in clause 3.38 of the NPS-UD.

[6] PC71 sought to address the following issues: inconsistent text, the policy hierarchy in Chapter E27 Transport of the AUP, implied minimums, references to parking ‘requirements’ and ‘required parking’, references to ‘reduction in parking’ and improving clarity.²

[7] Through PC71, the operative text of Policy E27.3(6) was proposed to be amended. Prior to the amendment, the operative text of Policy E27.3(6) provided policy support for not limiting and not requiring carparking in certain areas for certain activities. This was necessary to support the different approach that had been taken in the AUP rules in respect of the requirements as to carparking minimums and maximums. As the minimums had been removed through the non-Schedule 1 process, this provision needed to be rationalised to reflect the amended rules in the

¹ PC71 was notified alongside Plan Modification 14.

² Noting that as notified, PC71 sought amendments in respect of travel demand, but this component of PC71 was withdrawn by the Council.

AUP. The amended policy as a result of PC71 only related to limits on parking supply and no longer referenced minimums.

[8] By decision dated 1 December 2022 (and publicly notified on 26 January 2023), PC71 was approved with modifications by independent commissioners appointed by the Council.

Appeal

[9] On 10 March 2023, the Appellant lodged with the Environment Court a notice of appeal against the Council's decision on PC71. It was the only appeal on PC71. The appeal was limited to the amendments to Policy E27.3(6) contained within PC71. This consent order relates to the entirety of that appeal.

[10] On 28 March 2023, North Eastern Investments Limited (**NEIL**) joined the appeal as an interested party under section 274 of the RMA. No other section 274 parties have joined this appeal.

Agreement reached

[11] On 18 May 2023 the parties met to discuss the appeal. As a result of those discussions the parties reached agreement to settle the appeal in its entirety. In particular, the parties have reached agreement on amendments to Policy E27.3(6) of the AUP and the inclusion of a new Policy E27.3(6AA). The amended provisions are set out in **Appendix A** to this order.

Section 32AA evaluation

[12] Section 32AA of the RMA requires a further evaluation for any changes to a proposal since the initial section 32 evaluation report and the decision. A section 32AA analysis has been prepared by the Council's planner, Ms Romhany, in support of the proposed amendments, and was attached to the joint memorandum of counsel dated 9 June 2023.

[13] Ms Romhany considered that the agreed wording of Policy E27.3(6) and Policy E27.3(6AA) is the most appropriate way to achieve the purpose of the RMA, including for the following reasons:

- (a) the agreed changes to Policy E27.3(6) and the proposed addition of Policy E27.3(6AA) provides a clearer framework for decision making enabling development to occur in a more efficient and sustainable manner; and
- (b) the proposed addition of Policy E27.3(6AA) encourages the use of public transport and active transport modes, for office activities, education facilities, and hospitals in the specified zones. This aligns with and achieves the purpose of the Act, as it encourages the sustainable management of natural and physical resources.

[14] The parties recorded their understanding that where Policy E27.3(6) and E27.3(6AA) refer to limits on parking and limiting the supply of parking, this is a reference to the parking rates provided in E27 Transport.

[15] The Court noted that the s32AA analysis makes reference to the NPS-UD and opines that the amendments give effect to it and requested advice from counsel on the point.

[16] The parties submitted that the amended policy direction is in accordance with, and gives effect to, Policy 11(a) of the NPS-UD.³

[17] The parties consider the amendment agreed retains the policy direction to provide limits on parking supply but removes the policy direction relating to parking minimums, in the specified zones for the specified activities. This change in policy direction aligns with the amended Table E27.6.2.3 Parking rates – area 1 of the AUP, which sets out maximum parking rates for office activities, education facilities and hospitals in the Business – Metropolitan Centre Zone, Business – Town Centre Zone, Business – Local Centre Zone and Business – Mixed Use Zone, but no longer includes parking minimums.

[18] The amendment agreed by the parties implements the direction in Policy 11 of the NPS-UD that the AUP must not set minimum carparking rate requirements, other than for accessible car parks. It does so through its provision of support for the

³ Joint memorandum of counsel in response to question from the Environment as to giving effect to the NPS-UD dated 21 July 2023.

AUP rule framework now applying to carparking supply following the removal of minimum parking requirements made in accordance with clause 3.38 of the NPS-UD.

[19] The amendment agreed by the parties also retains the reference to “flexible on-site parking” that was included in the operative text of Policy E27.3(6). Retaining the reference to flexible on-site parking gives effect to Policy 11 of the NPS-UD because the purpose of Policy 11 is to remove minimum car parking requirements so that developers have flexibility to choose the optimal mix of parking and floor space for new developments (within maximum parking limits).⁴

Consideration

[20] The Court has now read and considered the memoranda of the parties dated 9 June 2023 and 21 July 2023.

[21] The Court is making this order under section 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties agree that the agreed amendments to Policy E27.3(6) and the insertion of a new Policy E27.3(6AA) resolve the appeal in full; and
- (c) all parties are satisfied that all matters proposed for the Court’s endorsement fall within the Court’s jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

[22] I conclude the parties have taken a considered approach, and the agreed amendments are the most appropriate way to achieve the purpose of the Act and the

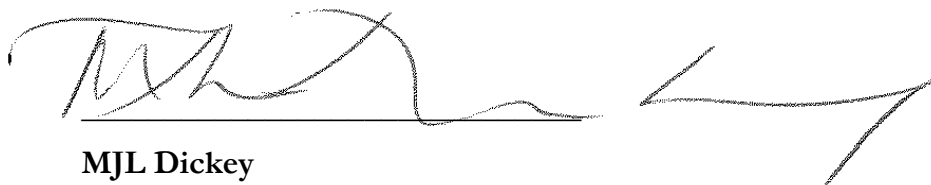
⁴ Ministry for the Environment and Ministry of Housing and Urban Development *Regulatory Impact Statement: National Policy Statement on Urban Development* (22 May 2020) at 24; Ministry for the Environment *National Policy Statement on Urban Development 2020 – car parking fact sheet* (July 2020) at 1 and 2.

objectives in the Plan. Overall, I consider the sustainable management purpose and the other relevant requirements of the Act are broadly met.

Order

[23] Therefore, the Court orders, by consent, that:

- (a) the appeal be resolved through the amendment of the provisions of PC71 by amending Policy E27.3(6) and the insertion of a new Policy E27.3(6AA) set out in **Appendix A** to this consent order;
- (b) the appeal is otherwise dismissed; and
- (c) there is no order for costs.



MJL Dickey
Environment Judge



APPENDIX A

Changes shown in underline are additions to the text of Policy E27.3 of the AUP
Changes shown in strikethrough are deletions to the text of Policy E27.3 of the AUP

- ~~(6) Limit the supply of on-site parking for office activities, education facilities and hospitals in the Business – Metropolitan Centre Zone, Business – Town Centre Zone, Business – Local Centre Zone and Business – Mixed Use Zone (with the exception of specified non-urban town and local centres and the Mixed Use Zone adjacent to those specified centres) to encourage the use of public transport, walking and cycling trips and manage effects on the safe and efficient operation of the transport network.~~
- (6) Provide for flexible on-site parking in the Business – Metropolitan Centre Zone, Business – Town Centre Zone, Business – Local Centre Zone and Business – Mixed Use Zone (with the exception of specified non-urban town and local centres and the Mixed Use Zone adjacent to those specified centres) by not providing limits on parking for subdivision, use and development other than for office activities, education facilities and hospitals.
- (6AA) Encourage the use of public transport, walking and cycling trips and manage effects on the safe and efficient operation of the transport network by limiting the supply of on-site parking for office activities, education facilities and hospitals in the Business – Metropolitan Centre Zone, Business – Town Centre Zone, Business – Local Centre Zone and Business – Mixed Use Zone

**Attachment 3: Planning Committee
Resolution to make operative PC71 and
PM14**

14 Auckland Unitary Plan and Hauraki Gulf Islands District Plan - Making operative Plan Change 71 and Plan Modification 14 - Removal of Car Parking Minimums

Resolution number PEPCC/2023/122

MOVED by Deputy Chairperson A Dalton, seconded by Cr L Fuli:

That the Planning, Environment and Parks Committee:

- a) **whakaae / approve Plan Change 71 to the Auckland Unitary Plan (Operative in Part) and Plan Modification 14 to the Hauraki Gulf and Islands District Plan under clause 17(1) of Schedule 1 of the Resource Management Act 1991.**
- b) **tono / request staff to complete the necessary statutory processes to publicly notify the date on which Plan Change 71 and Plan Modification 14 become operative as soon as possible, in accordance with the requirements in clause 20(2) of Schedule 1 of the Resource Management Act 1991.**

CARRIED