Addendum Hearing Report for Proposed Plan Change 102 to the Auckland Unitary Plan (Operative in part) 2016 and Proposed Plan Modification 15 to the Auckland Council District Plan – Hauraki Gulf Islands Section – Operative 2018

Second Addendum to the Section 42A Hearing Report under the Resource Management Act 1991

Report to:	Hearing Commissioners
Hearing Date/s:	12 and 19 February 2025
File No:	Addendum Hearing Report – Proposed Plan Change 102 (PC102) and Proposed Plan Modification 15 (PM15)
File Reference	U:\CPO\RLP\FC\LUP\UP MODIFICATIONS\PC102 - SOS Tranche 2 (& PM 15)
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Report Approver	Craig Cairncross, Team Leader Planning - Central South
Report produced	10 February 2025

Summary of Proposed Plan Change 102: The purpose of this proposed plan change is to recognise and protect the tangible and intangible Māori cultural values of sites and places within Tāmaki Makaurau, to provide for the relationship of mana whenua with their cultural heritage.

This plan change proposes to introduce nine Sites and Places of Significance to Mana Whenua to Schedule 12 of the Auckland Unitary Plan (Operative in Part) 2016 (AUP). Changes are also proposed to two other schedules in the AUP to recognise the association mana whenua have with scheduled Outstanding Natural Features (ONF) and Historic Heritage Places (HHP) in Schedules 6 and 14.1. A name change is proposed to one already scheduled HHP site and consequential changes are proposed to the planning maps to reflect the scheduling.

Summary of Proposed Plan Modification 15: The purpose of this proposed plan modification is to recognise and protect the tangible and intangible Māori cultural values of sites and places within Tāmaki Makaurau, to provide for the relationship of mana whenua with their cultural heritage.

The plan modification proposes to introduce five sites on Aotea / Great Barrier into Appendix 2f Schedule of Māori heritage sites – outer island of the Auckland Council District Plan – Hauraki Gulf Islands Section (HGI). It also proposes introductory wording and listing the key reasons for scheduling in the appendix for plan consistency. The plan modification proposes a change to standards in Part 7.13 Māori Heritage to employ the use of the plan defined term ‘earthworks’ and introduce permitted earthworks activities to align the HGI provisions more closely with those of the AUP. The sites are proposed to be added to the HGI planning maps.

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1. EXECUTIVE SUMMARY

1. Plan Change 102 (**PC102**) to the Auckland Unitary Plan (Operative in Part) 2016 (**AUP**) and Plan Modification 15 (**PM15**) to the Auckland District Council Plan – Hauraki Gulf Islands Section – Operative 2018 are Auckland Council initiated plan changes.

2. These plan changes seek to recognise and protect the tangible and intangible Māori cultural values of sites and places within Tāmaki Makaurau, to provide for the relationship of mana whenua with their cultural heritage.

3. The plan changes were publicly notified on 23 May 2024. Direct notification was also served on affected landowners and occupiers, and on landowners and occupiers within 100m of the nominated sites.

4. A Section 42A Report addressing submissions on PC102 and PM15 was issued on 18 December 2024.

5. A first addendum to the Section 42A Report was issued on 3 February 2024. It responded to five briefs of evidence received before 31 January 2025.

6. The first addendum stated an intention of Council to withdraw the sites of Te Rae o Kāwharu and Waipapa Awa. These withdrawals were publicly notified on 7 February 2025 and notice of the withdrawals was sent to submitters.

7. Attachment 1 of the first addendum included a list of submission points affected by the withdrawal of the two sites. This contained an error which has been corrected in **Attachment 1** of this addendum.

8. The first addendum excluded submitter evidence on the site 'Manukapua', which was received on 31 January 2025. The purpose of this second addendum is to respond to that evidence.

9. In the planning evidence submitted on behalf of Mt Rex Shipping Ltd, the submitter resiles from seeking a smaller scheduled extent. They instead seek that alternative relief. This is in the form of a notation to be inserted into the description field for Manukapua in Schedule 12. In their view this notation highlights the regional significance of the sand resource.

10. In my view, established resource management processes (coastal permitting) allow the fulsome consideration of these matters and such a notation is neither necessary nor appropriate.

11. It is my recommendation that no changes are made to PC102 in response to the submitter evidence.

2. EXPERIENCE AND CODE OF CONDUCT FOR EXPERT WITNESSES

12. My qualifications and relevant experience are stated in the Section 42A Hearing Report for PC102 and PM15.

3. WITHDRAWN SUBMISSION POINTS CORRECTION

13. Attachment 1 of the first addendum Section 42A Report was a list of submission points affected by the withdrawal of Te Rae o Kāwharu and Waipapa Awa from PC102.

14. This list erroneously included Submission Point 2.1 from Qiping Sun, a submission point on the nominated site of Te Wai o Ruarangi.

15. A corrected 'strike-through' record is included as **Attachment 1** to this addendum.

16. The partial withdrawal was publicly notified on 7 February 2025, with notice also sent directly to submitters. The error has not altered the correspondence sent to submitters so there is no possibility that the submitter has been mis-led as to the status of their submission.

4. MANUKAPUA – MT REX SHIPPING LTD (PC102)

17. On 31 January 2025, planning evidence was submitted by Mr. G England on behalf of Mt Rex Shipping Ltd.

18. The evidence provides background information on the extent of the sand extraction operation in the Kaipara Harbour, and of the commercial relationship between Mt Rex Shipping and Winstone Aggregates Ltd.

19. Following pre-hearing consultation on 17 September 2024, that the submitter attended with Auckland Council officers and representatives of Te Uri o Hau, Mt Rex no longer seeks to reduce the extent of the proposed overlay for Manukapua. The submitter does, however, remain concerned that the sand resource will be available into the future[1].

20. The submitter instead seeks 'alternative relief'. This is in the form of additional text added to the description field of the Schedule 12 entry for Manukapua. This is intended to recognise the existence of the sand mining operation and highlight what the submitters sees as its importance to the region. The proposed text is replicated in red text as follows.

[1] Para 6.2

Schedule ID	Name	Location	Description	Nominated by Mana Whenua
113	Manukapua	Gum Store Road, Tapora 0977	Island, mahinga kai The site is located directly adjacent to the authorised sand mining operation within the Kaipara Harbour. The sand from the Kaipara Harbour is a regionally significant resource, and the sand mining operation may continue adjacent to Manukapua in future.	

21. This alternative relief restates the original position of the submitter[2] with the addition of proposed wording. The principle of amending the description field in the manner sought by the submitter was responded to in the original Section 42A Report. At that time, it was recommended that the relief sought be rejected.

Response

22. My understanding is that the intention of this addition is to clarify plan users' understanding of the existing environment within which the nominated site of significance sits.

23. This, in turn, is presumably intended to enable a fulsome assessment of the relative costs and benefits of the future management approach to these resources when a new coastal permit is sought. The proposed scheduling does not affect the current sand mining consent due to expire in May 2027[3].

24. Section 87 of the Resource Management Act 1991 (RMA) identifies a coastal permit, necessary to consent sand extraction activities in the coastal marine area under the AUP, as a type of resource consent. The submitter will need to apply for new coastal permits prior to the expiry of their existing consents, should they wish to continue their operations.

25. Schedule 4 of the RMA sets out the information required in the application for resource consent. Clause 2 of this schedule sets out information required in all applications. It is a comprehensive list and includes a description of the existing environment.

[2] Submission on PC102 dated 13 June 2024. Para 7.2.

[3] Noting that the existing consent has review conditions which may be enacted on an annual basis. Conditions 3, 4 and 4A. Appendix 2 to submitter evidence.

26. There is a requirement to undertake an assessment of a proposed activity's effects on the environment that 'includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment'[4]. Assessments of environmental effects also contemplate any effects on the wider community, including economic effects[5].

27. In my view, it is unlikely that any plan users undertaking background research to propose significant activities in the Kaipara Harbour would remain unaware of either the area's cultural significance to Māori, or its importance as a source of sand for Auckland's construction industry market.

28. The AUP and wider RMA seeks to achieve a balance to sustainably manage the natural and physical resources. Any application in the coastal marine area will include consideration of a suite of matters within and outside of the AUP. These could include existing iwi and hapū planning documents, existing coastal statutory acknowledgements established under Treaty Settlements, and applications for customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011.

29. The presence of a scheduled site of cultural significance to mana whenua is not a right to veto a proposal. Cultural concerns must still be justified by iwi and hapū in a similar way to the wider economic benefits/costs being substantiated by developers.

30. The purpose of the Sites and Places of Significance to Mana Whenua schedule is to identify, protect and enhance mana whenua cultural heritage[6]. At its essence, it triggers engagement with affected mana whenua so that iwi and hapū can express their kaitiakitanga[7] and build and maintain partnerships with consent holders[8].

31. In my view, the resource consenting process is the appropriate forum within which to engage in this dialogue, in cognisance of an actual proposal and the suite of balancing objectives and policies of the AUP which are engaged[9].

32. Schedule 12 of the AUP identifies sites and places of cultural significance to mana whenua. It contains descriptions to assist plan users identify these locations which are illustrated on the AUP planning maps. The descriptions have no bearing on resource management decisions.

33. Accordingly, as robust resource management process already exist to appropriately consider the management of the sand resource, I recommend that the relief sought in the submitter's evidence be rejected.

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[4] RMA Sch 4. cl 2(3)(c).

[5] Sch 4. Cl 7(1)(a).

[6] AUP Chapter B6.5.1(1)

[7] AUP Chapter N1: *Guardianship, including stewardship; the processes and practices of looking after the environment. Guardianship is rooted in tradition.*

[8] AUP B6.2.2(1)

[9] Mineral extraction is at a minimum a Discretionary Activity under the AUP: Chapter F Coastal. Table F2.19.4(A28). This activity status is unaffected by the Sites and Places of Significance to Mana Whenua Overlay.

5. CONCLUSIONS

34. This second addendum to the Section 42A Report responds to a brief of planning evidence submitted on behalf of Mt Rex Shipping Limited.

35. The applicant is seeking a notation in Schedule 12 of the AUP when existing resource consenting processes provide for a fulsome assessment of future sand mining proposals in the Kaipara Harbour.

36. Any proposed amendment to Schedule 12 is neither appropriate nor necessary and is recommended to be rejected.

37. An error has been identified in the identification of submission points affected by the withdrawal of Te Rae o Kāwharu and Waipapa Awa. This has been rectified in **Attachment 1** and has not affected the correspondence sent to submitters.

6. RECOMMENDATIONS

38. I recommend that no further changes are made to PC102 in response to the submissions on the site Manukapua.

7. SIGNATORIES

	Name and title of signatory
Author	Matthew Gouge Senior Policy Planner – Central/South Planning Team Planning and Resource Consents Department 
Reviewer/ Approver	Craig Cairncross Team Leader Planning - Central South 

Attachment 1 – Corrected list of submission points affected by the withdrawal of the nominated sites Te Rae o Kāwharu and Waipapa Awa

Attachment 1: Corrected Submissions and Further Submissions affected by withdrawal of Te Rae o Kāwharu and Waipapa Awa

Plan Change 102 - Sites and Places of Significance to Mana Whenua Tranche 2a					Plan Change 102 - Sites and Places of Significance to Mana Whenua Tranche 2a				
Further Submissions					Summary of Decisions Requested				
FS	FS name	Agent	Support or Oppose		Sub #	Sub Point	Submitter Name	Summary of Decisions Requested	Theme
FS04	Ngāti Whātua Ōrākei	Phil Wihongi and David Badham	Oppose		2	2.1	Qiping Sun	Decline the plan change	Waipapa Awa
FS04	Ngāti Whātua Ōrākei	Phil Wihongi and David Badham	Oppose		5	5.1	John Darroch	Decline the plan change	Waipapa Awa
FS04	Ngāti Whātua Ōrākei	Phil Wihongi and David Badham	Oppose		6	6.1	BA Trustees Ltd	Decline the plan change	Te Rae o Kāwharu
FS04	Ngāti Whātua Ōrākei	Phil Wihongi and David Badham	Oppose		7	7.1	Carlaw Campus Limited Partnership	Decline the plan change	Waipapa Awa
FS04	Ngāti Whātua Ōrākei	Phil Wihongi and David Badham	Support		9	9.1	Domain Gardens Ltd	That the section of Waipapa Awa on the Domain Gardens' property is not included in the schedule	Waipapa Awa
FS04	Ngāti Whātua Ōrākei	Phil Wihongi and David Badham	Support in part		9	9.2	Domain Gardens Ltd	Clearly identify the relevant Mana Whenua group to be consulted with for proposed resource consent and other planning processes affecting Waipapa Awa.	Waipapa Awa
FS01	Domain Gardens Ltd	Simon Berry Craig Malone	Supports		10	10.3	Ngāti Whātua Ōrākei Trust	For the sites Te Rae o Kāwharu and Waipapa Awa, Ngāti Whātua Ōrākei be listed as the 'correct' hapū in the 'Nominated by Mana Whenua' column of Schedule 12	Te Rae o Kāwharu and Waipapa Awa
FS01	Domain Gardens Ltd	Simon Berry Craig Malone	Supports		10	10.4	Ngāti Whātua Ōrākei Trust	Retain Te Rae o Kāwharu as notified	Te Rae o Kāwharu
					10	10.5	Ngāti Whātua Ōrākei Trust	Reduce the spatial extent of the SSMW overlay for Waipapa Awa so it applies only to open/daylighted part of the stream and those on public land	Waipapa Awa
FS01	Domain Gardens Ltd	Simon Berry Craig Malone	Supports		17	17.1	Summerset Villages (Parnell) Limited	Reduce the spatial extent of the SSMW overlay for Waipapa Awa so it applies only to daylighted part of the stream and not over the Summerset site	Waipapa Awa
FS04	Ngāti Whātua Ōrākei	Phil Wihongi and David Badham	Support						
FS01	Domain Gardens Ltd	Simon Berry Craig Malone	Supports		17	17.2	Summerset Villages (Parnell) Limited	The scheduling (planning constraints) of Waipapa Awa be limited to the surveyed extent rather than the whole of any property it passes through.	Waipapa Awa
FS01	Domain Gardens Ltd	Simon Berry Craig Malone	Supports		17	17.3	Summerset Villages (Parnell) Limited	Identify the specific matters/ issues that apply to each scheduled site (as opposed to broadly a issue generically in the Mana Whenua Overlay).	Waipapa Awa
FS01	Domain Gardens Ltd	Simon Berry Craig Malone	Supports		17	17.4	Summerset Villages (Parnell) Limited	Amend the activity status for new buildings and structures in the undaylighted portion of the Waipapa Awa that intersects the Summerset site from Discretionary to Controlled Activities (with associated mattters of control introduced).	Waipapa Awa
					18	18.1	Allan Matson	Decline the proposed overlay over the Grey Lynn Library site (474 Great North Road).	Te Rae o Kāwharu
FS04	Ngāti Whātua Ōrākei	Phil Wihongi and David Badham	Support		19	19.1	Parnell Community Committee (Inc)	Approve the scheduling of both Waipapa Awa and Te Rae o Kāwharu	Te Rae o Kāwharu and Waipapa Awa