

**IN THE ENVIRONMENT COURT  
AUCKLAND**

**ENV-2024-AKL-**

**I MUA TE KOOTI TAIAO O AOTEAROA  
I TE TĀMAKI MAKĀURAU ROHE**

**IN THE MATTER** of the Resource Management Act 1991 ("**RMA**")

**AND**

**IN THE MATTER** of an appeal under Clause 14(1) of Schedule 1 of the  
RMA

**BETWEEN** **WATERCARE SERVICES LIMITED**

**Appellant**

**AND** **AUCKLAND COUNCIL**

**Respondent**

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**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON  
PROPOSED PRIVATE PLAN CHANGE 86 TO THE AUCKLAND UNITARY PLAN –  
OPERATIVE IN PART**

**24 JUNE 2024**

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McAugh**

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**TO:** The Registrar of the Environment Court at Auckland

**AND TO:** The Respondent

**WATERCARE SERVICES LIMITED** ("**Watercare**") appeals the decision of the Respondent on Private Plan Change 86 ("**PPC86**") to the Auckland Unitary Plan – Operative in Part ("**Decision**"). PPC86 seeks to rezone 5.2ha of land at 41-43 Bringham Creek Road, Whenuapai from Future Urban Zone to Residential Mixed Housing Urban, together with a precinct and a Stormwater Management Area Flow 1 control.

### **Background**

1. Watercare is New Zealand's largest provider of water and wastewater services. Watercare is a council-controlled organisation under the Local Government Act 2002 and is wholly owned by the Auckland Council.
2. Watercare made a submission on PPC86 on 21 October 2022. As relevant to this notice of appeal, Watercare's submission related to ensuring that the effects on Watercare's existing and planned water and wastewater network are appropriately considered and managed in accordance with the RMA.
3. Watercare's submission was that the PPC86 area is not currently serviced by a reticulated water supply and wastewater network. While a technically feasible solution to service the PPC86 area from a water supply network perspective was proposed by the applicant, Watercare's submission was that development triggers and staging was required for the appropriate servicing of development with bulk wastewater services.
4. Watercare received notice of the Decision on 10 May 2024. The Decision includes a wastewater infrastructure standard (Standard IXXX.6.1) which is not supported by Watercare. In particular, Standard IXXX.6.1 provides:

#### **IXXX.6.1 Wastewater Infrastructure**

Purpose:

- To ensure bulk water supply and wastewater infrastructure with sufficient capacity is available to support development within the Precinct.

(1) Bulk water supply and wastewater infrastructure required for wastewater servicing of all development within the Precinct must be completed and commissioned:

- (a) in the case of subdivision, prior to release of Resource Management Act 1991 section 224 certificate for any residential lots; and

**(b) In the case of land use only, prior to the occupation of any dwelling(s) or residential activities.**

(Our emphasis added)

5. With respect to (1)(b) of the above Standard, Watercare's position is that bulk infrastructure – both for water and wastewater – must be completed and commissioned prior to the *construction* of any dwelling(s) or residential activities.
6. Watercare is not a trade competitor for the purposes of section 308D of the Act.

**Nature of appeal**

7. Watercare appeals the Decision in full, but specifically the part of the Decision that relates to water and wastewater infrastructure servicing of the PPC86 area.

**General reasons for appeal**

8. The Decision:
  - (a) will not promote the sustainable management of resources, and therefore is contrary to or inconsistent with Part 2 and other provisions of the RMA;
  - (b) will not enable the social and economic wellbeing of the community;
  - (c) will not meet the reasonably foreseeable needs of future generations;
  - (d) will not achieve integrated management of the effects of use, development or protection of land and associated resources of Whenuapai;
  - (e) will not enable the efficient use and development of the PPC86 area; and
  - (f) does not represent the most appropriate way to achieve the objectives of the AUP, in terms of section 32 of the RMA.

**Specific reasons for appeal**

9. Without limiting the generality of the above, Watercare appeals the Decision on the basis that the PPC86 area is not currently serviced by reticulated water supply or wastewater networks. It is not possible to connect and service the

development in PPC86 via the public water and wastewater networks, until the required bulk infrastructure has been constructed and is operational.

10. Watercare has been clear throughout the PPC86 process that it cannot and does not represent or guarantee that the necessary bulk water and / or wastewater infrastructure will be constructed and operational when development within the PPC86 area may be ready to connect to Watercare's networks.
11. In this regard, it would be a poor planning outcome and contrary to the sustainable management purpose of the RMA if dwellings and residential activities were constructed within the PPC86 area, but then could not connect (for an undefined period of time) to Watercare's public reticulated water and/or wastewater networks. The key issue with this approach is that, by the time dwellings or residential activities are ready to be occupied, significant time and money will have been spent by both the developer and (we assume) the intended occupiers of the relevant dwellings. Further, where dwellings have been presold to future occupiers, those future occupiers will then have an expectation of moving into a dwelling connected to Watercare's water and wastewater networks once the dwelling is complete.
12. While Watercare does have the ability to refuse connections under the Water Supply and Wastewater Network Bylaw 2015, it rarely declines a connection and only does so where this is the only option available. This is because, as a provider of lifeline services, Watercare seeks to ensure it is not put into a position where it needs to decline people the ability to connect to essential service public water supply and / or wastewater services. Rather, the planning framework under the RMA should not enable a level of density in areas where there is not the water and wastewater infrastructure in place to service that urban development upon its completion.
13. Watercare therefore does not support the infrastructure servicing standard in the Decision, as it would enable dwellings or residential activities to potentially be completed well in advance of the necessary bulk water and wastewater infrastructure required to service the PPC86 area.

### Relief sought

14. Watercare respectfully requests that PPC86 is declined by the Environment Court, unless:

- (a) Standard IXXX.6.1 is amended as follows (amendments shown in ~~strikethrough~~ and underline):

#### IXXX.6.1 Water and Wastewater Infrastructure

Purpose:

- To ensure bulk water supply and wastewater infrastructure with sufficient capacity is available to support development within the Precinct.

(1) Bulk water supply and wastewater infrastructure required for water and wastewater servicing of all development within the Precinct must be completed and commissioned:

(a) in the case of subdivision, prior to release of Resource Management Act 1991 section 224 certificate for any residential lots; and

(b) in the case of land use only, prior to the construction ~~occupation~~ of any dwelling(s) or residential activities.

- (b) or alternative relief of similar effect is granted; and
- (c) any consequential or incidental amendments necessary to achieve the relief sought.

### Attachments

15. Copies of the following documents are attached to this notice:

- (a) **Appendix A** – a copy of Watercare's original submission on PPC86;
- (b) **Appendix B** – a copy of the relevant decision; and
- (c) **Appendix C** – a list of names and addresses of persons to be served with a copy of this Notice.

**WATERCARE SERVICES LIMITED** by its solicitors and authorised agents  
Russell McVeagh:



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Signature: Simon Pilkinton / Kirsty Dibley

Date: 24 June 2024

Address for Service: C/- Simon Pilkinton / Kirsty Dibley  
Russell McVeagh  
Barristers and Solicitors  
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**Advice to recipients of copy of notice of appeal***How to become a party to proceedings*

1. If you wish to become a party to the appeal, you must:
  - (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
  - (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.
2. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.
3. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

**Advice**

4. If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

**APPENDIX A**

**A copy of Watercare's submission on PPC86**



Auckland Council

Level 24, 135 Albert Street

Private Bag 92300

Auckland 1142

Attn.: Planning Technician

**unitaryplan@aucklandcouncil.govt.nz**

**TO: Auckland Council**

**SUBMISSION ON: Plan Change 86 (Private): 41-43 Brigham Creek Road, Whenuapai**

**FROM: Watercare Services Limited**

**ADDRESS FOR SERVICE: Mark.Iszard@water.co.nz**

**DATE: 21 October 2022**

**Watercare could not gain an advantage in trade competition through this submission.**

## **1. INTRODUCTION**

### **1.1. Watercare's purpose and mission**

Watercare Services Limited ("**Watercare**") is New Zealand's largest provider of water and wastewater services. Watercare is a council-controlled organisation under the Local Government Act 2002 and is wholly owned by the Auckland Council ("**Council**").

Watercare provides integrated water and wastewater services to approximately 1.6 million people in Auckland. Watercare collects, treats, and distributes drinking water from 11 dams, 26 bores and springs, and four river sources. A total of 330 million litres of water is treated each day at 15 water treatment plants and distributed via 89 reservoirs and 90 pump stations to 450,000 households, hospitals, schools, commercial and industrial properties.

Watercare’s water distribution network includes more than 9,000 km of pipes. The wastewater network collects, treats and disposes of wastewater at 18 treatment plants and includes 7,900 km of sewers.

Watercare is required to manage its operations efficiently with a view to keeping overall costs of water supply and wastewater services to its customers (collectively) at minimum levels, consistent with the effective conduct of its undertakings and the maintenance of the long-term integrity of its assets. Watercare must also give effect to relevant aspects of the Council’s Long Term Plan, and act consistently with other plans and strategies of the Council, including the Auckland Unitary Plan (Operative in Part) and the Auckland Future Urban Land Supply Strategy.<sup>1</sup>

## 2. SUBMISSION

### 2.1. General

This is a submission on a change proposed by 41-43 Brigham Creek JV (“**Applicant**”) to the Auckland Unitary Plan (Operative in Part) that was publicly notified on 22 September 2022 (“**Plan Change**”).

The Applicant proposes to rezone 5.2 hectares of land at 41 – 43 Brigham Creek Road, Whenuapai from Future Urban Zone (FUZ) to Residential – Mixed Housing Urban (MHU).

The purpose of this submission is to address the technical feasibility of the proposed water and wastewater servicing arrangement to ensure that the effects on Watercare’s existing and planned water and wastewater network are appropriately considered and managed in accordance with the Resource Management Act 1991.

In making its submission, Watercare has considered the relevant provisions of the Auckland Plan 2050, Te Tahua Taungahuru Te Mahere Taungahuru 2018 – 2028/The 10-year Budget Long-term Plan 2018 – 2028, the Auckland Future Urban Land Supply Strategy 2015 and 2017, the Water Supply and Wastewater Network Bylaw 2015, the Water and Wastewater Code of Practice for Land Development and Subdivision and the Watercare Asset Management Plan 2022 - 2042. It has also considered the relevant RMA documents including the Auckland Unitary Plan (Operative in Part) and the National Policy Statement on Urban Development 2020 which (among other matters) requires local authorities to ensure that at any one time there is sufficient housing and business development capacity which:

- (a) in the short term, is feasible, zoned and has adequate existing development infrastructure (including water and wastewater);
- (b) in the medium term, is feasible, zoned and either:
  - (i) serviced with development infrastructure, or

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<sup>1</sup> Local Government (Auckland Council) Act 2009, s58.

- (ii) the funding for the development infrastructure required to service that development capacity must be identified in a long term plan required under s93 of the Local Government Act 2002; and
- (c) in the long term, is feasible, identified in relevant plans and strategies by the local authority for future urban use or urban intensification, and the development infrastructure required to service it is identified in the relevant authority's infrastructure strategy required under the Local Government Act 2002.<sup>2</sup>

## **2.2. Specific parts of the Plan Change**

The specific parts of the Plan Change that this submission relates to are:

- (a) the effects of the Plan Change on Watercare's Whenuapai Wastewater Servicing Scheme; and
- (b) the proposed water and wastewater servicing arrangements.

**2.2.1** Watercare has reviewed the Plan Change and considers that:

- (a) the proposed water and wastewater capacity and servicing requirements have been assessed as part of the Proposal.
- (b) Water supply can be serviced to PC86 from the existing Watercare network and technically feasible solutions have been presented in the Application.
- (c) Wastewater cannot be serviced until Watercare completes the construction of a new pump station 'Slaughterhouse Pump Station' (estimated late 2025). The Application has not presented a technically feasible solution for the reasons stated in this Submission. In addition to the technical feasibility of the wastewater network reticulation within the Plan Change area, the Applicant must address timing of the development to connect to the Slaughterhouse Pump Station, anticipated to be completed in 2025.
- (d) The matters raised by Watercare in this submission must be addressed to ensure any adverse effects of the Proposal on Watercare's existing and planned wastewater infrastructure network will be appropriately managed.

## **2.3. Whenuapai Wastewater Scheme**

Watercare is required to design and construct the Whenuapai Wastewater Servicing Scheme to meet the wastewater requirements of the wider Whenuapai Area and meet Auckland Council's timing obligations under the HIF agreement with the Government. Coordinating the delivery of the Watercare infrastructure with the delivery of the Applicant's infrastructure will enable the efficient and more cost-effective delivery of infrastructure overall.

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<sup>2</sup> National Policy Statement on Urban Development 2020, subpart 1, 3.2 to 3.4.

Watercare's wastewater servicing strategy for the wider Whenuapai area includes a new interim Slaughterhouse pump station at 23-27 Brigham Creek Road and rising main in Spedding Road to discharge into the Massey Connector and then to the Northern Interceptor. This work is currently in the design phase and is planned for delivery in 2025. The Plan Change will be required to connect to the Slaughterhouse Pump Station once complete.

## **2.4. Water and Wastewater Servicing for the Plan Change Area**

### **2.4.1. Water supply servicing for the Plan Change Area**

The Plan Change Area is not currently serviced by a reticulated water supply.

The Applicant has identified a technically feasible solution to service the Plan Change area and defined this in the Application (as notified). Watercare agree with the Applicants proposal for water supply servicing and will continue to work with the Applicant to confirm the final design.

### **2.4.2. Wastewater**

The Plan Change Area is not currently serviced by a wastewater network.

The Application states that the wastewater network will be serviced via the Brigham Creek Pump Station (16 Brigham Creek Road).

Watercare has revised the wastewater servicing strategy for Whenuapai and will require the Plan Change area to connect to the Slaughterhouse Pump Station (23-37 Brigham Creek Road). The Slaughterhouse Pump Station is likely to be constructed and operational in late 2025.

The Application includes an option that is not technically supported by Watercare for the following reasons:

- a. A pumped rising main is proposed from a new pump station in the south-east corner of the development (41-43 Brigham Creek Road) to Slaughterhouse Pump Station (23-27 Brigham). Watercare do not support a pumped rising main down Brigham Creek Road due to the high operational risks.
- b. A gravity main will be required in Brigham Creek Road to connect the Plan Change to the Slaughterhouse Pump Station. The gravity main should be sized for catchment flow, which may include land north of Whenuapai Village.

Watercare's Code of Practice requires network infrastructure that is installed ahead of future development, and will service that future development within the catchment, must be appropriately sized to do so. This requirement is applicable to the proposed pump station at 41-43 Brigham Creek Road, located within the Plan Change area. The additional land that requires incorporation into the sizing of the pump station may include 131-137 Brigham Creek

Road and 28a Mamari Road. The Applicant has not addressed the potential future flows in their Application and Watercare has noted this matter previously in a review letter included in the Application (titled 'WSL Review Letter').

Watercare consider a wastewater servicing solution can be technically achieved with modifications to the proposed network connections and sizing (as detailed above). It is not feasible to service development in PC86 until there is an available wastewater connection to the Watercare network at the Slaughterhouse Pump Station. Development triggers and staging is necessary to considered.

### 2.3 DECISION SOUGHT

Watercare considers there are no water reasons to decline the Plan Change.

Watercare have concerns for wastewater servicing on the basis that connecting PC86 to Watercare's wastewater network is not feasible until the Slaughterhouse pump station is operational (anticipated late 2025). The Application currently proposes a solution that is not supported by Watercare due to operational risk and inadequate sizing of the proposed pump station.

21.1

Watercare considers the wastewater servicing can be achieved through modification of the proposed solution and appropriate provisions are included within the Plan Change to address timing to connect to the proposed Whenuapai WW Scheme (Slaughterhouse Pump Station).

21.2

### 3. HEARING

Watercare wishes to be heard in support of its submission.

21 October 2022

Mark Iszard  
**Head of Major Developments**  
**Watercare Services Limited**

Address for Service:  
 Mark Iszard  
 Head of Major Developments  
 Watercare Services Limited  
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 Email: mark.iszard@water.co.n

**APPENDIX B**

**A copy of the relevant decision**

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



**PROPOSAL**

To rezone to rezone 5.19 hectares of land at 41-43 Brigham Creek Road, Whenuapai from Future Urban Zone (FUZ) to Residential Mixed Housing Urban (MHU) with a Stormwater Management Area Flow 1 control (SMAF1) to the site.

This plan modification is **GRANTED**, subject to the modifications as set out in this decision and in the Plan Change 86 document attached. Submissions and further submissions are accepted and rejected in accordance with the decision.

<b>Plan modification number:</b>	86
<b>Site address:</b>	41-43 Brigham Creek Road, Whenuapai
<b>Applicant:</b>	41-43 Brigham Creek JV
<b>Hearing commenced:</b>	Tuesday 31 October 2023, 9.30 a.m.
<b>Hearing panel:</b>	Janine Bell (Chair) Nigel Mark Brown James Whetu
<b>Appearances:</b>	<p><u>For the Applicant:</u></p> <p>41-43 Brigham Creek JV Limited represented by:</p> <ul style="list-style-type: none"> <li>- Daniel Sadlier, Legal</li> <li>- Will Moore, Civil Engineering</li> <li>- Todd Langwell, Transport Engineering</li> <li>- Richard Knott, Urban Design</li> <li>- Natasha Rivai, Planning</li> </ul> <p><u>Submitters</u></p> <p>Auckland Transport represented by:</p> <ul style="list-style-type: none"> <li>- Katherine Dorofaeff, Planning</li> </ul> <p>Watercare represented by:</p> <ul style="list-style-type: none"> <li>- Paula Hunter, Planning</li> <li>- Andrew Deutschle, Engineer</li> </ul> <p>New Zealand Defence Force represented by Robert Owen for Rebecca Davies (online)</p> <p>Jeffery Spearman (5 Māmari Road)</p> <p>Upper Harbour Local Board represented by Anna Atkinson, Chairperson</p> <p>Upper Waitemata Waterways Collective (UWWC) represented by Charissa Snijders</p>

	<p>Living Whenuapai represented by Annette Mitchell</p> <p>Woolley Trusts Partnership</p> <p><u>Tabled Evidence</u></p> <p>Waka Kotahi NZ Transprt Agency, letter from Evan Keating, Principal Planner</p> <p><u>For Council:</u></p> <p>Eryn Shields, Team Leader</p> <p>Todd Elder, Reporting Planner</p> <p>Gary Black, Traffic Engineer (online)</p> <p>Jennifer Esterman, Urban Designer</p> <p>Daniel Kinnoch, Parks planner (online)</p> <p>Danny Curtis, Stormwater Engineer</p> <p>Amber Tsang, consultant planner</p> <p>Bevan Donovan, Hearings Advisor</p>
<b>Hearing adjourned</b>	Wednesday, 1 November, 2023
<b>Commissioners' site visit</b>	Thursday, 26 October, 2023
<b>Hearing Closed:</b>	Thursday, 29 February 2024

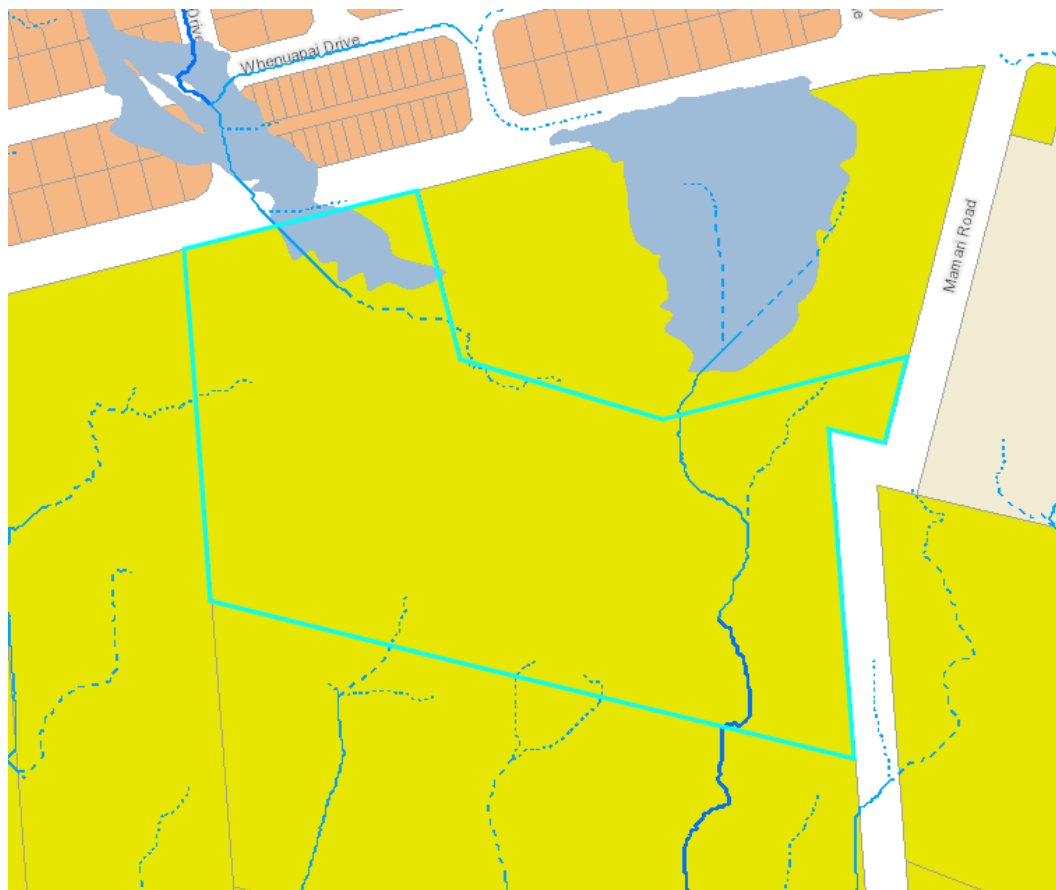
## INTRODUCTION

1. This decision is made on behalf of the Auckland Council ("**Council**") pursuant to Clause 10 of Schedule 1 of the Resource Management Act 1991 ("**RMA**") by Independent Hearing Commissioners Janine Bell (Chair), Nigel Mark Brown and James Whetu, appointed and acting under delegated authority under sections 34 and 34A of the RMA.
2. The Commissioners have been given delegated authority by the Council to make a decision on Private Plan Change 86 – 41-43 Brigham Creek Road, Whenuapai ("**PC 86**") to the Auckland Council Unitary Plan Operative in Part ("**AUP(OP)**") after considering all the submissions, the section 32 evaluation, the reports prepared by the officers for the hearing and evidence presented during, after the hearing of submissions and having visited the land subject to the plan change.
3. On 1 September 2022, following receipt of all further information, PC 86 was accepted for processing under Clause 25 of Schedule 1. The Plan Change was publicly notified on 22 September 2022, with the submission period closing on 21 October 2022. Twenty-three submissions were received by the Council. The summary of submissions was notified by the Council on 24 November 2022 with the further submission period closing on 8 December 2022. There were six further submissions received.
4. PC 86 is a privately 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).



## BACKGROUND AND SITE DESCRIPTION

5. The 5.19-hectare site is located at 41-43 Brigham Creek Road, Whenuapai and is legally described as Lot 2 DP 538562. The site has an irregular crescent shaped configuration with legal frontage to both Brigham Creek Road (northern boundary) and Māmari Road (eastern boundary). There is a vehicle access to the site from Māmari Road. The site is located approximately 750m south-west of the Royal New Zealand Air Force (“RNZAF”) Whenuapai Base.
6. The site is located within the Rural Urban Boundary and is zoned as Future Urban zone (“**FUZ**”). The FUZ has been applied to greenfield land that has been identified as suitable for urbanisation. It is a transitional zone that is considered to be rural in terms of activities enabled until an urban zone is applied via a plan change. The FUZ may be used for a range of general rural activities, but as outlined by the zone description, cannot be used for urban activities until the site is re-zoned for urban purposes. Several overland flow paths traversing the site, and there is a flood plain on the north-western portion of the site (refer figure below).



## SUMMARY OF PLAN CHANGE

7. The proposed plan change request is described in detail in the description of PC 86 in the application prepared on behalf of 41-43 Brigham Creek JV (“the Requester” or “the Applicant”) and in the hearing report. A summary of key components of the plan change is set out below.

8. The request seeks to rezone 41-43 Brigham Creek Road, Whenuapai from FUZ under the AUP(OP) to Residential - Mixed Housing Urban (“**MHU**”). It also seeks to apply the Stormwater Management Area Flow 1 control (“**SMAF1**”) to the site. PC 86, as notified, does not seek to change any of the objectives, policies or rules applying within the MHU zone.
9. The Residential – Mixed Housing Urban Zone is one of the principal residential zones in the AUP which provides for a reasonably high intensity with development typically up to three storeys in a variety of sizes and forms. This supports increasing the capacity and choice of housing within neighbourhoods as well as promoting walkable neighbourhoods, fostering a sense of community and increasing the vitality of centres. The zone permits up to three dwellings on a site subject to compliance with standards. Resource consent is required for the development of 4 or more dwellings and other specified buildings in order to:
- achieve the planned urban built character of the zone;
  - achieve attractive and safe streets and public open spaces;
  - manage the effects of development on adjoining neighbouring sites, including visual amenity, privacy and access to daylight and sunlight; and
  - achieve high quality on-site living environments.

The resource consent requirements enable the design and layout of the development to be assessed; recognising that the need to achieve quality design is important as the scale of development increases.

10. The SMAF control seeks to protect and enhance Auckland's rivers, streams and aquatic biodiversity in urban areas. It identifies rivers and streams (and their contributing catchments) that are particularly susceptible to the effects of development or have relatively high values. The SMAF-1 is applied to those catchments which discharge to sensitive or high value streams that have relatively low levels of existing impervious area. Development is still enabled in these areas, but it is subject to standards to reduce stormwater runoff to protect Auckland's aquatic biodiversity and other values from further decline and, where possible, enhance them.
11. In conjunction with this private plan change process, the Applicant has lodged a resource consent application for a 230-unit residential development and subdivision of the site (Council reference: BUN60386985). This has been accepted for processing and is awaiting further information request.

## **STATUTORY MATTERS**

### **Resource Management Act 1991**

12. The RMA sets out an extensive set of 'tests' for the formulation of plans and changes to plans. In this case, the plan change request involves a change in zoning, but no changes are proposed to the associated objectives, policies or rules

of the Unitary Plan. The main statutory test is therefore whether the amended zoning better implements the relevant, higher order objectives of the Unitary Plan.

13. Section 32 of the RMA requires an assessment of reasonable alternatives when considering how to implement the objectives of the proposed plan change. As stated, a section 32 RMA assessment is included with the request for the proposed plan change.
14. Clause 10 of Schedule 1 refers to decisions on provisions and matters raised in submissions and particularly the need to include the reasons for accepting or rejecting submissions and to provide 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 of the RMA.

### **National Policy Statements**

15. Pursuant to Sections 74(1)(ea) and 75 of the RMA the relevant national policy statements (“NPS”) must be given effect to in the preparation of the proposed plan change and in considering submissions. There are two NPSs of relevance to PC 86:
  - a. the ‘National Policy Statement on Urban Development’ 2020 (“**NPS-UD**”); and
  - b. the ‘National Policy Statement on Freshwater Management’ 2020 (“**NPS-FM**”).

### **National Environmental Standards or Regulations**

16. Under section 44A of the RMA, local authorities must observe national environmental standards in its district/ region. No rule or provision may duplicate or be in conflict with a national environmental standard or regulation.
17. The s42A report<sup>1</sup> outlined there is nothing in PC 86 as notified that requires amendments that would generate a conflict with the ‘National Environment Standard for Freshwater’ (“**NES-FM**”).
18. The applicant has assessed PC 86 against the ‘National Environment Standards for Contaminated Soil’ (“**NES-CS**”). The Applicant has identified that initial soil testing has exceeded the permitted threshold under the NES-CS<sup>2</sup>. The s42A report stated future detailed investigations and resource consents may be required, and no proposed plan provisions in PPC 86 duplicate or are in conflict with the NES-CS.

### **Auckland Unitary Plan – Operative in Part**

19. There are a number of provisions of the Unitary Plan that are relevant to PC 86 and these are listed as:

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<sup>1</sup> Paragraph 78 of the s42A report

<sup>2</sup> Paragraph 79 of the s42A report

## Regional Policy Statement

20. The aspects of the Regional Policy Statement (RPS) relevant to PC 86 include:
- a. Chapter B2 – Tāhuhu whakaruru hau ā-taone - Urban Growth and Form
  - b. Chapter B3 – Ngā pūnaha hangahanga, kawekawe me ngā pūngao – Infrastructure, transport and energy
  - c. Chapter B10 – Ngā tūpono ki te taiao – Environmental risk

## Auckland Unitary Plan – District Plan

21. The regional and district plan aspects that are particularly relevant to this plan change request are:
- a. E1 Water quality and integrated management
  - b. E2 Water quantity, allocation and use
  - c. E3 lakes, rivers, streams and wetlands
  - d. E8 Stormwater – Discharge and diversion
  - e. E10 Stormwater management area – Flow 1 and Flow 2
  - f. E27 Transport
  - g. E38 Subdivision – Urban
  - h. H5 Residential – Mixed Housing Urban Zone

## **Other Plans and Strategies**

22. There are a number of other plans and strategies that are relevant to the consideration of private plan change requests, and these have been identified as:
- a. The Auckland Plan 2050
  - b. Future Urban Land Supply Strategy 2017
  - c. Whenuapai Structure Plan 2016
  - d. Long-term Plan and Regional Land Transport Plan
  - e. Supporting Growth Programme (Te Tupu Ngātahi Supporting Growth)
  - f. Te Taruka-a-Tawhiri: Auckland's Climate Plan
  - g. Emissions Reduction Plan
  - h. Upper Harbour Local Board Plan 2020
  - i. Upper-Harbour Greenways Plan 2019

## SUBMISSIONS

23. There were 23 submissions and 6 further submissions received to PC 86.
24. None of the submissions received supported PC 86 in its entirety. Section 11 of the s42A report provides an analysis of the submissions and further submissions received to PC 86. The submissions points are categorised into themes and summarised as follows:

a. Submissions opposing PC 86 in its entirety.

Seven submissions were received that oppose PC 86 in its entirety and either sought that it either be declined or modified to address the concerns raised in the submissions.

b. Open Space

Four submissions oppose PC 86 considering it fails to address community recreation and well-being and makes no provision for open space within the site.

c. Transport and Water Infrastructure

Fifteen of the submissions raised concerns related to infrastructure, which include both transport infrastructure and water-related infrastructure. The submission points opposed PC 86 and raised the following concerns:

- i. the transport effects have not been appropriately considered.
- ii. the lack of provision of transport infrastructure, including public transport services.
- iii. Oppose the provisions relating to widening of Brigham Creek Road.
- iv. the lack of funding and financing for the transport upgrades.
- v. the proposed throughfare through 45 Brigham Creek Road.
- vi. wastewater servicing.

d. Whenuapai Airbase

Two submissions (including the New Zealand Defence Force submission) raise concerns related to the effects on the Whenuapai Air Base. In summary the submissions:

- i. Oppose PC 86 as the application is inappropriate in relation to the Airbase.
- ii. Seeks amendments to PC 86 to address reverse sensitivity on the Airbase which include:

- Non-compliant covenants
- Planting to avoid bird strike
- Effects of light on the airbase
- Inclusion of provisions to recognise the Obstacle Limitation Surface.

e. Stormwater Matters

Three submission raised issues related stormwater and flooding and sought PC 86 address flooding; require riparian planting around streams that feed into the Significant Ecological Area (located downstream of the PC 86 site) and include provision for on-site rainwater detention.

f. Ecology Matters

Three submissions raised ecology concerns and sought amendments to PC 86 provisions to:

- i. place a ban on domestic cats, and for other pest species should also be controlled.
- ii. ensure the felling of mature trees and other existing vegetation is offset with the introduction of native trees.
- iii. Make the developer aware of the North-West Wildlink (NWW) and gives effect to its objectives, in turn, benefiting the natural ecosystem, the potential future residents of the site and the sustainability of urbanisation.
- iv. include provisions for passive recreation and ecological corridor.
- v. include its own facilities to give it a sense of community and include native tree planting to enhance and restore native habitat.
- vi. Require the preparation of a Blue-Green Spatial plan for the whole of Whenuapai before development in the area proceeds.
- vii. Require the Council to identify the streams and rivers that are qualifying waterbodies with 20m esplanade strips for environment and recreational benefits.

g. Planning related matters

Seven submissions raised planning matters and sought amendments to PC 86 provisions including the changes to the zoning to:

- i. require specific covenants relating to additional impervious area control.
- ii. ensure the felling of mature trees and other existing vegetation is offset with the introduction of native trees.

- iii. accord with that identified in the Whenuapai Structure Plan and other Council strategies.
  - iv. address climate change matters.
  - v. Identify a location of school prior to PC 86 be made operative.
25. The Applicant lodged a further submission in response to the original 23 submissions lodged to PC 86. Annexure B to the further submission summarised which parts of the original submissions the Applicant opposed, including its reasons for opposition. The further submission sought to address some of the matters raised in original submissions by way of the introduction of a set of draft precinct provisions which would be applied to the site. Such an approach had been suggested in some of the submissions. A draft set of precinct provisions were included as Annexure C to the further submission.

### **EXPERT CONFERENCING**

26. On Friday 7 July 2023 the applicant's legal counsel requested the panel consider directing expert conferencing. The Chair agreed that expert conferencing may be useful for parties' experts to identify, discuss and potentially resolve (or not) issues in contention between them, and outlined directions for expert conferencing<sup>3</sup>.
27. Expert conferencing took place on 18 August 2023, involving the transport and planning experts on behalf of the Applicant, Auckland Council, Auckland Transport and Waka Kotahi. A joint statement of transportation and planning experts following conferencing was provided to the Hearings Manager.
28. In summary, the outcomes of the expert witness conferencing were as follows:
- a. In terms of transport effects of the private plan change, the parties agree that effects on active modes needs to be addressed through providing connections to the Whenuapai Centre and public transport accessibilities.
  - b. All parties agree transportation mitigation measures are required and should be reflected in the precinct provisions<sup>4</sup>.
  - c. The parties have differing views as to the extent of improvement required along Brigham Creek Road and Māmari Road:
    - i. Upgrade of the southern side of Brigham Creek Road corridor between the site and the Māmari Road intersection.
    - ii. Upgrade of the western side of Māmari Road corridor between the site and the Brigham Creek Road intersection

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<sup>3</sup> Refer to Paragraphs 6-12 in Hearing Direction No.2 from the Hearing Panel

<sup>4</sup> Paragraph 6(a) of the Joint Statement of Transportation and Planning Experts following Conferencing lists the agreed mitigation measures.

- iii. Types of pedestrian crossing facilities for any interim level of development and mitigation.
- d. In terms of implications of north-west 'Notices of Requirement' by the Supporting Growth Alliance, the parties agreed Section 178 of the RMA addresses the relationship with the Applicant's site.
- e. Parties agreed the statutory documents which regard should be had.

## SUMMARY OF EVIDENCE

29. The hearing evidence in this case includes the requested plan change, the accompanying s32 report, the supporting documentation, the Council officer's s42A report, the submissions and further submissions received, and the statements of evidence prepared by expert witnesses appearing on behalf of the Applicant and the submitters. This information is all part of the public record and is not repeated. The pre-circulated reports and statements of evidence were taken as read with the witnesses provided with the opportunity to highlight the main points raised in their expert evidence and to respond to questions from the Commissioners. The following is a summary of the evidence presented at the hearing.

### Requester/Applicant

- 30. **Mr Daniel Sadlier**, legal counsel for the applicant/requester, outlined the intention of the plan change request which proposes to rezone the site from FUZ to MHU zone and apply the SMAF1 to the site. In response to the submissions received the applicant is proposing that the site be identified as the "Whenuapai 3 Precinct" with provisions to address site specific issues and provide for integration with supporting infrastructure.
- 31. He noted that the Council officer's report supported approval of the plan change, subject to a set of recommended Precinct Provisions, however an addendum to the report had now been prepared which recommends that the Plan Change be declined. He advised *"the Applicant considers the reporting planner's changed recommendation to be surprising and disappointing, particularly given the hard work the Applicant has done to resolve outstanding issues during the period of evidence preparation"*<sup>5</sup>.
- 32. Mr Sadlier outlined the relevant legal framework within which PC 86 must be considered. He advised that PC 86 will give effect to the relevant provisions in the NPS-UD, the NPS-FM and the RPS.
- 33. Mr Sadlier outlined the Applicant's engagement to resolve outstanding concerns from a number of submitters including Waka Kotahi, Auckland Transport and the New Zealand Defence Force. He stated that the outstanding issues were limited to potential flooding effects on 5 Māmari Road, the precise nature and timing of transport infrastructure upgrades required to enable subdivision and development,

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<sup>5</sup> Opening Legal Submissions on Behalf of the Applicant for Private Plan Change 86 prepared by Mr Daniel Sadlier, page 1, paragraph 1.5.



and whether it is necessary to show indicative connections to neighbouring sites on the proposed Precinct Plan.

34. In relation to the potential flooding effects on 5 Māmari Road, Mr Sadlier highlighted the Applicant’s confusion with the technical memorandum from Healthy Waters, included as part of the Officer’s Report Addendum, which does not support PC 86 from a stormwater management and flooding perspective. He outlined the Applicant’s stormwater strategy has been the subject of extensive consultation with Healthy Waters and the full development would result in a negligible increase in post development flows in the worst-case scenario. He advised that Mr Moore confirms that further amendment of the stormwater design can be investigated at resource consent stage to further reduce peak flows discharging to 5 Māmari Road.
35. In terms of required transport infrastructure upgrades to enable the development of the site, Mr Sadlier advised that there now appears to be broad consensus between the Applicant, Council, Auckland Transport and Waka Kotahi that the upgrade thresholds proposed in the Precinct Provisions recommended by the applicant’s planning and transport advisers would provide appropriate mitigation for “localised transportation effects”. The remaining matter in dispute with Council’s reporting officers related to “whether more is required to provide “wider integration or delivery of infrastructure” for the purposes of the NPS-UD and RPS”<sup>6</sup>. In particular that the urban frontage upgrades to Brigham Creek Road and Māmari Road should not be limited to the site frontage but should also include the frontage of 45 Brigham Creek Road i.e., that the upgrades to both roads would extend to the Brigham Creek Road/ Totara Road/ Māmari Road intersection.
36. Mr Sadlier submitted that the amended Precinct Provisions ensures that PC 86 gives effect to the NPS-UD and the RPS. That the development will be integrated with infrastructure, as no development can occur unless it can be connected to the public reticulated water or wastewater infrastructure and the necessary upgrades to service the development of the site has occurred. He referred Commissioners to the evidence of Mr Langwell and Mr Knott and their respective advice that the proposed upgrade works will ensure good accessibility for pedestrians and active modes between the site and the Whenuapai Local Centre.
37. He directed the Commissioners to the recent decisions by other Independent Hearings Panels, in particular PC48 (Drury East) which considered the concept of “integration” as used in the RMA, NPS-UD and the RPS. These decisions considered the essence of integration is that infrastructure planning (and funding) and zoning happen contemporaneously, in a complementary way, and over time.
38. Commissioners were also directed to the relevant case law (*Landco Mt Wellington Limited v Auckland Council*<sup>7</sup> and *Laidlaw College Inc v Auckland Council*<sup>8</sup>). which establishes that private plan changes must be assessed on their merit and are not

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<sup>6</sup> Ibid, page 10, paragraph 5.2

<sup>7</sup> *Landco Mt Wellington Limited v Auckland City Council Et Ct decision A35/2007.*

<sup>8</sup> *Laidlaw College Inc v Auckland Council [2011] NZEnvC 248.*

required to resolve existing issues in the surrounding transport network or deliver on broader aspirations of the council or roading authorities.

39. Mr Sadlier submitted that the applicant considers PC 86 to be consistent with the policy direction of both the NPS-UD and the AUP regarding the integration of land use with infrastructure, and that the policy direction does not impose on private landowners' obligations relating to the broader infrastructure network.
40. In relation to the connections to neighbouring sites, the Applicant's position is that it is unnecessary to illustrate connections to neighbouring sites on the proposed Precinct Plan, as connections may or may not be appropriate depending on the circumstances at the time any future resource consent is determined.
41. Mr Sadlier concluded by submitting that PC86 together with the application of the Precinct Provisions attached to his submissions is the most appropriate means of achieving the objectives of the AUP and the purpose of the RMA. The Precinct Provisions, now proposed, align with good planning practices and are efficient and effective. The further amendments sought by the reporting planner in relation to frontage upgrades are unnecessary, would not achieve the purposes of the RMA or AUP(OP), and would render the set of Precinct Provisions less efficient and effective. He sought the Commissioners confirm PC 86 subject to the Precinct Provisions.
42. **Mr Will Moore**, a qualified and chartered civil engineer, advised he had been responsible for providing engineering services for the project including the design of the civil infrastructure - earthworks, roading, drainage and water supply. This included consulting with the local authorities and stakeholders on the serviceability of the site. He had prepared the Infrastructure Report (3 November 2021) and the Storm Management Plan (June 2022) in support of PC 86.
43. He advised that based on his investigation and reporting, servicing for PC 86 can be provided and enable development in accordance with the MHU zone. Earthworks will be required to enable acceptable ground levels and can be undertaken with the appropriate sediment and erosion controls in accordance with GD05 guidelines and limit risk of sediment runoff. Flood hazards can be managed with the proposed methods of conveying overland flow paths. Minimum floor levels can be established to provide freeboard above the Over Land Flow Path (OLFP) flowing through a proposed watercourse along northern boundary of the site and internal OLFP's within the future road reserve.
44. Stormwater drainage can be provided for the future development of the plan change area. Stormwater provisions in terms of hydrological mitigations proposed for the development have been summarised in the Stormwater Management Plan (SMP) prepared by Maven Associates. Findings from the Whenuapai SMP (AECOM, 2016) that details stormwater management within the greater Whenuapai catchment have also been incorporated into the Maven SMP.
45. Mr Moore outlined the discussion the Applicant's stormwater specialists have had with Council's Health Waters Group on the stormwater management strategy for PC

86 and the resource consent application (BUN60386985) including the diversion of stormwater runoff away from 5 Māmari Road.

46. Mr Moore also outlined his awareness and consideration of Mana Whenua values and comments received from Mana Whenua (Te Kawerau Iwi Tiaki Trust and Ngā Maunga Whakahii o Kaipara Development Trust), and referred to the adoption of water sensitive design principles in the stormwater management of PC 86 and how they align with Mana Whenua values. He advised the agreed strategy would see the Applicant retain the natural catchment to ensure there is no permanent loss of downstream hydrology in relation to the existing wetland/gullies on 5 Māmari Road and to provide a number of discharge points for conveying flows to Sinton Stream. The strategy also eliminates the possibility of concentrated flows being discharged to 5 Māmari Road from an isolated location and potential erosion issues.
47. He outlined the pass-forward approach, referred to by Mr Sadlier, that would be employed as part of the agreed strategy where the downstream 5 Māmari Road (including its potential future development) conveys the upstream proposed development flows further south before ultimately discharging into Sinton Stream.
48. Mr Moore advised the 10-yr and 100-yr flows have been minimized through the stormwater design strategy, with the impact on 5 Māmari Rd considered minor. He advised that any outstanding Healthy Waters concerns can be dealt with at the future resource consent stage application approval. This could include further amendment of the design to further reduce peak flows discharging into 5 Māmari Road. This may include upsizing the SMAF tanks for retention and detention which will provide additional storage.
49. An internal public wastewater reticulation network will be designed for the development. The public network will gravity discharge into a new wastewater pumpstation, which will be located in the south-eastern corner of the development and include capacity allowance for the future development at 45 Brigham Creek. Watercare have confirmed an interim Slaughterhouse pumpstation late 2025 before the ultimate connection to the Northern Interceptor. The development shall connect into this pumpstation.
50. An internal public water supply reticulation network will be designed for the development and provide an extension of the existing Watercare infrastructure. As part of the long-term strategy, Watercare have requested an extension of the 315 PE watermain along the development frontage on Brigham Creek Road and installation of a 200mm ID watermain under the future Māmari Road corridor which will be built as part of the development.
51. Existing service networks are present in the surrounding area and telecommunications and power is available for future development of the plan change plan area. It is anticipated that network upgrades/ extensions will be required to support future residential development which will be undertaken as required.
52. Mr Moore concluded by advising that in his opinion there are no civil engineering reasons why the PC 86 including the application of the SMAF-1 control and

Whenuapai 3 Precinct provisions cannot be confirmed. The combination of existing infrastructure (with upgrades as required) and proposed infrastructure, could appropriately service a MHU zone development of the site.

53. **Mr Todd Langwell**, a specialist transportation engineer, advised that he had provided traffic planning and design services to PC 86 and the resource consent on the site, including preparing the Integrated Transport Assessment (ITA).

54. Based on his assessment, Mr Langwell's concluded:

- (a) The potential development of the PC 86 area is feasible from a transportation perspective, and is largely consistent with what is anticipated in the Whenuapai Structure Plan and the proposed road network surrounding the site;
- (b) The site will have a suitable level of accessibility to public transportation, walking, and cycling, meaning that the effects of private car travel from the development area will likely be reduced as further infrastructure and public transport provision is made available;
- (c) Following the upgrade of the adjacent roads surrounding the precinct and the upgrades of new key intersections set out in the proposed precinct plan, the site is considered to have a high level of accessibility for vehicles, walking, and cycling;
- (d) The estimated traffic generation of the proposal is likely to be about 2,300 traffic movements per day with peak hour traffic generation of about 230 traffic movements per hour based on 260 residential dwellings within the subject site;
- (e) The estimated traffic generated by the proposal can be accommodated on the adjacent network while maintaining acceptable levels of safety and performance;
- (f) The proposed Whenuapai 3 Precinct provisions, as they relate to transportation matters, provide a robust framework to guide development of the PC 86 area;
- (g) With respect to the conclusions regarding traffic effects and assessment methodology within Council Officer's Report, addressing most of the concerns in the evidence and specifically around the trip generation rates, trip distribution and the updated modelling that has been prepared;
- (h) No new information or concerns were raised in the submissions received which required him to change or reconsidered the conclusions reached in the ITA; and
- (i) the modification to provisions that have been developed in consultation with AT and Waka Kotahi are appropriate and will address all concerns raised in submissions.

55. In the tabled summary of evidence, Mr Langwell noted that the Council's traffic engineer, Mr Black, was "largely satisfied with my assessment of traffic effects and supports the recommended additions to the precinct provisions by Ms Dorofaeff with two exceptions"<sup>9</sup>. Mr Black preferring to include active mode infrastructure between the site and Māmari Road intersection on the south side of Brigham Creek Road in the precinct provisions. In his opinion paths are not required along the southern side of Brigham Creek Road outside of the site frontage. Two alternative routes for active modes can be delivered with safe and appropriate infrastructure to support both modes.
56. Mr Langwell concluded there are no new information that has changed or caused him to reconsider the conclusions reached in his pre-circulated primary evidence.
57. **Mr Richard Knott**, an experienced urban designer, provided specialist evidence in support of PC 86. In his written statement, he responded to the matters raised in the s42A report raised by Ms Esterman's urban design review, and the proposed precinct provisions.
58. Mr Knott outlined that there were no archaeological nor heritage features on the site, and confirmed the block structure has been designed to allow the use of rear lanes, in order to reduce the dominance of crossings, driveways and garages on the street and to allow dwellings to better orientate towards the street, bringing improved surveillance of the street (without parked cars interrupting views) and better definition of public and private space.
59. He advised that he understood that the indicative internal roading network previously illustrated on the PC86 Precinct Plan had been deleted. He confirmed he was comfortable with the approach of addressing the above matters at the resource consent stage.
60. Mr Knott is satisfied from an urban design viewpoint with the locations of the intersections which have been informed by technical input from relevant specialists. He considers the potential position of the pedestrian throughfare as a critical link to provide walking connections to existing amenities and local services and accepted that it is appropriate to remove this notation from the precinct plan.
61. Mr Knott has reviewed the Precinct provisions and Precinct Plan and considers these will appropriately ensure the sequencing of associated infrastructure to the proposed plan change areas, including street upgrades.
62. He agrees with the Ms Esterman that there are no significant urban design issues, and the proposed zoning is consistent with the land use outcomes anticipated with the Whenuapai Structure Plan, and the inclusion of a precinct plan will ensure suitable walking and cycling connections are provided to the existing amenities and local services for residents over time.
63. He also addressed the Panel in relation to the connectivity issues from the site with the local and neighbourhood centres to the east. He had recently revisited the site

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<sup>9</sup> Summary Statement of evidence of Todd Langwell, page 2, paragraph 2.11, 4

and in his opinion, there were good pedestrian and cyclist facilities on the northern side of Brigham Creek Road with controlled crossing points at the intersection enabling safe access. He considered the current layout ensured the existing local and neighbourhood centres had adequate and safe access in the short to medium term. He considered it was inevitable with the amount of growth occurring in the area that the roads will be upgraded, it was just a question of time. He did not consider it justifiable to hold up the plan change until these roading upgrades occur.

64. In response to Commissioner Mark-Brown's questions about the access and walking distances to parks and open space areas, Mr Knott advised, that while he was not familiar with Council's Park Policy, in his experience provision of parks is a discussion that needed to be held with the Auckland Council's Parks. In his opinion a strategic approach was required to park acquisition, and this is most appropriately undertaken as part of the Structure Plan process and when determining the zoning for the wider Whenuapai area. In this case the focus is on a discrete area within the Whenuapai area.
65. **Ms Natasha Rivai**, a qualified planner, addressed planning aspects of the PC 86 in her tabled summary statement of evidence and statement of evidence in chief ("**EIC**"). She advised "that PC 86 as lodged did not include a Precinct, and this was included as a further submission from the Applicant in response to submissions raised on the proposed rezoning of the site"<sup>10</sup>. She considers the Precinct provisions (as amended) are the most effective and efficient way to achieve to enable residential development of the site in an area that is earmarked for future growth in a comprehensive and integrated way to appropriately achieve the purpose of the RMA.
66. As part of the statutory assessment, Ms Rivai referred to the relevant higher level documents and other key documents where regard was given for PC 86. One of those documents was the Whenuapai Structure Plan 2016, which is a high-level area plan for Whenuapai to guide future development, and guide growth/infrastructure strategies, such as the Future Urban Land Supply Strategy to enable and support that future growth.
67. Ms Rivai highlighted the timing of the rezoning request is ahead of the site being development ready under the Whenuapai Structure Plan, which is being after 2027, and the Precinct Provisions will limit urban development until necessary infrastructure has been provided.
68. She concurs with Mr Elder's identification of the statutory and policy framework and considers the amended Precinct Provisions will ensure future integration with infrastructure upgrades and in the interim ensure accessibility from the Precinct to the Whenuapai Neighbourhood Local Centre on both Brigham Creek Road and Māmari Road. She concurs with Mr Elder that the PC 86 is not inconsistent with Te Taruke-a-Tawhiri: Auckland's Climate Plan.

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<sup>10</sup> Natasha Rivai, Summary Statement of Evidence, 1 November 2023, page 1, paragraph 2.2

69. In relation to the assessment of effects on the environment, she agrees with Mr Elder's assessment in so far as the effects in relation to transport and stormwater management of the rezoning should be addressed in site-specific Precinct Provisions. Subject to the inclusion of the amended Precinct Provisions, she outlined PC 86 will result in positive effects on the environments in terms of the integration of urban development with public infrastructure and sequencing development to adequately manage effects. She states that most of the submissions received sought site-specific provisions and considers the Applicant's amendments to the Precinct Provisions respond to the submission matters.
70. Ms Rivai in her tabled summary statement of evidence responded to additional matters raised in Mr Elder's s42A Addendum evidence:
- a. She considers that the Precinct Provisions will integrate the urban development with the infrastructure planning and funding decisions. She considers there are safe and legible pedestrian crossings along Brigham Creek Road and Māmari Road to provide for a well-functioning urban environment in response to the NPS-UD.
  - b. She considers that PC 86 with the amended Precinct Provisions ensure the integration of urban development with infrastructure, in so far, the development of the site is staged, and local infrastructure upgrades are provided to respond to development, in response to the RPS.
  - c. She considers PC 86 will enable residential development in a staged manner to respond to the provision of infrastructure to support the development in response to the Future Urban Land Supply Strategy and the Whenuapai Structure Plan 2016.
  - d. She also provided an assessment against ss32(1)(b)(ii), 32(2) and 32(4).

*Rebuttal Evidence*

71. On 20 October 2023, following her statements of evidence, a short statement of rebuttal evidence was submitted by Ms Rivai. This rebuttal evidence related to the evidence filed by Ms Hunter, on behalf of Watercare Services Limited, and her recommendations regarding the proposed Whenuapai 3 Precinct provisions related to the timing of bulk water supply and wastewater infrastructure that will service the subdivision and development within the Precinct. The concern related to Ms Hunter's advice that the Slaughterhouse Pump Station was now not expected to be online until 2027.
72. Ms Rivai advised that the applicant accepts Watercare's submissions insofar as it is appropriate to restrict subdivision and development within the Precinct until connections are available and accepts that the Whenuapai 3 Precinct provisions should be amended to reflect this. She did not support the amendments to the provisions proposed by Ms Hunter. In Ms Rivai's opinion the updated timeline would create unnecessary delays to the applicant's ability to pursue resource consent and potentially commence enabling works/development on the site.

73. Ms Rivai proposed alternative wording to the proposed provisions that she considers addresses Ms Hunter's concerns while aligning with the applicant's development aspirations and timeline for the site. It would enable works to commence on the site, while ensuring that titles could not be issued and dwellings could not be occupied (in the event that land use consent only is sought), until such time as bulk infrastructure has been completed and commissioned.
74. Commissioners also received a written statement of evidence from **Mr Graham Ussher**, a consulting restoration ecologist, in support of PC 86. Commissioners having read the evidence had no particular questions for him, and he did not appear at the hearing.
75. In summary, Mr Ussher's evidence advised the site has been heavily modified by past farming activities, which has influenced the state and quality of indigenous communities and habitat for indigenous species on the site. There are no streams on the site, and the overland flow path on the far eastern part of the site does not support a stream, there is no indication of a channel, sediment sorting, pools or floodplain, and the entire extent of the basin floor is well colonised by terrestrial plants.
76. Mr Ussher supported the conclusions reach in the Officer's s42A report that the existing AUP(OP) provisions are sufficient to ensure that any ecological effects created by the development enabled by PC 86 are negligible, and that the AUP(OP) provisions are sufficient to ensure that any activities within the PC 86 are managed in accordance with the best practice environmental management at the time of resource consenting.

#### **Upper Harbour Local Board comments**

77. **Ms Anna Atkinson** the Chairperson of the Upper Harbour Local Board spoke to the Board's submission that recommended PC 86 be declined as the proposal involved out of sequence development and lacked the supporting infrastructure. She advised that a continual theme in all consultation feedback received by the Local Board related to Whenuapai was the lack of transport, the lack of buses, lack open and green spaces, lack of activities for children and the dangerous roads. Having experienced the impacts of the extreme weather events earlier in the year there was heighten concern around the need for new development to avoid any potential adverse environmental effects.
78. She advised the Board was concerned that PC86 was occurring out of sequence with the Auckland Council Future Urban Land Strategy (2017) and there was no provision for the full costs of the required transport and other infrastructure. The Board's comments noted the area is in stage 2 of the Whenuapai Structure Plan 2017 which is not anticipated to be delivered until at least 2028. The Board didn't consider that the proposal will deliver a well function urban environment. There was also concern that out of sequence development meant that the deficiencies in infrastructure provision are required to be picked up by general ratepayers rather than the developer.



79. Ms Atkinson advised the Board endorsed the concerns raised by Waka Kotahi and Auckland Transport that highlighted a lack of funding to respond to the cumulative effects of increased traffic on the wider northwestern transport system and that PC 86 was occurring ahead of the proposed upgrades to Brigham Creek and Māmari Road. Likewise, the Board endorsed Watercare’s submission to PC 86 that there is currently no way to service the area until infrastructure was upgraded.
80. She outlined the Board’s concern that the connections identified in the Upper Harbour Greenway Plan had not been considered by PC 86. The Local Board were also concerned that PC 86 could further exacerbate the lack of recreation spaces and significant shortfalls in the provision of sports and recreation provisions. She also expressed serious concerns regarding the discharge of stormwater into Sinton Stream and the removal of mature trees.
81. Ms Atkinson outlined that if PC 86 is granted, it should be amended to address infrastructure issues raised. In addition, the Local Board considered that tree canopy cover should be improved to 30%, riparian planting should occur around the affected waterways and streams, proper roading and transport. She concluded by advising that the plan change should be declined.

## **Submitters**

### **Jeffery Spearman (5 Māmari Road)**

82. **Mr Jeffery Spearman** a local pharmacist has worked in Whenuapai for 30 years and lived at 5 Māmari Road for over 20 years. His property directly adjoins the area to be rezoned in PC 86. While he accepted that the area is zoned future urban and this means development will occur, he was concerned about the potential impacts on his property and the surrounding environment. His main concerns were the impacts of stormwater runoff to the south and Sinton stream, the timing and development of infrastructure required to support a development of the size proposed and the traffic impacts on Brigham Creek Road and the surrounding area.
83. He questioned the timing of the development noting that the Auckland Council Future Urban Land Strategy (2017) identifies this area as being in the Whenuapai Stage 2 area which is not expected to be development ready until 2028-32. He considered that the northwestern area needed more infrastructure before houses are built and this should be built prior to development occurring.
84. Mr Spearman concludes that he does not consider PC 86 should be approved and, instead, the rezoning should come forward as part of the wider Whenuapai Stage 2 Structure Plan.

### **Auckland Transport (AT)**

85. **Ms Katherine Dorofaeff** is a Principal Planner in Auckland Transport’s Land Use Policy and Planning North/West team. She advised the Panel that Ms Drewery, AT’s acoustic consultant, was unable to attend the hearing but would be happy to respond to any questions that Commissioners might have on the material contained within her brief of evidence.

86. Ms Dorofaeff spoke to her summary statement which outlined the main points covered in her EIC which addressed the matters raised in Auckland Transport's (AT) submission and further submission to PC 86. From her planning assessment she had concluded that the proposal could, subject to the amendments proposed to the revised Precinct Provisions in Annexure A to her EIC, ensure the development of the site will be integrated with the provision of effective, efficient and safe transport infrastructure, and give adequate effect to policy matters in the NPS-UD and RPS.
87. In Ms Dorofaeff assessment, PC 86 is limited in its ability to give effect to provisions which seek to reduce dependence on private vehicle trips and provide for and enable active and public transport. PC 86 will enable development before the active mode network and public transport infrastructure and services required to support growth in the North-West has been funded and implemented.
88. She confirmed the inclusion of vehicle access restrictions, particularly for Māmari Road, will assist in providing for future development and upgrading of Auckland's transport infrastructure. She highlighted, in order to improve land use transport integration, it is important for PC 86 to provide for future road connections to adjacent sites. She noted that the revised provisions partly address this matter but recommends additional amendments.
89. Subject to these amendments, she considers that PC 86 will adequately address the management of road traffic noise which otherwise has the potential to adversely affect the health and amenity of future residents, and reverse sensitivity implications for existing and future arterial roads.
90. In her EIC, Ms Dorofaeff summarised the key matters in the AT submission which needed to be addressed and resolved. These matters included requiring additional information to assess the effects of the proposal, an implementation plan to address the wider strategic network to support the development, and requests for specific planning provisions. If these matters were not addressed, then PC 86 should be declined.
91. In Annexure A to her EIC, Ms Dorofaeff set out the further amendments being sought to the proposed precinct provisions which relate to:
- (a) Strengthening and clarifying the acoustic attenuation measures for activities sensitive to noise adjacent to existing and future arterial roads;
  - (b) Amending the precinct plan to identify arterial and future arterial roads and indicate future road connections to adjoining sites. Amending an assessment criterion related to future road connections;
  - (c) Amending the standards requiring an intersection between Bringham Creek Road and the new local road to be less prescriptive about the form of the intersection since it is premature to determine this;
  - (d) Amending the transport infrastructure requirements to make the provisions clearer and more robust;

- (e) Other amendments for purposes of clarification to the activity table and assessment criteria.
92. In her tabled summary statement, Ms Dorofaeff responded to Mr Elder's s42A Addendum report revisions to the Precinct Plan provisions. She acknowledges that many of AT's requested amendments were included in the revised Precinct Plan provisions, including the acoustic attenuation matters. She noted, however, that the Precinct Plan 1 had not been revised and identified some further corrections and amendments to the Precinct provisions. She opposed Mr Elder's omission of the road design standard in the revised provisions and advised that amendments were required to the activity table to show the activity status of applications where there is non-compliance with the standard along with the inclusion of associated matters of discretion and assessment criteria. She considered it was critical the provisions were clear about when the transport upgrades are required.
93. **Ms Claire Drewery**, an acoustic consultant, was unable to appear at the hearing. She did provide a written statement of evidence on behalf of Auckland Transport that set out why she considered it necessary include acoustic provisions for the site to address traffic noise effects.
94. In her written statement of evidence, she assesses Brigham Creek Road as the existing transport corridor of most significance for potential health and amenity effects relating to traffic noise in the PC 86 area. The proposed Māmari Road Upgrade, which will result in the existing semi-rural road becoming a four lane Frequent Transit Network (FTN), will have a similar significance for potential health and amenity effects.
95. Ms Drewery anticipates future mitigated noise levels of up to 65dB  $L_{Aeq(24\text{ hour})}$  could be expected at the boundary of PC 86 adjacent to Brigham Creek Road and the Māmari Road Upgrade. While she recognises the AUP(OP) does not include internal noise criteria for residential zones, Ms Drewery considers a maximum indoor design noise level of 40dB  $L_{Aeq(24\text{ hour})}$  to be appropriate for road traffic noise. In her opinion there is a shared responsibility to address road traffic noise effects with the road controlling authority mitigating noises at source, and developers constructing dwellings to achieve suitable internal noise levels.
96. Ms Drewery supports the inclusion of the proposed noise standards in the precinct provisions as they require road traffic noise does not exceed minimum standards in noise sensitive spaces. She recommended amends to the provisions to address the traffic noise levels that the design should be based on.

### **Watercare**

97. **Mr Andrew Deutschle** is a qualified engineer and Watercare's Manager, Networks Planning. His written evidence addressed the proposed water supply and wastewater servicing plan for the PC 86 area.
98. In terms of reticulated water supply, Mr Deutschle highlighted the plan change area is not currently serviced by a reticulated water supply. He notes the Applicant has confirmed its intention to design and provide the local reticulation network with the

Plan Change Area, and to provide an extension to connect to the Plan Change Area to Watercare's existing network. He advised that Watercare's preferred long term water supply solution for the area is an extension of the 315 PE watermain along the entire Plan Change Area frontage on Brigham Creek Road. He confirms there is a technically feasible solution to ensure public water supply to the PC 86 area.

99. In terms of wastewater, Mr Deutsche highlights that the PC 86 area is not currently serviced by a reticulated wastewater network. He outlines the plan change's proposed wastewater servicing seeks to propose an internal public wastewater reticulation network that will gravity discharge into a new public waste pump in the southeastern corner ("**Development Pump Station**"). The Development Pump Station is proposed to discharge by way of a pumped rising main along Brigham Creek Road into the future Brigham Creek Road Pump Station at 16 Brigham Creek Road (unlikely to be constructed prior to 2035), and then into the Northern Interceptor.
100. He advises that Watercare's preferred solution is a pressure break chamber in Brigham Creek Road adjacent to the northwest corner of the plan change area and a gravity main along Brigham Creek Road to the interim Slaughterhouse Pump Station (not expected to be operational until 2027). He recognises the Whenuapai 3 precinct provisions require any development and subdivision ahead of the provision of wastewater infrastructure will be classified as a non-complying activity. He confirms Watercare supports this approach to integrate development with necessary infrastructure.
101. Mr Deutsche confirms he has reviewed the proposed amendments proposed by Ms Hunter, Watercare's planning witness, to the Whenuapai 3 precinct provisions and consider these appropriately provide for alignment of wastewater infrastructure use and development.
102. **Ms Paula Hunter**, an experienced planning consultant, provided planning evidence on behalf of Watercare which outlined its primary concern with the applicant's proposed wastewater servicing solution. Referring to Mr Deutsche's evidence, she advised that Watercare considers that a technically feasible solution can be achieved by requiring bulk water supply and wastewater infrastructure to be available before residential development occurs. However, she considered that a number of revisions to the plan change provisions (as now proposed) are required to appropriately address water supply and wastewater servicing.
103. She summarised Watercare's proposed amendments to the updated Whenuapai 3 Precinct provisions proposed by the applicant, as follows:
  - (a) Suggested amendments to the precinct description to make it clear that the precinct provisions are designed to restrict subdivision and development until the infrastructure (including bulk water supply and wastewater infrastructure) is available.

- (b) References to bulk water supply infrastructure, as well as bulk wastewater infrastructure, to provide clarity that the provision of both types of infrastructure must be co-ordinated with subdivisions and development.
  - (c) Replacement of named infrastructure and street addresses for the location of infrastructure with the more generic description of “bulk water supply and wastewater infrastructure”.
  - (d) Simplifying Policies 2 and 3 by combining Policy 2 which refers to water supply) which Polic3 (which refers to wastewater infrastructure) and reinstating “avoid” rather than using “limit” as proposed by the Applicant.
  - (e) Inclusion of “subdivision” as well as development in various provisions to ensure consistency with other provisions.
104. She considers the proposed amendments give effect to the relevant objectives and policies of the AUP(OP) which relate to urban development and provision of infrastructure.
105. Ms Hunter concludes that PC86 precinct provisions should be modified as proposed by Watercare and considers the proposed amendments to the will promote the efficient and timely provision of infrastructure and will ensure subdivision and development is supported by infrastructure on a timely and efficient basis.

#### **New Zealand Defence Force**

106. **Ms Rebecca Davies** is a Principal Statutory Planner by the New Zealand Defence Force (NZDF) and has been involved in representing NZDF’s interests regarding development of land near RNZAF Base Auckland in various processes under the RMA. She provided a written brief of evidence in support of the submission and further submission lodged by the NZDF. Unfortunately, she was unable to attend the hearing.
107. In her absence, **Mr Robert Owens** the NZDF’s Director Environmental Services appeared online to answer any questions from the Commissioners in relation to the RNZAF Base at Whenuapai. He took the opportunity to reinforced two points in Ms Davies evidence related to the imposition of reverse sensitivity covenants and the importance of the Obstacle Limitation Surfaces designation.
108. Mr Owen advised he had been involved in discussions with the Council about the importance of the reverse sensitivity covenant and supported these as an instrument to protect the Air Base against reverse sensitivity issues that may arise. He noted that while the Council’s S42A report had initially rejected the request to include non-complaint covenant provisions in the proposed plan change, these were now recommended for inclusion in the addendum hearing report. Although he requested that the provision be renamed to reverse sensitivity covenant to reflect the wording in the RPS.
109. In relation to the Obstacle Limitation Surface control, he outlined the difficulty that NZDF have had with temporary activities such as cranes being erected in the control

area without the prior approval of the NZDF. He acknowledged that the Obstacle Limitation Surface control is a long-standing designation and while there is a statutory requirement to secure NZDF prior written approval for works in this area, too often developers had failed to notify the NZDF resulting in operational issues for the Airbase. The erection of temporary construction equipment that penetrates the Obstacle Limitation Surface control results in the immediate closure of the Airbase runway. He requested that the precinct provisions include a paragraph to flag the need to secure the approval from NZDF.

### **Upper Waitemata Waterways Collective (UWWC)**

110. **Ms Charissa Snijders**, advised she was a registered architect, a fellow of the NZIA and on the governance board of the Auckland Urban Design Panel but today was representing the UWWC. The UWWC consider that PC 86 should be declined. That the developers in purchasing the land were aware that it formed part of stage 2 of the Whenuapai Structure Plan area and therefore would not be development ready until 2028-2032, when the bulk infrastructure would be in place. The land was not development ready, there were transport issues to be addressed such as the poor level of public transport, the lack of cycleways and footpaths along with a lack of appropriate provision for wastewater, electricity, and stormwater.
111. She believed that by not adhering to the Council's adopted Structure Plan would only lead to ad hoc developments and poor infrastructure provision including the provision of open space. Since the Structure Plan was adopted, she highlighted there had been a raft of National Policy Statements and other Council policies that should be considered including responding to climate change. She noted the Council's Auckland's Climate Plan (2020), Auckland Plan (2015) which she considered PC 86 did not abide with including carbon emissions, climate resilience and quality. There was also the national adaptation plan to be considered that looks at the impacts of climate change now and into the future. Therefore, this request for an out of sequence plan change should be declined until such time as the Auckland Council has updated the Unitary Plan and the Whenuapai Structure Plan to recognise these new legislative requirements.
112. Ms Snijders highlighted the cumulative impacts new development would have on the local area, noting the plan change site had an identified flood plain and was subject to a number of overland flow paths. These factors accompanied by high level of impervious surface and lack of tree coverage meant the area was likely to experience further flooding in the future. She called for the Council to take a pause and to rethink and do better. The Council had a once in a lifetime opportunity particularly with greenfield sites to require transformational change to land development and management to provide for water sensitive designs. A holistic approach was needed to future planning for the area including ensuring the provision of open space and appropriate tree canopy protection to protect the area from future flooding. Whenuapai also needed a well-connected transport plan that includes walking and cycling. She rejected the advice of the Council's reporting planner that many of these requests were outside the scope of matters that could be dealt with in the plan change process.

113. She concluded that the UWWC supported the submissions from the Upper Harbour Local Board, Living Whenuapai, Waka Kotahi and the others who are aligned to the points in their submission. She questioned why the Council felt pressured to agree to requests for private plan changes when they do not meet our current understanding of our crisis. The Council's failure to act would ultimately pass the costs onto ratepayers.

### **Living Whenuapai**

114. **Ms Anette Mitchell** the co-ordinator for Living Whenuapai spoke the Group's submission. Assisted by a power point presentation she outlined the group's opposition to PC86 and responded to a number of matters raised by the Council officer's report.
115. Ms Mitchell advised that Living Whenuapai is concerned about the nature and intensity of PC 86 and how it fails to comply with objectives to "*create a well designed, sustainable quality compact form with a strong sense of place.*" She highlighted the lack of provision for easily accessible open space for the level of intensification proposed (i.e., 500 - 1,000 people on 5 hectares of land), the high level of impermeable surface allowed, and the lack of strategies to mitigate climate change and efforts to enhance Auckland's biodiversity. She rejected the advice of the Council's Park's expert that it is not feasible to require every plan change to include open space. Future residents should have certainty about the provision of open space and areas to plant tree.
116. Ms Mitchell considered the proposed plan change contravened both the NPS-UD and the Council's Urban Ngahere Strategy which aims to increase the forested area across the urban area to 30 percent. She advised that Whenuapai's coverage was low currently around 8 - 10 percent cover. Living Whenuapai did not consider that the area was ready for development due to the lack of infrastructure. The whole of Whenuapai required a cohesive plan that addressed climate change concerns arising from the intensity of the proposed development.
117. She concluded by advising that Living Whenuapai supported the submissions of the Royal Forest and Bird Society, Waterways Collective, Upper Harbour Ecology Network and the Local Board. She called on the Panel to think about greening our cities.
118. Commissioner Mark Brown questioned Ms Mitchell whether she from her knowledge of the local area whether there were areas in public ownership that the Council could utilise to increase the tree coverage to 30%. In response she advised that there were only three very small reserves spread over a very large area of land, with most of land in private ownership so there was no guarantee about how much land would be set aside in the future and that's why the Group was calling for an overarching plan for the area. As development occurs it need to incorporate green spaces.
119. Her comments were supported by Ms Atkinson from the Local Board who provided additional information about the North-West Wildlink that seeks to provide a safe and

connected corridor that enable wildlife to travel between the Hauraki Gulf Islands and the Waitākere Ranges.

### **Woolley Trust Partnership**

120. **Mr Lyndal Woolley** spoke to the Woolley Trusts Partnerships submission which objected to PC 86 concerned the change in zoning would add to congestion issues in the Northwest/Whenuapai area. He explained how the traffic congestion has slowly got worse particularly at the roundabouts that intersect with the motorway. Therefore, he considered that further roading infrastructure improvements are required prior to any increase in development in the area. His comments were reinforced by Mrs Woolley.

### **Other Tabled Evidence**

#### **Waka Kotahi**

121. A letter was tabled by on behalf **Waka Kotahi** from Mr Evan Keating, a Principal Planner<sup>11</sup>. The letter advises the applicant has worked with Waka Kotahi and Auckland Transport to clarify the information provided and made amendments to the proposal. He advised that having reviewed the reporting officer's section 42A report and the relevant evidence filed by the applicant, that Waka Kotahi retains reservations regarding the development of this land out of sequence with Auckland Council's Future Urban Land Supply Strategy and the proposed Future Development Strategy, particularly as the site is remote from the rapid transit network.
122. Mr Keating, however, goes on to advise that the proposed provisions in the applicant's evidence would manage localised transport effects, particularly through the use of staging to require upgrades to the local roads, including walking and cycling provision. He concludes by advising that "if the commissioners are minded to approve the plan change, Waka Kotahi supports the provisions in the evidence of Ms Rivai". In relation to the surrounding local roads, managed by Auckland Transport, he advised that Waka Kotahi deferred to Auckland Transport's views.

#### **Dave Allen**

123. Mr Dave Allen a submitter who opposes PC 86 provided a power presentation that set out his principal concerns with the plan change being the provision of green space and lack of appropriate consideration of noise levels arising from the proposed development.
124. In relation to green space, his presentation highlighted the lack of green areas within the applicant's overall landscape plan for the development. He also referenced the Upper Harbour Local Board Plan 2020 that identifies Whenuapai as a key gap in the network of sports and play areas of new developments. He notes that the Whenuapai Town Reserve while "much used" lacked public toilets. He considers the provision of infrastructure should include recreational space. He sought the

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<sup>11</sup> Letter dated 13 October to Julie McKee, Democracy Services – Hearing Unit, Auckland Council.



applicant be required to provide a green space/ recreational park or install a public toilet at the Whenuapai Town Reserve.

125. In relation to noise levels, Mr Allen was concerned that while the applicant had focussed on the internal noise environment and protection from the adverse effects from the Whenuapai Airbase that no consideration was given to the external noise environment where children would be playing.

## Council

126. The hearing report was prepared by **Mr Todd Elder**, Senior Policy Planner - Regional, North, West and Islands and was comprehensive and detailed. The report was circulated prior to the hearing and was taken as read. Mr Elder's assessment of the technical reviews and the analysis of submissions identified that PC 86 raised a number of potential conflicts with the RPS. He considered, however, that many of the issues could be addressed through the inclusion of the recommended Whenuapai 3 Precinct provisions. In his opinion, the key issues were the transport and traffic effects associated with the provision of transport infrastructure and wastewater infrastructure to enable the growth proposed by the PC 86 provisions. He recommended that PC 86 should be approved noting that the potential adverse environmental effects of the enabled subdivision, development and use will require assessment and be managed through conditions on subsequent subdivision and/or resource consents.
127. In Mr Elder's opinion PC 86, with the recommended amendments to the proposed planning provisions set out in Appendix 5 to his report, would:
- assist the council in achieving the purpose of the Resource Management Act 1991
  - give effect to the NPS UD
  - be consistent with the Unitary Plan RPS
  - be consistent with the Auckland Plan.
128. If the Hearing Panel did not consider it appropriate to include the recommended Whenuapai 3 Precinct provisions, then he recommended that PC 86 be declined.
129. Following the circulation of the expert evidence on behalf of the applicant and the submitters, Mr Elder provided a S42A Addendum report (dated 24 October 2023). He advised that he had reviewed all the expert advice provided by the parties including the updated set of proposed Whenuapai 3 Precinct provisions (dated 28 September 2023) attached to Ms Rivai's evidence. This version of the proposed provisions contained a number of changes to those attached to his s42A report.
130. He did not agree with all aspects of changes provided by Ms Rivai's to the proposed Precinct provisions. The key differences between the two sets of Precinct provisions related to "the nature and extent of infrastructure that is required to enable the subdivision and development of the land, and to enable subdivision and

development to occur, and to ensure that urban development is integrated with the provision of infrastructure”<sup>12</sup>.

131. Mr Elder considered further amendments are required to the Whenuapai 3 Precinct provisions in response to the matters raised in the expert evidence and the s42A Addendum reporting. He also considered that amendments “are required to provide clarity/interpretation and compatibility with the style and formatting used throughout the AUP”<sup>13</sup>. These were included in the revised version of the proposed Precinct Provisions attached to the s42A report.
132. Mr Elder having reviewed the submitter evidence now considered that PC 86 should be declined due to the unresolved issues relating to flooding and stormwater. In addition, he advised that further amendments were required to the proposed PC 86 precinct provisions in relation to water and wastewater infrastructure and transport infrastructure. In his opinion these amendments are necessary to better give effect to the NPSUD, the AUP RPS and other statutory documents. Without these amendments he recommended PC 86 be declined.
133. Each of the Council’s specialist responded to the information presented by the applicant and submitters during the hearing.
134. **Mr Gary Black**, the Council’s transport specialist advised that from his perspective there was a strong degree of alignment in respect of the different traffic views with the main area of difference being the extent of upgrade required on Brigham Creek Road the provision access and level of provision for walking and cycling facilities.
135. In relation to Brigham Creek Road he acknowledged the comments made by Mr Sadlier that there is a safe pedestrian crossing facility and east bound cycling facilities however the west bound cycling facilities “were not the best”. While it would be possible for cyclist to use Māmari Road it was his experience that people preferred to use the more direct route, both cyclists and pedestrians, regardless of whether it was the safest route to do so. Therefore, in his opinion the upgrade of cycling and walking facilities in Brigham Creek Road through to the signalised crossing at Māmari Road needed to happen as part of the PC 86 decision. From public transport perspective in his view the current facilities and frequency of services would not be sufficient to encourage people to transition from their cars to public transport.
136. He concluded by advising that subject to the provisions proposed in Mr Elder’s s42A Addendum report he considered from a traffic perspective, PC 86 any subsequent development would be acceptable.
137. **Ms Jennifer Esterman**, the Council’s urban design specialist advised that her outstanding concern was the connectivity from the plan change area to the Whenuapai local centre. She considered it was important that both sides of Brigham Creek Road should reflect the urbanised nature of the area and provide connections to the local centre. By excluding 45 Brigham Creek Road from the would result in a

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<sup>12</sup> Section 42A Addendum report, Page 7, paragraph 14.

<sup>13</sup> Ibid, Paragraph 15.

missing link in the connectivity to the local centre and she was concerned when this link may be formed in the future.

138. Overall, she supported the amendments to Whenuapai 3 Precinct Plan 1 in part which set out the zoning, indicative key road intersections, existing key road intersections, road frontage upgrades and precinct boundary. She however considered that the Precinct provisions should require the upgrade of Brigham Creek Road and Māmari Road, including 45 Brigham Creek Road to ensure active mode connections are provided from the plan change site to the local centre.
139. In response to Commissioner Mark Brown's questioned Ms Esterman on what would determine the "sense of place" within this development and whether she agreed with Mr Knott that it was pleasantness of the streetscape created by the landscaping within the private lots and the built form. In response Ms Esterman advised that it would be a combination of the built form and the landscape that would create the sense of place. It was, however, also about the connections within the local area to ensure that people take ownership, this is their community and their space.
140. **Mr Daniel Kinnoch**, the Council's Parks consulting planner responded to the concerns raised about the adequacy and access to open space in this area. He advised the Panel that he had reviewed PC 86 against the Council's Open Space Provision Policy, which provides the strategic guidance for the provisions of parks and open space across the region, and the Whenuapai Structure Plan.
141. In his assessment there was no need for an open space provision within this plan change area with the development of the area being adequately catered for by the existing Whenuapai Town Park which was within a 600m walk distance. He noted the submission seeking the installation of public toilets at the Town Park but advised that was not a matter that could be addressed through the plan change process. He also noted that there was a recreation reserve for stormwater drainage on Tamiro Road to the north which provides for addition passive recreational opportunities. In his assessment there is need for a new neighbourhood park adjacent to this area immediately to the southwest. Although he did acknowledge that there was nothing in the plan change that would preclude the provision of an open space area as part of any future resource consent application.
142. Commissioner Mark Brown questioned the spatial analysis noting that the Council's open space policy sought to have open space provided within a 400m walk distance of high and medium residential areas and 600m in other residential areas. By assessing open space need at 600m walking distance, Commissioner Mark Brown, felt a good part of the plan change area would be underprovided.
143. Mr Kinnoch responded that his key concern was if an open space area was provided in the southwest part of the plan change area this would result in a flow on effect to development in the southwest. It was for this reason the site immediately adjacent had been selected as the most optimal location for open space both for future occupants of this development and those further afield. If the development to the southwest didn't occur, then Council could then look to acquire additional land to meet the open space needs of the community.

144. **Mr Danny Curtis** consultant engineer and **Ms Amber Tsang** consultant planner responded on behalf of Healthy Waters. Mr Tsang explained that at the time of the writing of the s42A Addendum report that the outstanding issue was the flood impacts on 5 Māmari Road. She advised that there was now a general agreement between Mr Curtis and herself with the Applicant’s stormwater expert on the wording of the proposed provisions as set out in Attachment 1 of Mr Sadlier’s legal submissions, in particular the recommended wording in I6.2.1 which means that discharge of stormwater from subdivision and development cannot occur until the necessary stormwater infrastructure is in place or until appropriate mitigation exists to mitigate downstream flood effects. This standard will require appropriate mitigation to occur and including dealing with the impacts on 5 Māmari Road. On this basis, with the acceptance of this standard as part of the plan change, Healthy Waters’ concerns were satisfied. Ms Tsang went on to explain that she understood that the Applicant’s intention is to have the stormwater associated with the proposed development to be covered by the Auckland Council’s region-wide network discharge consent (NDC). Therefore, further refinement of the stormwater infrastructure design will happen as part of the assessment of the stormwater management plan required at the resource consent stage.
145. Commissioner Whetu sought clarification on the further information request on stormwater management and mana whenua consultation and whether the now proposed provisions respond adequately to the principles and values context in the information request. In response Mr Curtis explained that in the assessment of the original Stormwater Management Plan, Healthy Water requested details on what mana whenua engagement had been undertaken. In his opinion the information provided will enable a more comprehensive assessment of the stormwater impacts. At the moment, Healthy Waters have overarching principles that would show compliance with the region wide NDC and that treatment accords to GD 01<sup>14</sup> or TP10 along with the hydrological information for SMAF-1 and the 10 percent and 1 percent annual exceedance probability (AEP) assessment but there will be a need to go through a refinement process to justify a best practicable option. He considered it to be a work in process, with a key issue being mana whenua engagement and feedback but also the proposed technical solution along with impacts on long term ownership and operation. These will be worked through the resource consent process which also enables mana whenua engagement.
146. **Mr Elder**, the reporting planner, concluded the Council’s presentation by providing a short summary of the current position with respect to his report and the addendum which recommended the decline of PC 86 due to the outstanding stormwater issues and the lack of agreement on the provision of certain aspects related to the transport infrastructure.
147. He advised the Panel that with the agreement now reached between Healthy Waters and the Applicant on the proposed Stormwater Infrastructure provisions, his recommendation to decline PC86 on these grounds was now removed.

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<sup>14</sup> GD-01 - Guideline Document: Stormwater Management Devices in the Auckland Region

148. In relation to the level transport infrastructure required to give effect to the NPS UD and the RPS he advised that his recommendation had been guided by the Whenuapai Structure Plan, its implementation and the infrastructure outlined in Appendix 4 to provide for urbanisation. He noted that Mr Black and Ms Esterman had maintained their respective addendum positions in relation to the provision of infrastructure.
149. These amendments related to the inclusion of wider transport upgrades as “triggers” before subdivision or development is enabled. Mr Elder advised that the inclusion of triggers “is now common practice in other areas of Auckland under the AUP. These triggers relate to achieving integration between land use and transport and require works to be available at the same time as development. These triggers do not specify who is to provide these upgrades – they confirm what upgrades/works are required for specified stages of development.”<sup>15</sup> He considered the use of triggers to be consistent with the strong statutory framework being the NPS-UD, the Regional Policy Statement and the Whenuapai Structure Plan “which requires well-functioning urban areas and integration between urban development and infrastructure, particularly transport infrastructure.”<sup>16</sup>
148. Based on the amendment proposed by Ms Dorofaeff, Mr Black and Ms Esterman. Mr Elder provided the following summary of transport upgrade triggers that should be included in the Whenuapai 3 precinct<sup>17</sup>:
- (a) upgrading the PC 86 road frontages; and
  - (b) forming the new intersection between the new road from the precinct PC 86 site and Brigham Creek Road and including an active mode crossing across Brigham Creek Road; and
  - (c) forming a local road through the precinct between Brigham Creek Road and Māmari Road; and
  - (d) extending separate pedestrian and cycling facilities along the southern side of Brigham Creek Road from the precinct to the existing intersection of Brigham Creek Road/Māmari Road and Totara Road; and
  - (e) extending a pedestrian facility along Marmari Road to the existing intersection.
150. These transport upgrade triggers were included in the revised version of the Whenuapai 3 Precinct provisions attached as Appendix 1 to the Hearing Addendum report.
151. Mr Elder concluded by advising that he had not heard any further planning evidence that would alter his position in relation to the recommendations on required transport

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<sup>15</sup> Addendum Hearing Report, page 20, paragraph 62.

<sup>16</sup> Ibid, paragraph 63.

<sup>17</sup> Ibid, paragraph 66

infrastructure and advised that if his provisions are not preferred then he maintained his position that PC 86 should be declined.

### **Right of Reply**

152. Mr Sadlier provided a written reply. He considered whether there is sufficient scope in the submissions and in the applicant's further submission to introduce new and amended Precinct provisions. The now proposed Precinct provisions introduce additional controls over activities that can be undertaken in the MHU zone in response to issues raised by submitters. These include new and amended provisions related to three waters infrastructure, transport infrastructure upgrades, reverse sensitivity, operational effects on the RNZAF Base Auckland and stormwater management. Mr Sadlier considered that the new and amended Precinct provisions either respond to a submission point or incorporate requirements outlined in the Stormwater Management Plan. He advised the applicant considered the Precinct provisions as a whole fairly and reasonably relate to matters raised in the original submissions in which all interested parties had an opportunity to participate.
153. In relation to Mana Whenua values, Mr Sadlier considered the proposed design is consistent with the approach generally anticipated to be accepted by Mana Whenua. As part of the development of PC 86, Te Kawerau a Maki and Ngāti Whātua o Kaipara provided input into the Stormwater Management Plan and the contents of the Whenuapai Structure Plan Cultural Impact Assessment were also considered. Mr Sadlier noted the site does not contain any archaeological, heritage or natural features that may be of interest to Mana Whenua and relies on existing AUP(OP) provisions such as those related to water and land disturbance to address cultural values and effects. PC 86 also received no submissions from Mana Whenua. Mr Sadlier advised the applicant is committed to continued consultation with Mana Whenua throughout the resource consent process, in particular on the Stormwater Management Plan.
154. Mr Sadlier highlighted the Council and applicant both seek to provide a safe pedestrian connection between the site and the Brigham Creek, Māmari and Totara Roads intersection. However, he advised the applicant continues to oppose additional transport infrastructure upgrade triggers which require frontage upgrades on land not owned or otherwise controlled by the applicant. This included Council's recommendation that the 45 Brigham Creek Road frontage be upgraded to include separated pedestrian and cycling facilities. The applicant considered that as there are no cyclist destinations located to the west of the site, it is likely cyclists will be residents of the PC 86 area and will be aware of the safer alternative route via Māmari Road. This temporary absence of westbound cycling facilities can also be resolved once either the 45 Brigham Creek Road site is developed, or the Brigham Creek Road corridor is upgraded. The suggestion by Mr Black that residents will always use the shortest route, even if it is unsafe was also rejected by the applicant. Mr Sadlier submitted that the Hearing Panel should prefer the applicant's expert evidence and support for the applicant's position from Waka Kotahi and Auckland Transport over the Council's recommendation.

155. He also raised concerns with the approach taken by the Council reporting officer to the Whenuapai 3 Precinct Plan in regard to transport upgrades. In a marked-up version by Council, the full length of Māmari Road to the intersection was coloured with a key describing the specific upgrades. He advised the applicant preferred to identify the specific site frontages to be upgraded and that Council's approach risks creating confusion on whether the upgrade applies beyond the site frontage. He considered trigger T2 within Table IXXX.6.61 is sufficient to capture the agreed requirement and provides flexibility surrounding the pedestrian connection.
156. Mr Sadlier advised the applicant is not opposed to having a neighbourhood park on the site in the event the adjacent land is not developed in the future. He advised this would be subject to future discussions with Auckland Council if their position is to change.
157. The introductory text to Activity Table IXXX.4 includes specific reference to height restrictions under Designation 4311 - Whenuapai Base Auckland. Mr Sadlier advised that additional wording is proposed to clarify the need to obtain NZDF written approval for any infringement into the Obstacle Limitation Surface of the designation. Mr Sadlier advised the applicant therefore does not consider any further objectives, policies, or rules in response to this matter are required.
158. In response to the presentation by Watercare at the hearing, Mr Sadlier advised an amended standard is proposed which requires water supply and wastewater infrastructure to be completed for all development prior to the release of s244 certificates and to the occupations of any dwelling. He considered this achieves an appropriate balance as it avoids delays to the consenting process and ensures the necessary infrastructure is in place prior to people residing in the area.
159. Whilst the applicant agrees that it is appropriate for the Precinct provisions to consider road connections to adjacent sites, Mr Sadlier advised they remain opposed to the indicative future local road connection points illustrated on the Whenuapai 3 Precinct Plan and to the proposal to identify the majority of non-road boundaries as such. Mr Sadlier considered the need to provide for appropriate road connections to adjacent sites is clear from the Precinct provisions which control the design and location of the transport network.
160. Mr Sadlier advised the Precinct provisions had been updated to reflect all amendments proposed by Ms Dorofaeff on behalf of Auckland Transport including changes to the Whenuapai 3 Precinct Plan. The SMAF-1 overlay has also been deleted from the plan.

## **PRINCIPAL ISSUES IN CONTENTION**

161. PC 86 seeks to rezone 5.2 hectares of land at 41 - 43 Brigham Creek Road, Whenuapai from Future Urban Zone (FUZ) to Residential Mixed Housing Urban (MHU) with a Stormwater Management Area Flow 1 control (SMAF1) applied to the site. The site is located wholly within the Rural Urban Boundary.
162. The principal issue in contention at the commencement of the hearing related to whether the proposed rezoning would accommodate urban growth in a way that

integrates with the provision of infrastructure. Many of the submitters had raised concerns that the proposal did not accord with the timeframes in the Whenuapai Structure Plan (2016) and the Council's Future Urban Land Supply Strategy (2017) and would result in out of sequence development.

163. The principal concerns raised in relation to the provision of infrastructure were:
- (i) Transport infrastructure upgrades.
  - (ii) Connections through to adjacent sites.
  - (iii) Bulk water infrastructure.
  - (iv) Provision of open space
  - (v) Stormwater and flooding effects.
164. In addition, the NZDF raised its concerns about protecting the operation of the RNZAF Base Auckland, located immediately east of the PC 86 area, from the adverse effects of reverse sensitivity from any subsequent residential development on the site.
165. Also, it is important to note here the engagement process with Mana Whenua in the preparation of the Whenuapai Structure Plan 2016 (WSP). In the absence of obtaining a Cultural Impact Assessment (CIA) report from Mana Whenua for PC 86, the request proposal referred to the CIA report prepared by Te Kawerau ā Maki for the WSP, and the incorporation of Mana Whenua matters (values and interests) therein the WSP. It is viewed by the Applicant that consistency with the WSP is consideration of Mana Whenua values, including subsequent consultation via resource consent processes. Although this position is accepted by the Panel, PC 86 will be assessed against relevant statutory considerations.

## **FINDINGS ON PRINCIPAL ISSUES IN CONTENTION**

### **Introduction**

166. The RPS is clear that growth needs to be provided for in a way that, amongst other matters, supports integrated planning of land use, infrastructure, and development. This is reflected in the urban growth and form objectives that seek the development of quality compact urban form where urbanisation is contained within the RUB.
167. Policy B2.2.2. of the RPS deals with development capacity and supply of land for urban development. More particularly policy B2.2.2.(7) deals with the rezoning of land within the RUB to accommodate urban growth. The policy is clear about all the matters that must be met. It states:

*(7) Enable rezoning of land within the Rural Urban Boundary or other land zoned future urban to accommodate urban growth in ways that do all of the following:*

*(a) support a quality compact urban form;*

*(b) provide for a range of housing types and employment choices for the area;*



*(c) integrate with the provision of infrastructure; and*

*(d) follow the structure plan guidelines as set out in Appendix 1.*

168. Additionally, with B3 Infrastructure, Transport and Energy, objective B.3.2.1(3) requires consideration towards managing adverse effects when infrastructure is enabled:

*(3) Development, operation, maintenance, and upgrading of infrastructure is enabled, while managing adverse effects on:*

*(a) the quality of the environment and, in particular, natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage and special character;*

*(b) the health and safety of communities and amenity values.*

169. The Council has developed a structure plan for Whenuapai. The WSP is a strategic document that considers the constraints and opportunities in the Whenuapai area such as land use and activities, natural environment, heritage, infrastructure requirements and transport. It provides developers, landowners and current communities with Auckland Council's intention for the development of the Future Urban zoned areas in Whenuapai. The WSP "follows the requirements of Appendix 1 of the Auckland Unitary Plan Operative in Part."<sup>18</sup>

170. The WSP anticipates that the area will provide somewhere between 8,100 to 10,700 dwellings (depending on the density of development), 8,600 jobs and over 300 hectares of new business land over the next 10 to 20 years. Development will be built out in stages as the provision of infrastructure allows and taking into account the growth identified in the whole of the northwest. The WSP identifies the PC 86 site as "medium density housing" ready for development in Stage 2. Stage 2 identifies land that is to be ready for development after 2027, as that land that requires further investment in new infrastructure beyond the next decade (2016-26). The WSP identifies a number of transport projects and roads that may be constructed or upgraded in the Whenuapai area (Appendix 4 of the WSP).

171. PC 86 proposes to rezone the site Residential MHU zone which is described in the AUP(OP) as "*a reasonably high-intensity zone ...with development typically up to three storeys in a variety of sizes and forms, including detached dwellings, terrace housing and low-rise apartments. This supports increasing the capacity and choice of housing within neighbourhoods as well as promoting walkable neighbourhoods, fostering a sense of community and increasing the vitality of centres*"<sup>19</sup>. The planning witnesses for the Applicant and the Council both agree the zoning proposed in PC 86 is largely consistent with the land use pattern set out in the WSP.

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<sup>18</sup> Whenuapai Structure Plan September 2016, page 13.

<sup>19</sup> Auckland Unitary Plan (Operative in Part), Chapter H5 Residential Mixed Housing Urban Zone, paragraph H5.1

172. Generally, there was a level of comfort amongst the parties that the proposed rezoning of the site from FUZ to MHU will achieve the matters outlined in policy B2.2.2.(7) (a), (b) and (d). The focus at the hearing was on whether the rezoning of the site proposed by PC 86 would “accommodate urban growth in ways that (c) *integrate with the provision of infrastructure*”. We discuss and outline our findings in relation to the provision of infrastructure below.

### **Transport infrastructure upgrades**

173. In addition to policy B2.2.2.(7) (c), Section B3.3 of the RPS contains the specific objectives and policies in relation to transport. Policies B.3.3.2 (4) and (5) deal specifically with the need for integration of subdivision, use and development with transport infrastructure.
174. The Applicant’s initial position was the information provided in support of PC 86 was sufficient to understand the effects of the rezoning of land sought. They disagreed with the Council, Auckland Transport and Waka Kotahi that consideration of PC 86 should be deferred until the transport land use integration issues and funding concerns raised were resolved. In the opinion of their experts, lack of funding was not a relevant resource management reason to decline PC86 nor did it render the application as inconsistent with higher level planning instruments. The Applicant’s position was that transport land use integration would be achieved at the time the land was developed through the detailed resource consent stage. Through this process the local network infrastructure upgrades to support walking, cycling and access to public transport would be provided.
175. As outlined above, following the receipt of submissions, the Applicant engaged with the relevant submitters to discuss the concerns that had been raised. In his opening submissions Mr Sadler advised the Commissioners that in terms of the required transport infrastructure upgrades a broad consensus had been reached between the Applicant, the Council, Auckland Transport and Waka Kotahi. These were reflected in the upgrade thresholds proposed in the Precinct Provisions recommended by the applicant’s planning and transport advisers. These thresholds would provide appropriate mitigation for “localised transportation effects”.
176. In summary, development may occur, provided that:
- (i) Where development (not exceeding 120 dwellings) is accessed from Brigham Creek Road:
    - Site’s Brigham Creek Road street frontage is upgraded to an urban standard including footpath, berms and separated cycle facilities;
    - A new or upgraded intersection between Brigham Creek Road and the new local road accessing Whenuapai 3 Precinct is provided; and
    - A safe active mode crossing is provided across Brigham Creek Road to enable the use of existing active mode facilities to safely access the Whenuapai Local Centre;
  - (ii) Where development (not exceeding 120 dwellings) is served from Māmari Road:

- The Site’s Māmari Street frontage is upgraded to an urban standard including footpath and berms; and
  - A safe and accessible pedestrian connection along Māmari Road to the Brigham Creek Road/Totara Road/Māmari Road intersection;
- (iii) Where development exceeds a cumulative total of 120 dwellings, that the upgrades described in (i)-(iii) above are required, and that a local road link between Brigham Creek Road and Māmari Road is provided.<sup>20</sup>
177. We note the advice of Mr Elder, in his s42A Addendum report, that it is now common practice for the Council to include wider transport upgrades as “triggers” before subdivision or development is enabled. He cites a number of recent plan change decisions where the technique has been applied. We note, in particular, PC 69 (Spedding), an adjacent area of land in the WSP area, where an application was granted to rezone some 52 hectares from FUZ to Business – Light Industry Zone, along with the introduction of new precinct provisions and inclusion of the area in SMF-1.
178. Mr Elder outlined that these triggers relate to achieving integration between land use and transport and require works to be available at the same time as development. The triggers do not specify who is to provide the upgrades – rather they confirm what upgrades/works are required for specified stages of development. Mr Elder advised in his opinion the use of triggers was consistent with the strong statutory framework in the NPS UD, RPS and the WSP. He did however seek further amendments to the provisions to deal with the issues raised by Ms Dorofaeff, Mr Black and Ms Esterman.
179. Mr Black, in addition to supporting Ms Dorofaeff’s proposed amendments to the provisions, also recommended that additional pedestrian and cycling facilities be required along the southern side of Brigham Creek Road and a pedestrian facility along Māmari Road to link the PC 86 site with the existing intersection of Brigham Creek Road/Māmari Road intersection. Ms Esterman preferred the approach taken in the original s42A report with the Whenuapai Precinct Plan 1, requiring a complete corridor with active modes facilities to ensure that a safe pedestrian connection is provided between the site and Brigham Creek Road/Māmari Road intersection. Mr Elder included these requirements in the revised provisions attached to his s42A Addendum report.
180. Ms Dorofaeff, for Auckland Transport, confirmed that subject to certain recommended amendments to the Applicant’s proposed provisions set out in her evidence she considered that consent can be granted to PC 86. She identified several corrections and amendments to the revised precinct provisions proposed by Mr Elder including highlighting the omission of the road design standards.
181. The letter received from Mr Keating, on behalf of Waka Kotahi, while expressing some reservations about out of sequence development, confirmed that from Waka

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<sup>20</sup> D Sadler, Opening Legal Submissions on behalf of the Applicant, Pages 10-11, paragraph 5.3

Kotahi perspective, the Applicant's proposed provisions would manage localised transport effects.

182. As Mr Sadlier outlined in his right of reply, the key difference between the Applicant and the Council's reporting officer is the extent of the transport infrastructure upgrades, with the Council seeking the frontage of the adjoining site at 45 Brigham Creek Road be upgraded to an arterial standard with separate pedestrian and cycling facilities. The Applicant continued to oppose the requirement as there are no cyclist destinations located to the west of PC 86 site along Brigham Creek Road and cyclists would likely be local residents and therefore familiar with safer alternative routes along Māmari Road. They also considered any gap in the provision of cycling facilities to be temporary and would be resolved with the development of the site at 45 Brigham Creek Road or as part of the proposed upgrade of Brigham Creek Road by the Supporting Growth Alliance which is currently proposed by way of designation.

### *Findings*

183. We acknowledge the constructive way the parties' planning and transport advisers have worked together to identify the necessary transport infrastructure upgrade thresholds required to provide appropriate mitigation for "localised transportation effects" arising from the development of the site.
184. We also note the advice of Mr Elder that the inclusion of wider transport upgrades as "triggers", before subdivision or development is enabled, is now a common technique in the AUP(OP) that has been adopted in the rezoning of other areas of Auckland. As he set out in the s42A Addendum report the triggers relate to achieving integration between land use and transport and require works to be available at the same time as development. The triggers confirm what upgrades/works are required for specified stages of development, not specifying who should provide them. We agree with the approach and the inclusion of the agreed transport infrastructure upgrades thresholds in the Precinct Provisions.
185. The outstanding matter relates to the extent of the transport infrastructure upgrades, along the frontage of the adjoining site at 45 Brigham Creek Road. While we recognise the benefits of the provision of a continuous upgrade of Brigham Creek Road to an arterial standard with separate pedestrian and cycling facilities we don't consider that this should be the responsibility of the Applicant and agree any gap in the provision of cycling and pedestrian facilities will be resolved with the rezoning and development of the site 45 Brigham Creek Road or as part of the proposed upgrade of Brigham Creek Road currently proposed by way of designation. We have not included this element in the precinct provisions.

### **Connections through to adjacent sites.**

186. Auckland Transport's submission sought amendments to PC 86 to include provisions to require subdivision and development of the site to provide connections through to the adjacent sites and to Brigham Creek Road, particularly for active transport modes. The basis of this concern as outlined by Ms Dorofaeff was the need

to “avoid this relatively small site from developing in an ad hoc manner that does not provide for future adjoining development.”

187. The Applicant sought to address this concern in the proposed precinct provisions attached to its further submission. Ms Dorofaeff acknowledged that the proposed provisions in part addressed Auckland Transport’s concerns regarding connections to adjacent sites but considered that some connections should be indicated in the Precinct Plan. She also suggested amendments to the Policy 6 and the related assessment criteria at IXXX.8.2(5). She noted Appendix 2 to the notified plan change showed a pedestrian thoroughfare within the site extending to the boundary with 45 Brigham Creek Road. This pedestrian throughfare was opposed by Woolworths NZ Ltd who own the site and have indicated their intention to seek a commercial development on the site. Ms Dorofaeff considered this somewhat premature noting that the site is currently zoned FUZ and identified in the WSP for medium density residential development. Given this uncertainty about the future development of 45 Brigham Creek Road in her opinion it is appropriate to future proof by requiring roads constructed within the Applicant’s site to connect to shared boundaries.
188. These amendments were supported by the Council. Mr Elder in his s42A Addendum report advised “I concur with Mr Black and Ms Dorofaeff and consider that the amendments to Policy 6 and the indicative connections on Whenuapai 3 Precinct Plan 1 are the most appropriate method to give effect to transport integration with the surrounding area”<sup>21</sup>.
189. Mr Sadlier in his right of reply advised that the Applicant agreed that it is appropriate that the Precinct Provisions provide for consideration of road connections to adjacent sites, however it opposed the proposal that indicative future local road connection points be illustrated on the Whenuapai 3 Precinct Plan. The Applicant considered that the need to provide appropriate road connections to neighbouring sites is appropriately clear from objective 7(c), policy 5 and the matters of discretion in Rule IXXX.8.1(1)(c)(i) and assessment criteria in Rule IXXX.8.2(5)(c).

### *Findings*

190. The Applicant, the Council and Auckland Transport agreed that the provisions of PC 86 should require subdivision and development of the site to provide connections through to the adjacent sites and to Brigham Creek Road. Agreement was also reached on the proposed wording in the Precinct Provisions. The only matter not resolved was whether the indicative future local road connection points should be illustrated on the Whenuapai 3 Precinct Plan.
191. We agree with Ms Dorofaeff that some connections should be indicated on the Precinct Plan in the manner proposed in the attachment to her EIC. We are concerned the somewhat ad hoc manner in which the rezoning of Whenuapai is occurring and therefore consider it important that as these relatively smaller areas are rezoned and developed that potential connectivity is provided with future likely

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<sup>21</sup> Addendum Hearing Report, Page 18, paragraph 54

adjoining development. These amendments were also supported by the Council's planner and transport consultant. We have amended the Precinct Plan accordingly.

**Bulk water infrastructure.**

192. Watercare's submissions raised concerns about wastewater servicing for the proposed site. The original solution proposed by the Applicant was not supported by Watercare due to operational risk and inadequate sizing of the proposed pump station. They advised it was not feasible to connect the PC86 site to Watercare's wastewater network until the Slaughterhouse pump station is operational (anticipated late 2025).
193. At the hearing we were advised that this matter was addressed in the proposed precinct provisions. Under the proposed provisions, no development would occur unless it could be connected to the public reticulated water and wastewater infrastructure.
194. Watercare's specialists advised they considered the proposed solution of requiring bulk water supply and wastewater infrastructure to be available before residential development occurs as technically feasible. Ms Hunter however set out a number of revisions to the proposed precinct provisions required to more appropriately address water supply and wastewater servicing. These changes were set out in Ms Hunter's EIC and supported by the Applicant's and Council's planners.
195. Ms Hunter went on to address the further amendments proposed to the provisions by Ms Rivai in her rebuttal evidence. Ms Rivai's amendments were aimed at allowing works to commence on the site while ensuring that titles could not be issued, and dwellings occupied until the bulk infrastructure had been completed and commissioned.
196. Ms Hunter outlined her concerns with the proposed amendments which she considered introduced confusion and uncertainty to the standards. In her opinion the inclusion to the standard of the term "giving effect to" rather than the clearly defined process of "completion and commissioning" bulk water supply and wastewater infrastructure" made the standards and that the approach potentially unworkable. She also did not support the amended wording proposed in the s42A Addendum reports.
197. In response to the evidence from Ms Hunter, the Applicant proposed an amended standard which links the issue of section 224(c) and/or occupation of dwellings to the completion and commissioning of bulk infrastructure. The Applicant considers the proposed amendments to the standard provides an appropriate balance, as it enables the consenting process to get underway contemporaneously with the Watercare's provision of the necessary bulk infrastructure.

*Findings*

198. There was general agreement between Ms Rivai, Mr Elder and Ms Hunter regarding the proposed approach to be taken in the proposed precinct provisions to water and wastewater infrastructure. We have reviewed the proposed provisions and revisions

provided by the three planning witnesses. There is general agreement that the amendments proposed by Ms Hunter should be included in the draft provisions.

199. The outstanding issue related to the subsequent amendments proposed by Ms Rivai in her rebuttal evidence. We share the concerns set out by Ms Hunter to these proposed amendments and agree that the wording introduces uncertainty and confusion in the provisions.
200. In response to Ms Hunter's concerns the Applicant has proposed alternative amendments to the bulk water and wastewater infrastructure standard to avoid the tension between the standard, and the "deeming" provision that follows. They also have removed the uncertainty associated with concept of "giving effect to" a consent.
201. We agree with the amendments proposed by Ms Hunter and the inclusion of the revised amendments proposed by the applicant in Mr Sadlier's submissions in reply that would allow the consenting process to get underway contemporaneously with the Watercare's provision of the necessary bulk infrastructure.

### **Provision of open space**

202. Several of the submissions raised concerns with PC 86 which in their opinion had failed to consider the open space requirements and wellbeing of the future residents of the area. These concerns related to the lack of open space areas within the proposed development, the high level of impermeable surface allowed, along with the lack of easily accessible open space within the vicinity of the site.
203. We note the advice of Mr Kinnoch on behalf of the Council's Parks Department that it is not feasible to require every plan change to include open space, and this can result in an inefficient use of land. He advised that the Council's open space assessment for the wider area has identified the need for a new neighbourhood park in the wider area. The preferred site for this park was on the land immediately adjacent to the southwest of PC 86
204. The evidence before us indicates that the open space needs of the new residents of the PC 86 site will be adequately catered for having access to the existing Whenuapai Town Park, which is within a 600m walk distance from the site and the Tamiro Road recreation reserve to the north. The specialist assessment from Mr Barwell advising that if further plan changes suggest a need for a neighbourhood park in this area, the Open Space Provision Policy 2016 metrics would support locating it to the west of the plan change site<sup>22</sup>.

### *Findings*

205. We share the concerns raised by several of the submitters about the lack of provision of open space areas to serve the future residents of the PC 86 site. This concern stems in part from what appears to be a series of somewhat incremental private plan change requests occurring in the Whenuapai area at this time.

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<sup>22</sup> D Kinnoch, Parks Planning Memo dated 23 June 2023, S42A Report, page 138

206. We note that Council's Open Space Provision Policy has a target for neighbourhood parks to be within a 400 m walk in high and medium density residential areas. This target is not reached for some parts of the proposed plan change area.
207. We have considered Mr Kinnoch's assessment and answers to our questions about the provision of public open space within the wider Whenuapai area. We also acknowledge his advice that in the event the adjacent land is not developed for a neighbourhood park, the Council could decide at some future date to identify and acquire other land in the area and establish the park through a resource consent application. We consider this approach somewhat unsatisfactory due to the uncertainty regarding future provision of parks to satisfy Council's Open Space Provision Policy as we see it in relation to the proposed plan change., We find, however that we have no basis to require that PC 86 identify an area of open space.
208. We would however recommend that a review of the Council's Open Space Provision Policy (2016) be undertaken. Since 2016 when the policy was adopted several new national policy changes have been enacted including the NPS UD. The NPS UD is seeking well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future as well as seeking the Council enables further residential intensification. The NPS UD seeks that the Council's decisions on urban development that affect urban environments are integrated with infrastructure planning and funding decisions. Public open space forms part of the additional infrastructure that the Council must be satisfied is available to service the development capacity.

### **Stormwater and flooding effects**

209. As we have detailed above, the initial s42A Report (June 2023) recommended that the PC 86 be approved with the amended Whenuapai 3 Precinct provisions applied to the site. The Council's technical reviews of the PC 86 application material and the submissions received raised a number of potential conflicts with the AUP RPS. Key issues at that time were the transport effects arising from the development of the site and the provision of the necessary transport and wastewater infrastructure to support enabled growth arising from rezoning the site Residential MHU. The Council's technical specialists were confident that many of the issues raised could be addressed through the inclusion of the recommended Whenuapai 3 Precinct provisions and existing AUP provisions.
210. These recommended precinct provisions included standards to manage stormwater to ensure discharges are of a quality that meets the requirements of the NPSFM and AUP RPS. Ms Tang's technical assessment identified a lack of public stormwater devices on Māmari Road and consequently recommended the development in Māmari Road should be staged to occur at the time of the construction of this road. This position was also adopted by Mr Elder who considered it is important that flood risk is managed and doesn't compromise the future intensification of neighbouring land. Further assessment was sought from the applicant on the flood impacts on 5 Māmari Road.



211. The Applicant responded by proposing some amendments to the Council's proposed stormwater management precinct provisions. Ms Tsang and Mr Curtis reviewed the amendments to the proposed stormwater provisions and were generally supportive of the proposed amendments. They were concerned, however, that no further assessment was provided to quantify the effects on 5 Māmari Road. They wanted to ensure the flooding effects of any future developments enabled by PC 86 were identified and that any potential flooding and stormwater runoff effects would be avoided or mitigated. Without this assessment they do not support PC 86 from a stormwater and flooding perspective. Consequently, Mr Elder recommended PC 86 be declined due to the unresolved issues related to stormwater and flooding.
212. At the hearing we received further information from Mr Moore. He outlined the ongoing discussion the Applicant's stormwater specialists have had with Council's Health Waters Group on the stormwater management strategy for PC 86 and the resource consent application (BUN60386985) including the diversion of stormwater runoff away from 5 Māmari Road. He advised that the current proposal retains the natural discharge of stormwater as much as possible and minimizes post development flows. There are minor increases/decreases in post-development flows in comparison to existing scenario which would be negligible. The stormwater design for the 100-yr and 10-yr (including SMAF retention and detention) is based on the Council accepted TP108 Guidelines for stormwater run-off modelling in the Auckland Region. The rainfall intensity used for the calculations also allow for future climate change. Overall, the 10-yr post-development flows onto 5 Māmari will decrease from the pre-development scenario and should be considered a positive outcome.
213. Verbal advice provided to us by Mr Curtis on behalf of Heathy Waters at the hearing advised that the stormwater discharges would be managed to their satisfaction including flood effects through the Stormwater Management Plan including refinement as necessary through the Council's Network Discharge consent process at the resource stage. Mr Curtis also advised that engagement with Mana Whenua is a practice of Healthy Waters, therefore any concerns, or consideration of values, would be identified.

### *Findings*

214. We are satisfied, having received the additional evidence from Mr Moore and from Healthy Waters, that the high-level stormwater management design strategy developed and agreed with Healthy Waters for PC 86 site will minimise the 10-yr and 100-yr flows, with the impact on 5 Māmari Rd will be minor. We also note his advice that further amendment of the design can be investigated as part of the resource consent assessment to further reduce peak flows discharging into 5 Māmari Road, including the possibility of upsizing the SMAF tanks for retention and detention which will provide additional storage.

### **RNZAF Base Auckland**

215. NZDF's submission outlined that Base Auckland at Whenuapai is a significant Defence facility of strategic importance regionally, nationally and internationally. The Base is located approximately 550 meters to the northeast of the PC 86 site.

Ensuring that this facility can continue to operate to meet Defence obligations under the Defence Act 1990 is critical. The aircraft approach to the Airbase's longest runway, which runs from northeast to southwest, is from the south of the PC 86 site. This approach is identified and managed in the AUP through Designation 4311.

216. While NZDF recognises the need to provide additional housing in Auckland, it considers it must be appropriately located and designed in relation to established infrastructure. The NZDF submission raised concerns about the lack of provisions in PC 86 to protect the Base from the reverse sensitivity effects arising from incompatible subdivision, use and development. The submission highlighting this was contrary to key AUP RPS Objectives and Policies. The submission also sought the introduction of non-complaint covenants to be applied to all new land titles created within the PC 86 area along with provisions to avoid or mitigate potential bird strike, avoid or minimise lighting and glare that might distract pilots and to avoid road layouts that might mimic the Base runway.
217. Mr Elder in his section 42A report agreed that it was important that the Defence Base be protected from reverse sensitivity caused by incompatible subdivision, use and development. He considered that noise effects can be managed through the provisions in Chapter 24.D of the AUP (OP) and did not agree that the provisions of PC 86 should be amended to include a noise complaint covenant. As he rightly pointed out such a covenant could not be managed by the Council, rather these are an agreement between the landowner and the NZDF.
218. In response to the NZDF submission the Applicant has worked with NZDF to include provisions within the Precinct Provisions to satisfy the concerns raised regarding reverse sensitivity effects and the potential operational safety effects on Base Auckland. We note that while Mr Elder makes no specific reference to the Applicant's inclusion of these provisions in the s42A Addendum report, he has included these provisions largely unaltered in Appendix 1 Section 42A Addendum recommendation, including the introduction of non-complaint covenants.
219. Mr Owen, on behalf of NZDF, was supportive of the applicant's provisions, although he requested that the Precinct Provisions include a specific reference to the need to obtain NZDF written approval to any penetration, including by temporary structures and construction equipment (i.e., cranes) of the Obstacle Limitation Surface contained within the designation for Whenuapai Base, Auckland.
220. The Applicant in response to Mr Owen's request advised a specific reference would be included to the height restrictions applying under Designation 4311 in the introductory text to the Activity Table IXXX.4. The Proposed Precinct provisions include some wording additions to provide further clarify regarding the need to obtain written approval in the event of any infringement, including by temporary structures or construction equipment. Given this is a statement of the existing legal position, the Applicant did not consider any further provision within the objectives, policies or rules are required.
221. While the Council initially raised concerns particularly around the no complaint covenant provisions, we note that Mr Elder has largely included the proposed

provisions agreed between the Applicant and NZDF in the recommended precinct provisions included in his S42A Addendum report.

*Finding*

222. We acknowledge the strategic importance of Base Auckland at Whenuapai and consider it is critical that this facility can continue to operate to meet New Zealand's defence obligations under the Defence Act 1990. The Applicant has worked with NZDF to agree a set of precinct provisions to address concerns regarding the potential reverse sensitivity effects for the Base Auckland arising from urban development within its proximity as well as the more direct adverse effects that development may have on the efficient operation of Base Auckland. The proposed precinct provisions deal not only with the reverse sensitivity effects but also with the design of stormwater management devices, lighting, temporary activities and construction. The provisions also include a reminder to those undertaking development within the precinct of the requirements of Designation 4311. Therefore, we find that PC 86 should be amended to include the proposed precinct provisions agreed between the applicant and the NZDF.

**Whenuapai Precinct Provisions**

223. There were questions posed to the Applicant at the commencement of the hearing in relation to whether there was sufficient scope within the submissions received to enable the Commissioners to introduce the Whenuapai 3 Precinct Provisions, noting these provisions had not formed part of PC 86 as notified. Commissioners also queried whether the Applicant's further submission, that included a proposed set of precinct provisions had introduced "new information" (i.e., gone beyond the scope of a further submission).
224. Mr Sadlier outlined that the Applicant's further submission, including their full or partial support or opposition to relief sought by original submitters, is clear. The Applicant chose for purposes of transparency (with all submitters) to refer to draft Precinct Provisions. The inclusion of Precinct Provisions had previously been considered by the applicant but not included in PC 86 as notified. All aspects of the now proposed Precinct Provisions fairly and reasonably relate to matters raised in the original submissions. We heard no evidence from any of the parties to the contrary and note the advice of Ms Dorofaeff that Auckland Transport's submission had specifically sought the introduction of precinct provision to the site.

*Finding*

225. Having worked our way through the evidence and the submissions received we are satisfied that there is indeed sufficient scope within the submissions received to enable the introduction of the Whenuapai 3 Precinct Provisions and are satisfied that Applicant's further submission did not introduce new information.

**RELEVANT STATUTORY PROVISIONS**

226. The RMA sets out the mandatory requirements for the preparation and processing of a proposed plan change. We are satisfied that PC 86 has been developed in

accordance with the relevant statutory and policy matters, including consideration of the submissions received to PC 86. This assessment is set out in detail in the plan change application and accompanying s32A report, and the Council's s42A report (including the S42A Addendum, dated 24 October 2023). The following section summarises this statutory and policy framework.

227. The relevant statutory and regulatory framework for PC 86 include the:

- Resource Management Act 1991 (RMA).
- National Policy Statement Urban Development 2020 (Updated May 2022) (NPS UD).
- National Policy for Freshwater Management 2020 (NPS FM).
- Resource Management (Enabling Housing Supply and Other Matters) Amendments Act 2021.
- National Environmental Standard for Freshwater Management 2020 (NES FM).
- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS)
- Auckland Unitary Plan (Operative in Part) (AUP(OP)) including Chapter B Regional Policy Statement
- Auckland Plan 2050,
- Future Urban Land Supply Strategy 2017,
- Whenuapai Structure Plan 2016,
- Supporting Growth Programme (Te Tupu Ngātahi Supporting Growth)
- Upper Harbour Local Board Plan 2020,
- Upper-Harbour Greenways Plan 2019.

228. The Application report<sup>23</sup> provides an assessment of the principal statutory and strategic documents that were considered in the development of the plan change. The Council's reporting planner reviewed this assessment in the S42A report and raised some particular concerns with the assessment. Ms Rivai addressed these in her EIC which Mr Elder's subsequently reviewed in his S42A Addendum report.

229. The Applicant and the Council differing positions on whether PC 86 was consistent with the NPS UD and NPS FM came back to the principal issue of whether the proposed rezoning would accommodate urban growth in a way that integrates with

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<sup>23</sup> The Property Group, Application for Private Plan Change, 41-43 Brigham Creek JV November 2021 (Updated August 2022)

the provision of infrastructure. By the conclusion of the hearing, apart from the issue related to treatment of the frontage of 45 Brigham Creek Road, there was a high degree of agreement between the parties on the proposed infrastructure “triggers” to be included in the precinct provisions. With the modifications to the proposed precinct provisions, we are satisfied that PC 86 is consistent with the NPS UD, NPS FW and the RPS.

230. In relation to the NES FM and the NES CS these standards will be applied at the resource consent/development stage of the development, and we agree with the reporting planner that there is nothing in PC 86 provisions which is in conflict with either NES.
231. As we noted earlier in this decision, the RMA sets out a range of matters that must be addressed when considering a plan change. We confirm that we have addressed those matters.
232. 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. Having reviewed the s32 evaluation undertaken by the Applicant we accept that as sufficient for the notified PC 86.
233. Section 32AA RMA requires the undertaking of a further evaluation on any changes proposed subsequent to the original s32 evaluation, in such detail as corresponds to the scale and significance of those proposed changes, and sufficient to demonstrate that such has been undertaken as required.
234. Since the development of the underpinning Section 32 Evaluation Report and the lodgement of the application, a series of amendments have been suggested to the proposed plan change provisions to address the matters raised by submitters. These changes have been assessed in the s42A report and by Ms Rivai in her EIC. We consider these assessments address the requirements of s32AA.
235. Having considered the relevant background documents, we are satisfied, overall, that PC 86 has been developed in accordance with the relevant statutory and planning policy requirements and will assist the Council in its effective administration of the AUP(OP).

## **CONCLUSIONS**

236. The Commissioners have considered the private plan change request, the accompanying s32 evaluation report, the submissions received, the s42A hearing report (including the Addendum, October 2023), the evidence presented at the hearing and the response to questions.
237. The principal issue in contention at the commencement of the hearing related to whether the proposed rezoning would accommodate urban growth in a way that integrates with the provision of infrastructure. Of particular concern were the transport upgrades, bulk water infrastructure along with the management of stormwater.

238. We are satisfied that PC 86 is consistent with the statutory framework including the National Policy Statement for Urban Development and the Auckland Regional Policy Statement and will assist the Council in achieving the purpose of the Act.
239. Therefore, we find that proposed PC 86 to rezone 5.2 hectares of land at 41-43 Brigham Creek Road, Whenuapai from Future Urban Zone (FUZ) to Residential Mixed Housing Urban (MHU) with the application of the Stormwater Management Area Flow 1 control (SMAF1) should be adopted with the inclusion of the Whenuapai 3 Precinct provisions being applied to the site.

## DECISION

240. That pursuant to Schedule 1, Clause 10 of the Resource Management Act 1991, Proposed Plan Change 86 to the Auckland Unitary Plan (Operative in Part) to rezone 5.2 hectares of land at 41-43 Brigham Creek Road, Whenuapai from Future Urban Zone (FUZ) to Residential Mixed Housing Urban (MHU) with the application of the Stormwater Management Area Flow 1 control (SMAF1) and the inclusion of the Whenuapai 3 Precinct provisions to the site be **APPROVED**, subject to the modifications as set out in this decision.
241. The reasons for the decision are that PC 86, as notified and amended in response to the matters raised in submissions received will:
- a. will assist the council in achieving the purpose of the RMA,
  - b. give effect to the National Policy Statement on Urban Development 2020, in particular objectives 1, 2, 3 and 6 and policies 1(c), 2, 6 and 8..
  - c. give effect to the National Policy Statement Freshwater Management, in particular Objective 1 in ensuring that natural and physical resources are managed in a way that prioritises the health and well-being of water bodies; the health needs of people; and the ability of people and communities to provide for their social, economic and cultural well-being, now and in the future.
  - d. is consistent with Auckland Unitary Plan Regional Policy Statement, regional, and district plan level objectives and policies.
  - e. is consistent with the provisions of Part 2 of the RMA;
  - f. is consistent with the Auckland Plan and the Whenuapai Structure Plan (2016).
  - g. is supported by necessary evaluation in accordance with section 32; and Section 32AA, and
  - h. help with the effective implementation of the plan.

242. Submissions on the plan change are accepted and rejected in accordance with this decision. In general, the decision follows the recommendations set out in the Council's hearing report, response to commissioners' questions and expert evidence, except as identified above in our findings in relation to the matters in contention.

**AMENDMENTS TO THE DISTRICT PLAN**

243. That the Auckland Unitary Plan (Operative in Part) be amended in accordance with Attachments 1 and 2 appended to this decision, Plan Change 86 – 41-43 Bringham Creek Road, Whenuapai.

		
<b>Janine A. Bell Independent Commissioner (Chair)</b>	<b>Nigel Mark Brown Independent Commissioner</b>	<b>James Whetu Independent Commissioner</b>

**30 April 2024**

# ATTACHMENT 1 - AMENDMENTS TO THE AUCKLAND UNITARY PLAN (OPERATIVE IN PART) - Amendments to the Planning Maps

## 1. Amendments to the Zoning Map

Rezone 41-43 Brigham Creek Road, Whenuapai (comprising 5.2 hectares of land) from Future Urban Zone (FUZ) to Residential Mixed Housing Urban (MHU).



## 2. Amendments to the Precinct Overlay Map

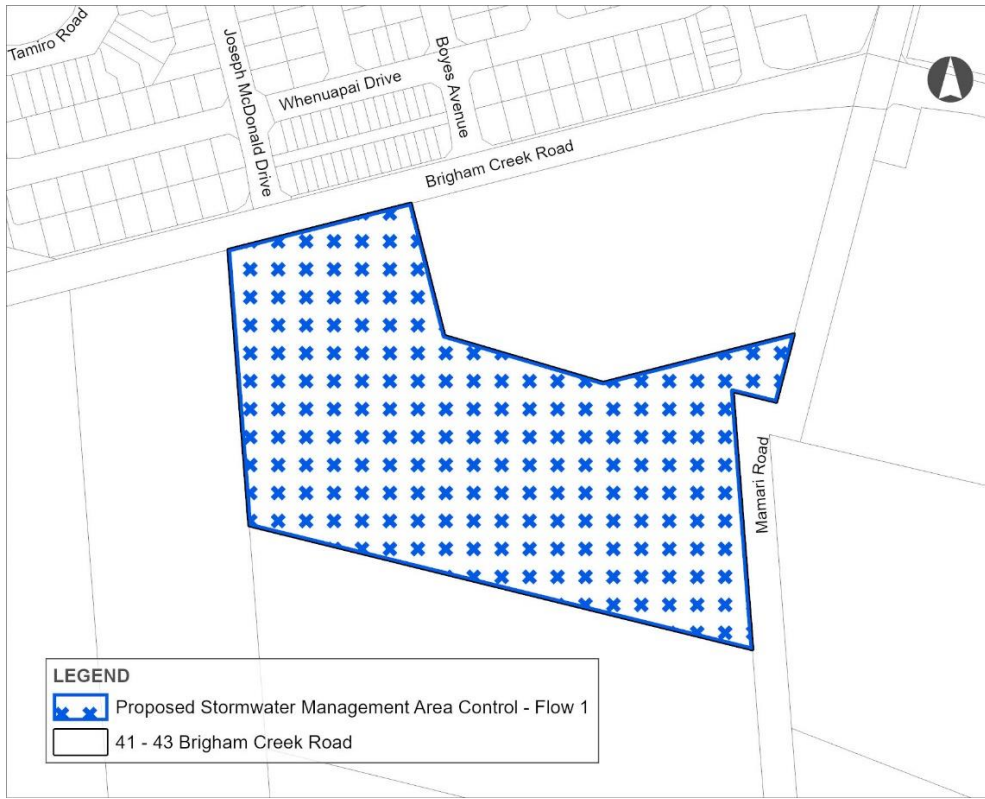
To identify 41-43 Brigham Creek Road, Whenuapai as Whenuapai 3 Precinct.





**3. Amendments to the Controls Overlay Map**

To identify 41-43 Brigham Creek Road, Whenuapai as Stormwater Management Area Flow Control – Flow 1.



**ATTACHMENT 2 - AMENDMENTS TO THE AUCKLAND UNITARY PLAN (OPERATIVE  
IN PART) - Amendments to the Text**

**Amend Chapter I Precincts, by inserting in the West section IXXX.X Whenuapai 3  
Precinct.**

## **IXXX Whenuapai 3 Precinct**

### **IXXX.1. Precinct Description**

The Whenuapai 3 Precinct applies to 5.2 hectares of land in Whenuapai. Development in the Whenuapai 3 Precinct will enable an increase in housing capacity through the efficient use of land and infrastructure.

The purpose of the precinct is for the area to be developed as a liveable, compact and accessible community with high quality residential development, while taking into account the natural environment and the proximity and operation of the Royal New Zealand Air Force (RNZAF) Base Auckland, including activities conducted from it.

Development of this precinct is directed by the zoning map, the Stormwater Management Area Flow Control – Flow 1 map, and the Whenuapai 3 Precinct Plan 1.

Whenuapai 3 Precinct Plan 1 shows the transport infrastructure requirements required to enable the development within the Precinct. Subdivision and development is restricted until the land within Whenuapai 3 Precinct is able to be:

- Connected to bulk water supply and wastewater infrastructure; and
- Provided with transportation infrastructure listed in Table IXXX.6.6.1 Transportation infrastructure upgrade thresholds are built to provide for a well-functioning urban environment.

#### *Reverse Sensitivity Effects on Royal New Zealand Air Force (RNZAF) Base Auckland*

The (RNZAF) Base Auckland is located east of the Whenuapai 3 Precinct boundary. While the physical infrastructure of the RNZAF Base Auckland is outside of the precinct boundary it contributes to the precinct's existing environment and character. The airbase is a defence facility of regional, and strategic importance. Operations at the airbase include maritime patrol, search and rescue, and transport of personnel and equipment within New Zealand and on overseas deployments.

Most of the flying activity conducted from the RNZAF Base Auckland is for training purposes and includes night flying and repetitive activity. The Precinct manages development to ensure safety risks and reverse sensitivity effects on the operation and activities of the airbase are avoided, remedied or mitigated. All subdivision, use and development within the Precinct will need to occur in a way that does not adversely affect the ongoing operation of the RNZAF Base Auckland and in a way that is consistent with the Regional Policy Statement in regard to recognising the functional and operational needs of infrastructure, and protecting it from reverse sensitivity effects caused by incompatible subdivision, use and development.

The zoning of land within this precinct is Residential – Mixed Housing Urban zone with a Stormwater Management Area Flow 1 (SMAF1) overlay.

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

#### **IXXX.2. Objectives [rcp/rp/dp]**

- (1) Whenuapai 3 Precinct is developed in a comprehensive and integrated way to facilitate the development of a residential area.

##### *Three Waters Infrastructure*

- (2) Establish all the infrastructure necessary (including water supply, wastewater, and stormwater infrastructure) to service development within the Precinct in a coordinated and timely way.
- (3) Subdivision and development shall be coordinated with the provision of bulk water supply and wastewater infrastructure in a manner that avoids adverse effects on the environment.
- (4) Stormwater quality and quantity is managed to maintain the health and well-being of the receiving environment and is enhanced over time in degraded areas.
- (5) Stormwater devices avoid, as far as practicable, or otherwise minimise or mitigate adverse effects on the receiving environment, and the attraction of birds that could become a hazard to aircraft operations at the RNZAF Base Auckland.

##### *Transport Infrastructure*

- (6) Subdivision and development provides for the safe and efficient operation of the current and future transport network for all modes.
- (7) Transport infrastructure that is required to service subdivision and development within the Precinct:
  - (a) Provides for safe walking and cycling connections within the Precinct and to the Whenuapai Local Centre;
  - (b) Supports the planned upgrades to Brigham Creek Road and Māmari Road;
  - (c) Mitigates transport effects on the surrounding road network; and
  - (d) Provides connectivity to future subdivision and development of adjacent sites.
- (8) Subdivision and development does not occur in advance of the availability of operational transport infrastructure.

*Activities sensitive to noise adjacent to existing and future arterial road corridors*

- (9) Activities sensitive to noise adjacent to existing or proposed arterial roads are designed to protect people's health and residential amenity while they are indoors.

*Effects on Royal New Zealand Air Force (RNZAF) Base Auckland*

- (10) The effects of subdivision, use and development on the operation and activities of RNZAF Base Auckland are avoided, as far as practicable or otherwise remedied or mitigated.

**IXXX.3. Policies [rcp/rp/dp]**

- (1) Whenuapai 3 Precinct is developed in general accordance with IXXX.10.1 Whenuapai 3 Precinct Plan 1
- (2) Avoid subdivision and development that does not align with the timing of the provision of bulk water supply and wastewater infrastructure.

*Stormwater Management*

- (3) Require subdivision and development to be consistent with any approved stormwater management plan including by, in particular:
  - (a) Requiring management of runoff from all impervious surfaces to minimise effects on water quality and protect the health of the receiving environment;
  - (b) Promoting a treatment train approach to achieve water quality and hydrology mitigation;
  - (c) Requiring appropriate design and location of all stormwater outfalls;
  - (d) Requiring that the timing of subdivision and development shall align with the provision of stormwater infrastructure to mitigate downstream flood effects; and
  - (e) Requiring stormwater management outcomes and devices of the site shall be planned, designed and implemented to avoid attracting birds in order to mitigate the potential for bird strike to impact safety and flight operations at the RNZAF Base Auckland.

*Transport infrastructure*

- (4) Require subdivision and development to provide the transport infrastructure identified on Whenuapai 3 Precinct Plan 1 and in accordance with Table IXXX.6.6.1 and Appendix 1.
- (5) Ensure that subdivision and development provide for future road connections to adjoining sites as shown in Whenuapai 3 Precinct Plan 1.
- (6) Avoid subdivision and development occurring in advance of the availability of operational transport infrastructure as identified on Whenuapai 3 Precinct Plan 1 and in Table IXXX.6.6.1 and Appendix 1.

## *Effects on Royal New Zealand Air Force (RNZAF) Base Auckland*

- (7) Require subdivision, use and development within the Whenuapai 3 Precinct to avoid, remedy or mitigate any adverse effects, including reverse sensitivity effects and safety risks relating to bird strike, lighting, glare and reflection, on the operation and activities of RNZAF Base Auckland.
- (8) Require the design of roads and their associated lighting to be clearly differentiated from runway lights at RNZAF Base Auckland to provide for the ongoing safe operation of the airbase.

### *Activities sensitive to noise adjacent to existing and future arterial road corridors*

- (9) Ensure that activities sensitive to noise adjacent to existing and future arterial roads are designed with acoustic attenuation measures to protect people's health and residential amenity while they are indoors.

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

### ***IXXX.4. Activity table [rcp/rp/dp]***

All relevant overlay, Auckland-wide and zone activity tables apply unless the activity is listed in Activity Table IXXX1.4.1 below.

A blank in the activity status column means that the activity status in the relevant Auckland-wide or zone provision applies in addition to any standards listed.

In addition to the provisions of IXXX.4 Whenuapai 3 Precinct, reference should also be had to the planning maps (GIS Viewer) which shows the extent of all designations, overlays and controls applying to land within the Whenuapai 3 Precinct. These may apply additional restrictions.

Development in the precinct, including the use of temporary structures and construction equipment, may be subject to height restrictions under Designation 4311. Prior written approval from the Minister of Defence will be required for infringement of any such height restrictions. Reference should also be made to RNZAF Base Auckland Designation 4310 including the Aircraft Noise provisions of Condition 1 and associated RNZAF Base Auckland Noise maps.

Table IXXX.4.1 specifies the activity status of land use and subdivision activities in the Whenuapai 3 Precinct pursuant to sections 9(3) and section 11 of the Resource Management Act 1991.

**Table IXXX.4.1 Activity table**

<b>Activity</b>		<b>Activity status</b>
<b>Use and Development</b>		
(A1)	Activities listed as permitted or restricted discretionary activities in Table H5.4.1 Activity Table in the Residential – Mixed Housing Urban Zone	
(A2)	Use and development that does not comply with Standard IXXX.6.1 Wastewater Infrastructure and/or IXXX.6.6 Transport Infrastructure requirements	NC
(A3)	Development that does not comply with Standard IXXX.6.7 Road Design, IXXX.6.8 Vehicle Access Restriction, and / or IXXX.6.9 Activities sensitive to noise within 50m of an existing or future arterial road	RD
<b>Subdivision</b>		
(A4)	Subdivision listed in Chapter E38 Subdivision	
(A5)	Subdivision that does not comply with Standard IXXX.6.1 Wastewater Infrastructure and/or IXXX.6.6 Transport Infrastructure requirements	NC
(A6)	Subdivision that does not comply with Standard IXXX.6.7 Road Design, IXXX.6.8 Vehicle Access Restriction, and / or IXXX.6.9 Activities sensitive to noise within 50m of an existing or future arterial road	RD

**IXXX.5 Notification**

- (1) Any application for resource consent for an activity listed in Activity Table IXXX.4.1 above will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.
- (2) When deciding who is an affected person in relation to any activity for the purpose of section 95E of the Resource Management Act 1991, the Council will give specific consideration to:
  - a. those persons listed in Rule C1.13(4); and
  - b. The New Zealand Defence Force in relation to any proposal that does not comply with:
    - i. IXXX.6.2(3) Dry detention basins or stormwater ponds;
    - ii. IXXX.6.2(4) Bird strike;
    - iii. IXXX.6.3 Lighting;
    - iv. IXXX.6.4 Temporary activities and construction; or
    - v. IXXX.6.5 Noise.

**IXXX.6 Standards**

All relevant overlay, Auckland-wide and zone standards apply to the activities listed in Activity Table IXXX.4.1 unless otherwise specified below. All activities listed in Activity Table IXXX.4.1 must also comply with Standards IXXX.6 and with IXXX.9 Special Information Requirements.

Where there is any conflict or difference between standards in this Precinct and the Auckland-wide and zone standards, the standards in this Precinct will apply.

Unless captured in Activity Table IXXX.4.1 above, any infringement of standards will be a restricted discretionary activity pursuant to Clause C1.9(2).

#### **IXXX.6.1. Wastewater Infrastructure**

Purpose:

- To ensure bulk water supply and wastewater infrastructure with sufficient capacity is available to support development within the Precinct.
- (1) Bulk water supply and wastewater infrastructure required for wastewater servicing of all development within the Precinct must be completed and commissioned:
- (a) In the case of subdivision, prior to release of Resource Management Act 1991 section 224 certificate for any residential lots; and
  - (b) In the case of land use only, prior to the occupation of any dwelling(s) or residential activities.

#### **IXXX.6.2. Stormwater Infrastructure**

Purpose:

- To ensure that there is sufficient stormwater infrastructure capacity in place at the time of development and that flooding risks within the precinct and further downstream are not exacerbated by development within the Precinct.
- (1) Stormwater infrastructure:
- (a) Discharge of stormwater runoff from subdivision and development cannot occur until the necessary stormwater infrastructure is in place or until appropriate mitigation exists to mitigate downstream flood effects.
- (2) Water quality
- (a) Stormwater runoff from all impervious areas other than roofs and pervious pavers must be either:
    - i. treated at-source by a stormwater management device or system that is sized and designed in accordance with 'Guidance Document 2017/001 Stormwater Management Devices in the Auckland Region (GD01)' or 'Stormwater treatment Devices Design Guideline Manual (TP10)'; or



- ii. treated by a communal stormwater management device or system that is sized and designed in accordance with 'Guidance Document 2017/001 Stormwater Management Devices in the Auckland Region (GD01)' that is designed and authorised to accommodate and treat stormwater from the site.

- (b) Roofs must be constructed of inert building materials. and directed to with runoff directed to a tank sized for the minimum of 5mm retention volume for non-potable reuse within the property.

(3) Dry detention based on stormwater ponds

- (a) In the event that dry detention basin or stormwater ponds are proposed, these shall be designed by a suitable qualified and experienced person to:

- i. Minimise bird settling or roosting (including planting with species unlikely to be attractive to large and/or flocking bird species); and
- ii. Full drain down within 48 hours of a 2 per cent Annual Exceedance Probability (AEP) storm event; and
- iii. Have side slopes at least as steep as 1 vertical to 4 horizontal (1:4) except for:
  1. Any side slope treated rock armouring; or
  2. Any area required for vehicle access, provided that such vehicle access has a gradient of at least 1 vertical to 8 horizontal (1:8).

(4) Bird strike

- (a) Roofs must have a minimum gradient of 15 degrees to minimise the potential for birds to nest or roost; or
- (b) If roof gradients are less than 15 degrees, netting and/or spikes are required to discourage bird roosting on the roof of the structure.

**IXXX.6.3. Lighting**

Purpose:

- To manage reverse sensitivity effects on the RNZAF Base Auckland
- To avoid or minimise lighting issues for aircraft descending to land at the RNZAF Base Auckland.

- (1) Any subdivision and development must avoid effects of lighting on the safe and efficient operation of RNZAF Base Auckland, to the extent that lighting:

- (a) Avoids simulating approach and departure path runway lighting;

- (b) Ensures that clear visibility of approach and departure path runway lighting is maintained; and
  - (c) Avoids glare or light spill that could affect aircraft operations.
- (2) The reflectivity (specular reflectance) of any new building shall not exceed 20% of white light or shall not otherwise cause glare that results in safety issues for the RNZAF Base Auckland.
- (3) No person may illuminate or display the following outdoor lighting between 11:00pm and 6:30am:
- (a) searchlights; or
  - (b) outside illumination of any structure or feature by floodlight that shines above the horizontal plane.

#### **IXXX.6.4. Temporary activities and construction**

Purpose:

- to avoid safety and operation risk effects on the RNZAF Base Auckland.
- (1) Any application for subdivision and development that requires the use of a temporary structure or construction equipment being erected must inform the RNZAF Base Auckland of:
- (a) The nature of the works;
  - (b) The structure or construction equipment being erected; and
  - (c) Duration of the works.

#### **IXXX.6.5 Noise**

Purpose:

- To ensure that potential reverse sensitivity effects of noise from the adjacent RNZAF Base Auckland on residential amenity are appropriately addressed and provided for within the Precinct.
- (1) A reverse sensitivity 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 RNZAF Base Auckland 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 and successive legislation or otherwise in respect of any noise associated with the RNZAF Base Auckland.

#### **IXXX.6.6 Transport Infrastructure requirements**

Purpose:

- To mitigate the adverse effects of traffic generation on the surrounding road network.
- To achieve the integration of land use and transport.

- (1) Any Subdivision and development, which involves residential activity as defined by Table J1.3.5 Residential of Chapter J of the Auckland Unitary Plan, must comply with the standards in Table IXXX.6.6.1.

**Table IXXX.6.6.1 Transport infrastructure upgrade thresholds**

<b>Trigger</b>	<b>Column 1 Threshold – Subdivision or development enabled by transport infrastructure in Column 2</b>	<b>Column 2 Transport infrastructure upgrade required to enable subdivision or development in Column 1</b>
(T1)	Subdivision or development that enables up to 120 dwellings that has frontage to or is accessed by Brigham Creek Road.	<ul style="list-style-type: none"> <li>- Upgrade of the Brigham Creek Road to an urban arterial road standard (as provided on Appendix 1) including footpath, berms and separated cycle facilities the full length the precinct frontage; and</li> <li>- A new or upgraded intersection between Brigham Creek Road and the new local road accessing the Whenuapai 3 Precinct (as shown on Whenuapai 3 Precinct Plan 1) and</li> <li>- Safe active mode (as shown on Whenuapai 3 Precinct Plan 1) Brigham Creek.</li> </ul>
(T2)	Subdivision or development that enables up to 120 dwellings that has frontage to or is accessed by Māmari Road.	<ul style="list-style-type: none"> <li>- Upgrade of the Māmari Road Whenuapai 3 Precinct frontage to an urban local road standard including footpath and berms.; and</li> <li>- Provision of safe and accessible pedestrian connection along Māmari Road between the Whenuapai 3 Precinct and the Brigham Creek Road / Totara Road /Māmari Road intersection as identified on Precinct Plan 1.</li> </ul>

(T3)	Subdivision or development that exceeds the threshold under (T1) or (T2) above by enabling a cumulative total of more than 120 dwellings within the Precinct.	- Upgrades required in T1 and T2; and - Provision of a local road connection between Māmari Road and Brigham Creek Road through the Precinct.
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Note: Table IXXX.6.6.1 will be considered to be complied with if

- a) the identified upgrades are constructed and operational prior to the lodgement of a resource consent application OR
- b) form part of the same resource consent, or a separate resource consent, which is given effect to prior to release of section 224 certificate of the Resource Management Act 1991 for any subdivision OR
- c) in the case of a land use consent only, prior to occupation of any dwelling(s) and/or other residential activities.

#### **IXXX.6.7. Road Design**

Purpose:

- To ensure that any development or subdivision complies with functional and design requirements.
- (1) Any development and / or subdivision that includes the construction of new roads, or the upgrade of existing roads, must comply with IXXX.11.1 Appendix 1: Road Function and Design Elements Table.

#### **IXXX.6.8. Vehicle Access Restriction**

Purpose:

- To limit direct vehicle access to existing and future arterials in recognition of strategic function of those roads and to enhance safety for active modes.
- (1) Sites that front onto Brigham Creek Road or Māmari Road must not have direct vehicle access to those roads. The sites must be provided with access from rear lanes (access lots) or side roads at the time of subdivision.

#### **IXXX.6.9. Activities sensitive to noise within 50m of an existing or future arterial road**

Purpose:

- To ensure activities sensitive to noise adjacent to existing and proposed arterial roads are designed to protect people's health and residential activity while they are indoors.
- (1) Any new buildings or alterations to existing buildings containing an activity sensitive to noise within 50m of the boundary of Brigham Creek Road or Māmari Road (shown as arterial and future arterial roads on Precinct Plan 1) must be designed, constructed and maintained so that road traffic noise does not exceed 40 dB LAeq (24 hour) in all noise sensitive spaces.
  - (2) If windows must be closed to achieve the design noise levels in Standard IXXX.6.9(1), the building must be designed, constructed and maintained with a mechanical ventilation system that meets the requirements of E25.6.10(3)(b) and (d) to (f).
  - (3) A design report must be submitted by a suitably qualified and experienced person to the council demonstrating that compliance with Standard IXXX.6.9(1) and (2) can be achieved prior to the construction or alteration of any building containing an activity sensitive to noise located within the areas specified in IXXX.6.9(1). In the design, road noise for the Auckland Transport designations W2 and W3 (Māmari Road Upgrade and Brigham Creek Road Upgrade) is based on future predicted noise levels.

For the purposes of this Standard, future predicted noise levels shall be either based on computer noise modelling undertaken by a suitably qualified and experienced person on behalf of the applicant or those levels modelled as part of the Auckland Transport NoR/designations W2 and W3 (Māmari Road Upgrade and Brigham Creek Road Upgrade).

Should noise modelling undertaken on behalf of the applicant be used for the purposes of the future predicted noise levels under this standard, modelling shall be based on an assumed posted speed limit of 50km/h, the use of an asphaltic concrete surfacing (or equivalent low-noise road surfacing) and a traffic design year of 2048.

#### **IXXX.7. Assessment – controlled activities**

There are no controlled activities in this precinct.

#### **IXXX.8. Assessment – restricted discretionary activities**

##### **IXXX.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 overlays, Auckland-wide or zones provisions:

- (1) Matters of discretion for all restricted discretionary activities (including otherwise permitted activities that infringe a permitted standard)

- (a) Whether the infrastructure required to service any development is provided
  - (b) Whether stormwater and flooding are managed appropriately
  - (c) Whether the proposal will provide for safe and efficient functioning of the current and future transport network including considering;
    - i. Location and design of the transport network and connections with neighbouring sites
    - ii. Provision for active modes
    - iii. Design and sequencing of upgrades to the existing road network
    - iv. The integration of the proposal with the future planned upgrades to Bringham Creek Road and Māmari Road;
  - (d) The location, orientation and spill from lighting associated with development, structures, infrastructure and construction activities; and
  - (e) Effects on the operation of the RNZAF Base Auckland including reverse sensitivity effects and any measures to avoid, remedy or mitigate these effects.
- (2) The extent to which any adverse effects on navigable airspace, representing a hazard to the safety or regularity of aircraft operations, are avoided or mitigated.
- (3) Non-compliance with Standard IXXX.6.7 - Road Design
- (a) The design of the road and associated road reserve and whether it achieves policies IXXX.3(5) and (6).
  - (b) Design constraints.
- (4) For a new vehicle crossing to Bringham Creek Road or Māmari Road:
- (a) adequacy for the site and the proposal;
  - (b) design and location of access;
  - (c) effects on pedestrian and streetscape amenity; and
  - (d) effects on the existing and future transport network.
- (5) Non-compliance with Standard IXXX.6.9 - Activities sensitive to noise within 50m of an existing or future arterial road.
- (a) Effects on human health and residential amenity while people are indoors.
  - (b) Building location or design features or other alternative measures that will mitigate potential adverse health and amenity effects relating to noise.

## **IXXX.8.2 Assessment criteria**

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

### **(1) For subdivision and development**

- (a) Whether the proposed subdivision and / or development includes the construction of transport infrastructure identified on table IXXX.6.6.1 Transport infrastructure upgrade thresholds;
- (b) Whether the proposed transport infrastructure will service the precinct in a safe and efficient manner; and
- (c) Whether the proposed subdivision enables development that would require transport infrastructure upgrades to be provided in accordance with Table IXXX.6.6.1.

### **(2) For Stormwater management not complying with Standard IXXX.6.2 infrastructure upgrade thresholds:**

#### **(a) Stormwater and Flooding**

- i. Whether development and/or subdivision is in accordance with any approved Stormwater Management Plan and Policies E1.3(1) – (14);
- ii. The design and efficiency of stormwater infrastructure and devices (including communal devices) with consideration given to the likely effectiveness, whole lifecycle costs, ease of access, operation and integration with the surrounding environment;
- iii. Whether the proposal for development and/or subdivision provides sufficient floodplain storage, including attenuation storage, within the precinct to avoid increasing flood risk within the receiving environment; and
- iv. Whether there is sufficient infrastructure capacity to provide for flood conveyance and protect land and infrastructure.

#### **(b) Servicing**

- i. Whether there is sufficient capacity in the existing or proposed stormwater network to service the proposed development that is enabled by the precinct and

- ii. Where adequate network capacity is not available, whether adequate mitigation is proposed being consistent with an integrated stormwater management approach.
- (c) Assessment criteria E9.8.2(1) apply.
- (3) For stormwater detention/retention ponds/wetlands not complying with the standards in IXXX.6.2(3), the extent to which the proposal minimises the attraction of birds that could become a hazard to aircraft operating at RNZAF Base Auckland
- (4) The effects on the operation of the RNZAF Base Auckland including potential reverse sensitivity effects and effects on aircraft safety, in relation to
  - (a) Lighting;
  - (b) Temporary structure and construction; and
  - (c) Noise
- (5) For the safe and efficient operation of the current and future transport network:
  - (a) Whether a safe and legible pedestrian connection is provided along Brigham Creek Road between the Precinct and Brigham Creek Road and Māmari Road intersection. If safe pedestrian connection cannot be fully provided along the southern side of Brigham Creek Road, then whether safe crossing facilities are provided to the pedestrian and cycle network on the northern side of Brigham Creek Road;
  - (b) Whether a road connection between Brigham Creek Road and Māmari Road is enabled through the design and layout of subdivision within the precinct.
  - (c) Whether the location and design of the road network and connections provided to neighbouring sites achieve an integrated network, appropriately provide for all modes, and allow for future development on neighbouring sites;
  - (d) Whether the precinct frontages along Brigham Creek Road and Mamari Road are designed and constructed to an urban standard.
  - (e) Whether a safe and legible pedestrian connection is provided along Māmari Road between the Precinct and the intersection with Brigham Creek Road.
- (6) Non-compliance with Standard IXXX.6.7.
  - (a) Whether there are constraints or other factors present which make it impractical to comply with the required standards;



- (b) Whether the design of the road, and associated road reserve achieves policies IXXX.3. (5) and (6);
  - (c) Whether the proposed design and road reserve:
    - i. incorporates measures to achieve the required design speeds;
    - ii. can safely accommodate required vehicle movements;
    - iii. can appropriately accommodate all proposed infrastructure and roading elements including utilities and/or any stormwater treatment;
    - iv. assesses the feasibility of upgrading any interim design or road reserve to the ultimate required standard.
  - (d) Whether there is an appropriate interface design treatment at property boundaries, particularly for pedestrians and cyclists.
- (7) For a new vehicle crossing to Brigham Creek Road or Māmari Road:
- (a) Whether appropriate alternative access can be provided to / from the site;
  - (b) Effects on the location and design of the access on the safe and efficient operation of the adjacent transport network having regard to:
    - i. future widening and upgrade of Brigham Creek Road and Māmari Road and their strategic transport role as existing and future arterial roads servicing growth in the wider area;
    - ii. visibility and safe sight distances;
    - iii. existing and future traffic conditions including speed, volume, type, current accident rate, and the need for safe manoeuvring;
    - iv. proximity to and operation of intersections;
    - v. existing active mode users, and estimated future active mode users having regard to the level of development provided for in this Plan; and
    - vi. existing and proposed community or public infrastructure located in the adjoining road, such as bus stops, bus lanes and cycle facilities.
- (8) Non-compliance with Standard IXXX.6.9 Activities sensitive to noise within 50m of an existing or future arterial road
- (a) Whether activities sensitive to noise adjacent to Brigham Creek Road or Māmari Road existing and future arterial roads are designed to protect people from adverse health and amenity effects while they are indoors.
  - (b) Whether any identified building design features, or the location of the building or any other existing buildings, will mitigate any potential health and amenity effects.

- (c) The extent to which alternative mitigation measures avoid, remedy or mitigate the effects of non-compliance with the noise standards on the health and amenity of potential building occupants.

### **I1.1. Special information requirements**

#### **(1) Stormwater management:**

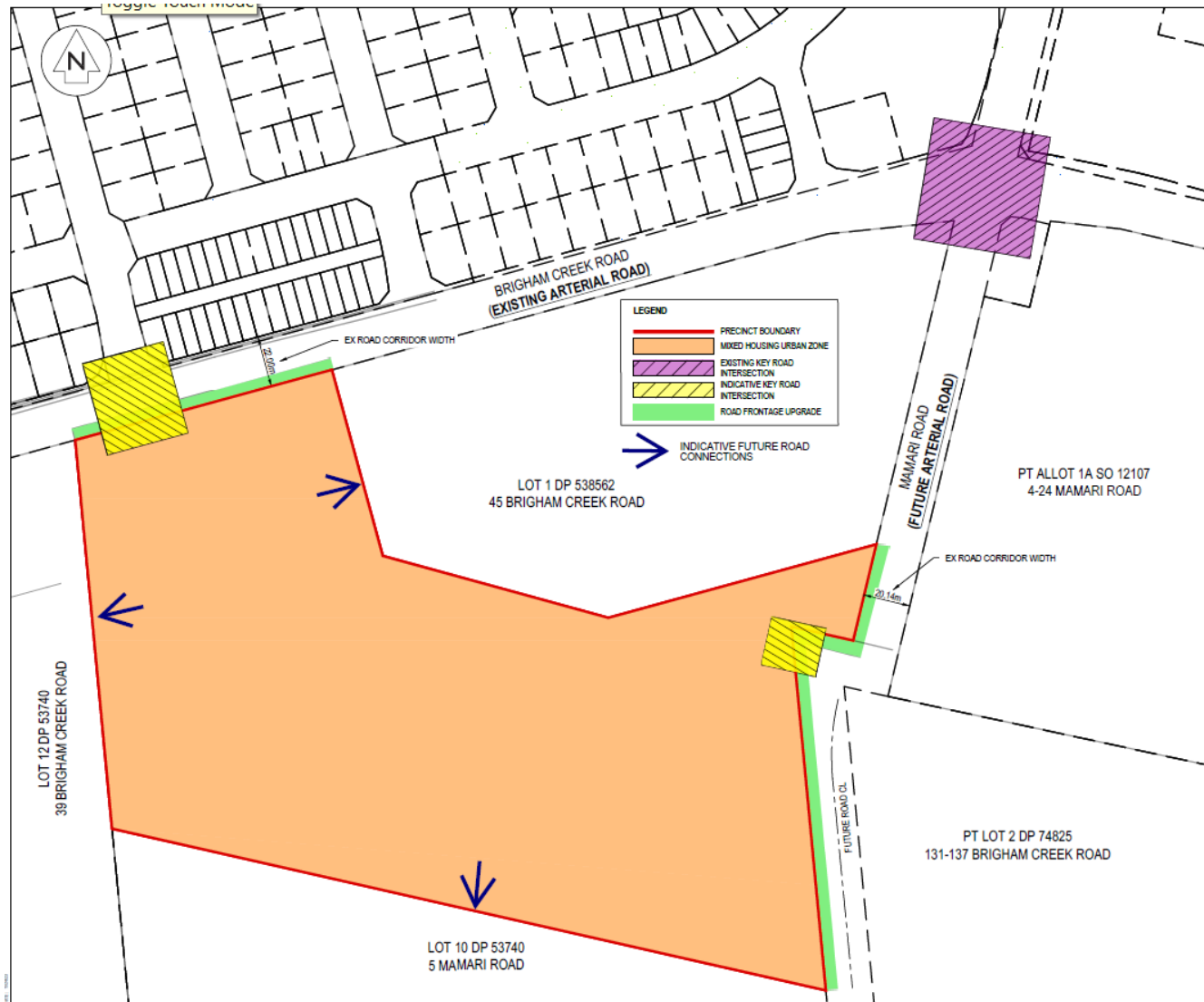
- (a) All applications for development and subdivision must include a plan demonstrating how stormwater management requirements will be met including:
  - i. areas where stormwater management requirements are to be met on-site and where they will be met through communal infrastructure;
  - ii. the type and location of all public stormwater network assets that are proposed to be vested in council;
  - iii. consideration of the interface with, and cumulative effects of, stormwater infrastructure in the precinct; and
  - iv. Bird strike risk management including design elements to reduce the attraction of birds and monitoring and corrective actions.

#### **(2) Transport Design Report:**

- (a) Any proposed new key road intersection or upgrading of existing key road intersections illustrated on the Precinct Plan must be supported by a Transport Design Report and Concept Plans (including forecast transport modelling and land use assumptions), prepared by a suitably qualified transport engineer confirming that the location and design of any road and its intersection(s) supports the safe and efficient function of the existing and future (ultimate) transport network and can be accommodated within the proposed or available road reserves. This may be included within a transport assessment supporting land use or subdivision consents.
- (b) In addition, where an interim upgrade is proposed, information must be provided, detailing how the design allows for the ultimate upgrade to be efficiently delivered.

# IXXX.10 Precinct Plans

## IXXX.10.1 Whenuapai 3 Precinct Plan 1



**IXXX.11 Appendices**

**IXXX.11.1 Appendix 1: Road Function and Design Elements Table**

Road name (refer to Precinct Plan 1)	Proposed role and function of road in precinct area	Minimum road reserve (subject to note 1)	Total number of lanes (subject to note 2)	Speed limit (design)	Access restrictions	Median	Bus provision (subject to note 3)	On street parking	Cycle provision	Pedestrian provision
Brigham Creek Road interim upgrade – precinct frontage	Arterial road	30m	4	50kph posted	Yes	Yes	Yes	Some existing	Yes - On precinct side only.	Yes - existing on north side. Yes - on precinct frontage with safe crossing point on Brigham Creek Road
Māmari Road interim upgrade - precinct frontage	Interim local road [future 30m arterial]	Variable [future 30m]	2	50kph posted	Yes	No	No	Some existing	No	Yes Both sides.
Local roads	Local	16m	2	30kph	No	No	No	Optional	No	Yes Both sides

Note 1: Typical minimum width which may need to be varied in specific locations where required to accommodate network utilities, batters, structures, stormwater treatment, intersection design, significant constraints or other localised design requirements.

Note 2: Any interim, hybrid, constrained or ultimate upgrades must be designed and constructed to include a new road pavement and be sealed to their appropriate standard in accordance with the Proposed Role and Function of the Road.

Note 3: Carriageway and intersection geometry capable of accommodating buses.



## APPENDIX C

**A list of names and addresses of persons to be served  
with this notice of appeal**

	<b>Submitter</b>	<b>Email address</b>
1.	Ka Ming C Chiu	cateddie@gmail.com
2.	Kingsley Seol	king_seol@hotmail.com
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4.	Linda Irene Norman	lindairenenorman@gmail.com
5.	Royal Forest and Bird protection Society of New Zealand Inc. (Forest & Bird)	c.morgan@forestandbird.org.nz
6.	Jeffrey Spearman	jeff@spearman.co.nz
7.	Auckland Council	christopher.turbott@auckland.ac.nz
8.	Woolley Trust Partnership	lyndalwoolley@yahoo.com
9.	Christine Lin	Yu_ting_lin@hotmail.com
10.	The New Zealand Transport Agency (Waka Kotahi)	environmentalplanning@nzta.govt.nz
11.	Living Whenuapai	Anniem1401@gmail.com
12.	Thomas Starr	tom@starrandstarr.co.nz
13.	Harker Family Trust No. 1	morrnolouise@gmail.com
14.	Woolworths New Zealand Limited	phillip@campbellbrown.co.nz
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