

**BEFORE THE ENVIRONMENT COURT  
AUCKLAND REGISTRY**

**I MUA I TE KŌTI TAIAO  
TĀMAKI MAKĀURAU ROHE**

**IN THE MATTER** of the Resource Management  
Act 1991

**AND**

**IN THE MATTER** of an appeal pursuant to  
Clause 14(1) of the RMA

**BETWEEN** **WHITFORD RESIDENTS  
AND RATEPAYER  
ASSOCIATION**

**Apellants**

**AND** **AUCKLAND COUNCIL**

**Respondent**

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**NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON  
PLAN CHANGE 88 (PRIVATE): BEACHLANDS SOUTH TO THE AUCKLAND  
UNITARY PLAN (OPERATIVE IN PART)**

**27 May 2024**

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**S J Simons / B S Morris**

Telephone: (09) 969 2300  
Facsimile: (09) 969 2304  
Email: sue@berrysimons.co.nz  
babettem@berrysimons.co.nz  
Postal: PO Box 3144  
Shortland Street  
AUCKLAND 1140

**To:** The Registrar  
Environment Court  
Auckland

1. **WHITFORD RESIDENTS AND RATEPAYER ASSOCIATION** (“the Appellant”) appeals against the decision (“the Decision”) of **AUCKLAND COUNCIL** (“the Respondent” or “AC”) on Plan Change 88 (Private): Beachlands South to the Auckland Unitary Plan (Operative in Part) (“AUP”) (“the Plan Change” or “PC 88”).
2. The Appellant made a submission on PC 88.
3. The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. The Appellant received notice of the decision on 12 April 2024.
5. The decision was made by an Independent Hearings Panel on behalf of AC.
6. The Appellant appeals the entirety of the Decision.

**General reasons for the appeal**

7. The general reasons for the appeal are as follows:
  - (a) The Plan Change will not promote the sustainable management of resources, and will therefore not achieve the purpose of the RMA by:
    - (i) Failing to manage the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety; and
    - (ii) Failing to sustain the potential of physical resources to meet the reasonably foreseeable needs of future generations.
  - (b) PC 88 does not give effect to, and is not consistent with, the National Policy Statement of Urban Development 2020 (“NPS-UD”).

**Reasons for appeal of particular provisions**

8. Without limiting the generality of paragraph 7, the Appellant’s reasons for appealing PC 88 are as follows:

- (a) The Respondent has failed to consider the impacts that PC 88 will have on Whitford Village. In particular, the Respondent's officers alongside the Applicant's experts did not consider character nor amenity effects on Whitford Village until after the Appellant had circulated their statement of evidence. Only then did the Reporting Officer in the section 42A Addendum Report agree with the Appellant's findings that PC 88 will have significant adverse effects on the character of Whitford Village;
- (b) The Appellant considers that the Whitford Bypass must be constructed prior to PC 88 being given effect to in order to maintain the character and amenity of Whitford Village;
- (c) The Respondent has failed to consider safety concerns with respect to the entry from Clifton Road onto Whitford-Maraetai Road. While proposed safety improvements have been put forward by way of intersection upgrades for Henson Road and Trig Road North intersections, this has been omitted for Clifton Road;
- (d) The Respondent has failed to ensure that development will not have a detrimental effect on existing infrastructure. While the costs associated with the provision of infrastructure to service the development will be met by the applicant, it is reasonably anticipated that PC 88 will have a 'spill over' effect on existing infrastructure that services the locality. Moreover, the Appellant is concerned for the sequencing, timing and funding of the infrastructure works, given Whitford's poor historic track record for the provision of infrastructure; and
- (e) Despite advice from its officers that PC 88 should be declined, the Council granted the plan change request.

9. The Appellant seeks the following relief:

- (a) That the decision is set aside;
- (b) Any such further or consequential relief as the Court deems appropriate; and
- (c) Costs.

10. The Appellant **attaches** the following documents to this notice:

- (a) A copy of the Appellant's submission on the Plan Change (**Appendix A**);
  - (b) A copy of the Respondent's decision (**Appendix B**); and
  - (c) A list of names and addresses of persons to be served with a copy of this notice (**Appendix C**).
11. The Appellant agrees to participate in mediation or other alternative dispute resolution mechanisms.

**DATED** this 27<sup>th</sup> day of May 2024

**WHITFORDS RESIDENTS & RATEPAYERS ASSOCIATION INCORPORATED** by its solicitors and duly authorised agents, Berry Simons, per:



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**S J Simons / B S Morris**

**ADDRESS FOR SERVICE OF APPELLANT**

Berry Simons  
Po Box 3144  
Shortland Street  
Auckland 1140

**Telephone:** (09) 969 2300  
**Facsimile:** (09) 969 2303  
**Email:** sue@berrysimons.co.nz  
**Contact:** Sue Simons

## **Advice to recipients of copy of notice of appeal**

### *How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

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.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

### *Advice*

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

## APPENDIX A



fluid-industries.co.nz  
36a New Windsor Road  
Avondale, Auckland 0600

## Submission on a notified proposal for Plan Change 88 (Private): Beachlands South

### 1.0 SUBMITTER DETAILS

Submitter Name:	Whitford Residents and Ratepayers Association Incorporated
Address of Submitter:	PO Box 89, Whitford, New Zealand, 2149
Submitter email:	dwatts@e2execsearch.com
Submitter phone number:	021 085 08609
Agent Name:	Nick Williamson, Planning Consultant, Fluid Industries Ltd
Address for Service (Agent):	36a New Windsor Road, Avondale, Auckland, 0600
Agent email:	nick@fluid-industries.co.nz
Agent phone number:	027 555 5454

### 2.0 SCOPE OF SUBMISSION

This is a submission on proposed Private Plan Change 88: Beachlands South

Plan Provisions:	The full extent of Proposed Change 88 (Private) – Beachlands South, as described in the Public Notice dated 20 January 2023 on the Auckland Council website <sup>1</sup> , and any consequential amendments arising therefrom.
Property Address:	The properties including 110 Jack Lachlan Drive; and 620, 680, 682, 702, 712, 722, 732, 740, 746, 758 and 770 Whitford-Maraetai Road, Beachlands (as described on the Council's website <sup>2</sup> ).
Map:	The full extent of the proposed private plan change (including all off site dependencies and effects) as identified, described, or illustrated in the PPC88 request, supporting technical reports, Section 32 evaluation, supplementary information, and revisions as notified on 20 January 2023 and listed on the Council's website on 10 March 2023 <sup>3</sup> .

### 3.0 SUBMISSION

Our submission **opposes** the proposed Private Plan Change in its present form.

**The specific parts of the plan change to which our submission relates are:**

The application in its entirety and the full extent of proposed changes, including (but not limited to):

1. The nature and extent of the proposed 'live' Residential, Business, & Open Space Zoning.

<sup>1</sup> <https://www.aucklandcouncil.govt.nz/UnitaryPlanDocuments/pc88-public-notice-notification.pdf>

<sup>2</sup> <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/unitary-plan/auckland-unitary-plan-modifications/Pages/details.aspx?UnitaryPlanId=187>

<sup>3</sup> <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/unitary-plan/auckland-unitary-plan-modifications/Pages/details.aspx?UnitaryPlanId=187>

2. The nature and extent of the proposed Future Urban Zone (FUZ) on the southern portion.
3. The new precinct (and sub-precincts) that replace the existing Whitford Precinct (and sub-Precinct) provisions.

**The reasons for our views are:**

As described in *Attachment 1*.

**We seek the following decision by council:**

Decline the proposed plan change. If the proposed plan change is not declined, then amend it as outlined below:

As described in *Attachment 1*.

**4.0 SUBMISSION AT THE HEARING**

We wish to be heard in support of our submission.

If others make a similar submission, we will consider presenting a joint case with them at the hearing.

**5.0 TRADE COMPETITION**

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



Signature:

Date: 10 March 2023



# Attachment 1

## Reasons for submission

### 1 Background & Context

- 1.1 The Whitford Residents & Ratepayers Association (WRRRA) was formed in 1968, and since then has been promoting the wellbeing of the Whitford Community. Is a volunteer organisation that seeks to improve the lifestyle of all those who live in and around the Whitford Village by progressing community, social, sporting, and environmental issues.
- 1.2 The WRRRA had a key role in the development of the existing Auckland Unitary Plan (AUP) Whitford Precinct provisions (in which the subject site is located) and has maintained in interest in how those provisions are administered or changed over time.

### 2 Urban Growth

- 2.1 For the purposes of the Resource Management Act (RMA), “sustainable management means managing the use, development, and protection of natural and physical resources in a way, or **at a rate**, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety ...” [Emphasis added].
- 2.2 Private Plan Change 88: Beachlands (PPC88) seeks to rezone approximately 307 hectares of Rural – Countryside Living zoned land with a contiguous boundary to existing coastal town of Beachlands. Just over half of the area (160ha) would assume a variety of ‘live’ urban zones, while the remaining land (approximately 148ha) to the south is to be zoned Future Urban.
- 2.3 In response to the Council’s Clause 23 request, the applicant suggests that Objective B2.2.1(2) “refers to urban growth within the RUB”, and because PPC88 is outside the RUB, “this objective and associated policies are considered to be of little relevance to this Plan Change request”. A similar line of reasoning was advanced in the *Ahuareka* appeal, and the Environment Court shared its thoughts on the matter in its subsequent decision.
- 2.4 It is our view that the applicant’s analysis of the objectives and policies of the AUP are insufficiently nuanced and appear to follow a more binary ‘rural vs urban’ approach. To suggest everything outside the RUB is “coastal town expansion” or somehow otherwise ticking the box for provision of rural housing supply so has ‘little relevance’ to urban growth is in our view incorrect. The land is quite clearly being changed from rural to urban (and Future **Urban Zone**).

380.1

### 3 Urbanisation

- 3.1 The urbanisation of the PPC88 Area requires full consideration of the associated changes to the surrounding environment. For example, the photo montages in Attachment 14A to the application do not illustrate the extent of effects that urbanisation will have on light pollution at night time, which will be visible from quite some distance.
- 3.2 While the National Policy Statement for Urban Development requires that Council be responsive to private plan changes where they would add significant development capacity and contribute to well-functioning urban environments, this is predicated on functionality, serviceability, and proximity.
- 3.3 The Beachlands study and Pine Harbour Plan Change were not ad hoc as is suggested in the application. They formed part of wider planning for the area considering its location and context relative to other parts of the sub-region. We do not consider that comparing this development with Hobsonville Point is particularly helpful. If comparisons are to be drawn, the proposal shares as much with the Whangaparoa Peninsula than anywhere else in the region.

380.2

### 4 Compact Form

- 4.1 It is not clear from the information provided how the PPC is consistent with the Auckland Plan 2050's "quality compact approach" that requires integration of land use and infrastructure. While the applicant's counsel go to some length to explain how the plan change expands the existing Beachlands town in a "quality compact form", the s32 report builds upon the notion that in the 1920's Beachlands was "The Marine Garden Suburb" a handy "12 ¼ miles from Queen's Wharf". In our view whether something has a 'compact form' largely depends upon which 'parts' are arranged together, and at what scale. Notwithstanding how 'compact' the PPC88 area is considered to be relative to its own boundaries, it most certainly does have a functional relationship with Whitford Village.

380.3

### 5 Impact on Whitford Village

- 5.1 Consideration of the impacts that PPC88 will have on Whitford Village has been insufficiently considered throughout the application. We anticipate that the increased traffic associated with the development and construction of the new urban area will have a significant and lasting impact on the Village. This scale of growth at Beachlands has not been planned for within the next 30 years. There is no basis for the extent of FUZ proposed and makes significant assumptions regarding the travel and work habits of the future 4000+ households.
- 5.2 There have been many plans in place over recent history to provide transport, three waters, social and recreational infrastructure in a coordinated and comprehensive manner. The objective and policy assessment set out in the application omits some of those that seek to ensure that development does

380.4

380.5

not have a detrimental effect on existing infrastructure. We remain of the view that these have not been properly considered.

- 5.3 Notwithstanding the applicant’s assertion that they will meet the requirements and costs associated with the provision of infrastructure to service the development, the future development is not taking place on an island. It can be reasonably anticipated (and given the roading and transport requirements set out in the s32 evaluation and supporting technical reports) that the proposal will certainly have a ‘spill over’ effect on the existing infrastructure that services the locality. 380.6

**6 Public Transport**

- 6.1 The assumptions made throughout the application are predicated on increased mode shift, reduced vehicle movements, and increased patronage of ferry and bus services. The application also recognises that the applicant has no ability to control the provision of these services. There is a significant level of uncertainty as to how these levels of service can be achieved, and how the AUP provisions can manage development in the face of such uncertainty. 380.7

**7 Traffic Generation**

- 7.1 There appear to be some inconsistencies with the traffic information provided in the application and information that has previously been made available by the Council. We request that a peer review of the ITA should be provided. 380.8

**8 Physical Infrastructure**

- 8.1 Similarly, it is not clear whether the proposed water and wastewater infrastructure will achieve the required levels of service. In our view further assessment is required to better understand how provision, operation and maintenance would ensure infrastructure is resilient, efficient and effective. 380.9

**9 Community Infrastructure**

- 9.1 The application anticipates that a new secondary school will be built, but there is no guarantee that this will eventuate. The existing Whitford Precinct contains numerous provisions requiring ecological and recreational assets be established, and we can find no equivalent in the new Precinct Provisions. 380.10

**APPENDIX B**

# Proposed Private Plan Change 88 to the Auckland Unitary Plan



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

### Proposal

The private plan change seeks to rezone approximately 307 hectares of land south of the Beachlands township from Rural – Countryside Living to a combination of live residential, business and open space zones, with a new precinct and SMAF-1 Control (northern portion of land, 159.54 hectares) and Future Urban Zone (southern portion of land, 147.58 hectares).

This plan change is GRANTED. The reasons are set out below.

<b>Private Plan Change:</b>	88
<b>Site address:</b>	110 Jack Lachlan Drive; and 620, 680, 682, 702, 712, 722, 732, 740, 746, 758 and 770 Whitford-Maraetai Road, Beachlands
<b>Applicant:</b>	Beachlands South Limited Partnership
<b>Hearing commenced:</b>	Monday 27 November 2023, 9.40 a.m.
<b>Hearing panel:</b>	Vanessa Hamm (Chairperson) Dr Ian Boothroyd Trevor Mackie
<b>Appearances:</b>	<u>For the Applicant:</u> <ul style="list-style-type: none"><li>- Bill Loutit, Legal</li><li>- Rachel Abraham, Legal</li><li>- Brett Russell, Corporate, Russell Property Group</li><li>- William Goodwin, Corporate, NZ Super Fund</li><li>- Jada MacFie, Ngāi Tai Ki Tāmaki/Mana Whenua/Cultural</li><li>- Nick Roberts, Strategic Planning</li><li>- Vijay Lala, Strategic Planning</li><li>- Peter Philips, Social Effects and Well-functioning Urban Environment</li><li>- Matt Baber, Terrestrial Ecology, Wetlands and Coastal Birds</li><li>- Nick Barrett-Boyes, Master Planning and Urban design</li><li>- Alistair Ray, Master Planning and Urban design</li><li>- Stephen Brown, Landscape</li><li>- Andrew Williams, Global Sustainability Trends</li><li>- Stuart Dun, Master Planning Sustainability</li><li>- Bevan Wilmshurst, Vehicle Emissions</li></ul>

	<ul style="list-style-type: none"> <li>- Tim Heath, Economics</li> <li>- Phil Osborne, Economics – Infrastructure Funding</li> <li>- Gareth Williams, Wastewater</li> <li>- Campbell McGregor, Earthworks and Stormwater</li> <li>- Brett Sinclair, Water Modelling</li> <li>- Maria Johnson, Water Supply</li> <li>- Brett Harries, Transport</li> <li>- Daryl Hughes, Transport</li> <li>- Leo Hills, Transport Peer Review</li> <li>- Paul Harper, Ferry Operations (Sealink)</li> </ul> <p><u>Tabled statements for the applicant:</u></p> <ul style="list-style-type: none"> <li>- Bevan Hames (Ngai Tai Hapai Development)</li> <li>- James Allen (Rural Productivity)</li> <li>- Nathalie O'Rourke (Contaminated Land)</li> <li>- Glen Farley (Archaeology)</li> <li>- Sharleen Yalden (Contaminant Load Modelling)</li> <li>- Peter Quilter (Coastal Engineer)</li> <li>- Wageed Kamish (Metals Accumulation and Polishing Wetlands for Treated Effluent)</li> <li>- Campbell Stewart (Erosion and Sediment Control)</li> <li>- Dean Miller (Stream Ecology)</li> <li>- Mark Delaney (Peer Review: Wetland and Stream Ecology)</li> <li>- Susan Jackson (Marine Ecology)</li> <li>- Mark Thomas (Geotechnical Engineering)</li> <li>- Richard Reinen-Hamill (Coastal Hazards)</li> </ul> <p><u>For the Submitters:</u></p> <ul style="list-style-type: none"> <li>- Auckland Transport represented by: <ul style="list-style-type: none"> <li>o Matt Allan, Legal</li> <li>o Rowan Ashton, Legal</li> <li>o Felix Drissner-Devine, Legal</li> <li>o Catherine Heppelthwaite, Planning</li> <li>o Matthew Rednall, Corporate</li> <li>o Steven Dudley, Transport Planning</li> <li>o Leslie Lewer, Quantity Surveying</li> <li>o Mark Laing, Traffic Engineering</li> <li>o Chris Freke, Planning</li> </ul> </li> <li>- Auckland Council represented by: <ul style="list-style-type: none"> <li>o Matt Allan, Legal</li> <li>o Rowan Ashton, Legal</li> <li>o Felix Drissner-Devine, Legal</li> <li>o Brigid Duffield, Corporate - Infrastructure Funding and Financing</li> <li>o Adrien Bouzonville, Greenhouse Gas Emissions</li> <li>o Paul Crimmins, Greenhouse Gas Emissions</li> <li>o Peter Reaburn, Planning</li> </ul> </li> <li>- Whitford Coast Society Incorporated represented by Anthony John Hopkins and Rodger Shepherd</li> <li>- Daniel Ian Beesley</li> </ul>
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	<ul style="list-style-type: none"> <li>- Dennis Raymond Bartlett</li> <li>- Helen Mary Cahill</li> <li>- Lyndsay Gerard Turner</li> <li>- Manukau Quarries Limited Partnership represented by Daniel Nakhle, Corporate and Terry Church, Transport</li> <li>- Angela Mary Mason</li> <li>- Heritage New Zealand Pouhere Taonga represented by Alice Morris, Planning</li> <li>- Watercare Services Limited represented by Mark Iszard</li> <li>- Philip Malcom Granger</li> <li>- Stephen Andrew Opie</li> <li>- Whitford Residents and Ratepayers Association Incorporated represented by: <ul style="list-style-type: none"> <li>o Nick Williamson, Planning</li> <li>o Darin Watts, lay evidence</li> <li>o Ross Robertson, lay evidence</li> <li>o Maurice Hinton, lay evidence</li> </ul> </li> </ul> <p><u>Tabled statements for the submitters:</u></p> <ul style="list-style-type: none"> <li>- Beachlands Avenues Limited</li> <li>- Karen Cowie</li> <li>- Murray R Stevens</li> <li>- Fire and Emergency New Zealand</li> <li>- Monika Olds</li> <li>- Ministry of Education</li> <li>- Charlotte Lowe</li> <li>- Jeffery Potkins</li> <li>- Pine Harbour Marina Limited - Craig Shearer</li> <li>- Dirk De Jong</li> </ul> <p><u>For the Local Board:</u> Franklin Local Board represented by</p> <ul style="list-style-type: none"> <li>- Angela Fulljames, Chairperson</li> <li>- Amanda Hopkins, Member</li> </ul> <p><u>For Council:</u></p> <ul style="list-style-type: none"> <li>- Chloe Trenouth, Planner</li> <li>- Craig Cairncross, Team Leader</li> <li>- Rebecca Skidmore, Landscape and Visual</li> <li>- Derek Foy, Economics</li> <li>- Wes Edwards, Transport</li> <li>- Amber Tsang, Healthy Waters</li> <li>- Zheng Qian, Healthy Waters</li> <li>- Patrice Baillargeon, Senior Hearings Advisor</li> </ul>
<b>Hearing adjourned</b>	Friday, 1 December 2023 at 3.59pm
<b>Commissioners' site visit</b>	7 November 2023 29 November 2023
<b>Hearing Closed:</b>	15 December 2023

## INTRODUCTION

1. This decision is made on behalf of the Auckland Council (**the Council**) by Independent Hearing Commissioners Vanessa Hamm (Chairperson), Dr Ian Boothroyd and Trevor Mackie appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (**the RMA**).
2. The Commissioners have been given delegated authority by the Council to make a decision on Plan Change 88 (**PC 88**) to the Auckland Council Unitary Plan Operative in Part (**the AUP**). In making our decision, we have considered all the material put before us including the private plan change request, submissions, the section 32 and 32AA evaluations, the reports prepared by the officers for the hearing, the Joint Witness Statements (**JWS**), legal submissions and evidence (both expert and lay) for the applicant and submitters, reply legal submissions, and material tabled before and during the hearing of submissions.
3. PC 88 is a private 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).
4. PC 88 was publicly notified on 26 January 2023 and closed for submissions on 24 February 2023 (extended to 10 March 2023). The summary of submissions was notified on 12 May 2023 and closed for further submissions on 26 May 2023. 383 submissions were received, including 2 late submissions and 12 further submissions.

## EXECUTIVE SUMMARY OF DECISION

5. We set out at a high level our key findings in this Executive Summary. Our decision also addresses other matters that are not included in the Executive Summary.
6. In summary:
  - (a) We have approved PC 88 including the Future Urban Zone (**FUZ**).
  - (b) PC 88 gives effect to the National Policy Statement on Urban Development (**NPSUD**) and the Regional Policy Statement (**RPS**). It delivers a well-functioning urban environment under the NPSUD including with respect to accessibility and reductions in greenhouse gas emissions. With respect to the RPS, B2.6 provides a pathway for the plan change, and it meets the overarching objectives of B2.2.
  - (c) With respect to transport related matters, we are satisfied that:
    - (i) The Applicant's modelling is appropriate and that the transport related upgrades identified by the Applicant are those necessary to address adverse effects arising from PC 88 and give effect to the NPSUD and RPS;
    - (ii) The Staging of Subdivision and Development with Transport Upgrades provisions (1.7.3), and the other associated precinct provisions, are



appropriate and workable and will ensure the necessary transport infrastructure related upgrades are provided prior to or at the same time as subdivision and development.

- (d) With respect to the integration of funding with infrastructure to be delivered to support PC 88, we have confidence in the mechanisms proposed by the Applicant.
- (e) We have largely adopted the precinct provisions for PC 88 as set out in the Applicant's reply submissions, but with some amendments which are detailed in the body of our decision.

## **SUMMARY OF PLAN CHANGE**

- 7. The proposed plan change is described in detail in the Applicant's plan change request, the Council's s 42A hearing report (**Hearing Report**), and the joint planning evidence of Mr Lala and Mr Roberts. A summary of key components of the plan change is set out below.
- 8. The land subject to PC 88 is currently zoned Rural – Countryside Living and is located immediately south of existing Beachlands. PC 88 proposes both a live zone and a FUZ:
  - (a) The live zone, being the northern portion of the land (159.54 hectares) which is essentially the existing Formosa Golf Course, as notified, proposed a variety of urban zones as follows:
    - Residential – Terrace Housing and Apartment Buildings zone (**THAB**)
    - Residential – Mixed Housing Urban zone (**MHU**)
    - Residential – Large Lot zone (**LLZ**)
    - Business – Local Centre zone (**LCZ**)
    - Business - Mixed Use zone (**MUZ**)
    - Business - Light Industry zone (**LIZ**)
    - Open Space – Sport and Active Recreation zone (**OSSAR**).
  - (b) The FUZ, being the southern portion of land (147.58 hectares), which lies to the south and south/east of the Formosa Golf Course.
- 9. During the hearing process, the Applicant made some amendments to the plan change request in response to the Hearing Report and submitters' concerns. These included:<sup>1</sup>
  - (a) An increase in the overall area of Business zoned land by approximately 7 hectares (from around 25 hectares to around 32 hectares) with associated adjustments to residential and open space land;

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<sup>1</sup> The zone adjustments are set out in the Rebuttal Evidence of Vijay Nagan Lala and Nicholas Jon Roberts at paragraph 10.2.

(b) A decrease in the overall area of Residential zoned land by approximately 3 hectares (from around 130 hectares to around 127 hectares);

(c) Removal of the OSSAR (4.2 hectares). This is now proposed to be MUZ;

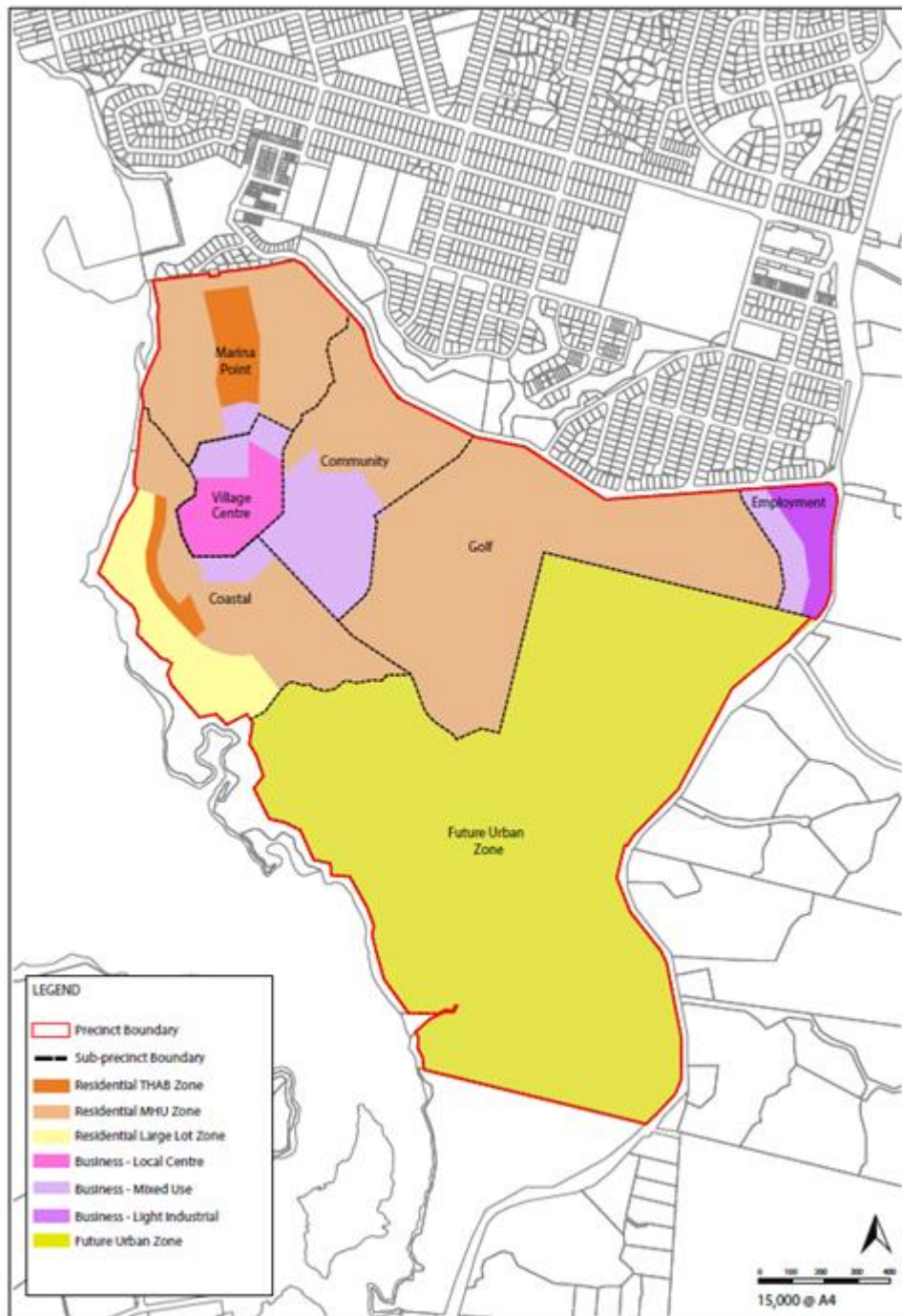
(d) Amendments to precinct plans including:

- Removal of Stormwater Management Area Flow 1 Control from FUZ;
- Precinct Plan 1 Additional Controls and Overlays Plan to identify both Height Variation Control areas are 24m;
- Precinct Plan 3 Structuring Elements to identify all elements are indicative and subject to detailed design and investigation as part of the resource consent process;
- Precinct Plan 4 Cultural Landscape to confirm indicative location of archaeological sites;
- Precinct Plan 5 Movement Network to only apply to the proposed live zoned area of the plan change and confirm indicative through routes to Whitford Maraetai Road;
- Precinct Plan 6 Transport Staging and Upgrades to identify additional upgrades including the intersection of Sommerville Road/Whitford Road/Point View Road and the Whitford Bypass; and

(e) Various amendments to the precinct provisions.

10. The final version of the precinct provisions proposed were provided with the reply legal submissions from the Applicant. The figure below shows the proposed AUP zoning proposed by PC 88 as presented at the hearing and in the reply:

## Zoning and Sub-precincts Plan



11. There are a series of related precinct plans one of which is a plan depicting the proposed “EPAN” (Ecological Protected Area Network). This is an area which totals 88.7 ha across both the proposed live zone and FUZ, and includes terrestrial revegetation and habitat enhancement, vegetation buffers, native wetland enrichment planting, and associated weed/pest control programmes.

## SUBMISSIONS ON THE PLAN CHANGE

12. Most submission points (85 per cent)<sup>2</sup> seek that PC 88 be declined or declined but if approved amended. The Hearing Report considered submissions under the following topics:<sup>3</sup>
- Supporting PC 88 in its entirety
  - Submissions on growth and extent of the plan change area
  - Submissions on heritage and cultural values
  - Submissions on landscape, character, and amenity
  - Submissions on environmental impacts
  - Submissions on transport
  - Submissions on water and wastewater
  - Submissions on stormwater and flooding
  - Submissions on social infrastructure
  - Submissions on open space and recreation
  - Submissions on infrastructure funding
  - BSLP submission
13. We address submitters' concerns in some detail below. Of particular significance to this decision are:
- (a) The submissions of Auckland Council as submitter (**ACS**) and Auckland Transport (**AT**), who opposed the approval of PC 88 particularly on the basis of:
- (i) Strategic planning matters and whether PC 88 is in an appropriate location;
  - (ii) Traffic/transport implications and integration, including funding concerns; and
  - (iii) Concerns with respect to greenhouse gas emissions;
- (b) Concerns about transport (raised by over a third of all submissions)<sup>4</sup> which generally seek that PC 88 be declined or if approved, amended to ensure required transport upgrades are provided to support growth.
14. Concerns about impacts on the character of Whitford Village, primarily as a result of the proposed upgrade to the Whitford Roundabout, were also raised by a number of submitters.
15. Many submitters had fall back positions with respect to PC 88, that if approved, PC 88 be approved subject to changes. Key issues raised in this regard are:
- (a) Whether the FUZ should be confirmed;

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<sup>2</sup> Hearing Report at paragraph 5.

<sup>3</sup> Hearing Report at Section 11.

<sup>4</sup> Hearing Report at paragraph 342.

- (b) The transport triggers to be included in the precinct provisions;
- (c) The activity status and policy framework for subdivision and development not complying with the transport triggers standard, and subdivision and development above 2,700 dwellings;
- (d) Outstanding matters of detail raised by submitters with respect to their interests, and or specific topics, such as the appropriate Height Variation Control in the MUZ.

## HEARING PROCESS

### Hearing Report – Officer’s Recommendation

- 16. The Hearing Report was prepared by Ms Trenouth who was assisted by technical input from a number of experts. Ms Trenouth recommended that PC 88 be refused because the location for growth does not achieve a quality compact urban form or contribute to a well-functioning urban environment and is not integrated with the adequate provision of transport and water infrastructure and therefore does not give effect to the RPS.<sup>5</sup>
- 17. However, in the event that we would determine that PC 88 should be approved, Ms Trenouth helpfully recommended amendments to PC 88.<sup>6</sup>
- 18. Ms Trenouth provided an addendum to the Hearing Report (**Addendum Hearing Report**) prior to the commencement of the hearing, which considered amendments proposed to PC 88 as a result of expert conferencing. The Addendum Hearing Report acknowledged that several matters in contention had been resolved, although Ms Trenouth was still of the opinion that PC 88 should be declined.

### Local Board Comments

- 19. The Hearing Report addressed the position of the Franklin Local Board by reproducing a resolution passed by the Franklin Local Board at its August 2022 meeting.<sup>7</sup> The resolution noted matters about road infrastructure, public transport, water, ecology, visual impact, other infrastructure, provision for a high school, economic benefit, and walkways and amenities.
- 20. The Franklin Local Board appeared before us at the hearing and spoke to these matters.

### Expert Conferencing

- 21. After the exchange of evidence by submitters, expert conferencing took place with the assistance of Marlene Olliver, independent facilitator, who coordinated the expert conferencing. This resulted in the production of a number of JWS as follows:

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<sup>5</sup> Hearing Report at paragraph 440.

<sup>6</sup> Hearing Report, Attachment 10.

<sup>7</sup> Hearing Report at Section 9.2.

- (a) JWS Ecology and Planning – 27 October 2023;
  - (b) JWS Landscape and Planning – 27 October 2023;
  - (c) JWS Heritage and Planning – 27 October 2023;
  - (d) JWS Potable Water, Wastewater and Planning – 30 October 2023;
  - (e) JWS Stormwater/Flooding and Planning – 31 October 2023;
  - (f) JWS Transport and Planning – 1 November 2023;
  - (g) JWS Strategic, Sustainability and Planning – 2 November 2023;
  - (h) JWS Transport and Planning – 3 November 2023;
  - (i) JWS Planning – 8 November 2023.
22. Through this process, a number of technical issues were either resolved or considerably narrowed. We particularly note the following:
- (a) There were no unresolved matters relating to the consideration and management of ecological effects or the National Policy Statement for Indigenous Biodiversity (**NPSIB**).<sup>8</sup>
  - (b) There were no remaining issues in contention for heritage,<sup>9</sup> noting that there was a related issue remaining in contention as to whether the pā site should be scheduled in the AUP.
  - (c) There was agreement that the SMAF 1 control over the FUZ land should be removed.<sup>10</sup>
  - (d) Subject to agreement on the most appropriate provisions to address flooding risk, there were no remaining issues in contention for stormwater and flooding.<sup>11</sup>
  - (e) Water supply was similarly non-contentious. All experts agreed that for the purposes of processing PC 88 there is sufficient water supply to service the proposed live zoned component of PC 88. The proposed FUZ zone area would require a further assessment prior to any future plan change to live zone that land. There were no unresolved issues relating to drinking water quality.<sup>12</sup>
  - (f) There were no outstanding issues in contention in relation to open space.<sup>13</sup>

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<sup>8</sup> JWS Ecology and Planning.

<sup>9</sup> JWS Heritage and Planning.

<sup>10</sup> JWS Stormwater/Flooding and Planning.

<sup>11</sup> JWS Stormwater/Flooding and Planning.

<sup>12</sup> JWS Potable Water, Wastewater and Planning.

<sup>13</sup> JWS Planning.

23. We have relied on the JWS in reaching our decision, particularly as regards the resolution of technical matters, where there was no other technical evidence to the contrary.

## Hearing

24. We required the pre-circulation of expert evidence and as described above, expert conferencing took place prior to the hearing. We therefore had in pre-circulated form, statements of expert evidence for the applicant and submitters, and the JWS.
25. Prior to the hearing, all the Commissioners visited Beachlands and the local surroundings. On 7 November 2023 we spent approximately two hours at the Formosa Golf Course where we took in key locations within the live zone proposed by PC 88. We also sighted the proposed FUZ. In addition, we took in the existing Beachlands settlement, Pine Harbour, the two shopping areas within Beachlands, the Whitford-Maraetai Road and key intersections.
26. Given the nature of the submissions on PC 88 with respect to transport, we undertook a further site visit during the hearing. On the morning of 29 November 2023 we drove to Beachlands, arriving at the ferry terminal around 7.30am. We observed two ferries depart which were both reasonably full. We then drove back to Howick. We arrived at the intersection of Whitford-Maraetai Road and Jack Lachlan Drive at about 8.08am where we waited about a minute before turning right on to Whitford-Maraetai Road. We arrived back at Howick at 8.33am after spending around two to three minutes in the lead up to the Whitford Sommerville roundabout.
27. The hearing commenced on 27 November 2023. The private plan change applicant Beachlands South Limited Partnership (**BSLP**) is a partnership between the following entities:
- (a) MIB Limited Partnership, comprising limited partners Russell Property Group and Rob Bassett;
  - (b) NZSF Beachlands Ltd (a New Zealand Superannuation Fund entity); and
  - (c) Ngāi Tai Hāpai Development Limited Partnership, representing 6 iwi and who also jointly own Macleans College land.
28. The hearing commenced with a karakia from Ngāi Tai ki Tāmaki.
29. The hearing included remote access (audio visual means) via Teams, which meant that anyone was able to observe the hearing virtually. Several witnesses also appeared remotely.
30. This decision does not include a section 'Summary of Evidence'. All of the evidence is publicly available on the relevant Council web page, together with a recording of the hearing. We address evidence as necessary and appropriate where we address the subject matter or the proposed PC 88 provisions to which submissions relate.

31. The hearing concluded on 1 December 2023 with a high level verbal reply from the Applicant. Reply legal submissions were subsequently filed on 13 December 2023. We determined that the hearing could be closed on 15 December 2023.

## **PROCEDURAL MATTERS AND LATE SUBMISSIONS**

### **Late Submissions**

32. Two late submissions were received by the Council. Pursuant to section 37 of the RMA, the time for receiving submissions was extended to accept those late submissions.<sup>14</sup>

## **STATUTORY CONTEXT**

33. The RMA sets out an extensive set of requirements for the formulation of plans and changes to them. These requirements were set out in the Hearing Report, the Addendum Hearing report, and the legal submissions from the Applicant and ACS/AT.<sup>15</sup>
34. Clause 10 of Schedule 1 to the RMA requires that this decision must include the reasons for accepting or rejecting submissions.
35. In this case, for the reasons set out in this decision, we have not accepted the Council's recommendation to refuse PC 88. Therefore, our decisions on submissions do not generally follow the recommendations set out in the Hearing Report and Addendum Hearing Report. For ease of reference we have included in Attachment 2 the Council's recommendations from the Addendum Hearing Report, with our decisions recorded alongside. Attachment 2 should be read in conjunction with this decision.
36. This decision must include a further evaluation of any proposed changes to the plan change arising from submissions; with that evaluation to be undertaken in accordance with s 32AA of the RMA.
37. The Applicant in its private plan change request provided an evaluation pursuant to s 32 of the RMA.<sup>16</sup> The evidence for the Applicant included a s 32AA assessment.<sup>17</sup>
38. The further evaluation required by s 32AA of the RMA must be undertaken at a level of detail that corresponds to the scale and significance of the changes.<sup>18</sup> We are satisfied that this decision, which addresses the modifications made by the Applicant in reply, and our further modifications, satisfies s 32AA requirements.
39. Having considered the evidence and relevant background documents, we are satisfied, overall, that PC 88 has been developed in accordance with the relevant statutory and policy matters with regard to the Council's functions, and the

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<sup>14</sup> Submitters Angela Reilly and Margaret Robertson.

<sup>15</sup> See for example Synopsis of Legal Submissions for the Applicant at Section 5.

<sup>16</sup> Unio Environmental, Private Plan Change Request – Section 32 Assessment Report.

<sup>17</sup> Joint Planning Evidence of Vijay Lala and Nick Roberts, Appendix 1 Section 32AA Evaluation.

<sup>18</sup> RMA, s 32AA(1)(c).



requirement to give effect to the NPSUD and RPS. PC 88 will also assist the Council in its effective administration of the AUP particularly given the detailed precinct provisions within PC 88.

40. We must consider whether PC 88 gives effect to any national policy statement or the New Zealand Coastal Policy Statement (**NZCPS**),<sup>19</sup> and complies with any other regulations or statutes.<sup>20</sup>

### **National Policy Statement on Urban Development**

41. The NPSUD was gazetted on 23 July 2020, and came into force on 20 August 2020. It applies to all local authorities that have all or part of an urban environment within their District. Auckland City is listed as a “Tier 1” local authority.
42. The purpose of the NPSUD is to:
- (a) Have 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; and
  - (b) Provide sufficient development capacity to meet the different needs of people and communities.
43. We address the NPSUD in more detail later in this decision, given that it is a key matter in contention.

### **Regional Policy Statement**

44. The purpose of the RPS is to achieve the purpose of the RMA by providing: an overview of the resource management issues of the region; and policies and methods to achieve integrated management of the natural and physical resources of the whole region.
45. PC 88 must also give effect to the RPS. Whether it does so is also a key matter in contention which we address later in this decision in more detail.

### **Other National Policy Statements**

46. Other National Policy Statements are relevant to our decision, being the:
- (a) NZCPS;
  - (b) National Policy Statement for Freshwater Management (**NPSFM**);
  - (c) NPSIB.

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<sup>19</sup> RMA, ss 75(3)(a) and (b).

<sup>20</sup> RMA, ss 74(1).

47. The Applicant's assessment was that PC 88 gives effect to the NZCPS and NPSFM, and the Hearing Report confirmed that Ms Trenouth agreed with these assessments.<sup>21</sup>
48. Prior to expert conferencing, whether PC 88 gave effect to the NPSIB remained a matter in contention, however following expert conferencing this was not an outstanding issue. The Addendum Hearing Report confirmed that Ms Trenouth agreed that PC 88 was consistent with the NPSIB.<sup>22</sup>
49. We also considered the relevance of the National Policy Statement on Highly Productive Land (**NPSHPL**). As set out in the Hearing Report, this came into force on 17 October 2022 and requires the protection of highly productive land that is zoned either general rural or rural production, and is predominantly LUC 1, 2 or 3 land, and forms a large and geographically cohesive area (clause 3.4(1)). The plan change area is zoned Rural – Country Living in the AUP and as such is not considered highly productive land. Therefore, the NPSHPL is not considered relevant to the consideration of the Plan Change.<sup>23</sup>
50. We agree that these national policy statements are either relevant and are given effect to, or (in the case of the NPSHPL) are not relevant, and do not discuss these further in this decision.

#### **National environmental standards or regulations**

51. The following national environmental standards (**NES**) or regulations were identified as being relevant to PC 88:
  - (a) NES Freshwater;
  - (b) NES on assessing and managing contaminants into soil to protect human health;
  - (c) NES for sources of human drinking water; and
  - (d) Water Services (Drinking Water Standards for New Zealand) Regulations 2022.
52. The Hearing Report noted agreement with the Applicant's assessment that PC 88 was consistent with the NES Freshwater and for Contaminated Land.<sup>24</sup> The Hearing Report expressed some minor reservation with respect to drinking water, primarily the Water Services (Drinking Water Standards for New Zealand) Regulations 2022,<sup>25</sup> but following expert conferencing whereby the experts agreed that there were no unresolved issues relating to drinking water quality to be addressed under PC 88, this was resolved.

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<sup>21</sup> Hearing Report at paragraphs 101 and 103.

<sup>22</sup> Addendum Hearing report at paragraph 61.

<sup>23</sup> Hearing Report at paragraph 98.

<sup>24</sup> Hearing Report at paragraph 106.

<sup>25</sup> Hearing Report at paragraphs 107-109.

53. Accordingly, we are satisfied that PC 88 does not raise any issues as to consistency with any NES or regulations, and do not discuss these further in this decision.

### **Climate change and greenhouse gas emissions**

54. Relevant to our determination of this matter, we must have regard to any Emissions Reduction Plan and National Adaptation Plan made in accordance with sections 5ZI and 5ZS of the Climate Change Response Act 2002.<sup>26</sup> Both are relevant to our decision.
55. The Emissions Reduction Plan received considerable attention through the hearing process, and we address this more fully below given that the matter of emissions reduction arises also through the NPSUD.
56. With respect to the National Adaptation Plan, one submission sought that PC 88 be declined as it does not have regard to either the Emissions Reduction Plan or the National Adaptation Plan.<sup>27</sup> However, this matter was not otherwise raised or in dispute. The evidence before us is that there are no outstanding hazard issues of a coastal hazard nature,<sup>28</sup> subject to the wording of provisions, there are no remaining issues in contention for stormwater and flooding,<sup>29</sup> suitable options have been identified for wastewater servicing,<sup>30</sup> and there are no remaining issues of contention with respect to water supply.<sup>31</sup> Accordingly, we have had regard to the National Adaptation Plan, and consider that from a climate resilience perspective PC 88 is appropriately located and designed.

### **Other relevant legislation**

57. We record two other statutes which we do not discuss further in this decision:
- (a) The Ngāi Tai ki Tāmaki Claims Settlement Act 2018.<sup>32</sup> Pursuant to that Act, the coastal marine area adjacent to PC 88 is identified as a statutory acknowledgement area (CMA (OTS-403-128), Hauraki Gulf/Tikapa Moana). Based on the Cultural Values Assessment provided by Ngāi Tai ki Tāmaki and the precinct provisions that recognise and provide for protection of the cultural landscape values within the plan change area, we agree that no issues arise with respect to that legislation.
- (b) The Hauraki Gulf Marine Park Act 2000. The Hearing Report adopted the Applicant's assessment on this, and we agree that, PC 88 does not conflict with

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<sup>26</sup> RMA, s 74(2)(d) and (e).

<sup>27</sup> Equal Justice Project, submission 146.1.

<sup>28</sup> Hearing Report at paragraph 241: potential coastal hazard effects are considered to be appropriately managed.

<sup>29</sup> Addendum Hearing Report at paragraph 38.

<sup>30</sup> Hearing Report at paragraph 221.

<sup>31</sup> Addendum Hearing Report at paragraph 42.

<sup>32</sup> Hearing Report at paragraph 119.

sections 7 and 8 of that Act because any potential adverse effects on coastal water quality will be appropriately managed.<sup>33</sup>

## Plan Change 78

58. The majority of the northern portion of PC 88 is proposed to be zoned MHU. As the plan change area is currently zoned Countryside Living, Plan Change 78 – Intensification (PC 78) does not apply to it. PC 78 identifies the MHU zone to be the most widespread residential zone covering most of urban Auckland and incorporates the medium density residential standards (MDRS). It is a reasonably high-intensity zone, with development of typically three-storeys in a variety of sizes and forms, including detached dwellings, terrace housing and low-rise apartments. The existing Beachlands settlement was exempted from the intensification plan change, due to the ‘qualifying matter’ of transport infrastructure, including costs of upgrading roads and ferries.

## STRATEGIC PLANNING CONTEXT

59. The strategic planning context to this decision was discussed in detail during the hearing. In this section, we set out that context.
60. We received evidence about the Auckland Plan 2050 – Development Strategy and the Future Land Supply Strategy 2017 (**FULSS**). On 2 November 2023, Auckland Council adopted the Auckland Future Development Strategy 2023-2053 (**FDS**). We also received evidence about this, and we were told that when published, it would replace both the Auckland Plan 2050 – Development Strategy and FDS.
61. The FDS is one of the plans to which plan changes must have regard. In preparing the FDS under the Local Government Act 2002, the tests of the RMA are not legally required, nor is the document tested through a Schedule 1 process under the RMA.
62. The FDS does not provide a strong evidential basis on which to assess PC 88 against the relevant statutory tests. In particular, the FDS did not address the expansion of rural and coastal settlements beyond that already set out in the FULSS.
63. The RPS and NPSUD do provide for expansion of coastal towns and for planning to be responsive to unanticipated or out of sequence development proposals. The FDS spatial response for rural areas acknowledges more work needs to be done to specifically address growth in existing rural towns and settlements such as Beachlands. In particular, there is a supporting action to update information on rural settlements, environments, productivity and employment and develop a Rural Strategy (prioritising the southern rural area) to inform the future approach to rural areas.<sup>34</sup> Importantly, in the interim, merit-based development in areas adjacent to existing towns and settlements will be considered through relevant subsequent planning processes.

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<sup>33</sup> Hearing Report at paragraph 118.

<sup>34</sup> Page 50.

64. This was accepted by the Planning, Environment and Parks Committee who, in adopting the FDS, came to the following resolution on 2 November 2023:

*8 Adoption of the Future Development Strategy*

*That the Planning, Environment and Parks Committee*

*a) adopt the Future Development Strategy with the following addition to 4.2.3 Rural areas*

*i) the proposed Rural Strategy will consider the appropriateness of growth in existing rural towns and settlements and in the interim, merit-based development in areas adjacent to existing towns and settlements will be considered through relevant subsequent planning processes*

*b) note the extent of change from the draft FDS in response to public submissions*

*c) note that once published, the FDS replaces the current Development Strategy (2018) and the Future Urban Land Supply Strategy (2017) and will be considered part of the Auckland Plan 2050.”*

65. The Panel was aware of this resolution and the contents of the FDS during the hearing, although it was not published in final form until January 2024. As is evident from the above paragraphs and other parts of this decision, we have had regard to the FDS in making this decision.

## **ISSUES IN CONTENTION**

### **Principal issues in contention**

66. Having considered the submissions and further submissions received, the hearing report, the evidence presented at the hearing and the Council officers' response to questions, the following principal issues in contention have been identified:
- (a) Whether PC 88 gives effect to the NPSUD. In this regard, does PC 88 support reductions in greenhouse gas emissions, and deliver a WFUE?
  - (b) Whether PC 88 gives effect to the RPS.
  - (c) Transport matters including particularly:
    - (i) Whether the Applicant has used appropriate assumptions in its transport assessments, including with respect to ferry transport from Pine Harbour Marina to Auckland Central such that traffic impacts on the road network as a result of PC 88 have been appropriately estimated;
    - (ii) Whether the road improvements proposed by the Applicant appropriately and adequately respond to PC 88 (both the upgrades and the timing of them); and
    - (iii) Whether, if PC 88 is approved, additional upgrades should be required, and the timing of those.

- (d) The appropriate assessment of PC 88 with respect to greenhouse gas emissions. Related to this:
  - (iv) Regard to the Emissions Reduction Plan, Te Tāruke-ā-Tāwhiri Auckland's Climate Plan, and the Transport Emissions Reduction Plan.
  - (v) The suitability of MSM modelling to estimate vehicle kilometres travelled (**VKTs**) per household and resulting transport GHG emissions from PC 88.
- (e) Whether PC 88 provides an appropriate degree of certainty of funding and financing for infrastructure required for PC 88 at the plan change stage, in the context of relevant NPSUD and RPS provisions (including the ability of the Infrastructure Funding and Financing Act 2020 (**IFF Act**) to provide a funding and financing solution).

### **Other issues in contention**

67. There are a range of other matters in contention as follows:

- (a) The impacts of PC 88 on the character of Whitford Village.
- (b) If PC 88 is approved, whether:
  - (i) This should include or exclude the FUZ.
  - (ii) Non-complying activity status should be utilised for subdivision and development not complying with transport triggers standard, and subdivision and development above 2,700 dwellings.
  - (iii) There is an appropriate Height Variation Control in the MUZ.
  - (iv) There should be additional assessment criteria for stormwater assessment.
  - (v) A noise control should be imposed along Whitford-Maraetai Road.
  - (vi) Reference to the Sustainability Strategy should be included in the precinct provisions.
  - (vii) Pā site R11/1619 should be scheduled in the AUP.
  - (viii) The amendments requested by Fire & Emergency New Zealand have been addressed.
  - (ix) The amendments requested by Watercare Services Limited have been addressed.

## Issues not in contention

68. A large number of matters were not in contention and we have described some of those in the section “Hearing Process” with respect to expert conferencing, and the section “Statutory Context” with respect to certain NPS, NES, regulations and relevant legislation.
69. In addition to those matters, we note that the following issue was not in contention:
- (a) The Ministry of Education tabled a submission seeking details amendments to the precinct provisions.<sup>35</sup> The Applicant has included the Ministry’s requested amendments in the precinct provisions.
70. We also note that while we had evidence before us with parties requesting some specific and detailed changes to the precinct provisions, on the whole the scale of these changes sought was relatively limited.<sup>36</sup> Some changes were accepted by the Applicant and incorporated into subsequent iterations of the precinct provisions, with the version provided as part of the Reply Submissions being those which the Applicant’s planners supported.
71. The following section addresses our overall findings on PC 88 and why we have approved it; having heard and considered all of the material and evidence before us.

## FINDINGS AND REASONS FOR APPROVING THE PLAN CHANGE

72. As already discussed, a large number of matters were not in contention. This included key substantive matters such as whether PC 88 gives effect to the NZCPS and NPSIB, as well as the detailed precinct provisions within PC 88. The consequence of this is that this decision focuses on the relatively few, but nevertheless significant, issues in contention.
73. Before dealing with those, we record that the following factors are also reasons why we have approved the plan change. These factors were not in dispute and did not receive much attention at the hearing, but they are in our view significant factors which support the approval of PC 88:<sup>37</sup>
- (a) With the exception of Significant Ecological Areas (**SEAs**), the land subject to PC 88 is not subject to any scheduled items in the AUP such as outstanding natural features and landscapes, outstanding natural character, or heritage.
- (b) The measures in place to avoid or minimise adverse effects on ecological values within the land subject to PC 88 and the adjoining environment as far as possible, primarily through establishing an 88.7 ha EPAN to ensure the long-term protection and enhancement of terrestrial, wetland and stream habitats with the

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<sup>35</sup> Letter from the Ministry of Education dated 24 November 2023.

<sup>36</sup> We acknowledge that many submitters’ primary position was that PC 88 should be refused, but are grateful for their engagement with the precinct provisions should PC 88 be approved.

<sup>37</sup> These matters all go to matters of national significance, either through s 6 RMA or through national policy statements dealing with matters of national significance.

highest ecological values, is significant and enables the NZCSP, NPSFM and NPSIB to be given effect to in respect of ecological matters.

- (c) PC 88 will enable access to the coastal marine area as a result of the coastal walkway.
  - (d) No significant risks from natural hazards have been identified.
  - (e) The land subject to PC 88 is not highly productive land.
  - (f) National policy statements dealing with matters of national significance (particularly the NZCPS, the NPSFM and the NPSIB) are given effect to.
74. Additionally, we consider the following to be key factors in support of the plan change:
- (a) The presence of an existing ferry service from Pine Harbour Marina to the CBD for commuters to the CBD; and
  - (b) The provision of land for education facilities. Although the Ministry of Education does not go so far as to say that it will *definitely* build a school, it is supportive of PC 88 subject to some amendments, and records that:<sup>38</sup>

*If PPC88 is approved, a new primary school will be required to accommodate growth and further work will be undertaken to determine the demand for a secondary school. If PPC88 is approved the Ministry will further assess the timing and provision of these schools in detail to meet the demand brought about by the residential growth enabled by the Plan Change.*

We received clear evidence about the desire for further education facilities at Beachlands and we consider that the ability for PC 88 to facilitate this is important.<sup>39</sup>

### **Does PC 88 give effect to the NPSUD?**

75. Plan changes are required to give effect to the NPSUD, noting particularly the requirement of Policy 1 to deliver a well-functioning urban environment (**WFUE**). There was general agreement that the proposed PC 88 met the Policy 1 (a), (b), (d) and (f), and that the main issues of contention lay specifically with Policy 1 (c) relating to “good accessibility including by way of public or active transport” and (e) “supporting reductions in GHG emissions”.<sup>40</sup> We consider greenhouse emissions

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<sup>38</sup> Letter from the Ministry of Education dated 24 November 2023.

<sup>39</sup> We refer particularly to the evidence of Angela Mason who we heard from, and whose submission (#348) attached the detailed campaign to the Minister of Education for a new secondary school in Wairoa (the Beachlands/Clevedon catchment).

<sup>40</sup> Reply Submissions at paragraph 7.1.



later in our decision. Issues with Policy 1(c) were further emphasised in the Planning JWS as the fundamental difference of opinion between experts.<sup>41,42</sup>

76. The author of the Hearing Report, as well as Mr Reaburn and Ms Heppelthwaite all consider that PC 88 does not represent a WFUE as mentioned in several objectives and policies in the NPSUD. While the Applicants consider that PC 88 will clearly deliver a WFUE, as described below, we were reminded that the NPSUD does not state or require the avoidance of urban growth that does not achieve a WFUE.<sup>43</sup>
77. The author of the Hearing Report sets out their contention that PC 88 does not meet a WFUE because additional development capacity is not required to meet demand, it does not support growth in an urban environment that is well-served by public transport or employment, it is not integrated with infrastructure planning and funding decisions, and would not support the reduction in greenhouse gas emissions (in accordance with objectives 1,3,6,8 and policies 1,6 and 8 of the NPSUD).<sup>44</sup>
78. Ms Heppelthwaite suggested that PC 88 may not deliver good accessibility and focused on the uncertainty of the provision of business and education amenities and the lack of provision for public and active transport beyond the site. Ms Heppelthwaite drew on the evidence of Mr Dudley,<sup>45</sup> who commented that a 'disconnect' between Beachlands and main employment centres will remain.
79. Ms Heppelthwaite goes on to comment that while roading improvements can cater for the increase in vehicle volumes and safety, these do not provide good accessibility or increased bus patronage as Beachlands will remain on the periphery of Auckland's urban area which supply a wider range of services and the majority of employment opportunities.<sup>46</sup>
80. Messrs Lala and Roberts noted that the s42A report presents some inconsistencies with the location of planned growth as set out in the FDS and their submissions on the proposed PC 88.<sup>47</sup> Proposed expansion of several rural and coastal settlements identified in the FULSS (including Maraetai, Clarkes Beach and Glenbrook) also appear to be disconnected from main employment centres.
81. We heard commentary on 'urban sprawl' and sought interpretations of 'urban sprawl' and the location of growth areas ('remoteness') from several witnesses.
82. When questioned, Mr Reaburn highlighted that the difference lay in 'planned' and 'unplanned' urban sprawl, especially in his reference to the growth strategy in his evidence. We took from that comment that the FDS provides for planned urban sprawl whereas the location of PC 88 was unplanned, or at least not provided for in the FDS, and therefore amounts to 'urban sprawl'. In this, Mr Reaburn confirmed

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<sup>41</sup> JWS Planning at paragraph 3.8.

<sup>42</sup> Rebuttal Evidence of Vijay Nagan Lala and Nicholas Jon Roberts at paragraph 5.9.

<sup>43</sup> Synopsis of Legal Submissions for the Applicant at paragraph 7.32.

<sup>44</sup> Hearing Report at paragraph 100.

<sup>45</sup> Statement of Evidence of Catherine Lynda Heppelthwaite at paragraph 8.1(x).

<sup>46</sup> Summary Hearing Statement of Evidence of Catherine Lynda Heppelthwaite at paragraph 5(a).

<sup>47</sup> Joint Planning Evidence of Vijay Lala and Nick Roberts at paragraph 3.14.

his view that any significant new areas of growth should be planned in a way that recognises the capacity within the already identified growth areas, particularly where the new area proposed has not been specified as a growth area.

83. In his evidence in chief, Mr Reaburn states that:<sup>48</sup>

*... Council has expressed no interest in having a significant new growth node at Beachlands. It is in a peripheral location, so that is not surprising. The growth strategy that I have referred is a carefully managed approach to where significant extensions urban areas will occur. In my opinion a significant extension in a rural location, such as proposed by PPC 88 is a type of urban sprawl that is not envisaged. This private plan change is very different to a private plan change being proposed in an existing Future Urban zone or an area specifically planned as a location for growth.*

84. When questioned, Mr Reaburn further re-iterated that PC 88 was well planned within its boundaries (a view generally agreed amongst experts), but that it was in the wrong location. He sets out in his summary evidence, that PC 88 does not contribute to a WFUE, is not well-connected along transport corridors, and he does not accept that Beachlands is an efficient location for growth.<sup>49</sup>

85. We found Mr Reaburn's evidence somewhat contradictory in seeing Beachlands as close enough to the metropolitan area, but still distant and reliant on private vehicle access such that he does not view it as an efficient location for growth.

86. In responding to the Hearing Report, Mr Heath considers PC 88 as a 'a 'plug in' extension of the existing Beachlands coastal settlement, and that this represents an efficient expansion of Beachlands to accommodate growth.<sup>50</sup> Mr Heath further emphasises that Beachlands is a unique environment in comparison to other growth nodes in the region, noting the direct ferry access to the CBD.<sup>51</sup>

87. Mr Heath drew attention to the 85% of employed people in the Auckland region who do not travel to the CBD for work, and that Beachlands has some 100,000 employment opportunities within 20 km; and provided evidence that this was substantially more than other planned growth nodes.<sup>52</sup> Reply submissions for the Applicant emphasised that Beachlands South is better connected than priority growth areas such as Warkworth, Wellsford and Pukekohe, with the added benefit of a direct ferry service to the CBD.<sup>53</sup>

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<sup>48</sup> At paragraph 7.30.

<sup>49</sup> Summary Hearing Statement of Peter Reaburn at paragraph 13.

<sup>50</sup> Statement of Timothy James Heath at paragraph 13.26.

<sup>51</sup> Rebuttal Evidence of Timothy James Heath at paragraph 4.3.

<sup>52</sup> Rebuttal Evidence of Timothy James Heath at paragraphs 4.7 to 4.13.

<sup>53</sup> Reply submissions at paragraph 2.6(d).

88. This contrasts with Mr Reaburn's view that Beachlands is a relatively large distance from urban Auckland's employment opportunities<sup>54</sup>, and the author of the Hearing Report who considered that PC 88 would act as a dormitory residential suburb.<sup>55</sup>
89. We heard from Mr Heath that some 2,400 jobs would be enabled by PC 88, a figure extended to the potential for some 6,000 jobs, providing for an increase in trip internalisation.
90. In her presentation, Ms Trenouth cautioned against comparisons with other growth nodes, and emphasised that the aim is to make the planned future urban zones in some of these areas as business land to rebalance the growth in residential.
91. In reply, Counsel for the Applicant responds to the question of location and remoteness, noting, amongst other things, that PC 88 is not creating a new town but a logical extension of a well-established coastal town.
92. We comment on the RPS below, but the RPS seeks that a WFUE enables good accessibility for all people including public or active transport (RPS B2.2.1 (d)), and a range of transport options including walking and cycling (B2.6.1(1)(g)). Messrs Lala and Roberts state that many locations in Auckland would fail that test, including those set out in the FDS.<sup>56</sup>
93. We were not persuaded by arguments that PC 88 will contribute to 'urban sprawl', given the interpretations we were presented with. Similarly, we agreed with the applicant that the Beachlands South location was not 'remote' when compared to current planned growth areas within the Auckland region, especially given the ferry connection to the CBD and the potential for job creation within Beachlands South.
94. The Panel considered that the weight of evidence presented by the Applicant (noting the discussion of GHG emissions below) demonstrated that PC 88 does meet the requirements of a WFUE. We accepted the general agreement that PC 88 is a well formed urban design within its boundaries, and agreed with the Applicant that Beachlands South is less remote and equally if not better connected than identified Council priority growth areas, including the provision for increased capacity on the ferry service to the CBD.

### **Does PC 88 give effect to the RPS?**

95. There was general agreement between the parties that PC 88 would give effect to the RPS, except for the objective and policies enabling and directing growth principally to within the Rural Urban Boundary (RUB) and existing towns and villages.
96. As to whether there is tension between B2.2.2 and B2.2.6, B2.2.2 enables growth within the RUB and existing towns and villages. B2.2.6 enables the significant expansion of rural and coastal towns and villages. This interpretation is supported

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<sup>54</sup> Statement of Evidence of Peter Reaburn at paragraph 7.25.

<sup>55</sup> Hearing Report at paragraph 183.

<sup>56</sup> Joint Planning Evidence of Vijay Lala and Nick Roberts at paragraph 5.11.

by the Independent Hearings Panel's (IHP) recommendations on the AUP and by the Council's own recently adopted FDS which anticipates the growth of rural and coastal settlements. "Enable" within the RPS is strong directive language.

97. Experts on behalf of the Council and ACS/AT provided evidence that PC 88 is contrary to B2.2 of the AUP, and should be declined. The argument moved somewhat during the course of the hearing. By the end of the hearing, most Council, ACS and AT experts (and legal counsel Mr Allan) appeared to accept that B2.6 does provide a pathway for urbanisation in Beachlands. These experts maintained, however, that growth needed to be considered in the context of B2.2 which provided an overarching strategy for the city.

### Applicant's Response

98. Counsel for the Applicant submitted that, apart from Council's identified 'priority growth areas' Beachlands South has a superior location to most other rural and coastal towns in the region. If the development pathway that the RPS contemplates for rural towns and villages does not apply at Beachlands, it is hard to see where else in the region it could have any application at all. When the AUP IHP devised Policy B2.2.6, and when Auckland Council accepted its recommendation, it must be presumed that all involved knew the location of the region's rural and coastal towns to which it would apply. In the event that live zoning is granted in terms of the application, B2.2.2 will apply in the context of urban development having to be within the new zone boundary.
99. The "significant expansion of" or the "creation of a new" rural or coastal town or village would probably never be within Council's interpretation of a 'compact urban form'. When looking at all the rural and coastal towns that could have been contemplated when Policy B2.6 was drafted, Beachlands is far closer and more connected than the others (and the only option with a ferry to the CBD).
100. B2.2 confirms that urbanisation is to be contained within the RUB and within rural and coastal towns and villages. This provision looks to the now. It preserves the status quo, enabling development within pre-identified growth areas through the resource consenting process.
101. B2.6 looks to the future. It sets out the process and considerations for further growth in rural and coastal towns and villages through the structure planning and plan change process. B2.6 recognises that you cannot simply put a ring around Auckland to constrain urbanisation, only moveable through the unilateral power of the Council.
102. Once this pathway to urbanisation through B2.6 is accepted, the Objectives and Policies in B2.2 become a check list, with which development in existing or new rural and coastal towns and villages must comply to achieve growth. PC 88 achieves each of these objectives.<sup>57</sup>

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<sup>57</sup> Described more fully in the Reply Submissions at paragraph 6.4.

- (a) B2.2.1(1)(a) A higher-quality urban environment: There is almost universal agreement that PC 88 will achieve a higher-quality urban environment. Ms Heppelthwaite on behalf of AT acknowledged that the live zone portion of PC 88 is well-designed to achieve a compact urban form internally. The Applicant provided significant evidence, in particular from Messrs Barratt-Boyes and Ray, and Mr Brown, in support of the world-class built form.
- (b) B2.2.1(1)(b) Greater productivity and economic growth: None of the submitters raised questions as to whether PC 88 would achieve greater productivity and economic growth. Mr Heath provided evidence about the concept of 'critical mass,' and the plethora of economic opportunities that will complement, not contradict, the existing opportunities in Beachlands.
- (c) B2.2.1(1)(c) Better use of existing infrastructure and efficient provision of new infrastructure: The evidence of Messrs Hughes and Harries highlights how PC 88 will improve the existing infrastructure, leaving Beachlands in a better position than it is currently. New infrastructure, such as the upgrades to Trig Road and the Whitford Bypass, will also be enabled by PC 88. If PC 88 is not approved, the existing infrastructure in Beachlands may not be upgraded to the standard necessary to address the pre-existing issues.
- (d) B2.2.1(1)(d) Improved and more effective public transport: The proposed precinct provisions include triggers requiring upgrades to the frequency and patronage of the Pine Harbour ferry service. There was no contrary evidence that PC 88 would not improve and provide more effective public transport.
- (e) B2.2.1(1)(e) Greater social and cultural vitality: PC 88 will ensure the wider Beachlands community has access to facilities that they would not otherwise have. The sorts of facilities provided in PC 88 will complement, not contradict, the existing facilities within wider Beachlands. As described by Messrs Barratt-Boyes and Ray, PC 88 will create a 'real destination,' in contrast to the 'service centre' in existing Beachlands.
- (f) Ms MacFie's evidence explains how PC 88 provides Ngāi Tai ki Tāmaki with an opportunity they did not previously have to be involved in development in Beachlands. Ngāi Tai ki Tāmaki were systematically excluded from their rohe and whenua. PC 88, unlike existing Beachlands, will facilitate a strong connection between the coastal environment, freshwater bodies and land use, and enhance the cultural wellbeing of Ngāi Tai ki Tāmaki.
- (g) B2.2.1(1)(f) Better maintenance of rural character and rural productivity: The only two experts qualified in landscape architecture, Mr Brown and Ms Skidmore, consider PC 88 to enhance the rural character of Beachlands. Mr Brown also concludes that the changes to the roading environment through Whitford (which are also within the designated road boundary and can happen as of right) would result in a neutral to slightly positive amenity outcome for Whitford village.<sup>58</sup> Contrary evidence was provided by planners, Mr Williamson and Mr Reaburn,

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<sup>58</sup> Rebuttal Evidence of Stephen Kenneth Brown at paragraph 3.14.

but we prefer the evidence of the landscape experts who conducted landscape assessments of the area.

- (h) B2.2.1(1)(g) Reduced adverse environmental effects: The number of agreed issues is remarkable for a plan change of this scale. The only environmental effects at issue relate to GHG emissions, traffic and infrastructure.
103. Overall, the Applicant and their experts and legal counsel consider that PC 88 clearly gives effect to the RPS as it is specifically envisaged by B2.6 and meets the overarching objectives of B2.2.
104. In the JWS Planning records that “All experts agree that, in terms of greenfield growth, there are three pathways set out in the RPS to achieve that. These are through development within the RUB (B2.2.2(7)), expansion of the RUB (B2.2.2(2)), or expansion of rural and coastal towns (B2.6). Chloe Trenouth and Peter Reaburn agree that there are three pathways, however, they do not consider these pathways to be equal in terms of delivering a quality compact urban form outcome, in accordance with the growth strategy articulated in Objectives B2.2.1.”<sup>59</sup>

### Decision

105. The Panel agrees with the position as outlined by the Applicant, and considers that the proposal does provide a quality, compact urban form outcome, albeit not contiguous with the main developed urban area of Auckland. The type of quality, compact urban form is that which is also desired for Pukekohe and Warkworth satellites, and for the FDS-planned intensification and expansion of the towns and rural and coastal settlements.

### **Transport**

106. Fundamentally, we consider that we need to be satisfied that the transport related provisions within PC 88 (particularly the provision for Staging of Subdivision and Development with Transport Upgrades<sup>60</sup>) are appropriate and give effect to the NPSUD and RPS in relation to transportation matters.
107. This topic presented itself in a number of ways during the hearing, with respect to:
- (a) Whether the Applicant has used appropriate assumptions in its transport assessments, including with respect to ferry transport from Pine Harbour Marina to Auckland Central such that traffic impacts on the road network as a result of PC 88 have been appropriately estimated;
  - (b) Whether the road improvements proposed by the Applicant appropriately and adequately respond to PC 88 (both the upgrades and the timing of them); and
  - (c) Whether, if PC 88 is approved, additional upgrades should be required, and the timing of those.

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<sup>59</sup> Paragraphs 3.41 and 3.42.

<sup>60</sup> 1.7.3.

Background

108. On behalf of the Applicant, Stantec prepared an Integrated Transport Assessment (ITA).<sup>61</sup> This involved traffic modelling of the effects of development within the proposed live-zoned portion of PC 88 to identify necessary transport infrastructure upgrades with timeframes anticipating development commencing in 2024 and completion in 2038.
109. The ITA was updated in December 2022 in response to requests for information from the Council.
110. The ITA noted that PC 88 would likely double the existing amount of traffic demand on the existing network, and that the existing network (roading and ferry) is under capacity and does not sufficiently meet demands. Based on the modelling, the ITA concluded that PC 88 could be supported from a traffic perspective and is unlikely to have a significant adverse effect on the traffic network, provided that the transport infrastructure required to support the live zoning is implemented in accordance with the timeframes/triggers identified in the ITA.
111. Those timeframes/triggers are reflected (in amended form) in PC 88 in the following table:<sup>62</sup>

**Table 2: Threshold for Subdivision and Development as shown on Beachlands South: Precinct Plan 6**

<b>Column 1</b> <b>Land use enabled within the area identified on Precinct Plan 6 by transport infrastructure in column 2,</b>		<b>Column 2</b> <b>Transport infrastructure required to enable activities or subdivision in column 1</b>
(a)	Up to a maximum of 250 dwellings and/or residential lots	Upgrade of Jack Lachlan Drive to provide two-way cycling facilities along the full length of one side of the road; and a footpath on the northern side of the road.  Site (A) on Precinct Plan 6: Upgrade of Whitford Maraetai Road / Jack Lachlan Drive intersection; and  Site (B) on Precinct Plan 6: Upgrade of Whitford Park Road / Whitford Road / Whitford Maraetai Road roundabout to a double lane roundabout*.  Site (E) on Precinct Plan 6: Upgrade of Somerville Road / Whitford Road / Point View Drive roundabout to provide a double north-west bound through-lane for additional capacity.

<sup>61</sup> Stantec, Integrated Transport Assessment for Beachlands South, March 2022.

<sup>62</sup> Table 2 as included in the Applicant’s Reply Submissions.

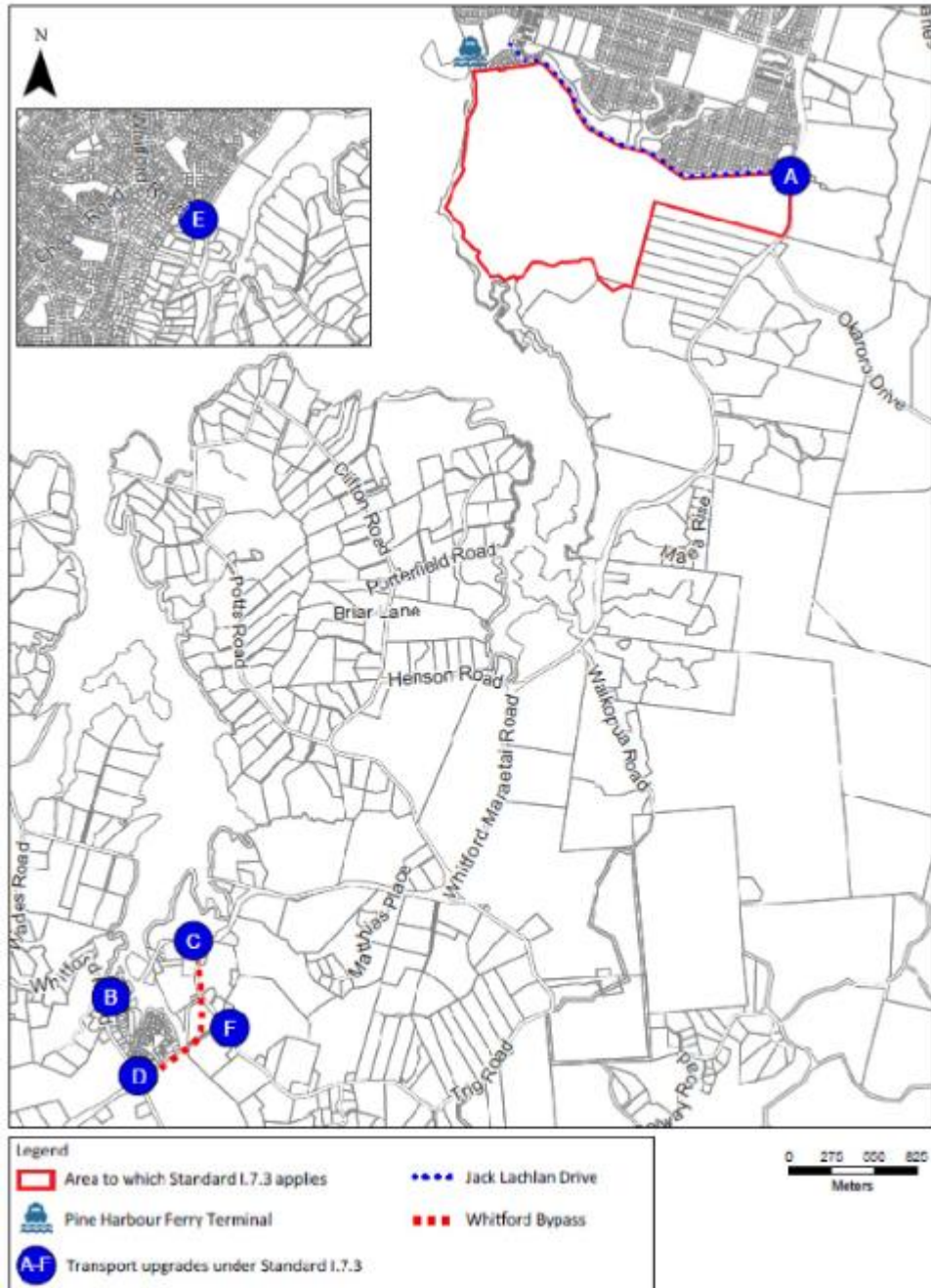
(b)	A provision of: i. More than 250 and up to 500 dwellings or residential lots	Upgrades in (a) above; and Provision for a total capacity of at least 592 ferry passengers from Pine Harbour during the two-hour peak period between 0630-0830 on weekdays.
(c)	A provision of: i. More than 500 and up to 850 dwellings or residential lots;	Upgrades in (a) and (b) above; and Provision for a total capacity of at least 692 ferry passengers from Pine Harbour Ferry during the two- hour peak period between 0630- 0830 on weekdays; and Site (D) on Precinct Plan 6: Provision of an additional left-turn approach lane on the northbound approach to the Whitford Park Road / Saleyard Road / Sandstone Road roundabout.
(d)	A provision of: i. More than 850 and up to 1,900 dwellings or residential lots;	Upgrades in (a) – (c) above; Provision for a total capacity of at least 952 ferry passengers from Pine Harbour during the two-hour peak period between 0630-0830 on weekdays; and Site (C) on Precinct Plan 6: Upgrade to Trig Road (south) / Whitford- Maraetai Road intersection.
(e)	A provision of: i. More than 1,900 and up to 2,700 dwellings or residential lots;	Upgrades in (a) – (d) above; and Provision for a total capacity of at least 1224 ferry passengers from Pine Harbour during the two-hour peak period between 0630-0830 on weekdays.  Site (F) on Precinct Plan 6: Whitford Bypass providing a two- way single lane each way between the Trig Road (south) / Whitford- Maraetai Road intersection and the Saleyard Road / Whitford Park Road / Sandstone Road intersection, including upgrades to the intersections at both ends.

*\*Note: If the Whitford Bypass is brought forward in timing prior to the Whitford Park Road / Whitford Road / Whitford Maraetai Road roundabout then this roundabout upgrade is not required.*

112. These upgrades are then shown on the following Precinct Plan 6 – Transport Staging and Upgrades:



**Precinct Plan 6 – Transport Staging and Upgrades**



113. The Hearing Report summarised the traffic engineering advice as follows.<sup>63</sup>

*Wes Edwards, the transport specialist on behalf of council has considered the above report and the further information and concludes that the Plan Change should be declined on transport grounds because:*

- a. The proposed provisions would not ensure a transit-oriented community, with only a small part of the plan change area located within walkable distance of the ferry service;*
- b. The ferry service is a lower frequency “local” service and not a rapid or frequent transit service;*
- c. If development does not achieve the anticipated highly self-sufficient community with high use of public transport, then the plan change would significantly increase private-vehicle travel on Whitford-Maraetai Road and other locations to the south and east;*
- d. Substantial additional transport infrastructure is required to support the plan change, otherwise there will be significant adverse effects on the safe and efficient operation of the transport network;*
- e. Additional transport infrastructure and services to support growth must be subject to prioritisation, and the plan change is not consistent with planning strategies and plans to help the efficient allocation of funding for growth infrastructure; and*
- f. The Plan Change is based on multiple optimistic assumptions that cumulatively produce an overly optimistic view of the likely transport effects and the ability of the proposed provisions to address these.*

114. Accordingly, the author of the Hearing Report considered that the transport effects of PC 88 would be significant.<sup>64</sup>

115. As already noted, approximately a third of submissions raised transport related issues. This included ACS and AT, and also many individual submitters. Individual submissions included issues of road safety, and resilience, as in times of accident when the Whitford-Maraetai Road is closed, residents must travel the long way round to Beachlands through Clevedon. In that regard, it is positive that there is an alternative route, albeit a less convenient one.

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<sup>63</sup> At paragraph 254.

<sup>64</sup> At paragraph 269.

### Transport assumptions

116. Following expert conferencing, which included ACS and AT, at the hearing, the following matters remained in contention regarding the assumptions used by the Applicant in its transport assessments:
- (a) Trip rates – narrowed to trip rates from apartments.
  - (b) Public transport (ferry and bus) mode share.
  - (c) Trip internalisation.
  - (d) Percentage of people working from home (**WFH**).
117. The relevance of these matters to our decision, is that ACS and AT say (in summary) that the Applicant’s assumptions materially underestimate the levels and timing of vehicle traffic generation and effects on the external road network, meaning that there will be higher traffic flows and earlier/increased road congestion and safety issues, which has an impact on the timing and nature of upgrades.
118. We consider each of these in turn, but also note that in response to these concerns the Applicant proposed additional provisions for the integrated transport assessments required for resource consent applications,<sup>65</sup> that they must assess and provide details of monitoring of certain matters including broadly (amongst other things) the mode share and apartment trip rate assumptions. We consider that these provisions<sup>66</sup> provide for the transport assumptions to be assessed on an ongoing basis and managed responsively. Notwithstanding that, we deal with each of the assumptions in dispute.

### Trip rates

119. The Applicant initially assessed the apartment trip rate at 0.29 – this was amended to 0.4 following peer review by Mr Hills.<sup>67</sup> Mr Edwards, reporting officer for the Council, considered that this figure was not appropriate for apartments outside a 400m walking distance. This view was shared by AT.<sup>68</sup> The JWS Transport and Planning – 1 November 2023 had suggested that the range should be somewhere between 0.4 and 0.65, and the “Recommended amendments proposed by Wes Edwards in response (01/12/23)” proposed a rate of 0.44.
120. We consider that the apartment trip rate of 0.4 is appropriate for the following reasons:

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<sup>65</sup> I.10(4).

<sup>66</sup> I.10(4)(a)-(e).

<sup>67</sup> Statement of Leo Donald Hills at paragraph 5.5. Mr Hills considered that the 0.29 rate was based on a rate for high density development in metropolitan sub-regional centres which he did not consider to be entirely appropriate in this location.

<sup>68</sup> See also JWS Transport and Planning – 1 November 2023 at paragraph 3.2.

- (a) The number originally proposed by the Applicant has been peer reviewed by a suitably qualified expert (Mr Hills) and raised to 0.4 as a consequence;
  - (b) The Applicant has carried out survey work at Gulf Harbour to test its assumption which revealed a measured morning peak trip rate of 0.34 vehicle trips per apartment.<sup>69</sup> Even allowing for any criticism that Gulf Harbour is not directly comparable, 0.34 is below 0.4.
  - (c) A 400m walking distance seems overly restrictive. In that respect, we agree that the walkable catchment is realistically 800-900m.
121. We note for completeness, that vehicle trip rates per apartment are nevertheless to be monitored so that recommendations can be made should the trip rate transpire to be greater than 0.4.<sup>70</sup>

Public transport (ferry and bus) mode share

122. For public transport mode share, the Applicant assessed that ferry uptake would rise from 6% (2018 census) to 13% (2038), and bus usage would rise from 1% to 4% on the same basis. Mr Edwards considers that 13% for ferry uptake is highly aspirational, and that the bus uplift is likely to be more in the range of 1% to 1.2%.
123. Part of the contention surrounding the ferry services included the operational feasibility and safety of Pine Harbour Marina to accommodate the proposed 136 capacity ferries at 15 minute intervals during peak hours, taking into account potential changes to AT ferry requirements.
124. All traffic experts agreed that it is technically and spatially feasible to accommodate four new 115-136 capacity boats within the existing Pine Harbour berthing area. Mr Freke and Mr Edwards consider that there may be some difficulties in accommodating the fifth boat and 15 minute frequencies.
125. Mr Harper on behalf of Sealink New Zealand Limited, the ferry operator which currently has the AT contract to operate the ferry between Pine Harbour Marina and Auckland CBD, gave evidence that the Pine Harbour wharf can accommodate a larger 136 seat vessel with similar hull dimensions to the existing Clipper V and an increased cadence of 15 minutes without any changes to the wharf infrastructure (other than a minor adjustment to the boarding / disembarking ramps and operation).<sup>71</sup>
126. We heard some issues raised as to whether ferry services to Beachlands could be relied on (i.e. would they be maintained by AT); and would the cost continue to be subsidised by AT to the same extent. Issues were also raised at the hearing as to ferry reliability when the weather is bad,<sup>72</sup> although Mr Harper's evidence for the ferry

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<sup>69</sup> Rebuttal Evidence of Daryl Hughes and Brett Harries at paragraph 3.13.

<sup>70</sup> I.10(4)(b).

<sup>71</sup> Statement of Paul Harper at paragraph 8.1.

<sup>72</sup> Helen Cahill (#334) said this year's (2023) operation had been quite fragile with large numbers of cancellations.

operator was that weather cancellations were not frequent and buses were put on when they occurred.

127. Pine Harbour Marina Limited was due to provide evidence at the hearing, however its evidence was withdrawn and we have not had regard to it.
128. In reply, the Applicant noted that AT have recently confirmed their Regional Public Transport Plan which provides improved bus services to Beachlands including a bus service connecting the wider Beachlands area to the ferry.<sup>73</sup>
129. The Panel considers that the ferry services from Pine Harbour Marina to the Auckland CBD are a key factor in favour of PC 88. We agree that there is some risk associated with these ferry services. A key issue is likely to be any significant change (decrease) in subsidy leading to a significant increase in the price to commuters. However, Auckland's Regional Public Transport Plan 2023-2031 does indicate improved bus service and 'aspirational' improvements to the Pine Harbour ferry terminal to be delivered in 2028,<sup>74</sup> with increased capacity.<sup>75</sup>
130. Given the existing usage of the ferry service (6%), the evidence of Mr Harper, and Auckland's Regional Public Transport Plan 2023-2031, we have confidence in the ferry uptake assessed by the Applicant.
131. While we have less confidence in the assessed increase in bus usage, we received no contrary evidence that PC 88 would not improve and provide more effective public transport in general. Moreover, Auckland's Regional Public Transport Plan 2023-2031 does indicate some improved bus services to Beachlands.<sup>76</sup>
132. We also find that the Applicant's proposal that integrated transport assessments address public transport by assessing and providing details of the following is sufficient to remedy any under-estimate that may in time eventuate:
  - (a) "Whether the proposal demonstrates methods that promote the increased use of public transport, including details of how those methods would be implemented, monitored and reviewed so as to contribute to a proportionate reduction in vehicle trips from the precinct";<sup>77</sup>
  - (b) "For every 500 dwellings or residential lots cumulatively within the precinct, a monitoring report demonstrating the following public transport mode share for employment and education trips have been achieved:

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<sup>73</sup> Reply Submissions at paragraph 7.6(e) referring to Auckland's Regional Public Transport Plan 2023-2031.

<sup>74</sup> "A new fit for purpose terminal is required to address the size constraints of vessels that can operate on this route to resolve capacity constraints and improve customer experience" at page 53.

<sup>75</sup> "Additional peak capacity (from 2025), and weekend (from 2025) and midday trips (from 2028)" at page 123.

<sup>76</sup> Auckland's Regional Public Transport Plan 2023-2031.

<sup>77</sup> I.10(4)(a).

Table 6: Mode Share

Dwellings	Public Transport
Base scenario	7%
Up to 1200 Dwellings	13%
Up to 2700 Dwellings	17%

If monitoring demonstrates that mode share splits are less than shown in the above table, the ITA shall identify any transport infrastructure upgrades that need to be brought forward for managing adverse effects on the environment, or alternative mitigation measures that are required to manage adverse effects on the environment. This may include consideration of the percentage of people working from home if different to the 11% recorded in the 2018 census”.<sup>78</sup>

133. As such, we consider that the modelling assumption with respect to ferry mode share is realistic and that any slow uptake in bus usage will be responded to as the precinct develops.

#### Trip internalisation

134. With respect to assumptions around trip internalisation, the contention on this topic is whether the Applicant’s assessment is optimistic as to the number of people living in Beachlands who will not need to travel due to increased employment opportunities within the precinct, and as a result of other factors such as a school which would significantly reduce the need to travel for education.
135. Mr Laing’s evidence for AT was that:<sup>79</sup>

*While noting that the Applicant is proposing a greater proportion of employment and educational land uses in Beachlands, I consider that there is risk in realisation of these land uses in timing and scale. I also note that the proposed internalised trip proportion does not benchmark well with comparable empirical evidence from other Auckland locations.*

136. While we have evidence that the Applicant’s assumptions are considered to be optimistic, we do not have evidence of an appropriate alternative assumption (or benchmarking). Accordingly, we accept the Applicant’s evidence on this.

#### WFH percentage

137. The percentage of people assumed to be WFH received some attention. Our understanding of the evidence is that the pre-Covid percentage of people WFH in Beachlands was 11% (and in Whitford 13.2%).<sup>80</sup> The figure of 11% has been used in modelling.<sup>81</sup> The figure of 20% has been tested in order to show that if the

<sup>78</sup> I.10(4)(c).

<sup>79</sup> Statement of Evidence of Steven Patrick Dudley at paragraph 1.7.

<sup>80</sup> Rebuttal Evidence of Daryl Hughes And Brett Harries at paragraph 3.31.

<sup>81</sup> Digital presentation (Hughes/Harries).

percentage of people WFH rises to 20%, all other traffic modelling variables become irrelevant.

138. On this basis, the Applicant's assumption of 11% is realistic. It is nevertheless reflected as a consideration in the precinct provisions requiring ongoing assessment.<sup>82</sup>

### Summary

139. For the above reasons, we are satisfied that the Applicant's modelling assumptions are appropriate. However, should the assumptions transpire to be optimistic, we are satisfied that the precinct provisions provide for any over-estimate to be responsively managed.

### Road improvements – upgrades and timing

140. As a result of its modelling, the Applicant proposed a series of intersection upgrades. These are primarily congestion improvements, which will increase the capacity of key intersections between Beachlands and Howick, being upgrades to:<sup>83</sup>

- (a) The Whitford-Maraetai Road and Jack Lachlan Drive intersection;
- (b) Whitford Roundabout improvements (Whitford Park Road / Whitford Road / Whitford-Maraetai Road);
- (c) Whitford Park Road & Sandstone Road intersection improvements;
- (d) Whitford-Maraetai Road / Trig Road; and
- (e) Sommerville Roundabout.

141. The Whitford Bypass is a project which has been planned for some time. It is a new bypass which would bypass the village centre of Whitford. We understand that the route is designated and all but one parcel of land required for the bypass has been purchased. The precinct provisions provide that if the Whitford Bypass was brought forward in timing prior to the Whitford Roundabout improvements, then the Whitford Roundabout improvements would not be required.

142. The rules which provide *when* these upgrades are to be undertaken, and the Applicant's estimated cost contributions, are in contention, but we do not otherwise understand the above matters to be in contention with ACS and AT. However, ACS and AT contend that in addition, the following projects are required:

- (a) Whitford-Maraetai safety improvements; and
- (b) Whitford-Maraetai four-laning.

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<sup>82</sup> I.10(4)(c).

<sup>83</sup> Described in Table 2: Threshold for Subdivision and Development as shown on Beachlands South: Precinct Plan 6, and shown on Precinct Plan 6, both reproduced earlier in this decision.

143. We briefly record that the Applicant's evidence is that with the following upgrades in place:

- (a) The Whitford-Maraetai Road and Jack Lachlan Drive intersection;
- (b) The Whitford Roundabout; and
- (c) The Somerville Roundabout;

the traffic modelling undertaken shows that each of those new intersections would operate well, with each at Level of Service A or B, and queue lengths and delays well under control. The substantial queues at Somerville Roundabout, Whitford Roundabout and Jack Lachlan Drive evident in the 2020 and 2024 baseline modelling (and as observed onsite), have been resolved.<sup>84</sup> Mr Laing for AT concurs with the programme of intersection upgrades proposed by the Applicant (except as to *when* they may be required).<sup>85</sup>

Land availability / deliverability

144. We firstly address land availability with respect to the upgrades of the capacity of key intersections between Beachlands and Howick. In particular:

- (a) The ITA states that the upgrades proposed to the Whitford-Maraetai Road and Jack Lachlan Drive intersection, Whitford Roundabout improvements, Whitford Park Road & Sandstone Road intersection improvements, Whitford-Maraetai Road / Trig Road, and the Somerville Roundabout can be undertaken within existing road boundaries, and therefore avoid any third-party land encroachment, including avoiding any land lying within existing road designations.<sup>86</sup>
- (b) The JWS Transport and Planning dated 3 November 2023 expresses some doubt about this for the Whitford Roundabout,<sup>87</sup> and acknowledgement that the Applicant owns the land adjacent to Jack Lachlan Drive if additional land is required to implement a different design solution (final design is subject to AT approval).<sup>88</sup>

145. The Applicant has provided concept designs.<sup>89</sup> Mr Laing's evidence says that for the Whitford and Somerville roundabouts, the constrained environments with existing land uses, or steep topography in close proximity, make widening "challenging", and these are simplistic 2d designs. He says that issues that are likely to eventuate for the Whitford Village roundabout upgrade include the need for retaining walls, space for stormwater treatment, and a reduction in car parking

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<sup>84</sup> Joint Statement of Daryl Hughes and Brett Harries at paragraph 7.80.

<sup>85</sup> Statement of Evidence of Mark William Laing at paragraph 10.8.

<sup>86</sup> Joint Statement of Daryl Hughes and Brett Harries at paragraphs 7.75 and 7.83.

<sup>87</sup> At paragraph 3.7.

<sup>88</sup> At paragraph 3.10.

<sup>89</sup> Joint Statement of Daryl Hughes and Brett Harries at Figure 18 (Whitford Roundabout) and Figure 19 (Somerville Roundabout).



provided.<sup>90</sup> In our view the latter issues go more to impacts on the character of Whitford Village than the feasibility of undertaking the proposed upgrades.

146. We have considered Mr Hills' evidence on this issue. The scope of his peer review included the design of the Whitford Roundabout which was adjusted following his comments.<sup>91</sup> Mr Hills also interrogated the functioning of the Somerville Roundabout which resulted in the proposed upgrade (and amendment to the precinct provisions), and he confirms that he is comfortable with the upgrade and its requirements.<sup>92</sup> For these reasons, we are comfortable that the proposed upgrades to the Whitford and Somerville roundabouts are capable of being delivered.

Precinct provision I.7.3 Staging of Subdivision and Development with Transport Upgrades

147. The planning experts for the Council and AT expressed concern about the complexity of standard I.7.3, as it signals the difficulty of providing the transport infrastructure upgrades that are needed and therefore, why this area should not be urbanised. However, they accept that if PC 88 is approved, this level of detail will be required.<sup>93</sup>
148. Other experts confirmed that with only a couple of exceptions, Standard I.7.3 is consistent with Plan Changes 48 – 50 which have recently been approved by the Council and EPA Fast Track applications that have been approved with provisions similar to these, which confirm that such provisions are workable.<sup>94</sup>
149. We have considered precinct provision I.7.3 Staging of Subdivision and Development with Transport Upgrades afresh. We consider that the provision, including Table 2: Threshold for Subdivision and Development as shown on Beachlands South: Precinct Plan 6 (**Table 2**), is clear and understandable.
150. With respect to the content of Table 2, non-residential development was included in the table as notified. That has now been removed as the traffic experts agree that it is not necessary.<sup>95</sup>
151. We otherwise accept the precinct provision I.7.3 (including Table 2) set out in the Applicant's Reply Submissions subject to one amendment. The header column to Table 2 uses the words "Land use" and "activities" in Columns 1 and 2 respectively. ACS and AT sought that this be amended as follows:

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<sup>90</sup> Statement of Evidence of Mark William Laing at paragraphs 10.2-10.3.

<sup>91</sup> Statement of Leo Donald Hills at paragraphs 5.9-5.10.

<sup>92</sup> Statement of Leo Donald Hills at paragraphs 5.16-5.19.

<sup>93</sup> JWS Planning – 8 November 2024 at paragraph 3.101.

<sup>94</sup> Nick Roberts, Vijay Lala, Cath Heppelthwaite and Chris Freke. JWS Planning – 8 November 2024 at paragraph 3.102.

<sup>95</sup> JWS Transport & Planning – 3 November 2023 at paragraph 3.18.

Column 1	Column 2
<p><del>Land use</del> <u>Development or subdivision</u> enabled within the area identified on Precinct Plan 6 by transport infrastructure in column 2,</p>	<p>Transport infrastructure required to enable <del>activities</del> development or subdivision in column 1</p>

152. We prefer the wording of ACS/AT as it is consistent with Policy (9A) which uses the words “subdivision and development” and we have made that change accordingly.
153. With respect to the ‘trigger points’ by which certain upgrades must be in place (the timing of the upgrades), this concern arises should the modelling assumptions underpinning the ITA transpire to be optimistic – to the point that the effects of PC 88 have been underestimated.
154. We have found that the Applicant’s traffic modelling is appropriate. However, as discussed above, we consider that the Applicant’s proposal that integrated transport assessments address transport matters by assessing and providing details of the matters set out in precinct provision I.10(4) is sufficient to remedy any underestimate that may in time eventuate.
155. With respect to precinct provision I.10(4) we have decided that one of the amendments proposed by ACS/AT is appropriate, and that is the amendment to I.10(4)(b) which we consider takes better account of real time development.

*Whether the proposal will have a lesser or greater trip generation or similar effects on the surrounding transport network to the development result in a different mix of consented, constructed or enabled development to that specified in Table 45: Development Mix and whether, in light of the associated trip generation and effects on the surrounding transport network, the transport infrastructure upgrades in Table 2 Threshold for Subdivision and Development as shown on Beachlands South Precinct Plan 6 are appropriate or any alternatives that are proposed*

Whitford-Maraetai safety improvements and four laning

156. AT has identified two main additional required upgrades should PC 88 be approved. These are firstly, safety improvements to the Whitford-Maraetai corridor being:
- (a) Widening of the carriageway shoulders by 1 m from the edge of the outer land white seal on both sides of the road;
  - (b) Safety barriers on both sides and in the centre of the road; and

- (c) Intersection upgrades at Henson Road and Trig Road North intersections.<sup>96</sup>
157. Secondly, AT seeks the addition of four-laning of Whitford-Maraetai Road for over 2700 households (and potentially sooner).
158. Legal counsel for the Applicant, and ACS/AT, addressed relevant caselaw in terms of our decision as to transport infrastructure. The Applicant referred us to *Landco Mt Wellington v Auckland City Council* [2009] NZRMA 132 which, in general, is authority that an applicant is not required to resolve existing infrastructure problems, but neither should it add significantly to them.
159. Legal counsel for ACS/AT referred to other cases which included *Foreworld Developments Ltd v Napier City Council*, W08/2005. The principles in that case, relevant to PC 88 and ACS/AT's submissions against PC 88, are that:
- (a) It is bad resource management practice and contrary to the purpose of the RMA to zone land for an activity when the infrastructure necessary to allow that activity to occur without adverse effects on the environment does not exist, and there is no commitment to provide it;
  - (b) Zoning or resource consent decisions should not raise un-meetable expectations (putting a council under pressure to spend money which it has already decided to commit elsewhere).
160. With respect to the safety improvements, Mr Laing's evidence for AT is that the safety of roads approaching the proposed development is a problem (and a programme of safety improvements for Whitford-Maraetai Road is needed immediately), and will be exacerbated by higher volumes as a result of PC 88.<sup>97</sup> Mr Laing says that he agrees with Mr Edwards that there is a volume of road safety research that establishes a correlation between increasing traffic volumes with increasing crashes.<sup>98</sup>
161. The relevant excerpt from Mr Edwards report states:<sup>99</sup>
- It is also wrong to state development enabled by PC88 would not exacerbate any road safety issues. Road safety research both internationally and within New Zealand shows a strong correlation between increases in traffic volume and increases in crashes. An increase in the traffic volume using the road is almost certain to result in a proportional increase in the number of crashes occurring on the road unless mitigation measures are undertaken, and PC88 is likely to result in the volume increasing by two-thirds.*
162. The Whitford-Maraetai Road, Whitford Road and Sandstone / Ormiston Road all had speed limit reductions around 2019 and have seen reductions in crash statistics

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<sup>96</sup> Legal Submissions for ACS and AT appendix.

<sup>97</sup> Statement of Evidence of Mark William Laing at paragraph 1.3, and sections 6 and 7.

<sup>98</sup> Statement of Evidence of Mark William Laing at paragraph 7.2 with reference to Mr Edwards' report at paragraph 6.133.

<sup>99</sup> Memo from Wes Edwards to Chloe Trenouth (undated) at paragraph 6.134. Hearing Report at page 275.

since that time.<sup>100</sup> At the hearing, Ms Fulljames and Ms Hopkins for the Franklin Local Board agreed that safety had improved following the speed reductions. The only particular safety concern raised by the Applicant's evidence is with respect to the Mangemangeroa Bridge on Whitford Road which has tight bends either side (and from our observation was very narrow) where there were fatal crashes in 2018 and 2021. The Applicant's evidence makes some recommendations to AT for safety improvements, but does not consider that PC 88 will worsen the issue as PC 88 is more likely to result in slower speeds.<sup>101</sup>

163. In summary, the Applicant's evidence is that the upgrades already provided for in PC 88 will provide significant road safety benefits that go beyond merely mitigating the effects of PC 88; they will also address existing road safety problems in those locations and therefore enhance the overall safety of the route. Mr Hughes and Mr Harries also point to congestion during peak periods (which are likely to widen due to peak spreading) leading to reduced speeds and a positive effect on road safety throughout the day.<sup>102</sup> In this context, Mr Hughes and Mr Harries also point to precinct provision I.10(4)(g) (reproduced earlier in this decision) as ensuring that the safety record of Whitford-Maraetai Road is assessed at regular development stage intervals to ensure that any new road safety issues resulting from increases in traffic are identified and addressed.<sup>103</sup>

164. Having considered the evidence, including particularly Mr Laing's evidence that a programme of safety improvements for Whitford-Maraetai Road is needed *immediately*, we find that any safety issues are not for the Applicant to resolve. However, neither should PC 88 add significantly to any safety issues. On this point we find that PC 88 will not add significantly to any safety issues for the following reasons:

- (a) There has been an improvement in the safety record of the road network due to the speed limit being reduced;
- (b) Additional traffic flows are likely to have the result of slowing speed on the road network, including particularly at the main point of concern (Mangemangeroa Bridge);
- (c) The programme of upgrades proposed by PC 88 will result in improvements in the level of service at which the relevant intersections are operating, over and above current levels of service. Therefore we agree that the upgrades proposed by PC 88 will provide road safety benefits that go beyond merely mitigating the effects of PC 88; and
- (d) Precinct provision I.10(4)(g) enables the safety record of Whitford-Maraetai Road is assessed at regular development stage intervals to ensure that any new

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<sup>100</sup> Joint Statement of Daryl Hughes and Brett Harries at paragraph 5.34.

<sup>101</sup> Joint Statement of Daryl Hughes and Brett Harries at paragraphs 5.35-5.38.

<sup>102</sup> Rebuttal Evidence of Daryl Hughes and Brett Harries at paragraph 3.55.

<sup>103</sup> Rebuttal Evidence of Daryl Hughes and Brett Harries at paragraph 3.62.

road safety issues resulting from increases in traffic are identified and addressed.

165. As a result we have not included Whitford-Maraetai safety improvements within the upgrades required by the PC 88 precinct provisions.
166. With respect to four-laning, we understand that AT has designations in place for the realignment of Whitford-Maraetai Road with widening to four lanes with no funding currently allocated. Mr Laing's evidence for AT does not suggest that this is required now, but that it might be required before PC 88 is completely built out.<sup>104</sup>
167. With respect to this issue, the evidence of Mr Harries and Mr Hughes states that:<sup>105</sup>

*The traffic modelling undertaken as part of our ITA has demonstrated – with a high level of conservatism – that adding new lanes to Whitford-Maraetai Road will not be required. Further, we strongly disagree with the philosophy of building more lanes for cars to drive in greater numbers and at faster speeds. Adding lanes will serve no other purpose than encouraging existing and future residents of Beachlands into private cars, and actively discouraging public transport uptake. This suggestion is contrary to all modern transport planning principles. Accordingly, we disagree with the request.*

168. We agree that the traffic modelling undertaken by the Applicant is appropriate as discussed earlier. The evidence before us does not lead to a conclusion that four laning is required now to address existing issues, or that it is necessary as a result of PC 88 (particularly given that there is an existing designation in place). For these reasons we have not included it within the PC 88 precinct provisions. We also record that given the initiatives in the Transport Emissions Reduction Plan (**TERP**) which we discuss shortly, we agree that deciding to embed reference to four-laning in this context is counterintuitive.

### **Greenhouse gas emissions**

169. Objective 8 of the NPSUD, which PC 88 must give effect to, requires that New Zealand's urban environments "support reductions in greenhouse gas emissions".<sup>106</sup> Section 74(2)(d) of the RMA requires that PC 88 has regard to the Emissions Reduction Plan (**ERP**).
170. The ERP, and Te Tāruke-ā-Tāwhiri Auckland's Climate Plan (**Climate Plan**), contain a number of chapters dealing with specific subjects, some of which are more relevant to PC 88 than others.
171. The TERP in contrast is transport focussed, although this also contains a number of actions not all of which are relevant to PC 88.

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<sup>104</sup> Statement of Evidence of Mark William Laing at paragraphs 8.4-8.7.

<sup>105</sup> Joint Statement of Daryl Hughes and Brett Harries at paragraph 10.11(b).

<sup>106</sup> This is also a component of Policy 1(e) with respect to well-functioning urban environments.

## NPSUD

172. We explored with counsel and witnesses, how we should approach ‘supporting reductions in greenhouse gas emissions’ – in particular, reductions from what baseline?
173. We have approached this from the perspective that a ‘business as usual’ approach is not appropriate as that is unlikely to support reductions in greenhouse gas emissions. Rather, we should look to ensure that the proposal under consideration ‘does better’. Therefore we consider a business-as-usual approach is the comparator that should be improved upon. We return to this topic at the conclusion of this section of our decision, after consideration of the ERP, Climate Plan and TERP.

## ERP

174. The ERP is Aotearoa New Zealand’s first emissions reduction plan. It contains strategies, policies and actions for achieving New Zealand’s first emissions budget, as required by the Climate Change Response Act 2002.<sup>107</sup> It largely deals with government initiatives, and is based on the following five principles:<sup>108</sup>

1. *Playing our part*
2. *Empowering Māori*
3. *Equitable transition*
4. *Working with nature*
5. *A productive, sustainable and inclusive economy*

175. The remaining chapters in the ERP are illustrated as relating to either “System settings” or “Sector plans”.<sup>109</sup>
176. Within the ERP we consider the following aspects (and relevant actions) to be relevant to PC 88, and have had regard to them in making our decision:

### Principles

#### (a) Empowering Māori

The key actions in this chapter of the ERP relate to Māori climate action. Whilst those are not directly relevant, a number of the ‘other actions’ in this chapter of

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<sup>107</sup> Page 8.

<sup>108</sup> Page 11.

<sup>109</sup> Page 12.

the ERP are relevant given Ngāi Tai ki Tāmaki's participation in BSLP. Those other actions include:<sup>110</sup>

- ▶ *provide more sustainable homes and reduce car dependency, which can help reduce financial and health costs for whānau (see chapter 10: Transport and chapter 12: Building and construction)*
- ▶ *identify opportunities to diversify the Māori economy, including through the transition to a circular economy and bioeconomy (see chapter 9: Circular economy and bioeconomy and chapter 15: Waste)*
- ▶ *reduce the opportunity costs of practising kaitiakitanga, for example, by investigating the carbon storage potential of native ecosystems and options to recognise additional carbon stored in pre-1990 native forests (see chapter 4: Working with nature and chapter 14: Forestry)*
- ▶ *work with Māori developers and housing networks to address barriers to low-emissions urban development and building construction (see chapter 7: Planning and infrastructure and chapter 12: Building and construction).*

(b) Working with nature

Again, although not one of the key 'Working with nature' actions, the ERP states that key work programmes that can encourage systems change across regulatory and planning settings include:<sup>111</sup>

- ▶ *adapting urban planning, design and infrastructure – nature-based solutions in urban areas (blue-green infrastructure) can help us mitigate and adapt to the effects of climate change, improve biodiversity and make cities and towns healthier and more liveable. (See chapter 7: Planning and infrastructure and chapter 10: Transport for more information on integrating nature-based solutions in urban areas)*

This is reflected in PC 88 through the EPAN, and the walkable connected network of paths.

System settings

(c) Funding and finance

The "Funding and finance" chapter of the ERP is about aligning investment and spending decisions with climate objectives. There is reference to transitioning the portfolios of the NZ Super Fund, Accident Compensation Corporation, the Government Superannuation Fund, and the National Provident Fund, which manage over NZ\$100 billion on behalf of New Zealanders as Crown Financial

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<sup>110</sup> Page 54.

<sup>111</sup> Page 93.

Institutions, to net-zero emissions by 2050 through a new Crown Responsible Investment Framework.<sup>112</sup>

The Guardians of New Zealand Superannuation Fund is one of the partners in BSLP through NZSF Beachlands Limited. It invests, manages and administers the New Zealand Superannuation Fund.

Mr Goodwin's evidence for NZSF Beachlands Limited said that climate change has been a key focus for the Guardians for many years and that it had had a dedicated Climate Change Investment Strategy in place since 2016,<sup>113</sup> but was not particularly detailed on how PC 88 fitted in with that focus/strategy. At a general level however, we would expect that as a Crown Financial Institution it will be subject to the applicable funding and finance actions of the ERP.

(d) Planning and infrastructure

We consider that this chapter of the ERP is directly relevant, given that this decision concerns a planning matter. 'Key actions' within this chapter of the ERP are:<sup>114</sup>

- ▶ *Improve the resource management system to promote greenhouse gas emissions reductions and climate resilience.*
- ▶ *Support emissions reductions and climate resilience via policy, guidelines, direction and partnerships on housing and urban development.*
- ▶ *Address infrastructure funding and financing challenges so we can develop low-emissions urban environments and use infrastructure efficiently.*
- ▶ *Improve the evidence base and tools for understanding and assessing urban development and infrastructure greenhouse gas emissions.*
- ▶ *Promote innovation to reduce emissions in Crown-led urban regeneration projects.*
- ▶ *Identify ways to support the private sector to deliver low-emissions development.*
- ▶ *Integrate climate mitigation into central government decisions on infrastructure.*

Each of those key actions is broken down into 'key initiatives' to support the actions. As with the ERP in general, most of the key initiatives articulate government initiatives - e.g. for funding and financing challenges, the ERP states that the Government will address funding and financing challenges for delivering infrastructure investment that supports urban development and to use infrastructure funding and financing tools in a way that helps to reduce emissions.<sup>115</sup>

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<sup>112</sup> Page 116.

<sup>113</sup> Statement of William James Wallace Goodwin at paragraph 6.1.

<sup>114</sup> Page 125.

<sup>115</sup> Page 135.



Figure 7.1 of the ERP within this chapter states that the planning and infrastructure system has an important role to play in supporting climate outcomes, and is more applicable to PC88. In bullet point form the headings in Figure 7.1 are:

- Low-emissions buildings and infrastructure.
- Well-functioning urban environments.
- Mixed-use, medium and high-density development.
- Strategic planning.
- Access to active and public transport.
- Freight and transport.
- Māori.
- Working with nature.

We are satisfied that PC 88 has a high degree of compatibility with these statements given the compact urban form proposed by PC 88, the building certification provisions, the network of walkways, access to the ferry, and trip internalisation, the participation of Ngāi Tai ki Tāmaki in BSLP, and the proposed EPAN.

#### Sector plans

##### (e) Transport

The Transport chapter of the ERP contains 'transport targets' with the first of those being to reduce total kilometres travelled by the light fleet by 20 per cent by 2035 through improved urban form and providing better travel options, particularly in the largest cities.<sup>116</sup> Action 10.1.1 which supports that is to integrate land-use planning, urban development and transport planning and investments to reduce transport emissions.<sup>117</sup> Action 10.1.2 which is to support people to walk, cycle and use public transport, has a number of key initiatives.<sup>118</sup> These are primarily government initiatives but include VKT reduction programmes, improved reach, frequency and quality of public transport, and delivering a step change in cycling and walking rates. Each of these feature in PC 88.

##### (f) Building and construction

The government actions and initiatives in Chapter 12 of the ERP set out the changes proposed to require/incentivise the use of low-emissions building design and materials. An example is Action 12.1.1 to progress regulatory change to reduce embodied emissions of new buildings. In this regard the government consulted on a Whole-of-Life Embodied Carbon Reduction Framework in 2020. The framework would require reporting and measurement

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<sup>116</sup> Page 175.

<sup>117</sup> Page 177.

<sup>118</sup> Page 178.

of whole-of-life embodied carbon emissions – from manufacturing building materials to disposing of them at the end of a building’s life. The framework would cap new buildings’ whole-of-life embodied carbon and reduce the cap over time.<sup>119</sup> There is also discussion of amendments to the Building Code to introduce new requirements for operational efficiency.<sup>120</sup>

Mr Williams for the Applicant, when questioned as to which parts of the ERP we should have regard to in particular, considered that the energy piece (i.e. how much energy is consumed) is the key piece – we should consider how much energy the development will consume, including the powering of houses and infrastructure. Mr Williams considered that the provision of rainwater harvesting for each house, and the on-site renewable energy requirements are examples of measures that will substantially reduce the energy consumption of the development. As a result of his evidence, the Applicant proposed provisions in reply inserting matters of discretion/assessment criteria for sustainability certification regarding 5-Star NABERS (commercial) and 7-Star Homestar (residential buildings). We consider that these provisions, although a private sector response, are well aligned with the government’s initiatives in Chapter 12 of the ERP.

### Climate Plan

177. The Climate Plan goal is to halve emissions by 2030 and reach net zero emissions by 2050. It has priorities for action which have some symmetry with the ERP chapters – they are Natural Environment, Built Environment, Transport, Economy, Communities and Coast, Food, Energy & Industry. Much like the ERP with respect to government initiatives, the Climate Plan is largely geared to what the Council will do, promote, incentivise etc.
178. The Built Environment priority area covers planning and growth, infrastructure, and building construction. Within Action area B1 (Ensure our approach to planning and growth aligns with low carbon, resilient outcomes), the following bullet points are listed:<sup>121</sup>
- *maintain and uphold a quality compact urban form approach as outlined in the Auckland Development Strategy. Review its implementation to ensure that opportunities for low carbon, resilient development are being realised*
  - *develop masterplans that demonstrate and promote the opportunity for zero carbon, transit-oriented developments that build climate resilience*
179. We consider that PC 88 delivers a compact urban form and seeks to maximise opportunities for low carbon, resilient development (including through the use of master planning).

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<sup>119</sup> Page 231.

<sup>120</sup> Page 236.

<sup>121</sup> Page 74.

180. The Climate Plan defines the term “quality compact urban form” as:<sup>122</sup>

*Future development that is focused in existing and new urban areas within Auckland's urban footprint, limiting expansion into the rural hinterland. This future development maximises efficient use of land and delivers necessary infrastructure.*

181. We acknowledge that ACS and AT oppose PC 88 as being outside Auckland's urban footprint. However, for the reasons we have outlined earlier, we consider that PC 88 gives effect to the NPSUD and the RPS, which are the documents it must give effect to under the RMA. We otherwise consider that PC 88 maximises the efficient use of land and delivers necessary infrastructure.

182. Action area B5 (Accelerate the uptake of sustainable design and construction for new buildings) deals with building standards and includes promoting and incentivising the certification of new apartment properties to performance standards that meet the requirements of the Healthy Homes Act (e.g. Passive House).<sup>123</sup> In this case we consider that PC 88 goes beyond that with respect to its building certification provisions.

183. The Transport priority contains actions to change the way we travel, enhance the appeal of public transport, increase access to bicycles and micro-mobility devices, improve the safety, connectivity and amenity of walking infrastructure, and accelerate the transition of the passenger and light vehicle fleet to low or zero emissions vehicles.<sup>124</sup> We consider that PC 88 has been designed to enhance the appeal of public transport to the CBD using the ferry, and provide a safe and connected network of walkways.

184. One of the indicative targets for Transport is that VKT by private vehicles is reduced by 12% as a result of avoided motorised vehicle travel, through actions such as remote working and reduced trip lengths.<sup>125</sup>

### TERP

185. Of the climate related plans and strategies we must have regard to under the RMA, the TERP received the most focus in submissions from ACS and AT. Its focus is on transport initiatives to give effect to the Climate Plan, and it sets out a pathway to reduce transport emissions by 64% (relative to 2016) to around 1.75 megatonnes (CO<sub>2</sub>e) by 2030 as directed by the Climate Plan.

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<sup>122</sup> Page 173.

<sup>123</sup> Page 76.

<sup>124</sup> Pages 81-84.

<sup>125</sup> Page 47. At page 142 this is timeframed to 2030 and 2050 (with rising uptake of public transport over that period).

186. The TERP has 11 transformations (each with sub actions) as follows:<sup>126</sup>

1. *Supercharge walking and cycling*
2. *Massively increase public transport patronage*
3. *Prioritise and resource sustainable transport*
4. *Reduce travel where possible and appropriate*
5. *Safe low-traffic neighbourhoods for people*
6. *Build up not out*
7. *Electrify private vehicles*
8. *Enable new transport devices*
9. *Low emissions public transport*
10. *Efficient freight and services*
11. *Empower Aucklanders to make sustainable transport choices*

187. The TERP acknowledges that the ERP's national pathway and targets are not directly comparable to TERP's more ambitious pathway for Auckland, but notes that the direction of both documents and the specific actions are well aligned.<sup>127</sup>

188. For the most part, PC 88 is well aligned with those initiatives that are able to be applied to a plan change – such as enabling walking and cycling, good access to public transport, reducing travel through internalisation, and compact urban form. However, we acknowledge that the TERP under “Build up not out” has an emphasis on accommodating growth through intensification in the existing urban area, and the pathway requires “Reducing the scale of planned urban expansion” and “More intensive development around places with good access to opportunities”.<sup>128</sup> That said, for greenfield development the TERP states:<sup>129</sup>

*However, where greenfield growth does occur, travel patterns of new communities must be shaped in a positive way by providing them with sustainable transport options right from the outset and designing streets that give priority access to walking, cycling and PT ahead of car access. This will involve costs, however, and it is important that the majority of the cost of*

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<sup>126</sup> Page 8. They are grouped into three focus areas:

- reduce reliance on cars and support people to walk, cycle and use public transport
- rapidly adopt low emissions vehicles
- begin work now to decarbonise heavy transport and freight

<sup>127</sup> Page 10.

<sup>128</sup> Page 41.

<sup>129</sup> Page 41.

*sustainable growth in new urban areas is incorporated into the cost of development, rather than being reliant on funding from public sources.*

189. We are satisfied that having met the statutory test of giving effect to the NPSUD and RPS, PC 88 is consistent with this aspect of the TERP by being of a design which prioritises walking, cycling and access to public transport.
190. The TERP includes an action to restrict road expansion/deprioritise projects that induce light vehicle VKT.<sup>130</sup> This reinforces our decision not to include the four-laning of Whitford-Maraetai Road in the PC 88 precinct provisions. In our view, to include it when we have found that it is not demonstrably required by PC 88, would embed the expectation that the project is to be delivered when there is at least the *possibility*, should other initiatives in the TERP be successful, that this is a project that might be reconsidered in the future.

### Transport emissions

191. There was a high level of contention over the assessment of greenhouse gas emissions, and what would constitute an appropriate baseline to measure reductions against<sup>131</sup>. Emphasis was placed on 'notable omissions and unrealistic assumptions'<sup>132</sup> used in the analysis.
192. We understood from Mr Wilmshurst that the MSM<sup>133</sup> is the established regional transport model and that it is universally accepted by transport modellers as the source of regional travel demand forecasts across Auckland.<sup>134</sup> He set out the assumptions that had been included in the model.
193. Mr Wilmshurst sets out a useful comparison of the rates of VKT and CO<sub>2</sub> per household in the MSM for Beachlands with and without PC 88.<sup>135</sup> Notwithstanding the limitations of the MSM<sup>136</sup>, the assessment demonstrated a reduction in VKT and CO<sub>2</sub> emissions per household in the Beachlands area compared to the designated baseline (organic growth of Beachlands without PC 88). The assessment also showed that the reductions held when compared to other MSM zones<sup>137</sup>.
194. This contrasts with the primary concern of Messrs Bouzonville and Crimmins that the relatively remote location of Beachlands South means that GHG emissions will

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<sup>130</sup> Page 61. At page 37 the TERP states:

*Restricting road expansion that induces light vehicle VKT. Road expansion projects that provide extra capacity inevitably stimulate additional travel. If that travel is taken by internal combustion engine vehicles, the emissions generated over the life of the new link or road expansion will undermine the goal of the TERP.*

<sup>131</sup> Reply submissions at paragraph 10.2.

<sup>132</sup> Joint Statement of Adrien Bouzonville and Paul Crimmins at paragraph 1.2.

<sup>133</sup> The Auckland regional Macro Strategic Model.

<sup>134</sup> Statement of Bevan Walter Wilmshurst at paragraph 4.4.

<sup>135</sup> Statement of Bevan Walter Wilmshurst at paragraph 4.9.

<sup>136</sup> Network wide analysis and model noise; trip chaining, Statement of Bevan Walter Wilmshurst at paragraphs 6.1 and 6.2.

<sup>137</sup> Statement of Bevan Walter Wilmshurst at paragraphs 9.1-9.9.

be higher than an alternative urban development at locations nearer to rapid public transport and active mode networks.<sup>138</sup>

195. Although Messrs Bouzonville and Crimmins offered suggestions for modelling GHG emissions, no alternative assessment or evidence addressing omissions and assumptions was presented; or any evidence that alternative baseline conditions would produce lower GHG emissions. Rather they relied on the 'remote location' of PC 88 and the increase in VKTs that will occur from PC 88 occurring at that location.
196. Mr Wilmshurst concludes that VKTs and CO<sub>2</sub> will increase wherever there is an increase in the number of households whatever the location.<sup>139</sup> We have considered the question of location above, and we are not persuaded by arguments of remoteness when placed in the context of Auckland's planned growth.
197. We drew confidence from the analysis of Mr Wilmshurst, acknowledging the overall increase in VKTs and CO<sub>2</sub> emissions as noted above, and the shift to the medium level per household VKT and CO<sub>2</sub> with the Beachlands South development, and not towards the high to very high end of the VKT and CO<sub>2</sub> spectrum. No evidence was provided that presented an alternative outcome.
198. We preferred the evidence and calculations (including assumptions) presented by Mr Wilmshurst in demonstrating that transport GHG emissions will decrease per household with the PC 88 development when set against the baseline growth within the current Beachlands.

#### Baseline conditions

199. When exploring a suitable baseline condition for comparison we note the responses provided by Ms Heppelthwaite (brownfield development), and Messrs Bouzonville and Crimmins (locations nearer to rapid public transport and active mode networks), although no quantitative evidence was presented for either option.
200. In her presentation, Ms Trenouth considered that the location was the comparator for the baseline assessment, and that the application does not get across the fundamental issue of location and reliance on vehicles. Ms Trenouth went on to emphasise that Auckland won't reach a net zero GHG emissions target with unplanned growth and that informed decisions are needed to meet VKT targets as the key consideration for plan changes. We have discussed the matter of planned versus unplanned growth above and emphasise that we are not persuaded by arguments of remote location given the evidence to the contrary that we received.
201. In reply submissions, Counsel for the Applicant sets out a useful example of a baseline based on a business-as-usual development, being a location also occurring in Beachlands, and goes on to summarise how PC 88 achieves emission reductions beyond that baseline.<sup>140</sup> Amongst comparisons with the business-as-usual baseline,

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<sup>138</sup> Summary of Hearing Statement of Adrien Bouzonville and Paul Crimmins at paragraph 3(d).

<sup>139</sup> Rebuttal Evidence of Bevan Walter Wilmshurst at paragraphs 3.13 and 4.2.

<sup>140</sup> Reply submissions at paragraphs 10.4-10.5.

Counsel for the applicant points to the increased trip internalisation that drives some of the reductions in VKTs and GHG emissions.

202. In the absence of evidence to the contrary, and noting the Beachlands location, we accept the analysis presented by Mr Wilmshurst in demonstrating the anticipated reduction in transport derived GHG emissions per household as a result of the PC 88 development.

### Whole of life GHG emissions

203. Messrs Bouzonville and Crimmins considered that PC 88 should be supported by GHG emissions modelling that quantifies a 'whole of life' assessment according to best practices and relevant standards.<sup>141</sup>
204. Mr Williams responds to this in his rebuttal evidence stating that quantifying full life-cycle emissions at then plan change stage is well beyond the requirements to 'have regard to' the ERP.<sup>142</sup>
205. Having considered the ERP, the Climate Plan, and the TERP, we agree with this.

### Summary

206. We return to the question of whether PC 88 supports reductions in GHG emissions.
207. In reply submissions, Counsel for the Applicant helpfully sets out how PC 88 supports reductions in GHG emissions, and goes on to note how these components go well beyond the existing pattern of development in Beachlands.<sup>143</sup> We have considered each of these, and in each case we agree that the relevant aspect goes further than a business as usual approach. In particular:
- (a) Internalisation of trips – this is provided for through increasing local employment opportunities and enabling education facilities.
  - (b) As a result, there is a reduction in VKTs and GHG emissions per household.
  - (c) The precinct provisions provide for the continued assessment of key indicators within PC 88 (employment, mode shift etc).
  - (d) The EPAN has been calculated to provide sequestration of embedded emissions from the residential buildings in the live zone.
  - (e) The planned walking and cycling paths encourage mode shift especially for short trips.

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<sup>141</sup> Summary of Hearing Statement of Adrien Bouzonville and Paul Crimmins at paragraph 3(f).

<sup>142</sup> Rebuttal Evidence of Andrew John Williams at paragraph 2.17.

<sup>143</sup> Reply submissions at paragraph 10.5.

- (f) The greatest housing density is within closest proximity to the ferry terminal.
  - (g) Increased ferry capacity is provided for.
  - (h) Sustainability certification for residential and commercial development is provided for.
  - (i) Water sensitive design is provided for.
208. We agree that with the Applicant's expression that elements to reduce GHG emissions have been 'baked in' to the design and reflected in the provisions for PC 88. We find that PC 88 supports reductions in GHG emissions.

### **Infrastructure funding**

209. The Applicant's proposal with respect to infrastructure funding was a key issue of concern for the Council, ACS and AT. The Applicant's proposal is:<sup>144</sup>
- (a) To use the IFF Act mechanism for ferry upgrades and operation, and transport infrastructure. As a 'back up' the Applicant points to the Superbuild model which could be used in different ways;<sup>145</sup>
  - (b) To provide stormwater assets;
  - (c) To provide water supply on a user pays basis;
  - (d) To provide wastewater on a self-contained basis at no cost to Watercare, or in conjunction with Watercare if the existing wastewater treatment plant at Beachlands is expanded to cater for PC 88 (in which case the Applicant will pay its share of that cost to be agreed with Watercare at a later date);
  - (e) For development contributions to be used in respect of community facilities and reserve acquisition and development (except, in respect of the latter, where these remain in private ownership under a body corporate type structure).
210. Our assessment is that the key concerns of the Council, ACS and AT are:
- (a) Confidence in the ability of the Applicant to deliver funding under the IFF Act and/or through Superbuild;
  - (b) Sequencing of decisions in terms of funding and zoning (ideally funding would be confirmed first);
  - (c) The Applicant's estimates of the funding required; and

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<sup>144</sup> Reply Submissions at paragraph 9.2.

<sup>145</sup> Under the CIP/IFF scheme, CIP could be used to administer the funding, including through targeted rates, with Superbuild providing funding into this SPV. Alternatively, Superbuild could step into the role of CIP and fund and manage the infrastructure including administering an independent mechanism to collect the future rate payments. Reply Submissions at paragraph 9.4.



(d) The eventual amount of any levy under the IFF Act and whether it is reasonable.

IFF regime

211. As an initial point, we deal briefly with the IFF Act regime. The purpose of the IFF Act is to provide a funding and financing model for the provision of infrastructure for urban development, that:<sup>146</sup>

- (a) supports the functioning of urban land markets; and*
- (b) reduces the impact of local authority financing and funding constraints; and*
- (c) supports community needs; and*
- (d) appropriately allocates the costs of infrastructure.*

212. In very broad summary, the process under the IFF Act involves establishing a special purpose vehicle which raises finance for the infrastructure project in question and then collects a levy over a number of years to repay the finance. Levies are linked to a rating unit, i.e. with some exceptions the person ultimately liable to pay the levy is the ratepayer for a rating unit.

213. The IFF Act contains a process for working out the levy including the 'levy area' and the 'levy period' which must not exceed 50 years. A 'levy order' is then made. The responsibility for collecting the levies is the territorial authority (defined as the 'responsible levy authority').

214. Crown Infrastructure Partners provided a letter as part of the plan change process,<sup>147</sup> which stated:

*Those discussions and work to date has been positive and we look forward to progressing the following details of a possible IFF solution with BSLP:*

- 1. Understanding the likely timing of zoning and consenting of the development as this will then enable a needs and benefit analysis to be completed;*
- 2. Understanding the Council view on what infrastructure is required and whether they support the development; and*
- 3. A full beneficiary analysis including the likely quantum and commencement date of an IFF levy.*

*In the material provided to us, which includes a set of infrastructure required for the Live Zone area with a cost estimated at approximately \$75m excluding GST (independently verified by RPG quantity surveyor), at the current market conditions, the levy per apartment and house appears to be reasonable. The balance of the infrastructure costs for the Live Zone will be funded by the project from infrastructure connection fees to the Partnership's*

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<sup>146</sup> IFF Act, s 3(1).

<sup>147</sup> Attachment 5 to BSLP's response to request for further information under Clause 23 of the First Schedule to the RMA.

wastewater, potable water and stormwater infrastructure.

*In the future, the additional infrastructure for the Future Urban Zone has wider benefits and the potential to also utilise the IFF model.*

*Ultimately the successful completion of any IFF transaction will require the support of key stakeholders, the approval of the CIP board, approval by CIP's Shareholding Ministers and the Minister of Finance and in particular the positive recommendation of Ministry of Housing and Urban Development as Recommender to the IFF Minister, approval by the IFF Minister and the support of Cabinet in enacting the Order in Council for an IFF Project. This is a requirement of the Act and applies to all developments to be funded using the legislation.*

215. A second letter produced by Mr Russell in his evidence stated that:<sup>148</sup>

*Before a IFF model can be progressed further, the following matters need to be finalised:*

*a) Confirmation of the zoning from Council;*

*b) Once the zoning is confirmed, a comprehensive infrastructure needs and benefit analysis can be completed, and agreement on what infrastructure is required, and when;*

*c) Assessment of what infrastructure will be funded;*

*d) Once these steps have been completed, CIP will work together with BSLP to complete a levy proposal for the infrastructure to be funded which includes undertaking a detailed beneficiary analysis. Approvals are then sought from parties including BSLP Board, CIP Board, Ministry of Housing and Development, Treasury and Parliament.*

*e) Once the funding is approved and an Order in Council is obtained, and the levies are collected from the beneficiaries by Council.*

216. The IFF Act is separate legislation with its own processes and requirements for establishing a levy order. If an IFF levy is enacted, the process for doing so must necessarily involve the Council as it will ultimately be the Council who collects the levy from ratepayers.

217. ACS and AT raised a lack of confidence that the IFF Act will provide a funding and financing solution generally. However, we are unclear what further certainty could be provided as we cannot see how an IFF levy could be established without a plan change having been confirmed.

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<sup>148</sup> Letter from Crown Infrastructure Partners dated 3 October 2023. Statement of Brett Allan Russell at Attachment B.

218. We have turned our mind to the question of the beneficiaries of any IFF funded infrastructure, as this is an issue dealt with under the IFF Act. In particular, the intention appears to be that the levy for roading/transport upgrades would be against land within (at this stage) the live zoned portion of PC 88. In that regard we refer to:
- (a) The 'Draft Funding Plan' states that "Except for the contribution to Ferry Services and Associated Infrastructure the transport and roading costs will be funded by a CIP/IFF model with levies applied to the new residents and businesses in the live zoned areas of Beachlands South."<sup>149</sup>
  - (b) The Applicant's reply states that the "infrastructure payment will be levied on future homeowners in the new Development. The developer remains responsible for the ongoing infrastructure payments of unsold lots."<sup>150</sup>
219. While that is a matter for a separate process, we consider that is reasonable given the Applicant's ITA, upgrade proposals, and representations through this process.
220. The documentation is less emphatic in respect of the proposed contribution to Ferry Services and Associated Infrastructure from which we infer that it is at least possible that a beneficiary analysis under the IFF Act may determine that the benefits are wider than just the land within the live zoned portion of PC 88. However that is a matter for the IFF Act.
221. Lastly, we record that our understanding is that the IFF Act regime is not proposed for three waters infrastructure. The Applicant's response to Clause 23 – Request for further information – Part 1 suggested that the IFF Act may fund wastewater, water supply and stormwater network. However the Applicant's reply clearly states that:<sup>151</sup>

*Stormwater: These assets will be provided by the developer and no Council assets will be used. There is no cost or risk to the Council;*

*Water supply: Water will be provided on a user pays basis, similar to the set up that Watercare provides for other households in Auckland;*

*Wastewater: Either a self-contained system which comes at no cost to Watercare; or the Applicant will work with Watercare on the expansion of the existing wastewater treatment plant and pay its share of that cost. The mechanism to achieve that will be agreed with Watercare at a later date.*

222. Against that background we turn to the matters set out above with respect to confidence, sequencing, cost estimates and the amount of any levy.

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<sup>149</sup> Appendix 2 to Clause 23 – Request for further information – Part 2.

<sup>150</sup> Reply submissions at paragraph 9.2(g).

<sup>151</sup> Reply submissions at paragraph 9.2(b)-(d).

### Confidence – IFF Act and/or Superbuild

223. We do not have the same reservations about the IFF Act as the Council, ACS and AT. One of its stated purposes is that it reduces the impact of local authority financing and funding constraints. We consider that it is a legislative mechanism developed to capture situations like this, where there are local authority funding constraints.
224. The IFF Act has not been widely used, but has been used in situations such as the Infrastructure Funding and Financing (Western Bay of Plenty Transport System Plan Levy) Order 2022 – the Tauranga example we were referred to entailed \$175M worth of transport projects.
225. The Minister of Housing and Development is responsible for administering the IFF Act and Crown Infrastructure Partners has been appointed to facilitate this. Given that PC 88 will deliver housing, and given Crown Infrastructure Partners' indicative support for PC 88, we do not find that there is a lack of confidence in the model such that PC 88 should be declined.
226. However, we go further and record that if for some reason the IFF Act is not utilised (for any reason) then there are other models that can operate in a similar way such as the Milldale model.<sup>152</sup>

### Sequencing of funding and zoning

227. We were referred to the Drury plan change decisions (Plan Changes 48-50). We have considered those decisions but we do note that there were some key distinctions between this matter and those matters including that (with reference to Plan Change 49 as an example) the land was zoned FUZ and there was substantial and committed central government funding. Nevertheless, in that matter the plan changes were also opposed by ACS and AT on the basis that substantial additional infrastructure was required and there were no funding or finance options available over the next decade (and likely beyond that) to fund the necessary infrastructure upgrades.
228. The relevant provision in the NPSUD is Objective 6:

*Local authority decisions on urban development that affect urban environments are:*

- a) integrated with infrastructure planning and funding decisions; and*
- b) strategic over the medium term and long term; and*
- c) responsive, particularly in relation to proposals that would supply significant development capacity*

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<sup>152</sup> Statement of Philip Osborne at paragraph 3.6.

229. In the context of PC 88 we consider that there is integration of decisions on urban development with infrastructure planning and funding decisions for the following reasons:

(a) We do not consider that funding mechanisms must be finally in place before decisions as to urban development (i.e. zoning) can be made. This would impede the deliverability of urban development. We consider that Objective 6 requires us to be satisfied that infrastructure is planned for when making decisions on urban development, and that there are mechanisms for funding that infrastructure.

(b) In this case, PC 88 contains provision I.7.3 (Staging of Subdivision and Development with Transport Upgrades) which integrates decisions on the key transport infrastructure upgrades required with urban development as it unfolds within the live zoned part of PC 88. In respect of those upgrades, there are mechanisms available (IFF Act and/or the Milldale model) to fund those upgrades.

(c) Funding mechanisms for other infrastructure are also available.<sup>153</sup>

#### Infrastructure cost estimates

230. ACS and AT raise a concern about the extent of the funding proposed by the Applicant in terms of the cost estimates themselves (and whether they are sufficient) and the projects captured. This is illustrated in the table included in Mr Laing's evidence.<sup>154</sup>

231. Our starting point is that the Applicant has proposed upgrades in Table 2 which forms part of I.7.3 (Staging of Subdivision and Development with Transport Upgrades). The content of the table specifies when the upgrades are to be in place. The Applicant has concurrently stated as part of this plan change process what upgrades will be funded through the IFF Act (or alternative mechanism, but not by the Council). Our understanding is that this is all roading upgrades *except for* the Whitford Bypass, which we come back to below.

232. In that context, debate about the cost estimates is somewhat of a red herring. Provision I.7.3(1) states (amongst other things) that:

*Subdivision and development within the area shown on Precinct Plan 6 must not exceed the thresholds in Table 2 until such time that the identified infrastructure upgrades are constructed and are operational.*

233. The upgrades are then specified in Table 2, Column 2. The upgrades are not limited by cost – they must be delivered in accordance with the precinct provisions. The IFF Act regime can accommodate cost escalation (with resultant increase in levy cost) should the Applicant's estimates prove to be on the lean side.

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<sup>153</sup> Summarised in the Reply Submissions at paragraph 9.2.

<sup>154</sup> Statement of Evidence of Mark William Laing at paragraph 10.12.

234. We have decided that PC 88 does not warrant inclusion of the Whitford-Maraetai safety improvements or four laning.

235. That leaves the Whitford Bypass. Our understanding of the Applicant's evidence on this is that there is merit in the Whitford Bypass going ahead. However, it will have wider community benefits than can be attributable to PC 88.<sup>155</sup> That appears to us to be correct, given that there is a designated corridor in place for the Whitford Bypass and all but one properties within that corridor have been purchased.

236. In opening, the Applicant's legal submissions stated that:<sup>156</sup>

*While the Bypass is also proposed to be funded by CIP, under the IFFA it will not all be attributed to PC88. Under the IFFA legislation, an analysis of who benefits is undertaken and rates are determined depending on the level of benefit individual houses receive. This means that the cost will be shared with the wider community, but not the Council.*

*While the residents of PPC88 will make a contribution to this project in the form of rates, it will be paid for by a wider group at the time it is needed. For the purposes of PPC88 it needs to be treated separately to the projects that are solely needed to accommodate the traffic from the residents of PC88.*

237. The precinct provisions for PC 88 require the Whitford Bypass to be in place to enable more than 1,900 and up to 2,700 dwellings or residential lots; however we do not understand the Applicant to have committed to fund the bypass and nor, on the evidence, would that be reasonable. Instead, to address the impacts of PC 88, the Applicant has committed to upgrade the Whitford Roundabout. The note to Table 2 states:

*If the Whitford Bypass is brought forward in timing prior to the Whitford Park Road / Whitford Road / Whitford Maraetai Road roundabout then this roundabout upgrade is not required.*

238. It may transpire that the Whitford Bypass is accelerated and the upgrade to the Whitford Roundabout is not required. However, if the bypass is not delivered, then the Whitford Roundabout will need to be delivered in accordance with the precinct provisions.

#### Reasonable levy

239. The Addendum Hearing Report noted that total quantum of infrastructure costs remains unclear, and therefore Ms Trenouth was not sure whether the Infrastructure Funding and Financing levy proposed by the Applicant would be reasonable as previously indicated by Crown Infrastructure Partners.<sup>157</sup>

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<sup>155</sup> Joint Statement of Darryl Hughes and Brett Harries at 10.11(d).

<sup>156</sup> Synopsis of Legal Submissions at paragraphs 9.19 and 9.20.

<sup>157</sup> Addendum Hearing Report at paragraph 58.

240. The levy is set through the IFF Act which as discussed, is separate legislation over which we have no jurisdiction (much like the setting of rates or development contributions). Accordingly, we have some reservations as to how far we can go in assessing the reasonableness of a future levy. That said, we accept the evidence of Crown Infrastructure Partners and the Applicant as to their assessment.

### Summary

241. We find that the Applicant's infrastructure funding proposals are appropriate and, with respect to the IFF Act, that it is a valid mechanism which the Applicant can rely on (absent which, it has a credible alternative).

### **Whitford Village**

242. We received submissions which expressed concern about the impact of PC 88, including the proposed upgrade of the Whitford Roundabout, on the character of Whitford Village. As the Addendum Hearing Report noted:<sup>158</sup>

*The evidence of Nick Williamson on behalf of the Whitford Residents Association raises particular concerns about the impacts of PC88 on the character of Whitford Village. I did not specifically discuss this issue in the S42A Report but agree with Mr Williamson that adverse effects on the character of other villages is a relevant consideration. This matter was discussed at expert conferencing on landscape and urban design, as well as planning in relation to the policy framework.*

*I agree with Mr Williamson and Mr Reaburn that increased traffic through Whitford Village and the proposed Whitford roundabout upgrade would have adverse effects on the village's character by increasing traffic and impacting accessibility. I am aware that the Whitford Bypass was previously proposed to mitigate the impacts of growth at Beachlands on the road and character of the village, which is why the Manukau City Council designated it. The transport experts agree that if the Whitford Bypass was implemented the proposed roundabout upgrade would not be required (JWS Transportation and Planning Day 2, paragraph 3.8). In my opinion, the Whitford Bypass must be implemented to maintain the character of Whitford Village. I consider the increased volume of traffic through the village, and the subsequent intersection upgrade would have significant adverse effects on the village's character.*

243. We acknowledge that PC 88 will result in a greater volume of traffic through the Whitford Roundabout, and that the upgrade to the roundabout will have a noticeable change on that location. However, Mr Brown's evidence for the Applicant is that the location where the Whitford Roundabout is, which contains the commercial/retail village face as Aucklanders would know it, is already heavily oriented towards vehicular traffic. Traffic lanes, car parks, vehicles etc already dominate the centre of the village at all times each day. The residential aspects of Whitford sit beyond the

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<sup>158</sup> Addendum Hearing Report at paragraphs 22-23.

immediate roundabout. Accordingly, proposed alterations to road lanes on all three sides of the roundabout could subtly increase the visual presence of vehicles and road infrastructure within the village, more so at busy times of each day.<sup>159</sup>

244. Our observations from the two site visits we carried out are consistent with Mr Brown's evidence with respect to the existing situation. The Whitford Roundabout is clearly a busy roundabout, the immediate environment is already dominated by traffic lanes, vehicles and parked cars, and access across Whitford-Maraetai Road appears difficult at present. We find that the upgrade proposed to the roundabout would not appreciably worsen that situation and in fact would improve safety for pedestrians.

## **FUZ**

245. The submission of ACS and AT was that if we approved PC 88, the FUZ should not be approved for the following reasons:<sup>160</sup>

- (a) It would set high expectations that a live zoning would follow;
- (b) There was an absence of detail as to if/how the FUZ could be developed in a way that infrastructure could be provided;
- (c) The FUZ is remote from Pine Harbour and employment and service areas;
- (d) Implications for the Council in having to be involved in the future planning for the FUZ; and
- (e) Uncertainty as to whether B2.7 of the AUP could be achieved.

246. We have particularly considered the following in deciding this matter:

- (a) The framework of the AUP, and in particular its expectations for putting future urban zones in place, and then ultimately converting future urban land to live zoning;
- (b) The implications for PC 88 if the live zoning were approved, and the FUZ were not, particularly with respect to the EPAN and indicative transport links;
- (c) The question of a 'defensible urban boundary' (live zone or FUZ).

247. The AUP does not provide direction, or any threshold, in respect of the zoning of land as Future Urban. Policy B2.2.2(3) is "Enable rezoning of future urban zoned land for urbanisation following structure planning and plan change processes in accordance with Appendix 1 Structure plan guidelines". Policy B2.2.2(7) is similarly enabling and sets out a list of matters which must be achieved, while Policy B2.2.2(8)

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<sup>159</sup> Rebuttal Evidence of Stephen Kenneth Brown at section 3.

<sup>160</sup> Legal Submissions for ACS and AT paragraph 6.6, with reference to evidence.



is about rural activities being carried on in the interim provided they do not hinder or prevent the future urban use of the land.

248. While we accept that approving the FUZ sets *an* expectation that live zoning *may* follow in the future, we think the AUP is clear that in order for the FUZ to convert to live zoning, structure planning must be undertaken in accordance with Appendix 1 Structure plan guidelines. These are the same guidelines that PC 88 has been prepared in accordance with.
249. We questioned the Applicant early on in the hearing on the implications for PC 88 should the live zoning be confirmed, but not the FUZ. The operative zoning under the AUP is Countryside Living. Mr Lala and Mr Roberts indicated that, should we approve only the live zoned part of PC 88, then with respect to the land that would have been within the FUZ we would need to remove the Whitford Precinct and apply the Beachlands South Precinct to deliver the benefits that were proposed for the FUZ (such as the EPAN, the indicative transport links, and the pā site).
250. Having considered the options of having no FUZ (with either the Whitford Precinct or Beachlands South Precinct applying), or having the FUZ, we prefer the FUZ. It has the benefit of avoiding the fragmentation of land into 5 ha lots under the Countryside Living zone which would compromise the potential for future urbanisation, and it secures the matters proposed through PC 88 for the FUZ.
251. With respect to a defensible urban boundary, we heard evidence from Mr Brown on this. One submission requested that their land, to the south of the FUZ, be included within the FUZ.<sup>161</sup> Mr Brown said that as the road turned to the right (south of the FUZ) there were relatively open views of the farmland and the FUZ, and that his view was that given the importance of the corridor, keeping that open space connection was important. Conversely, if one were to lose the FUZ, then a sense of balance may be lost.
252. On our subsequent (second) site visit we took close notice of the sweep of the road and topography, and we agree that the southern boundary of the FUZ makes sense and should not be extended southwards.
253. For these reasons we are satisfied that live zoning is not automatic, that there are benefits in ring fencing the FUZ for possible live zoning in the future, and that structure planning and plan change processes in accordance with Appendix 1 of the AUP (Structure plan guidelines) will be required.

## **PRECINCT PROVISIONS - MATTERS OF DETAIL**

254. With respect to the precinct provisions, there were a limited number of changes sought by submitters which were *not* accepted by the Applicant. We have sought to address these as fulsomely as possible.

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<sup>161</sup> Submitter #206, Sielia Limited.

**Activity status and policy framework for subdivision and development not complying with transport triggers standard, and subdivision and development above 2,700 dwellings**

255. An issue raised by ACS/AT was whether there should be non-complying activity status where there is infringement of the transport triggers, or for subdivision and development above 2,700 dwellings.<sup>162</sup> With reference to the AUP description of non-complying activity status, this was submitted to be appropriate because a greater degree of scrutiny is required.
256. In reply, the Applicant pointed to the directive language of Policies I.4(7) and I.4(9A), and the flexibility needed with respect to the Whitford Bypass, as justifying discretionary activity status.<sup>163</sup>
257. The Environment Court has recently considered this issue. In considering the relative merits of non-complying versus discretionary activity status for a zone change from rural to industrial, the Court said:<sup>164</sup>

*[24] In terms of perception, we agree that non-complying consent is regarded generally as being a more restrictive pathway to consent than a discretionary consent (although whether that is the case in any given instance will depend very much on the nature of the proposal, its potential effects and the provisions of relevant objectives and policies). There are differences between the basis on which effects and plan provisions are considered under ss 104 and 104D and s 104D contains a “gateway test” which any application must pass to obtain consent. However any suggestion that actual and potential effects on the environment for applications being determined under s 104 are subject to a lesser degree of scrutiny than applications under s 104D is simply wrong. Section 104 contains no limitations on effects matters which can be brought into consideration when considering applications for (fully) discretionary activity consents nor on the scrutiny to which such effects might be subject by a consent authority which has a statutory obligation to assess actual and potential effects appropriately.*

258. We agree that the expectations of the precinct provisions are clear, and where appropriate, directive. Further, as set out above, there are no limitations on effects matters which can be brought into consideration when considering applications for (fully) discretionary activities. Accordingly, we do not include non-complying activity status in the precinct provisions. Similarly, we have not included the amendments proposed to Policy (9A),<sup>165</sup> or the Activity Table.

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<sup>162</sup> Legal Submissions for ACS and AT paragraph 6.9 onwards; Evidence of Peter Reaburn.

<sup>163</sup> Reply Submissions at paragraph 8.7.

<sup>164</sup> *Fraser Auret Racing v Rangitikei District Council* [2024] NZEnvC 10 at [24].

<sup>165</sup> Referred to as Policy (13A) in Annexure A to the Legal Submissions for ACS and AT.

## Appropriate Height Variation Control number in the MUZ

259. One of the issues outstanding as between the Applicant and the Council relates to the Applicant's proposal for a 24m Height Variation Control (22m + 2m for the roof) in the MUZ. This is additional to the Height Variation Control applying in the LCZ.
260. Although it was initially proposed to be 27m (in PC 88 as notified), and the Applicant has amended its proposal in response to the Council's concerns, Ms Skidmore recommends that the height limit in the MUZ be the default limit of 18m so as not to undermine the primacy of the village centre (LCZ). At the hearing, she explained that this allows the village centre to remain the dominant element rather than a large undefined area. Ms Skidmore also said that the developer can seek resource consent (to go higher) with that application to be assessed on its merits at time.
261. Mr Brown agreed that it would be appropriate to reduce the maximum height at that location, but to a lesser degree. He supported a revised Height Variation Control of 22-24m.<sup>166</sup>
262. We find that we prefer Ms Skidmore's evidence on this topic. The default height limit of 18m serves to reinforce the primacy of the village centre. The resource consent process is available should there be a proposal to go higher, and that would allow the impact of any additional height on the primacy of the village centre to be assessed on its merits at the time.

## Stormwater provisions

263. The Council's stormwater and flood management response stated that additional assessment criteria were required to manage flooding effects, particularly on the Jack Lachlan Drive properties below the PC 88 site. These additional assessment criteria were needed to incorporate the effects of climate change and the cumulative effects of subdivision and development for each stage. Mr Loutit did not address these as outstanding matters in his reply, but the Panel considers these additional assessment criteria would be useful in guiding the development of the Stormwater Management Plan and the design of flood attenuation and storage devices.
264. Accordingly, we decide to amend Assessment Criterion I.9.2.7A(c) as follows:

*Whether the proposal ensures that subdivision and development manages stormwater discharge flooding effects upstream of and downstream of the precinct so that flooding risks to people, property and infrastructure on Jack Lachlan Drive are not increased for all flood events, up to a 1% AEP flood event including:*

- i. Effects of climate change on flood attenuation within stormwater management devices; and*

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<sup>166</sup> Statement of Evidence of Stephen Kenneth Brown at paragraph 10.6.

ii. Cumulative effects of subdivision and development.

**Noise control along Whitford-Maraetai Road**

265. AT sought an objective, policy and provisions to address potential health and amenity effects and the impact of road noise from the Whitford-Maraetai Road on noise sensitive activities within PC 88 adjoining it.<sup>167</sup>
266. The only part of PC 88 which is to be live zoned along Whitford-Maraetai Road is zoned LIZ and MUZ, and does not involve residential activities, subject to workers' accommodation. Accordingly, the Applicant's response is that any concerns about road noise are appropriately managed through Chapter E25 Noise and Vibration of the AUP.<sup>168</sup>
267. We do not consider that the objective, policy and provisions to address potential health and amenity effects and the impact of road noise from the Whitford-Maraetai Road on noise sensitive activities within PC 88 are necessary at this stage given the live zoned areas adjoining Whitford-Maraetai Road. Such controls may be necessary when the FUZ is live zoned, but we consider that can be addressed at that stage.

**Sustainability Strategy**

268. ACS sought that the Sustainability Strategy be referenced within the precinct provisions, and that it be included as an appendix. Examples given of matters from the Sustainability Strategy that were not reflected in the precinct provisions included optimising cut and fill volumes in bulk earthworks and design, and constructing low-energy use houses with orientation for solar gain and green star or higher certification.<sup>169</sup>
269. Rather than refer to extraneous documents, it is preferable to embed key outcomes within the precinct provisions. Accordingly the Panel has not included reference to the Sustainability Strategy in the precinct provisions.
270. We comment briefly on earthworks and building certification. We do not think it is necessary to include reference to optimising cut and fill volumes in bulk earthworks and design as in our experience this occurs as a matter of course; with respect to building certification, we consider that the amendments proposed by the Applicant in reply provide more certainty and are appropriate. It follows that we have not included the changes sought in this regard to Policy (2).<sup>170</sup>

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<sup>167</sup> Statement of Evidence of Christopher James Freke at paragraphs 5.51-5.56 (#344.8).

<sup>168</sup> Synopsis of Legal Submissions at paragraph 12.9.

<sup>169</sup> Summary Hearing Statement of P Crimmins and A Bouzonville at paragraph 11.

<sup>170</sup> Referred to as Policy (6) in Annexure A to the Legal Submissions for ACS and AT.

## Scheduling of pā site and/or HNZ suggested alternative relief

271. There is a pā site (R11/1619) within the FUZ that is of considerable significance to Ngāi Tai ki Tāmaki. Proposed standard I.7.10 is:

### ***I.7.10 Mana Whenua***

*Purpose: To recognise and protect important sites associated with the cultural landscape at Beachlands South.*

*(1) No buildings or structures are permitted within the pā site and its surrounds as identified on Precinct Plan 4. Development that does not comply with this standard is a discretionary activity.*

*(2) Any modifications to the pā site or earthworks within its surrounds as identified on Precinct Plan 4 is a discretionary activity.*

*(3) Subdivision that results in the pā site as shown on Precinct Plan 4 extending across multiple contiguous lots is a discretionary activity.*

272. Ngāi Tai ki Tāmaki agrees with this, but HNZ seeks that the pā site be scheduled in Schedule 14 of the AUP. Although the pā site would reach the threshold for scheduling, the Council is comfortable with PC 88 as proposed on the basis of Ngāi Tai ki Tāmaki's agreement.

273. At the hearing, Ms Morris (planner for HNZ) still supported scheduling but suggested an alternative method to address her concerns which involved additional precinct provisions to protect the pā site including an objective, amendment to the policies and additional standards.<sup>171</sup>

274. We are grateful to Ms Morris for her suggestions. Having considered the matter however we find that the level of protection afforded to the pā site is appropriate, particularly given that as an archaeological site it also has the protection afforded by the Heritage New Zealand Pouhere Taonga Act 2014.

## **Fire and Emergency New Zealand submission**

275. Fire and Emergency New Zealand (**FENZ**) tabled a letter outlining its submission.<sup>172</sup> It was satisfied that the proposed roads would meet their access requirements if they were designed to Auckland Transport standards. FENZ was concerned that the PC 88 provisions did not contain rules requiring a fire-fighting standard of water supply (pressure and volume).

276. The Applicant is proposing an urban standard of water supply, to Beachlands South, via bulk reservoir and underground reticulation, with the supply taken from an aquifer bore. The Panel is satisfied that specific rules are not needed in the precinct

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<sup>171</sup> Summary Statement of Alice Jane Morris.

<sup>172</sup> Letter from Beca dated 21 November 2023. Evidence reference EV84.

provisions. It is also noted that the existing Beachlands area is reliant upon roof water collection and on-site tanks for water supply, supplemented by tanker trucks.

### **Watercare submission**

277. Watercare submitted on PC 88 and Mr Iszard appeared on its behalf at the hearing. His evidence included amendments sought to the precinct provisions with respect to water and wastewater infrastructure, including water supply efficiency. Having considered the Applicant's response to these, which adopts some but not all of the suggestions, we are satisfied that Watercare's submission has been appropriately responded to in the reply version of the precinct provisions.

### **Other amendments sought by ACS/AT**

278. We have dealt with the amendments to the precinct provisions sought by ACS/AT throughout the decision by subject matter. However, there are some additional submission points we have not discussed and we address those here.

279. We agree with and adopt the following suggestions:

(a) The addition of the word "safe" to I.7.8(2). We consider safety is important and should be borne in mind when arrangements for the Fairway Reserve are established.

(b) The addition of "trip generation" to I.9.2.2(e) which we consider is a fair reflection of the more detailed provisions referred to.

(c) The amendments to Appendix 1 with respect to Jack Lachlan Drive which we consider provides certainty of expectations for the Council, AT and the developer.

280. The Panel did not find it necessary to include any remaining suggestions, including suggested new policies 13B and 23AA.

### **DECISIONS ON SUBMISSIONS**

281. This decision sets out the reasons why we have approved PC 88 and the reasons for our decisions on changes sought by submitters to the precinct provisions. Our decisions on submissions with reference to specific points are set out in Attachment 2. For ease of reference, the table in Attachment 2 includes the Council's recommendations from the Addendum Hearing Report, with our decisions recorded alongside. Attachment 2 should be read in conjunction with this decision.

### **PART 2 OF THE RMA**

282. We find that PC 88 meets the purpose of the RMA being to promote the sustainable management of natural and physical resources for the following reasons:

(a) The plan change, and this decision, recognises and provides for the matters of national importance engaged in this case, including particularly:

- (i) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (s 6(c)), primarily through the EPAN;
  - (ii) The maintenance and enhancement of public access to and along the coastal marine area (s 6(d)), primarily through the coastal walkway;
  - (iii) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga (s 6 (e)), as evidenced by Ngāi Tai ki Tāmaki’s participation in the project;
  - (iv) The protection of historic heritage (the pā site) from inappropriate subdivision, use, and development (s 6(f)) through the precinct provisions; and
  - (v) The management of significant risks from natural hazards (s 6(h)) which are managed in this case.
- (b) We agree that the plan change has particular regard to the following matters:
- (i) Kaitiakitanga and the ethic of stewardship (ss 7(a) and (aa)) as evidenced by Ngāi Tai ki Tāmaki’s participation in the project;
  - (ii) The efficient use and development of natural and physical resources (s 7(b)) being the development of land for housing;
  - (iii) The maintenance and enhancement of amenity values, intrinsic values of ecosystems, and the maintenance and enhancement of the quality of the environment (ss 7(c) – (f)) as a result of the design of the development, and the EPAN and network of walkways; and
  - (iv) The effects of climate change (s 7(i)) given the site’s resilience from warming scenarios.
- (c) The principles of the Treaty of Waitangi have been taken into account (s 8) and are evidenced through Ngāi Tai ki Tāmaki’s participation in the project including the Cultural Values Assessment provided as part of the plan change request.

283. We find that PC 88 will enable the development of land for housing, and accordingly we consider that the objectives proposed by PC88 are the most appropriate way of achieving the purpose of the RMA.

## DECISION

284. Our decisions on submissions are that:

- (a) Pursuant to Schedule 1, Clause 10 of the Resource Management Act 1991, Proposed Plan Change 88 to the Auckland Unitary Plan (Operative in Part) be **approved**, subject to the modifications as set out in this decision, and as set out in Attachment 1.

(b) Submissions on the plan change are accepted and rejected in accordance with this decision, and as set out in Attachment 2.

285. The reasons for the decision are that PC 88:

(a) is supported by necessary evaluation in accordance with s 32 and s 32AA of the RMA;

(b) will give effect to the NPSUD and the RPS;

(c) satisfies the provisions of Part 2 of the RMA; and

(d) will assist the Council in achieving the purpose of the RMA.



**Vanessa Hamm**  
**Chairperson**

**And on behalf of Commissioners Trevor Mackie and Dr Ian Boothroyd**

**Date: 2 April 2024**

#### **Attachments**

**Attachment 1: Precinct provisions**

**Attachment 2: Table of decisions on submissions**



**APPENDIX C**

## Attachment C

### A list of names and addresses of persons to be served with a copy of this Notice

<b>Name</b>	<b>Address for service</b>
Zainal Trustee Limited	greatdragon98@gmail.com
Karin Vince	kvince@beachlands.school.nz
Adam Johnson	apjohnson@gmail.com
Ashti Chauhan	chauhanashti@gmail.com
Catherine White	cwhite2711@live.co.uk
Harriett Brownell	harriettbrownell@icloud.com
Jason Wayne Monson	j_monson@icloud.com
Justine Benson	paul_jussie@slingshot.co.nz
Nathir Natik Dawood	nathir.dawood.nz@gmail.com
Samuel James Nobilo	samuelnobilo@gmail.com
Valerie Oldfield	rangle1965@yahoo.co.nz
Guohong Li	emilyw0917@hotmail.com
Jeremy Stockton	jeremy.a.stockton@gmail.com
Barney Sharland	sdl1995@outlook.co.nz
Rhonda Mary Pike	rhondampike@gmail.com
Rita Olga Yakich	ritayakich@hotmail.com
Lauren Hewitt	laurenelisahewitt@gmail.com
Kayleigh Shaw	kayleighshaw@hotmail.com
Martina Katharina Toebosch	makatoe@gmail.com
Brian Reed	mohungaaotea@yahoo.co.nz
Zanel Burger	zmburger73@gmail.com
Hilary Frances Hetherington	tryner@orcon.net.nz
Arvin Gardiola	gadje007@yahoo.com
Shane norton	onorty@xtra.co.nz
Glenis Clapham	glenisjohn@xtra.co.nz
Hayden	haydenessa@gmail.com
Adriana Janssen	adrianajanssen@hotmail.com
Micaela Watson	micaela.watson@bjball.co.nz
Benjamin Doidge	ben@doidge.co.nz
David Kemshall	dave_kemshall@hotmail.com
Cheryl Jones	132 second View Avenue Beachlands Auckland 2018
Mathew Guadagni	matt.guadagni@gmail.com
Phoebe Taylor	phoebetaylor@hotmail.co.uk

Rebecca Almond	rebecca.almond@gmail.com
Philip Stout	te15nz@ppml.biz
Terry ray Honey	honeyhouse@xtra.co.nz
Louise Barratt	lsbarratt@outlook.com
Lorna Peachey	lpeachey@hotmail.co.uk
Alistair Dinnis	alistairdinnis@gmail.com
Jennifer Anderson	craigandjenni.anderson@xtra.co.nz
Lyndsay Gerard Turner	lyndsayt@slingshot.co.nz
Keith Walker	walker_keith@hotmail.com
Paul David Mason	pdlkmason@xtra.co.nz
Linsey Karen Mason	pdlkmason@xtra.co.nz
Lisa Ball	lisaball@hotmail.co.nz
Jack Benson	jussiebenno@gmail.com
Angus James Scott-Knight	angus.scottknight@gmail.com
Murray R Stevens	stevensassoc@xtra.co.nz
John and Elizabeth Oudney	oudney@xtra.co.nz
Dahya Hira	kh200014@ncr.com
Susan Scott-Knight	susan.scottknight@gmail.com
Craig Anderson	craig.anderson@verdegroupp.co.nz
Hewitt attn: Kirsten	kirsten@fpes.co.nz
Jane O'Neill	janesupplynz@gmail.com
Deborah Lea Keane	jdbeachlands@gmail.com
Jean Alphonsus Philippus Toebosch John	japtoe@gmail.com
Peter Jansen	pwcjansen@gmail.com
Malcolm Pike	mjpik99@gmail.com
Rocelle (Shelly) Geddes	shellygeddes@xtra.co.nz
Christopher Havill	cshavill@gmail.com
Paul Stephen McKay	psmckay@xtra.co.nz
Allan Henry McGilvray	workfutures@gmail.com
Derek Spencer	derek.spencer@outlook.co.nz
Michaela martinez	mickie09@gmail.com
Dr Gail Fleming	fleming_gail@hotmail.com
Kelvin Beere	kelvinbeere@forcelogistics.co.nz
Michael Bond	bondfamilyeaters@gmail.com
Graeme Watt	hb1kiwi@gmail.com
Natalie Balemi	natalie.balemi@gmail.com
Maryon Wils	maryonw@me.com
Jacqueline Cooe	thecopesnz@gmail.com
Martin Sommerville	martinsommerville@hotmail.com

Sam Benson	pau.jus.benson@hotmail.com
Michele Cadman	michele.cadman@nztravelbrokers.co.nz
Mark Clapham	markc3990@gmail.com
Amber Lee Sorrenson	AMBERSORRENSON1@GMAIL.COM
Michael John bartlett	michaelbe@hotmail.com
Grahame Cain	grahame.cain@hussmann.com
Rebecca Owen	becky@samuels.co.nz
Mrs Sandra Magdalena Pike	Sandypike12@yahoo.com
Sam Noon	hinoonhoki@gmail.com
Rebecca Rix	rebeccarix29@gmail.com
Edith Anne Riddick attn: Christopher John Riddick	Bumbazonke@hotmail.com
Rodger Shepherd	rodgershepherd@xtra.co.nz
Geoff Bignell	geoffthepianoguy@gmail.com
Stephen George Pawsey	steve@watts.co.nz
Yueliang He	hexinyu5@Hotmail.com
Angela Turner	angesturner@gmail.com
Eugenie Wendelien Hansen	wenhansen49@gmail.com
Shelly Young	dusty.boy1979@gmail.com
Alison Christine Jurd	jajurd@yahoo.co.nz
Brenda Milbank	brendamilbank@gmail.com
Greg Lowe	gelowe1@gmail.com
Stacy Joseph Shramana	2/8 Stanniland Street Sunnyhills Auckland 2010
Scott Jason Marsden	scottmarsden@xtra.co.nz
Gregory Bannan	g-cbannan@xtra.co.nz
Stephen Gregory Marsden	mekfour@hotmail.com
Christine Bannan	cmbannan@me.com
Sean Patrick Cleary	seanpcleary@yahoo.co.uk
Michelle Marie Pietras	shellbell445@hotmail.com
Cheryl Lynette Marsden	ianmars@xtra.co.nz
Ian Reid Marsden	ianmars@xtra.co.nz
Chrissy Willcocks	14 Tui Brae Beachlands Auckland 2018
Brenda Mary Saunders attn: Kevin Andrew Saunders and B	bmsaunders@outlook.com
Hunter Willcocks	huntsnz@gmail.com

Zach Willcocks	zachsanz@gmail.com
Stephen Leach	stephenleach@outlook.co.nz
Shaun Bannan	sbannan@hotmail.com
Deborah Garty	debgarty@gmail.com
Whitford Estuaries Conservation Society Incorporated Attn: Barry Wade	info@riverestate.co.nz
Sarah Buckland	17 Karaka Road Beachlands Auckland 2018
Melissa Fahey	melissafaheynz@gmail.com
Paul Andrew Hebditch	paul@benoit.co.nz
Susan Elizabeth Denby	sue@benoit.co.nz
Maureen Elizabeth Pepper	pepper.simon@outlook.com
Mr Terence Bruce Ellis	terryellis.nz@gmail.com
Chris Currell	chriscurrell1@gmail.com
Maria Currell	Mariacurrell16@gmail.com
Philip Paul Madigan	marnerd963@gmail.com
Christina Mary Opie	steveopie2@gmail.com
Simon Watts	simon@bwmedia.co.nz
Ferdi Du Plessis	ferdi.john.du.plessis@gmail.com
Catherine Watts	catherine.watts@saintkentigern.com
Ian and Elizabeth Scarborough	beth.ian44@gmail.com
Jodi Litherland	jodi@rcsgroup.co.nz
Joel Lindsey attn: J M W Lindsey	joellindsey@outlook.com
Michael J Carroll	mcarroll@minimac.co.nz
Ms Barbara Jan Miller	themillersnz@icloud.com
Gavin Fisher	Gavin@directed.co.nz
Ms Margaret Cecilia Ramsey	mags.braveheart@gmail.com
Karen Cowie	nowacowie@gmail.com
John and Robyn Randle	robyn.randle@outlook.co.nz
Kurt Willcocks	seahunternz@gmail.com
Leonard Smith	leonardcharm@gmail.com
Charmaine Smith	leonardcharm@gmail.com
Angela Heenan	sathomesnz@gmail.com
Russell Heenan	sathomesnz@gmail.com
Bret Vogel	bretvogel1@mac.com
Sarah Owen	sarah_l_owen@yahoo.co.uk
Graham Smith	graham_sonia@hotmail.com
Shayne Skinner	shayne.skinner@airnz.co.nz

Brian Slingsby	brian.nz.slingsby@gmail.com
Steven Lucas	swellno1@gmail.com
Christine Jansen	christinejjansen@gmail.com
Melinda Krushinska	Galaxyapp97@gmail.com
Equal Justice Project	advocacy@equaljusticeproject.co.nz
Linda Whickman	whickman49@outlook.com
Robert Jaffrey Gray	bob@graynz.net
Clevedon Community and Business Association	secretary@clevedon.co.nz
Yvonne Clare	Yvonne@epnz.co.nz
Karen McKnight	themcknights@xtra.co.nz
Lesley Pearce	pl.pearce2410@gmail.com
Sheena Terry	sheenaterry@outlook.com
Kelvin Michael Terry	aerokmt@gmail.com
Mr Kenneth Mervyn Clough	1.24NZR@gmail.com
Fire and Emergency New Zealand Attn: Lydia Shirley	Lydia.Shirley@beca.com
Michaela Campbell	Michaela@ilikespace.co.nz
Jenny Barrett	jenny.barrett@hotmail.com
Jacob Mackenzie	jacob.t.mackenzie@outlook.com
Sam shephard	samshephard88@gmail.com
Chantal Ward-Tuala	chantaltuala97@gmail.com
Deborah Christine Forman	Formandebbie@forman.gen.nz
Karen Carter	karenhcarter@hotmail.com
Katie Pike	kmjpike99@gmail.com
Daniel udy	dan@rpmproperty.co.nz
Stephen David Melrose	melroses.house@gmail.com
Peter John Williams	pjwcchdw@outlook.com
Jason Shaw	jason@rucon.co.nz
Maria Money	maria.c.money@gmail.com
Jeanette Hilton	jeanettehilton873@yahoo.com
Lynne Richardson	lynne-richardson@xtra.co.nz
Helen Els	hbuistels@gmail.com
Serena Waldron	2 Fourth View Ave Beachlands Auckland 2018
Richard Peter Betts	richardpbetts@gmail.com
Pam Bruinsma	bruinsma_pm@hotmail.com
Colin Nicholas Nunweek	colin.nunweek@gmail.com

Will Owen	will@playgolf.co.nz
Fiona Fraser	fionalouisefraser@gmail.com
Amy Stewart	amystewart@live.com
Toni Stairmand	toni.stairamand@gmail.com
Darron Crawford	Orders@waterworksirrigation.co.nz
David Cartledge	Davewantsaboat@gmail.com
Kim Beere	kimbeere@forcelogistics.co.nz
Jasper Grant Murdoch Campbell	jasper.campbell@gmail.com
Mr and Mrs J Beddoe	Davidbeddoe7@gmail.com
Lloyd Williams	Lloydwilliams@xtra.co.nz
Margaret Ann Nicholls	margn@waimama.co.nz
David Paul Lloyd	dplloyd@outlook.co.nz
Julio de Faria	julcor@xtra.co.nz
Corinne Jean de Faria	julcor@xtra.co.nz
Mr Dennis Michael Gobey	dennis.gobey@yahoo.co.nz
Lesley Scaggiante	lesleyscaggiante@gmail.com
Nicole Hillis	hillis.nic@gmail.com
Mr Peter John Reilly	peter@reilly.net.nz
Jordan McPherson-Whimp	jmcphersonwhimp@xtra.co.nz
Shannon Therese Grace	SHANNON.GRACE@NZ.PANASONIC.COM
David Wray	dagger-reggie@xtra.co.nz
Cheryl Christine Williams	cheryl.christine.cw@gmail.com
B.M.O Residents Group Attn: Alexander John Moore	sandy.moore@outlook.co.nz
Brent Smith	snappersmitty@gmail.com
Nicola Poad	nicas1515@gmail.com
Debra Jones	hdjones5762@gmail.com
Angie Henderson	angie_bartlett@hotmail.com
Whittaker Hamilton attn: Whittaker Hamilton/ Hamilton Family Trust	whittakerhamilton@gmail.com
Beachlands Avenues Limited attn: David Hay	david@osbornehay.co.nz
Sielia Limited attn: David Hay	david@osbornehay.co.nz
Michael John Dagg	mikedagg2@gmail.com
Carl Shelley	carlos.427@outlook.com
Antony John Horton attn: Tony Horton	tony.horton@me.com
Ian Olan	ian.olanz@gmail.com
Michael Box	mbox@xtra.co.nz
Lew Gerick Hansen	younglew48@gmail.com

Dorothy McKeen	dmckeen@xtra.co.nz
Sophia Yakich	virgo15-09@hotmail.com
Nerina Carol Groves	nerina.groves@xtra.co.nz
Stephen Andrew Opie	steveopie2@gmail.com
Colleen Agnes Drummond	cdrummond@xtra.co.nz
Paul Michael Orriss	1paulorriss@gmail.com
Renette Brink	renettebrink101@gmail.com
Ian Wallace	beachlands@yahoo.com
Steve West attn: Stephen West	stephenwest57@gmail.com
Chantelle Pinch	chantellepinch@yahoo.co.nz
Mark Regan Casey	qcsab@hotmail.com
Elisabeth Van Stiphout	eldirnz@gmail.com
Mr Dirk De Jong	eldir@xtra.co.nz
Suzanne Mevissen	suzelea18@gmail.com
Oleg Bartsaikin	omegaqsservices@gmail.com
Debra Black	egoliblacks@gmail.com
Karen Kerr	karenjkerr1@gmail.com
Blair Nix	blair.nix@mii.com
Nithya Balakrishnan	Nithyabalki@gmail.com
Ivan Peter	i.peter@bdsc.school.nz
David & Angenieta Rose	59flowerpower@gmail.com
Freddy Brignone	freddybrignone@gmail.com
Andrew Buckingham	asbucko@gmail.com
Stephen murray cox	stevecoxnz@hotmail.com
Nigel Ewels	nigelewels@hotmail.com
Hamish Sutherland attn: Samantha Sutherland	hasutherland@gmail.com
Samantha Sutherland	samantha_sutherland@hotmail.com
Gerald Anthony Wade	mrsole7@gmail.com
David Powley	david@brightlight.co.nz
David Longstaff attn: Julie Longstaff	dave_julz@hotmail.com
Harry Stephen Jones	hdjones5762@gmail.com
Mr Neil Woolridge	nwoolridge@hotmail.com
Sean Patrick Omeara	nzkingfisher@yahoo.com
Alana Hodgson	alana.hodgson@hotmail.com
Yvonne Margaret Box	yvonne@real-estate-coach.co.nz
Dario Scaggiante	dariolesley@gmail.com
Caroline Houghton-Brown	choughtonbrown@gmail.com
Adele Fox	foxyten@xtra.co.nz



Grant Fox	grant.fox@monstavision.com
Angela Sayer	angelajoanne@gmail.com
Nicholas Scott Groenewegen	nick.groenewegen.85@gmail.com
Judith Elaine Groenewegen	greenways1856@gmail.com
Samantha Rojas Izquierdo	samantharojasnz@gmail.com
Steven Anthony Groenewegen	greenways1856@gmail.com
Justin Lowe	justmitch@xtra.co.nz
Barbara van Ryn	rbvr@xtra.co.nz
Heather Mary Carol Brooke	heatherbrooke1@gmail.com
Philip Iain Dale	middlewichnz@gmail.com
Paul Giddens	paul.giddens@gmail.com
Linda Kay Ashby	lindakaynz2001@yahoo.co.nz
Julia Willis	juliawillis@hotmail.co.nz
Sandra Maureen Grubb	rainbowjewel7@gmail.com
Tom Ireland	tomireland99@hotmail.com
Three Pines Trust attn: David Frost & Catherine Somerville-Frost	david@icelandic.co.nz & csomervillefrost@gmail.com
Mr Kenneth Anthony (Tony) King	tonyking@xtra.co.nz
Owen Ross Williams	rosswilliams2712@gmail.com
Miro Ellis	miro.kirsty@xtra.co.nz
Kirsty Jane Ellis	kirstyje48@gmail.com
Melissa Louise Wright	melissalouise197541@gmail.com
Whitford Coast Society Incorporated attn: Anthony John Hopkins	anthony.hopkins@fieldporter.com
Pauline Victoria Gobey	pauline.gobey@yahoo.co.nz
Jonathan Adair Ashby	jandl_mail@yahoo.co.nz
Royal Forest and Bird protection Society of New Zealand Inc. attn: Carl Morgan	c.morgan@forestandbird.org.nz
Emily May	emay@jaedon.co.nz
Colleen Ruth Coxhead	colleencoxhead@hotmail.com
David Henry McSkimming	mrsamac@xtra.co.nz
Lisa Diane Robinson	lisaandbrent@xtra.co.nz
Timhela Wong and Michael Wong	Timhela.Wong@manukau.ac.nz
Juliet Shepherd	juliet.shepherd01@gmail.com
Lesley Ann Overend	ryanandles@hotmail.com
Shelagh O'Sullivan	shelagh@xtra.co.nz
Jasmine Wong	jasminewongrandall@gmail.com
Eddie Randall	eddierrandall10@gmail.com
Melissa Jayne Dale	dale_mp@xtra.co.nz

Lloyd Hodge	amaorican@mac.com
Pilar Olan	pilar.olan@gmail.com
Indiver Nagpal	indy@fastmail.to
Charlotte Lowe	charlotteevers32@gmail.com
Susan McDonell & Paula Garrett	plgangel05@gmail.com
Christopher Redwood	c.redwood@xtra.co.nz
Pine Harbour Berth Holders Association Incorporated attn: Bruce Martin	brucesue@xtra.co.nz
Wayne List	w.list@xtra.co.nz
Dennis Raymond Bartlett	raymondb062@gmail.com
Sandita Singh	deeta100@gmail.com
Darryl Hicks	darrylhicksnz@gmail.com
Linda List	lin.list@xtra.co.nz
Sinikka Diane Boshoff	sinikka.boshoff@gmail.com
Michael Good	michael.good@xtra.co.nz
Kate Brine	donutsandcoffees@yahoo.com
Cheryl Coles	ccoles777@gmail.com
Pohutukawa Coast Trails Committee attn: Alexander Leslie Garden	alex@netinsites.com
Philip Malcom Granger	sherbrookfarm@gmail.com
Stephen Gerald Fowler	steve@fowlers.nz
Paul Benson	howick80@gmail.com
Simone J Beesley	simone_julie@yahoo.com
Rina Tagore	rina@tagores.com
Krystle La Belle	krystlelabelle@gmail.com
Gina Scaggiante	ginascaggiante7@gmail.com
Daniel Ian Beesley	kiwibeasley@gmail.com
Brendan Feather	bmfeather@gmail.com
Roberta Williams	bertawilliams@hotmail.com
Vivien Bartley	witchyviv@xtra.co.nz
Michael Park	sparkybarnfind@gmail.com
Michelle Maree McKeown	michellemm@hotmail.co.nz
Emma Peters	emma@emmakp.com
Andrea Martin	andrea_martin@xtra.co.nz
Whitford Study Working Group Attn: Robert Bruce	robbiebruce@gmail.com
Tony Coxhead	tonycoxhead@xtra.co.nz

Monika Olds	monikaolds@gmail.com
Sandra Miller	glesansg@hotmail.com
Nigel Hannan Trust Attn: Nigel Coyle Hannan	landreclaimltd@gmail.com
Charles James Peake	marypeake@xtra.co.nz
Carol Margaret Over	carol.over20@gmail.com
Samuel Edward Shallard	samshallard@gmail.com
Waka Kotahi New Zealand Transport Agency Attn: Emily Hunt	Emily.Hunt@nzta.govt.nz
Anthony Richard and Celia Amy Astell	tcastell@xtra.co.nz
Tracey Bothwell	tbothwell22@gmail.com
Heritage New Zealand Pouhere Taonga Attn: Alice Morris	amorris@heritage.org.nz
William James Over	billover23@gmail.com
Matthew Gary Cockram	matthew.cockram@cooperandcompany.org
Andrew James Grimmer	andrew@classicss.co.nz
Helen Mary Cahill	byca@xtra.co.nz
Anne McSkimming	annemcskim@gmail.com
Katja Kershaw	katjamariakershaw@gmail.com
John Keith Byers	johnbyers901@gmail.com
Wendy Hansen	wenhansen49@gmail.com
Michael Holmes Sommerville	michaelhsommerville@gmail.com
Pine harbour Marina Limited attn: Craig Shearer C/- Shearer Consulting Ltd	craig@craigshearer.co.nz
Anne	annediped@gmail.com
Ivan Sidney Boshoff	ivanboshoff850@gmail.com
Patrick Gallagher	ppgallagher@xtra.co.nz
Auckland Transport Attn: Chris Freke	Chris.Freke@at.govt.nz
Auckland Council Attn: Warren Maclennan/Matthew Allan	allan@brookfields.co.nz
Lesla Freeman	allanandlesa@xtra.co.nz
Anthony Martin Andrew	tonya@resultsad.co.nz
Angela Mary Mason	amasonhome@icloud.com
Geraldine Shelley	gshelley3@outlook.com
Pamela Mary Gallagher	ppgallagher@xtra.co.nz
Beachlands South Limited Partnership	mary.wong@unioenvironmental.co.nz

Attn: Mary Wong	
Manukau Quarries Limited Partnership c/- Aidan Cameron Bankside Chambers	aidan@bankside.co.nz
Tracy Joy Bull	tracyjbull@gmail.com
Watercare Services Limited Attn: Mark Iszard	mark.iszard@water.co.nz
Kathlyn Margaret Mary Cardiff	kathy.cardiff@envirosafenz.com
Fraser Brent Bull	bullfraser@gmail.com
Ministry of Education Attn: Krupa Patel C/- Beca Ltd	krupa.patel@beca.com
Shane Hetherington	s.r.hetherington@hotmail.co.nz
Judith Clarke	judith@damson.co.nz
Lisa Prinsloo	lisabutchers@gmail.com
Barbara Emerson	barbamag@gmail.com
Greg and Sarah McKenzie Attn: Meg Sarah McKenzie	gandsmckenzie@outlook.com
Eoin Emerson	emersoneoin@hotmail.com
Ngairé McLeod	ngairemcleodnz@gmail.com
Craig Paddison	cpaddison31@gmail.com
Sonia Ray	soniaray15@gmail.com
Viktoria Hilary Jowers-Wilding	cadibel1@gmail.com
Beachlands Maraetai Omana Concerned Citizens	middlewichnz@gmail.com
Stephen Jowers-wilding	wilding1967@gmail.com
William Austin Hewitt	billhewitt@xtra.co.nz
Jane Norton	jane.shane33@gmail.com
Peter Hurley	ptrrbt@outlook.com
Darci Shelley	darcishelley01@gmail.com
Christine Sandra Maslowski	maslowskichristine@gmail.com
Stephen Ray	stephenray2101@gmail.com
Matthew and Karen Thomasen	kandmthomasen@actrix.co.nz
Jo Garth	mrs.jo.garth@gmail.com
Craig Anthony Russell Carter	islbih@gmail.com
Alison Kathleen Payne	alisonk.payne@gmail.com
Bruce and Doreen Wakefield	kgubruce@gmail.com
Mrs Angela Gwenda Reilly	angela@reilly.net.nz
Margaret Mary Robertson	Marg.rob1@xtra.co.nz