

Sites and Places of Significance to Mana Whenua - Tranche 2a

Proposed Plan Change 102 Auckland Unitary Plan (Operative in Part) 2016 and Proposed Plan Modification 15 Auckland Council District Plan – Hauraki Gulf Islands Section (Operative) 2018

STATUTORY ASSESSMENT REPORT

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Acronyms and Commonly Used Terms:

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|--|---------------------------|
| Proposed Plan Change to the Auckland Unitary Plan (Operative in Part) 2016 | PPC102 |
| Proposed Plan Modification to the Auckland Council District Plan – Hauraki and Gulf Islands Section (Operative) 2018 | PPM15 |
| Proposed Plan Change 102 and Proposed Plan Modification 15 | Plan changes or Proposals |
| Auckland Council | Council |
| Auckland Council District Plan – Hauraki Gulf Islands Section (Operative) 2018 | HGI |
| Auckland International Airport Limited | AIAL |
| Auckland Regional Policy Statement | RPS |
| Auckland Unitary Plan (Operative in Part) 2016 | AUP(OIP) |
| Coastal Marine Area | CMA |
| Department of Conservation | DOC |
| Intensification Planning Instrument to give effect to the National Policy Statement on Urban Development | PC78 |
| Iwi Planning Document | IPD |
| Māori Cultural Heritage Programme | MCHP |
| Māori Heritage Site in the HGI | MHS |
| Outstanding Natural Features Overlay Schedule | Schedule 6 or ONF |
| Outstanding Natural Landscape Overlay Schedule | Schedule 7 or ONL |
| Resource Management Act 1991 | RMA or 'the Act' |
| Schedule of Historic Heritage Place | Schedule 14.1 or HHP |
| Significant Ecological Area | SEA |
| Sites and Places of Significance to Mana Whenua Schedule | Schedule 12 or SSMW |
| Watercare Services Limited | Watercare |

Māori Terms Used:

| Kupu | Definition ¹ |
|------------------|---|
| Awa | River, Creek, Stream |
| Hapū | A number of whānau related through a common ancestor, a section of a large kinship group |
| Iwi | A number of hapū related through a common ancestor |
| Kāinga | Village, settlement |
| Kaitiakitanga | Guardianship, stewardship |
| Mahinga kai | Food-gathering |
| Mahinga mātaītai | Area for the harvesting of seafood |
| Mana | Prestige, authority |
| Mana whenua | Māori with ancestral rights to resources in Auckland and responsibilities as kaitiaki over their tribal lands, waterways and other taonga as recognised by Auckland Council |
| Māra | Gardens |
| Mataawaka | Māori who live in Auckland and are not within a mana whenua group |

¹ Te Aka Māori Dictionary (<https://maoridictionary.co.nz/>)

| | |
|----------------------|---|
| Mātauranga | Tribal knowledge, wisdom or understanding |
| Mauri | Life force, ecosystem vitality |
| Taiāpure | A stretch of coast, reef, fishing ground |
| Tāmaki Makaurau | The Auckland Region |
| Tapu | Sacred, restricted |
| Tauīwi | non-Māori |
| Te Tiriti o Waitangi | The Treaty of Waitangi |
| Tika | Correct, appropriate, convention, protocol |
| Tihi | Summit/peak (of a hill or mountain) |
| Tohu | A marker, emblem, distinguishing feature (of a cultural landscape) |
| Tūpuna | Ancestors |
| Urupā | Burial site |
| Wāhi tupuna | Ancestral place. Particularly significant places may be considered to be ancestors in their own right |
| Wairua | Spirit, essence |
| Whakapapa | Genealogy that links Māori to their ancestors as well as sites and places |
| Whānau | Extended family, family group |

Naming conventions:

This report recognises the varying use of tohutō (macrons) across the iwi and hapū of Aotearoa. In instances where naming is proposed by a mana whenua entity who does not use tohutō, a double vowel has generally been used to recognise and respect that preference (e.g. Kaarearea Paa). Otherwise tohutō are used in the text of this report.

Within this report, the terms ‘plan change’ and ‘plan modification’ are used interchangeably and simply reflect the differences in terminology used with respect to the AUP(OIP) and HGI.

1. Executive Summary

- 1.1. This report has been prepared to fulfil the statutory requirements of section 32 of the RMA when proposing plan changes to the Auckland Unitary Plan (Operative in Part) 2016 (AUP(OIP)) and Auckland Council District Plan – Hauraki Gulf Islands Section (HGI).
- 1.2. It evaluates the extent to which PPC102 to the AUP(OIP) and PPM15 to the HGI are the most appropriate ways to promote the sustainable management of natural and physical resources within Tāmaki Makaurau.
- 1.3. The purpose of the plan changes is to recognise and protect the tangible and intangible Māori cultural values of 12 sites and places within Tāmaki Makaurau to provide for the relationship of mana whenua with their cultural heritage.
- 1.4. PPC102 proposes to introduce nine Sites and Places of Significance to Mana Whenua (SSMW) to Schedule 12 of the AUP(OIP). Two of these sites are the coastal marine area (CMA) extents of nominated MHS in the HGI, which are regulated by the AUP(OIP) through the Auckland Regional Coastal Plan.
- 1.5. PPM15 proposes to introduce five MHS to Appendix 2f of the HGI, and proposes amended wording to both that appendix, and Part 7.13 of the HGI. These changes are proposed to provide for the recognition and protection of these culturally significant sites whilst also allowing for a reasonable level of earthworks on privately owned sites on the islands. The proposed changes are also informational, to enhance the consistency and usability of the HGI.
- 1.6. Changes to two other schedules in the AUP(OIP) are proposed to recognise the association mana whenua have with scheduled ONF and HHP in Schedules 6 and 14.1 of that plan. A name change is proposed to one already scheduled HHP site.
- 1.7. Finally, changes are proposed to the planning maps for both the AUP(OIP) and HGI to recognise these sites of cultural significance to mana whenua.
- 1.8. These plan changes are the result of work undertaken in Auckland Council's Māori Cultural Heritage Programme, a programme that works alongside the 19 recognised mana whenua entities of Tāmaki Makaurau to understand the cultural values and therefore significance of sites and places to mana whenua.
- 1.9. In response to an identified issue of regional significance on the extent of protection of mana whenua cultural heritage within Tāmaki Makaurau, this is an ongoing programme of work to recognise and protect mana whenua heritage within the region in the relevant planning documents.
- 1.10. The nominated sites and places vary in terms of the cultural values they hold, the whakapapa mana whenua entities hold with the sites, and the issues and outcomes being sought by mana whenua through their recognition and protection. The sites vary in terms of their private/public ownership composition, features, zoning and existing land uses. They encompass conservation areas, production forestry, quarries, urban residential and business sites, freshwater and the coastal environment.

- 1.11. There are directive policies within Auckland’s planning framework for the recognition and protection of mana whenua cultural heritage, and the existing SSMW and MHS provisions in the AUP(OIP) and HGI provide discretion for cultural values to be considered for land use, development and subdivision activities across all zones and in the CMA.
- 1.12. Regulations must be considered along with the need to provide for reasonable use of land, an understanding of the planning history of sites, and the environmental outcomes being sought through the recognition and protection of these sites and places.
- 1.13. An evaluation of issues and options against the national, regional and district planning framework has identified that while, in most cases, scheduling is the most efficient and effective management response for the nominated sites, for two sites a mixed methods approach is recommended.
- 1.14. One of these recommendations for the southern tributary of Te Wai o Ruarangi is to rely on the currently operative plan provisions which contain a policy and rule framework which addresses the cultural significance of that part of the site. The second recommendation is to exclude Pararēkau Island from the nominated site extent of the Pahurehure Islands. This is due to a parallel plan change process being undertaken to implement the National Policy Statement on Urban Development which also responds to recognise and protect the cultural significance of this island.
- 1.15. During the development of these plan changes, engagement was undertaken with mana whenua representatives, co-governance entities and 117 affected landowners. Key stakeholders including Council organisations and other public entities have been engaged with where their interests may be affected by the scheduling of the sites.
- 1.16. During the development of these plan changes and other related Council processes, landowners have taken the opportunity to actively engage with nominating mana whenua representatives in addressing the matters of cultural concern to mana whenua. This has resulted in agreements being reached which are reflected in the recommended responses for the Pahurehure Islands and Kaarearea Paa. Some outstanding matters remain to be addressed through the plan change process.
- 1.17. As a result of the following examination, the proposed plan changes in Attachment 1 have been evaluated as the most appropriate way to achieve the purpose of the RMA.

2. Introduction

- 2.1. This report has been prepared by Council to fulfil the statutory requirements of section 32 of the RMA for proposed PPC102 to the AUP(OIP) and proposed PPM15 to the HGI.
- 2.2. For the purposes of this report, a ‘plan change’ and ‘plan modification’ are equivalent terms and simply reflect the terminology used in the two respective plans.
- 2.3. Section 32 of the RMA requires that before adopting any objective, policy, rule or other method, the Council shall carry out an evaluation to examine:

- The extent to which each objective is the most appropriate way to achieve the purpose of the Act, and
 - Whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objective.
- 2.4. The evaluation must also take into account:
- The benefits and costs of policies, rules, or other methods; and
 - The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.
- 2.5. The purpose of the plan changes is to provide for the relationship of mana whenua with their cultural heritage by recognising and protecting the tangible and intangible Māori cultural values of 12 sites and places within Tāmaki Makaurau.
- 2.6. PPC102 and PPM15 have been developed in collaboration with the 19 mana whenua entities within the Auckland Region². It is the second in a series (tranches) of plan changes to recognise and protect new SSMW and MHS in the AUP(OIP) and HGI. PPC102 and PPM15 provide a statutory framework for the recognition and protection of culturally significant sites to mana whenua identified as part of the Council's Māori Cultural Heritage Programme (MCHP).
- 2.7. The RPS identifies that the recognition and protection of mana whenua cultural heritage is an issue of regional significance³. Protecting mana whenua culture, landscapes and historic heritage is an issue of significance to iwi authorities of Tāmaki Makaurau⁴. Many of these sites and places are also of cultural significance to mataawaka⁵ due to the historic events that have occurred there.
- 2.8. These plan changes recognise the significant cultural heritage values of 12 sites nominated by mana whenua. They do this by:
- Adding nine sites to the AUP(OIP) Sites and Places of Significance to Mana Whenua Overlay⁶, as identified in Chapter L Schedule 12,
 - Applying the 'mana whenua'⁷ criterion to two already scheduled historic heritage sites identified in Chapter L Schedule 14.1 of the AUP(OIP). These heritage sites are located within two of the nominated SSMW. The listed name of one site⁸ is proposed to be amended to also recognise its Māori name,

² As of 20 May 2024, Auckland Council no longer recognises Ngāti Paoa Trust Board as a mandated representative of Ngāti Paoa. Since December 2018, an interim approach existed where both the trust board and Ngāti Paoa Iwi Trust were engaged with as representative entities.

³ Refer to Section B6 of the Auckland Regional Policy Statement

⁴ Houkura - Independent Māori Statutory Board. Schedule of Issues of Significance 2021-2025

⁵ Māori who live in Auckland and are not within a mana whenua group

⁶ AUP(OIP) Section D21 Sites and Places of Significance to Mana whenua Overlay

⁷ B5.2.2.(1)(c) Mana whenua: the place has a strong or special association with, or is held in high esteem by, Mana whenua for its symbolic, spiritual, commemorative, traditional or other cultural value

⁸ Item 693 – The name Kaarearea Paa is proposed to be added to the item

- Applying the ‘importance to mana whenua’⁹ criterion to two nominated sites that are already scheduled, or contain scheduled, Outstanding Natural Features (ONF) identified in Chapter L Schedule 6 of the AUP(OIP). These ONFs are contained within two nominated SSMW,
 - Adding five nominated MHS to t Appendix 2f Schedule of Māori heritage sites – outer islands of the HGI and also adding introductory information and key reasons for scheduling to the appendix for plan consistency,
 - Amending the standards in Part 7.13 Māori Heritage of the HGI to employ the use of the plan defined term ‘earthworks’ and introduce permitted earthworks activities to align the HGI provisions more closely with those of the AUP(OIP), and
 - adding the sites to the AUP(OIP) viewer and HGI planning maps.
- 2.9. The SSMW and MHS provisions are regional coastal plan and district plan provisions in the AUP(OIP) and HGI. Accordingly, two sites on Aotea/Great Barrier Island are proposed to be added to both the AUP(OIP) and HGI, as the nominated extents include both land and the CMA.
- 2.10. Mana whenua have requested that any references to ‘nominating iwi’ be left blank in the schedules and appendices so as to not give an impression to plan users that only the nominating iwi have an interest in any particular site.
- 2.11. These plan changes are supported by the following documents:
- Attachment 1: Proposed Plan Changes,
 - Attachment 2: Nominated Site Extents,
 - Attachment 3: Cultural Values Assessments,
 - Attachment 4: Evaluations of Options by site,
 - Attachment 5: Archaeological reports by site,
 - Attachment 6: Supporting information for ONF and HHP scheduling,
 - Attachment 7: Site Photos,
 - Attachment 8: Nominated and Recommended Site Extents, and
 - Attachment 9: Assessment Against the Auckland Regional Policy Statement.
- 2.12. The AUP(OIP) and the HGI contain existing objectives, policies, and standards to manage and protect SSMW and MHS at Regional Policy Statement, Regional Coastal Plan, Regional Plan, and District Plan level. PPC102 and PPM15 do not propose to alter any of the existing objectives or policies in the two plans.

⁹ B4.2.2.(4)(k) the importance of the feature or site to Mana whenua.

- 2.13. This section 32 evaluation report must be made available at the same time as the plan changes are notified and will continue to be refined in response to any consultation that occurs, or in relation to any new information that may arise during any hearings.
- 2.14. On 18 August 2022, Plan Change 78 (PC78) to the AUP(OIP) was notified. This is an Intensification Planning Instrument (IPI) which is required to give effect to the National Policy Statement on Urban Development. Among other things, it introduces Medium Density Residential Standards listed in Schedule 3A of the RMA into all relevant residential zones of Tāmaki Makaurau. PC78, as notified by the Council, does not affect offshore islands which are administered under the HGI.
- 2.15. PPC102 is a plan change to the AUP(OIP) and does not affect zoning or any qualifying matter response under PC78. It therefore can be processed independently of PC78 and is not a variation to the IPI itself.
- 2.16. With respect to Pararēkau Island in the Pahurehure Islands, changes are proposed in PC78 to the existing precinct over the island to address the cultural significance of that site. Accordingly, a further response is not recommended for the island at this time. Should PC78 not proceed, the manner in which the cultural heritage of Pararēkau Island is recognised and protected will be addressed separately.

3. Background to the Plan Changes

- 3.1. In 2014 Auckland Council initiated the MCHP in collaboration with mana whenua with the purpose to improve the understanding and protection of Māori cultural heritage within the region. The programme involves working alongside 19 mana whenua entities to understand the cultural values and therefore the cultural significance of sites and places to mana whenua. As part of the programme over 300 new sites and places have been identified by mana whenua for consideration as to the best management approach for recognition and protection of cultural heritage.
- 3.2. A first tranche of council-initiated plan changes to introduce 33 additional sites and places of significance to mana whenua was publicly notified on 21 March 2019. These plan changes were made fully operative in the AUP(OIP) and HGI on 11 March 2022.
- 3.3. As part of the plan changes a review of the AUP(OIP) and HGI provisions was undertaken to understand how the two plans recognise and protect Māori cultural heritage sites. The review concluded that both plans offered appropriate protection for such sites. In the case of the AUP(OIP), this is primarily through their inclusion in Schedule 12 as well as by way of other schedules of the AUP(OIP)¹⁰. In the case of the HGI, this is through inclusion in Appendices 1f and 2f.
- 3.4. Both the AUP(OIP) and HGI offer limited protection for sites that are only known to mana whenua and are not currently scheduled in the respective plans. This is via an ‘accidental

¹⁰ Outstanding Natural Landscapes overlay (Schedule 7), Outstanding Natural Features overlay (Schedule 6), Historic Heritage overlay (Schedule 14.1), Volcanic Viewshafts (Schedule 9) and Local Public Viewshafts (Schedule 11).

discovery provision which requires a process to be undertaken upon the accidental discovery of sensitive material during land disturbance activities. This provision appears in Standard E12.6.1 of the AUP(OIP) and in Standard 10c.5.5.2(4) of the HGI.

- 3.5. The findings of the analysis and newly nominated sites were presented to the Planning Committee on 6 September 2021 with a recommendation to initiate engagement with landowners and occupiers, local boards and other key stakeholders for the purpose of developing draft plan changes to the AUP(OIP) and HGI to recognise and protect 19 nominated sites and places (Resolution PLA/2021/108).
- 3.6. Twelve of the original 19 nominated sites are included in PPC102 and PPM15. Six will be included in a subsequent Tranche, planned to be notified in 2024. Two sites have subsequently been withdrawn at mana whenua's request.
- 3.7. The draft plan changes were developed over 12 months¹¹ and presented to mana whenua representatives for their advice in November 2023. No additional advice was received over the 6 week period.
- 3.8. The draft plan changes were then workshopped with the Planning, Environment and Parks Committee (PEP) on 6 March 2024. The draft plan change was then presented to the PEP at their business meeting on 11 April 2024. The committee resolved under confidentiality to approve the public notification of the proposed plan changes to the AUP(OIP) and HGI, subject to any final changes being approved by a delegation of the committee (PEPCC/2024/33). That delegated approval was received on 14 May 2024.

4. The Evaluation Approach

- 4.1. This section outlines how PPC102 and PPM15 has been evaluated. The rest of this report will follow the evaluation approach described in Table 1. In accordance with section 32(6) of the RMA and for the purposes of this report:
 - the 'proposals' means PPC102 and PPM15
 - the 'objective' is the purpose of the proposals which is to provide for the relationship of mana whenua with their cultural heritage by recognising and protecting the tangible and intangible Māori cultural values of 12 sites and places within Tāmaki Makaurau.
 - PPM15 has a second purpose which is to appropriately provide for the cultural values of Māori Heritage Sites in the Hauraki Gulf Islands, whilst also providing for the reasonable use of privately owned sites.
 - the 'provisions' are proposed changes to the Māori cultural heritage schedules and other related schedules of the AUP(OIP) and HGI, amendments to the HGI Part 7.13 rules, and changes to the AUP(OIP) and HGI planning maps.

¹¹ The programme was suspended for 12 months from Sept 2021 until Sept 2022 due to issues arising from the implementation of the National Policy Statement on Urban Development.

Table 1: Evaluation Approach by Report Section

| Sections of this report | Evaluation Approach |
|---|---|
| Section 5: Issues | This section of the report discusses the issues affecting Māori cultural heritage sites and places within the region |
| Section 6: Purpose of the Plan Changes | This part of the report discusses the purpose of PPC102 and PPM15. |
| Section 7: The development and evaluation of options | In accordance with sub-sections 32(1)(b)(i) & (ii) and (2) of the RMA, this section examines whether the provisions appropriately achieve the objectives of the plan changes and the sustainable management purpose of the RMA. The options are assessed by their efficiency and effectiveness, costs, benefits and risks to resolve the resource management issue. |
| Section 8: Reasons for the proposed plan changes | In accordance with subsections 32(1)(a) and (1)(b)(iii) of the RMA, this part of the report examines the extent to which the objectives of the proposals are the most appropriate way to achieve the purpose of the RMA. This section outlines the reasons for, and the scope of the plan changes. |
| Section 9: Statutory evaluation | This part of the report evaluates the relevance of PPC102 and PPM15 to Part 2 (sections 5-8) and other relevant parts of the RMA. |
| Sections 10 to 13: National and local planning context | This section of the report evaluates the relevance of the proposals against the national and local planning context. |
| Section 14: Development of the plan changes | This outlines the methodology and development of the proposals, including the information used and consultation undertaken in preparing the plan changes. This section includes a summary of all advice received from iwi authorities on the plan changes as is required by section 32(4)(a) of the RMA. |

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| Section 15: Evaluation of provisions | This part of the report outlines the evaluation conducted on individual issues contained within the plan changes. |
| Section 16: Immediate legal effect | This section of the report specifies the provisions are to have immediate legal effect upon notification. |
| Section 17: Conclusion | This part of the report concludes that PPC102 and PPM15 are the most efficient, effective and appropriate means of addressing the resource management issues identified. |

5. Issues

- 5.1. It has long been recognised that Māori cultural heritage within Tāmaki Makaurau has been experiencing cumulative degradation arising from development pressure in urban areas, within the coastal areas of the region, and in association with major regional infrastructure development.
- 5.2. The protection of mana whenua culture, landscapes and historic heritage is recognised as an issue of significance to Māori and to iwi authorities in the region¹². Also of relevance is the issue of recognising the interests, values and customary rights of mana whenua in the sustainable management of natural and physical resources and the appropriate consideration of mātauranga and tikanga in resource management processes.
- 5.3. The RPS acknowledges significant adverse effects have occurred on ancestral taonga because of uninformed actions, limited investment and mismanagement of information in the past. It acknowledges that despite the large number of mana whenua groups with strong associations to Tāmaki Makaurau, very little mana whenua cultural heritage is recognised and protected in the region.¹³
- 5.4. Mana whenua cultural heritage, as defined in the AUP(OIP), includes the following:
- archaeology of Māori origin;
 - wāhi (location, locality, place);
 - wāhi tapu (sacred ancestral sites and places of significance to iwi, hapū or whānau);
 - sites and places are significant to mana whenua for the tangible and intangible values they hold;
 - Māori cultural landscapes;
 - wāhi pakanga (battle site);
 - wāhi tohi (ritual site);
 - urupā (Māori burial ground);
 - tō waka (waka portage);
 - rākau pito and wāhi pito (tree marking the burial site of a placenta or umbilical cord);
 - taonga (a treasured item, it can be tangible or intangible);
 - cultural and spiritual associations with these areas, features or sites.

¹² AUP(OIP) RPS B6.1 Issues (2)

¹³ Ibid. B6.6 Explanation and principal reasons for adoption

- 5.5. The reference to mana whenua is significant as this identifies the iwi and hapū, recognised by Council, who can both identify these sites and provide an assessment of the extent to which their cultural values are affected by land use, development and subdivision. The Council recognises that not all Māori residing within Tāmaki Makaurau have ancestral whakapapa and the customary authority to make such an assessment.
- 5.6. The nature of culturally significant sites and places is such that the values attributed to them and what is considered appropriate (tika) on and around these sites varies depending on the nature of the site, the historical associations, and the mātauranga held by mana whenua with whakapapa to the site.
- 5.7. In some cases, these sites are identified as important sources of food and medicinal plants, whilst in other cases they are locations of historical conflict, associated with culturally significant events, or have a history of occupation and cultivation. Cultural landmarks can be identified as tūpuna (ancestors) in their own right.
- 5.8. Sections 6, 7 and 8 of the RMA, and the planning framework of AUP(OIP) recognise the importance of the relationship of mana whenua and their customs and traditions with the natural environment. This extends beyond the tangible to include the spiritual values that define this relationship¹⁴.
- 5.9. Issues can arise not just from the physical effects of land use and development, but also from the cultural offence caused by an accumulation of inappropriate land uses on cultural sites. This cultural offence is expressed in terms of what is tika to protect, maintain and enhance the mauri, wairua and mana of a site.
- 5.10. These plan changes seek to recognise and protect 12 sites. As is identified in Table 2 of this report, these sites encompass conservation areas, offshore islands, and private property.
- 5.11. The resource management issues which have been identified through engagement with mana whenua during the development of the plan changes are identified as follows:
- Management of activities adjacent to waterways to avoid discharges into culturally significant waterbodies;
 - Inappropriate intensity of development on significant sites. Types of activities which are incompatible with cultural values of nominated sites. Cumulative and piecemeal development which fails to consider the cultural values of the site as a whole;
 - Large scale land disturbance activities which are inappropriate for culturally significant areas. The disturbance of the seabed for mineral extraction in culturally significant areas;
 - Pest and weed management techniques employing toxic chemicals. Erosion caused by inappropriate stock management on rural sites;

¹⁴ AUP(OIP) Obj B6.5.1(1) and (3)

- The loss of indigenous vegetation on significant sites and cross-boundary effects of private development on significant ecological and geological sites;
 - The ability for mana whenua representatives to access and exercise kaitiakitanga (guardianship, restoration) on culturally significant sites;
 - A loss of recognition of these sites through changes to landform and the establishment of land use activities;
 - The protection of views to and from culturally significant sites; and,
 - The lack of formal recognition of significant areas in order to inform local, regional and national planning processes such as local board led community projects, plan changes, and resource consenting.
- 5.12. All of the 12 sites identified in these plan changes are subject to one or more of the issues listed above. On urban sites, issues arise through historic and current urban development. On rural sites, this is through current and future mineral extraction activities or as a result of farming practices and other land management practices.
- 5.13. These activities and issues are identified and discussed in the site descriptions in Table 2 and also in the options assessment in Attachment 4.

6. Purpose of the Plan Changes

- 6.1. Under section 32(6) of the RMA, the objective of a proposal not seeking to introduce objectives into the relevant planning documents becomes the purpose of the plan change.
- 6.2. The purpose of PPC102 and PPM15 is to recognise and protect the tangible and intangible Māori cultural values of 12 sites and places within Tāmaki Makaurau to provide for the relationship of mana whenua with their cultural heritage.

7. The Development and Evaluation of Options

- 7.1. The following section undertakes an assessment under Clauses 32(1)(b) and 32(2) of Schedule 1 of the Act to a level of detail that corresponds to the scale and significance of the effects anticipated by the implementation of the plan changes¹⁵.
- 7.2. This assessment considers whether the provisions proposed are the most appropriate way to achieve the purpose of the plan changes, which is to provide for the relationship of mana whenua with their cultural heritage by recognising and protecting the tangible and intangible Māori cultural values of 12 sites and places within Tāmaki Makaurau.

¹⁵ S32(1)(c) of the RMA

Site Descriptions and Features

7.3. Table 2 identifies and discusses features and existing land uses with respect to each of the nominated sites. Site photos are included as Attachment 7.

Table 2: Description of Nominated Sites

| Site | Descriptions and Features |
|-------------------|---|
| Hirakimatā | <p>Hirakimatā is the largest mountain on Aotea / Great Barrier Island and is predominantly Public Conservation Land administered by the Department of Conservation as the Aotea Conservation Park.</p> <p>The site is covered in native bush and volcanic outcrops which are transected by public walking tracks and streams. The nominated area is identified as part of an Outstanding Natural Landscape (Area 88) which covers almost all of Aotea and its surrounding islands. Approximately two thirds of the nominated site is scheduled as a Site of Ecological Significance. The remaining third is scheduled as Sensitive Area, which identifies the more sensitive parts of indigenous vegetation outside the sites of ecological significance</p> <p>The site contains the remnants of kauri dams at several locations which are scheduled buildings in the HGI. Many of the ridgelines within and near the nominated site are identified as significant ridgelines in the plan.</p> <p>With reference to the landowner maps in Attachment 2, there are two private properties crossed by the nominated extent at 1041 and 984 Aotea Road. These are in the northwestern corner of the nominated extent where it crosses approximately 4m into each property.</p> <p>The nominated site extent matches a statutory acknowledgement area¹⁶ proposed in the initialled version of the Deed of Settlement between Ngāti Rehua Ngātiwai ki Aotea and the Crown (December 2016).</p> <p>The recognition and protection of this cultural landmark is a key aspiration of the nominating iwi and Hirakimatā is listed as a key site of significance in the Ngāti Rehua Ngāti Wai ki Aotea Trust Hapū Management Plan 2013 (p. 22).</p> |
| Te Wai o Ruarangi | <p>Te Wai o Ruarangi is comprised of the Oruarangi and Waitomokia Creeks located on Oruarangi Road in Mangere. They are a series of tidal streams and inlets from the Manukau Harbour owned and under a Watercare Services Ltd designation.</p> <p>To the southwest stands Makaurau Marae of Te Ahiwaru Waiohua. The marae and surrounding area is zoned Special Purpose – Māori Purpose Zone and is comprised of a mix of mana whenua owned, mataawaka owned, and tauiwi owned properties.</p> <p>To the north of the awa is the Business - Light Industrial zoned land of the Auckland Airport industrial estate. Stormwater detention ponds serving the industrial area are located on reserves adjacent to the awa. An above ground branch of the creek extends 600m to the north past Penihana Place to Montgomerie Road where it joins a culvert running through the industrial estate.</p> <p>To the southwest of the awa is a mix of industrial, residential, future urban and open space land covered by the Māngere Gateway Precinct. This area is adjacent to the Ōtuataua Stonefields Historic Reserve.</p> <p>To the south is land owned by the Auckland Internal Airport Limited (AIAL) and covered by the Auckland Airport Precinct – Gateway Sub-precinct. As originally</p> |

¹⁶ Deed attachment map reference OTS -126-02

| Site | Descriptions and Features |
|--------------------|--|
| | <p>nominated, the site included a southern tributary which traverses the now developed Stage 4 area and includes a large warehouse. This tributary was reclaimed, realigned and piped in accordance with regional resource consents granted between 2005 and 2007 and is now a vegetated drainage ditch running adjacent to the new access roading.</p> <p>Around the awa are areas of vegetated esplanade reserve containing stormwater infrastructure to serve the wider catchment.</p> |
| Pahurehure Islands | <p>Known locally as the Hingaia Islands, this nomination consists of three separate islands located north of the Hingaia Peninsula. Two of the islands, Kopuahingahinga and Pararēkau, are connected to the peninsula by a private causeway.</p> <p>Orona, the smaller island of the group at approximately 750m², is vacant of development and covered in bush. It is physically isolated from the mainland by the tidal Pahurehure Inlet.</p> <p>Kopuahingahinga, at 7.2ha is largely covered in a mix of native and exotic vegetation, apart from a private causeway crossing the centre of the island. This island is subject to a conservation covenant.</p> <p>Pararēkau Island is the largest of the group at approximately 18ha. It is currently subject to a comprehensive set of resource consents permitting the subdivision and development of the island to a Single House Zone residential standard of one dwelling per 600m² (average).</p> <p>Enabling works for the subdivision are largely completed. This has entailed large scale earthworks and the development of roads, footpaths, and installing services in preparation for the creation of individual residential titles.</p> <p>Ongoing cultural recognition and the protection of in-situ archaeology are key aspirations of iwi. Through PC78, Council is proposing changes to the existing precinct over the island to recognise and protect its cultural significance as a 'qualifying matter'.</p> |
| Whakahuranga Pā | <p>This pā site is located on a hilltop near Tapura Village, approximately 7.5kms northeast of Manukapua Island in the Kaipara Harbour.</p> <p>The site is partially owned by Environs Holdings Limited, a subsidiary of the Te Uri o Hau Settlement Trust. It was received as cultural redress in the Te Uri o Hau Claims Settlement Act 2002.</p> <p>The pā site encompasses forested Public Conservation Land administered by DOC to its northeast, and privately owned forestry land to the northwest. The balance of the site consists of privately owned farmland used for grazing.</p> <p>The summit of the hill is covered in grass, weeds and tussock and contains a survey trig. It has expansive views to the south, east and west however views to the north are blocked by the presence of a commercial pine tree forest. There is no public legal access to this site. Both an ability to access and retain views to and from the site are key aspirations of mana whenua.</p> |
| Manukapua | <p>Manukapua Island is a government purpose (wildlife management) reserve administered by DOC. It is located approximately 5.5kms southwest of Tapura at Journeys End.</p> <p>It is a sand island just offshore from the mainland in the Kaipara Harbour. It has an undulating topography which is attractive to both walkers and off-road motorbike riders. It is covered by coastal vegetation and is accessed from the mainland at low tide via sandflats. The northern portion of the island is identified</p> |

| Site | Descriptions and Features |
|------------------|--|
| | <p>as a bird nesting site, with dotterel and oystercatchers present at various times of the year.</p> <p>Te Uri o Hau, the nominating iwi authority, are concerned about the damage caused by off-road motorists to the land and vegetation on the island. They oppose the poor control of wilding pines, littering by the general public, vegetation removal and fires on the island.</p> <p>The mapped extent of this site includes an area of coastal marine area to the west of the island out to the 1m depth mark (Tapura Bank). This represents a larger island extent legend tells was destroyed in pre-European times by a tsunami. The larger island contained all the elements expected of a Māori village settlement including māra, mahinga kai and urupā. Sand mining of the Kaipara Harbour near the island is of particular concern to Te Uri o Hau.</p> |
| Poutekorua | <p>This site is located in the southwest of Aotea / Great Barrier Island. It is a bush clad dual peaked hill almost entirely contained within the Public Conservation Estate. A portion of the site to the south is privately owned and contains a dirt track up to the summit. Otherwise, it is vacant of development. There is no formed public vehicular access to the site.</p> <p>The sites recognisable form makes it a prominent landmark for iwi. It is one of the southernmost maunga on the island, overlooking the northern entrance to Tryphena Harbour.</p> |
| Ruahine | <p>This is the southernmost maunga and the largest in the southern range. The nominated extent is steep and bush clad. On the summit is a Distress and Safety Radio Facility constructed around the year 2000 and operated by Maritime New Zealand. This was the only building observed within the nominated extent. Some small-scale bush clearance and farming has occurred on the lower southern slopes outside the nominated site.</p> <p>The nominated site extent is entirely privately owned, except for a paper road crossing the eastern third of the nominated site.</p> |
| Komahunga | <p>This area is located on the eastern coast of Aotea / Great Barrier Island. It encompasses an undulating bush clad terrain generally sloping down to the sea from a high point near Aotea road. The northern portion of the site covers a river and flat alluvial land, as well as a forested valley that forms part of the river catchment.</p> <p>A coastal walking track provides scenic views of the area which includes a series of ridges, cliffs, small hills and ephemeral streams. Most of the eastern area is Public Conservation Land administered by DOC with a small western portion (including the river, catchment and alluvial land) being privately owned.</p> |
| Korotiti | <p>Korotiti is located 4km to the south of Komahunga on the eastern coast of Aotea. It is a largely inaccessible bush clad area encompassing both Public Conservation Land to the north and four private properties to the south.</p> <p>The site includes two large bays with promontories. The site slopes down to the coastline from Omata Road via a series of valleys. The southern end of the nominated extent is marked by a series of cliffs.</p> <p>The northern two privately owned sites are vacant of development, whereas the southern two properties contain baches and ancillary buildings.</p> |
| Te Rae o Kāwharu | <p>This site is currently occupied by the Grey Lynn Library. The bulk of the site is taken up by the L-shaped community building and adjoining carpark. The nominated site also extends over and a short way down the edge of a southern</p> |

| Site | Descriptions and Features |
|---------------|--|
| | bluff to recognise resting and observations made to the south by the tupuna of Ngāti Whātua Kāwharu during Te Raupatu Tihore 'the Stripping Conquest'. The land including the small portion of Arch Hill Reserve is owned by Auckland Council. |
| Waipapa Awa | <p>The Waipapa Awa nomination represents the historical alignment of the stream before it discharged into wetlands near what is now the Carlaw Park Precinct. The nominated alignment incorporates the above ground sections of the stream and recognises the past alignment where the stream itself has now been culverted under residential and business development.</p> <p>The above ground section of the stream varies from meandering vegetated sections near Ngahere Terrace to straight barely vegetated portions towards the Parnell Tunnel. The stream serves a stormwater function for adjoining properties and enters the council underground stormwater network approximately halfway along its nominated extent (at 23 Cheshire Street).</p> <p>The 23 Cheshire Street property is owned by Summerset Holdings Parnell and is the future site of a comprehensive retirement village complex which was granted resource consent by the Environment Court in 2022 following an appeal process.</p> |
| Kaarearea Paa | <p>This nominated site is within the Drury Quarry owned by Fulton Hogan and operated by Stevenson Aggregates Ltd. It is a conspicuous site when viewed from the Southern Motorway and surrounding areas.</p> <p>The nominated area is undulating grassland and tussock which generally slopes down in a north to south direction. It is riven with shallow gullies and contains some larger patches of vegetation (exotic and indigenous), a watercourse and wetland, and various access tracks and fencing consistent with a farming operation. Sheep farming is undertaken on the areas of the property not currently used for quarry operations. The pā itself is on a low peak surrounded by indigenous vegetation and fenced off from the farm and quarry operations. Immediately to the southwest of the pā site is the extensive operational quarry pit.</p> <p>The nominated site extent includes approximately 61ha of the quarry land and incorporates protected vegetation and historic heritage sites. It also includes the flanks of the pā to recognise areas where sacred and supporting activities associated with the pā were undertaken. To the northeast this includes a permanent watercourse and wetland.</p> <p>Stevenson Aggregates Ltd is currently undertaking expansion plans into what is known as the 'Sutton Block' to the north of the pā site. The landowner is engaging with mana whenua groups to develop a resource consent application for the new pit. Both the landowner and mana whenua groups engaged in the process have been involved in discussions on this plan change and have agreed a modified site extent from that which was originally nominated. This is discussed in Attachment 4 (Evaluation of Options by Site)</p> <p>The site currently has no public access and is entirely privately owned.</p> |

Development of Options

- 7.4. Attachment 4 is an evaluation of options per nominated site. It considers the benefits, costs and overall efficiency and effectiveness of the provisions in achieving the purpose of the plan changes. The three options evaluated are:

- 7.4.1. Option 1 – Do nothing and maintain the status quo. The ‘do nothing’ option means no change to the way sites are recognised and protected, including being added to the schedules of the AUP(OIP) and HGI.

This option is not recommended for any of the nominated sites as it does not recognise or protect the tangible and intangible Māori cultural values of the 12 nominated sites and places. It does not provide mana whenua with an opportunity to exercise kaitiakitanga over these ancestral sites and provides no public visibility of the sites so their significance can be considered in subsequent planning processes.

- 7.4.2. Option 2 – A reliance on other methods. Other methods for the protection and management of culturally significant sites to mana whenua include the following regulatory and non-regulatory methods:

- A reliance on the existing provisions of the plan,
- land covenants to protect and promote public awareness of the cultural landscape and associated values. The method is appropriate on private property and can provide protection in perpetuity, where the landowner is agreeable, and encourage a collaborative approach between landowner and mana whenua to the protection of the site or place,
- assistance by way of heritage funding and incentives and grants that can encourage the non-regulatory management and protection of sites on private properties,
- reserve management plans undertaken by Council or Department of Conservation (DOC) for reserve land they administer under the Reserves Act 1977. The identification and protection mechanisms for mana whenua sites and places located on public open space (administered by Council, the Crown or a public trustee) can be through inclusion in a reserve management plan,
- Iwi planning documents or any other relevant planning documents recognised by an iwi authority that recognise and protect economic, social, cultural, environmental and resource management issues. These documents are to be taken into account when preparing or changing regional policy statements and regional and district plans¹⁷. Council can also have regard to relevant iwi planning documents when considering resource consent applications¹⁸,
- development of non-statutory plans and strategies (e.g: centre plans, area plans, park masterplans, structure plans) and identification of projects and education and advocacy opportunities within these,
- the use of Memoranda of Understanding (MOU) and inter-agency agreements with, for example, other regulatory agencies such as government departments

¹⁷ RMA sections 61(2A)(a), 66(2A)(a), and 74(2A)

¹⁸ RMA section 104(1)(c)

and agencies, Council Controlled Organisations, and/or with other entities including mana whenua,

- the development of joint management agreements or Mana Whakahono a Rohe between a local authority and an iwi authority that provide for the parties to jointly perform the local authority's functions in relation to a natural or physical resource in all or part of the region. Under Section 33, the RMA also provides for council to transfer their functions, powers or duties under the Act to public bodies, including iwi authorities, and
- Nomination of various sites for listing under the Heritage New Zealand Pouhere Taonga Act 2014. This method provides recognition of various sites but does not provide specific protections to the identified site.

A reliance on other methods to achieve the purpose of the plan changes is recommended for portions of three nominated sites, Te Wai o Ruarangi, the Pahurehure Islands, and Kaarearea Paa. In none of the cases is this option recommended for the entire site.

In the case of Te Wai o Ruarangi, a reliance on existing AUP(OIP) planning provisions is the most efficient and effective option for the southern part of the site which is a legally reclaimed and realigned tributary to the creek which has been subsequently covered by a precinct which recognises the cultural significance of the area.

In the case of Pararēkau Island, the largest of the Pahurehure Islands, scheduling is not recommended as the island is subject to a parallel plan change process under PC78 to recognise and protect the cultural values of the site. These assessments are discussed in more detail in Attachment 8.

For Kaarearea Paa, the nominating mana whenua representatives and landowner have agreed an alternative approach for protecting a western portion of the nominated site as part of discussions on a resource consent to expand the quarry operation.

7.4.3. Option 3 – undertaking a plan change to add new sites to the existing schedules and appendices of the AUP(OIP) and HGI.

In all other cases, this option is recommended as the most efficient and effective method to recognise and provide for the cultural values of the nominated sites.

- 7.5. No changes are proposed to the objectives and policies of either plan. The plan changes generally seek to use an existing framework of provisions in both plans to recognise and protect the cultural values associated with the nominated sites.
- 7.6. Changes are recommended to the Māori Heritage standards of Part 7.13 of the HGI. This is to introduce the defined term of 'earthworks' into the provisions and align the provisions more closely with those of the AUP(OIP). The application of the changes to specific sites is discussed in Attachment 4 and a track changes version of Part 7.13 with the recommended amendments is included in Attachment 1.

Assessment of the Proposed Amendment to the Provisions of Part 7.13 of the HGI

- 7.7. PPM15 proposes changes to the provisions of Part 7.13 Māori heritage sites. This is to provide for a reasonable level of domestic and rural activity earthworks on sites as a Permitted Activity. The plan change also introduces some introductory wording into Appendix 2f for plan consistency purposes. A marked up version of the provisions is included in Attachment 1.
- 7.8. There are five sites proposed on Aotea / Great Barrier Island. These sites are over a mix of public conservation land and privately owned land. These are the first privately owned MHS sites to be nominated in the HGI.
- 7.9. The HGI currently does not provide for any level of ‘ground disturbance’ as a Permitted Activity on scheduled MHS. All ‘Ground disturbance’ requires Discretionary Activity resource consent. This policy position is more stringent than that of the AUP(OIP) with respect to scheduled SSMW, which permits certain domestic activities to occur as a Permitted Activity.
- 7.10. ‘Ground disturbance’ is not a defined term in the HGI. The practice of resource consenting is to apply a wide interpretation to this term, based on what is defined as earthworks in the plan. Any disturbance of the land will, in effect, trigger a requirement to seek resource consent on privately owned sites.
- 7.11. The provisions of the AUP(OIP) are more flexible insofar as they permit certain district level land disturbance activities to occur. These include gardening activities and land disturbance for the repair and maintenance of fences, tracks, driveways, and existing effluent disposal fields. This is limited to areas and ground depths which have previously been disturbed or modified.¹⁹
- 7.12. To allow for a reasonable level of earthworks of private sites, which in some cases contain existing holiday dwellings, it is proposed that the HGI provisions be amended to introduce this flexibility.
- 7.13. The proposed changes replace the generic ‘ground disturbance’ with the defined term of ‘earthworks’. This provides clarity for plan users and ensures that all permitted activities are undertaken in accordance with the earthworks development controls in Part 10c.5.5.1 of the plan.
- 7.14. The retention of all earthworks not otherwise specified in the table as a Discretionary Activity allows an appropriate level of discretion for the Council, in consultation with mana whenua, to consider the suitability of the location of new earthworks on culturally significant sites. This includes the earthworks for all associated services and curtilage on the site that go beyond simple replacement.
- 7.15. Consideration has been given to whether the objective and policies of Part 7.13 would require amendment to support the proposed changes to the standards. The proposed changes do not represent a fundamental change in the policy of how Māori heritage sites

¹⁹ Refer to District Land Disturbance - Permitted Activity Standards E12.6.2(14) and (16) as examples

are managed, but seek to clarify in the standards the extent to which earthworks activities for already established activities will not reduce the historical, cultural and spiritual values associated with such sites.

- 7.16. Accordingly, the proposed changes remain covered by Objective 7.13.2 'to recognise and protect sites of spiritual, cultural and tikanga value to Māori' and by Policy 2 in particular to 'avoid a reduction in the historical, cultural and spiritual values associated with Māori heritage sites'. No change to the existing objective and policies of Part 7.13 is therefore recommended.

Risk of Acting or Not Acting

- 7.17. Section 32(2)(c) of the Act requires this evaluation to assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.
- 7.18. In the case of the 12 sites identified in these plan changes, cultural, historical and archaeological information has been collated to substantiate why these sites and places are culturally significant, what values they hold, and the extent of current and future adverse cultural effects arising from their use and development. This has included significant engagement with mana whenua representatives to assess the values, associations and context of the sites.
- 7.19. While no baseline of cultural heritage currently exists for Tāmaki Makaurau, it is clear that a history of gradual urbanisation across New Zealand's most populated region has resulted in the cumulative degradation and loss of Māori cultural heritage within Tāmaki Makaurau. This loss is often irreversible.
- 7.20. There is considered to be sufficient information to identify these sites and determine the cultural effect of current and future development on them. There is therefore no risk in acting on the proposals but the risks of not acting are significant.

Reasonable Use

- 7.21. Scheduling the 12 sites identified in these plan changes as sites of cultural significance to mana whenua will place additional restrictions on owners and occupiers of these sites through the application of existing plan provisions in both plans.
- 7.22. Section 85(2) of the RMA provides the ability for parties with an interest in land to challenge proposed provisions where those provisions render the land incapable of reasonable use.
- 7.23. Section 85(6) of the RMA defines reasonable use in relation to land to include the use or potential use of the land for any activity whose actual or potential effects on any aspect of the environment or on any person (other than the applicant) would not be significant.
- 7.24. The issues identified in section 5 of this report have actual and potential effects which are significant to the cultural values these sites of significance hold and it is not unreasonable to manage those effects through resource consent triggers.

- 7.25. Reasonable use requires the consideration of whether the burden on landowners is proportionate to the public benefit gained by the restriction imposed, and whether that restriction is so great as to preclude reasonable economic use of the land affected.
- 7.26. The provisions proposed in PPC102 and PPM15 do not prohibit activities from occurring and provide a resource consenting pathway for those activities considered likely to result in adverse cultural effects on sites and places of cultural significance.
- 7.27. The highest activity status applied in both plans under the respective overlays is Discretionary. Chapter A of the AUP(OIP) states that a Discretionary Activity status is justified if 'the intensity and scale of environmental effects are so variable that it is not possible to prescribe standards to control them in advance'.
- 7.28. Such variability is common amongst Māori heritage sites as they are variable in the values they hold. The receiving environment within which activities are proposed therefore also varies. The provisions do not prevent the reasonable use of sites, but allow an appropriate examination of activities to be undertaken through a resource consent process.
- 7.29. While providing for reasonable use, the effectiveness and efficiency of the provisions have also been examined.
- 7.30. As is discussed earlier in this section, the current provisions of Part 7.13 of the HGI have been identified as a significant constraint on the ability of landowners to undertake any form of ground disturbance on property on Aotea/Great Barrier Island.
- 7.31. Most of the nominated sites are over relatively remote and cover steep terrain not currently used extensively. Notwithstanding, some access tracks, fencing and occasional dwellings do exist in these locations.
- 7.32. PPM15 proposes changes to the HGI provisions for MHS to allow some flexibility to use and maintain these sites without the need for a resource consent. This aligns the provisions more closely with the AUP(OIP) by allowing a limited degree of earthworks for domestic and farming purposes, whilst also appropriately protecting the cultural values inherent to these places.

8. Reasons for the Proposed Plan Changes

- 8.1. The purpose of the plan changes is to recognise and protect the tangible and intangible Māori cultural values of 12 sites and places within Tāmaki Makaurau to provide for the relationship of mana whenua with their cultural heritage.
- 8.2. The plan changes use pre-existing objective, policy and rule frameworks within both plans to recognise and provide for the cultural values of the sites. Changes are proposed to the standards of the HGI to align the provisions more closely with the AUP(OIP) now that sites are being progressively identified and protected on the islands. There is no change in the policy direction of how Māori heritage sites are managed in the HGI so therefore no change to the objective and policies of 7.13 is recommended.

- 8.3. The RMA identifies it is a matter of national importance to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga²⁰.
- 8.4. Particular regard must be had for iwi and hapū to undertake kaitiakitanga on sites and places under section 7(a) of the RMA and there is an overarching requirement to have regard to principles of Te Tiriti o Waitangi under section 8 when managing the use, development and protection of natural resources.
- 8.5. The degradation and loss of sites of cultural significance is recognised as an issue for Tāmaki Makaurau and the protection of mana whenua culture, landscapes and historic heritage is recognised in the RPS as an issue of significance to iwi authorities in the region.
- 8.6. The provisions of the AUP(OIP) apply to 106 sites across Tāmaki Makaurau and cover residential, industrial, business, open space land and the coastal marine areas. They cover public and privately owned sites. They have been found to be fit for purpose to manage activities on sites in a manner which also recognises and protects their cultural values.
- 8.7. The provisions of the HGI have been evaluated since the first Māori Heritage Sites were scheduled in 2021. A portion of the proposed 12 sites in PPM15 are privately owned and it is recommended that the provisions in Part 7.13 be amended to permit a small range of activities to occur as of right without the need for a resource consent as is consistent with the AUP(OIP).
- 8.8. The statutory evaluation and consideration of the national and regional planning context undertaken in sections 9 and 10 of this report finds the proposals are consistent with the strategic direction of planning in Tāmaki Makaurau and are the most appropriate way to meet the purpose of the RMA.

Appropriateness of Plan Change to Achieve Purpose of Act (s32(1)(a))

- 8.9. The following section undertakes an assessment under section 32(1)(a) of the Act. It considers whether the purpose of the plan change is the most appropriate way to achieve the purpose of the Act.
- 8.10. The purpose of the plan changes is to recognise and protect the tangible and intangible Māori cultural values of 12 sites and places within Tāmaki Makaurau to provide for the relationship of mana whenua with their cultural heritage.
- 8.11. The RPS, which has been developed to give effect to the purpose of the Act in the Auckland Region, identifies that the recognition and protection of mana whenua cultural heritage is an issue of regional significance. Section B6.1 of the RPS identifies that protecting mana whenua culture, landscapes and historic heritage is an issue of significance to Māori and to iwi authorities in the region.

²⁰ Section 6(e) of the RMA

- 8.12. Part of the approach taken in Section B6.3 of the RPS is to recognise and provide for mana whenua values and the relationship of mana whenua with natural and physical resources that have been scheduled for their natural heritage, natural resources or historic heritage values.
- 8.13. The following AUP(OIP) overlays recognise the significance or value of the scheduled item to mana whenua in addition to their other natural and historic attributes. The plan changes seek to recognise and provide for the relationship of mana whenua on existing sites in two of these schedules.
- Outstanding Natural Landscapes Overlay (Section D10 and Schedule 7)
 - Outstanding Natural Features Overlay (Section D10 and Schedule 6)
 - Outstanding Natural Character Overlay (Section D11 and Schedule 8)
 - High Natural Character (Section D11 and Schedule 8)
 - Significant Ecological Areas Overlay (Section D9 and Schedule 3 (Terrestrial Schedule), 4 (Marine Schedule) and 5 (Marine where mangroves are a minor component or absent)
 - Historic Heritage Overlay (Section D17 and Schedule 14.1)
- 8.14. RPS Section B6.5 objectives and policies specifically provide for the identification, protection and enhancement of the tangible and intangible values of identified mana whenua cultural heritage, as shown in Schedule 12.
- 8.15. This schedule is the Sites and Places of Significance to Mana Whenua Overlay of the AUP(OIP). Under RPS policy B6.5.2(2), mana whenua cultural and historic heritage sites, places and areas are to be evaluated and identified in Schedule 12 using the following criteria:
- (a) *Mauri: ko te mauri me te mana o te wāhi, te taonga rānei, e ngākaunuitia ana e te mana whenua. The mauri (life force and life-supporting capacity) and mana (integrity) of the place or resource holds special significance to mana whenua;*
- (b) *Wāhi tapu: ko tērā wāhi, taonga rānei he wāhi tapu, arā, he tino whakahirahira ki ngā tikanga, ki ngā puri mahara, o ngā wairua a te mana whenua. The place or resource is a wāhi tapu of special, cultural, historic, metaphysical and or spiritual importance to mana whenua;*
- (c) *Kōrero Tūturu/historical: ko tērā wāhi e ngākaunuitia ana e te mana whenua ki roto i ōna kōrero tūturu. The place has special historical and cultural significance to Mana whenua;*
- (d) *Rawa Tūturu/customary resources: he wāhi tērā e kawea ai ngā rawa tūturu a te mana whenua. The place provides important customary resources for mana whenua;*
- (e) *Hiahiatanga Tūturu/customary needs: he wāhi tērā e eke ai ngā hiahia hinengaro tūturu a te mana whenua. The place or resource is a repository for mana whenua cultural and spiritual values; and*

(f) *Whakaaronui o te Wa/contemporary esteem: he wāhi rongonui tērā ki ngā mana whenua, arā, he whakaahuru, he whakawaihanga, me te tuku mātauranga. The place has special amenity, architectural or educational significance to mana whenua.*

- 8.16. The identification of the protection of cultural values is an issue of significance for the region. The existing framework of regional and district level provisions in the AUP(OIP) and HGI which protect qualifying sites and places has been evaluated as the most appropriate way to achieve the purpose of the Act.
- 8.17. There is no incompleteness, uncertainty or invalidity in the policy framework which might necessitate the need to further consider Part 2 of the RMA beyond the Auckland region planning documents²¹.

9. Statutory Evaluation

Part 2 (sections 5-8) of the RMA – Purpose and Principles

- 9.1. The Resource Management Act 1991 (the Act) provides a legislative framework for the sustainable management of natural and physical resources in New Zealand. The purpose of the Act is to promote the sustainable management 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 wellbeing, and for their health and safety. Part 2 (Sections 5-8) sets out the Purpose & Principles of the Act.

Section 5 Purpose

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, **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 while—*
- (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*
- 9.2. The purpose of the RMA should be read in conjunction with the Act's principles contained in sections 6, 7 and 8.

Section 6 Matters of national importance

²¹ Refer Friends of Nelson Haven and Tasman Bay Inc v Tasman District Council [2018] NZEnvC 046

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;*
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;*
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;*
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers;*
- (e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga:***
- (f) the protection of historic heritage from inappropriate subdivision, use, and development;***
- (g) the protection of protected customary rights;*
- (h) the management of significant risks from natural hazards.*

[emphasis added]

9.3. The RMA defines historic heritage as:

(a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:

- (i) archaeological:*
- (ii) architectural:*
- (iii) cultural:***
- (iv) historic:*
- (v) scientific:*
- (vi) technological; and*

(b) includes—

- (i) historic sites, structures, places, and areas; and*
- (ii) archaeological sites; and*
- (iii) sites of significance to Māori, including wāhi tapu; and***
- (iv) surroundings associated with the natural and physical resources*

[emphasis added]

9.4. The provisions proposed by these plan changes seek to manage land use, development and subdivision on identified sites of cultural significance to mana whenua to recognise and provide for the relationship Māori have with their ancestral lands, water, sites and wāhi tapu.

- 9.5. The sites have been evaluated in partnership with mana whenua using factors identified in the RPS. For the most part, they use existing provisions in both plans to provide policy guidance and resource consent triggers for managing the sites. In the case of the HGI, some amendments are proposed to align the earthworks provisions with those of the AUP(OIP). The advice received from mana whenua is that these amendments will not prevent them from maintaining their cultural relationship with sites of Aotea/Great Barrier Island.
- 9.6. The plan changes recognise and provide for the relationship of Māori and their culture and traditions with the 12 identified sites and places.

Section 7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) kaitiakitanga:**
- (aa) the ethic of stewardship:**
 - (b) the efficient use and development of natural and physical resources:*
 - (ba) the efficiency of the end use of energy:*
- (c) the maintenance and enhancement of amenity values:**
 - (d) intrinsic values of ecosystems:*
 - (e) [Repealed]*
- (f) maintenance and enhancement of the quality of the environment:**
 - (g) any finite characteristics of natural and physical resources:*
 - (h) the protection of the habitat of trout and salmon:*
 - (i) the effects of climate change:*
 - (j) the benefits to be derived from the use and development of renewable energy.*

[emphasis added]

- 9.7. Of these matters, the most relevant to these plan changes are (a), (aa), (c) and (f). The provisions proposed enable the exercise of kaitiakitanga by mana whenua on sites and places that are culturally significant to them.
- 9.8. Kaitiakitanga is defined in section 2 of the RMA as ‘the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources, and includes the ethic of stewardship’. This concept stems from traditional Māori beliefs that there is a deep kinship between humans and the natural world. It is a core principle in Māori culture and is seen as a fundamental responsibility of Māori.
- 9.9. Generally speaking, Māori prefer retaining native habitat and using natural methods to address the adverse effects of land use and development on cultural heritage. This promotes design which maintains and enhances amenity values and the quality of the environment. In instances where the natural environment has been significantly altered by urban development, the ability to recognise and provide for cultural relationships through signage and other urban design features is also important for exercising kaitiakitanga.

- 9.10. The plan changes seek to apply an existing objective, policy and rule framework to enable mana whenua to exercise their kaitiakitanga over sites and places of cultural significance. The proposed provisions provide a resource management mechanism for particular regard to be given to the advice of mana whenua when considering future development proposals. The proposals are consistent with section 7 of the RMA.

Section 8 Treaty of Waitangi

- 9.11. In achieving the purpose of the RMA, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of Te Tiriti o Waitangi.
- 9.12. PPC102 and PPM15 have been developed in partnership with all 19 mana whenua entities currently recognised in the region. The sites and places proposed to be included in the AUP(OIP) and HGI have been nominated by mana whenua and are based on their mātauranga and historical research. The advice of mana whenua has been recorded in Section 14 of this report and cultural value information is found in Attachment 3.
- 9.13. In identifying and protecting these sites, Māori autonomy is promoted as is the principle of active protection. Where overlapping areas of cultural interest exist, cultural narratives and site extents have been settled in accordance with established tikanga between the mana whenua entities, allowing for rangatiratanga to be exercised. For these reasons, these plan changes have appropriately taken into account the principles of the Treaty of Waitangi.

Summary

- 9.14. In summary, PPC102 and PPM15 provide for the active recognition and protection of sites and places of cultural significance to mana whenua in a collaborative approach with the mana whenua of Tāmaki Makaurau. In response to the strong policy directive of s6(e) of the RMA, they recognise and provide for the relationship Māori have with their ancestral lands, water, sites and wāhi tapu.
- 9.15. The plan changes enable mana whenua to exercise their kaitiakitanga over their culturally significant sites and places in accordance with their tribal tikanga, thereby maintaining the relationship of their culture and traditions to these sites. The approach to these plan changes takes into account the principles of Te Tiriti o Waitangi.
- 9.16. This provides for the sustainable management of these sites in a way, or at a rate that allows the community to provide for its wellbeing for current and future generations. The plan changes meet the purpose of the RMA in Part 2.

Other relevant RMA sections

- 9.17. Sections 30 and 31 of the RMA set out the functions of regional and territorial authorities. Both are relevant to PPC102 and PPM15 as the plan changes are both district and regional coastal plan provisions.

- 9.18. There is a requirement for the Council to establish, implement and review the objectives, policies and methods used to achieve the integrated management of natural and physical resources in the region.
- 9.19. An investigation of the 12 sites identified in these plan changes has identified a range of matters which affect the relationships and associations that mana whenua have with these sites. These issues are discussed in Section 5 of this report.
- 9.20. It is recommended that the schedules in the AUP(OIP) and HGI be updated to reflect these sites, and that the methods of managing MHS under the HGI be amended to provide for the reasonable use of privately owned sites.
- 9.21. Sections 64 and 73 of the RMA set out the requirements for the preparation and change of regional coastal plans and district plans. Regional coastal plans and district plans are required to give effect to the NZ Coastal Policy Statement (NZCPS) and any regional policy statement²². An evaluation against the NZCPS and RPS is included in sections 10, 12, and Attachment 9 of this report.
- 9.22. The evaluation of the 12 nominated sites has been undertaken in accordance with the six evaluation factors identified in Policy B6.5.2(2) of the RPS and this is included in Attachment 3. The plan changes seek to address issues of significance to Māori stated in the RPS²³ and to give effect to central RPS policies to recognise Te Tiriti o Waitangi partnerships and participation, recognise mana whenua values, and protect mana whenua cultural heritage²⁴.
- 9.23. Sections 66(2A)(a) and 74(2A) require councils to take into account any relevant planning document recognised by an iwi authority and lodged with the council. These documents have been taken into account and where these sites are specifically noted in iwi planning documents lodged with Council, they are noted in Attachments 2 and 4.
- 9.24. Section 86B of the RMA sets out when proposed plans have legal effect. In the case of plan changes which protect historic heritage, section 86B(3)(d) identifies rules in a proposed plan can have immediate legal effect if the local authority makes the decision to apply this section under clause 5 of Schedule 1, notifies the plan change including the decision, and does not subsequently rescind the decision²⁵.
- 9.25. In the case of PPC102 and PPM15, the Council has resolved that immediate legal effect shall apply to the 12 nominated sites from the date of notification under clause 5 of Schedule 1. This applies to the proposed changes to the schedules, wording of Part 7.13 and Appendix 2f of the HGI, and planning maps.
- 9.26. Schedule 1 of the RMA sets out the process for the preparation, change, and review of policy statements and plans. This process includes consultation, special consultation

²² Sections 67(3) and 75(3)

²³ B6.1 Issues

²⁴ RPS B6.2, 6.3 and 6.5

²⁵ Section 86(2) of the RMA

with iwi authorities, and pre-notification requirements. This report discusses these matters to confirm all of the statutory steps prior to notification have been followed.

10. National Planning Context

- 10.1. Section 66 and 74 of the Act sets out the matters to be considered by a territorial authority when preparing or changing its regional and district plans. These matters include: any proposed RPS, the Crown's interests in the coastal marine area, a proposed regional plan, any management plans or strategies prepared under other legislation, and any relevant entry on the New Zealand Heritage List/Rārangi Kōrero. The authority must take into account any relevant planning document recognised by an iwi authority to the extent that its content has a bearing on the resource management issues of the district but must not have regard to trade competition.

Section 67 and 75 - Contents of regional and district plans

- 10.2. The relevant provisions in section 67(3) and section 75(3) of the RMA are replicated below:

A regional or district plan must give effect to—
(a) any national policy statement; and
(b) any New Zealand coastal policy statement; and
(ba) a national planning standard; and
(c) any regional policy statement.

- 10.3. A regional plan or district plan must not be inconsistent with any other regional plan for the region in accordance with section 67(4) and section 75(4). The following sections evaluate PPC102 and PPM15 against Section 67 and 75.

National Policy Statements

- 10.4. National policy statements (NPS) state objectives and policies for matters of national significance. There are currently eight NPS in place with five being relevant to PPC102 and PPM15. The relevant NPS are discussed below.

National Policy Statement for Highly Productive Land (NPS-HPL)

- 10.5. The NPS-HPL came into force on 17 October 2022. It's purpose is to protect highly productive land for use in land-based primary productions. It sets out a process for the identification of such land.
- 10.6. Part 3.3 of the NPS-HPL sets out the requirement for tangata whenua involvement in the implementation of the policy statement. It requires engagement which is early, meaningful and, as far as is practicable, in accordance with tikanga Māori.
- 10.7. The 12 sites identified in PPC102 and PPM15 are within urban areas, on Public Conservation Land, quarry sites, or are bush clad peaks. With the exception of a small

portion of Whakahuranga Pā currently used for commercial forestry and limited drystock grazing, none are used for land-based primary production. All of the rural sites are on steep land and none are identified as being highly productive land (HPL) according to the transitional definition of highly productive land.²⁶

- 10.8. Scheduling of these sites does not change the land use from that which currently exists, although it is notable that cultivation on sites scheduled as SSMW in the AUP(OIP) becomes a Discretionary Activity under Table E12.4.2 of the Land Disturbance – District provisions²⁷.
- 10.9. The plan changes give effect to the NPS-HPL because no sites are identified as HPL.

National Policy Statement for Freshwater Management (NPS-FW)

- 10.10. The NPS-FM came into effect on 3 September 2020, replacing the NPS-FM from 2014 (amended in 2017). It was subsequently amended in February and December 2023.
- 10.11. This NPS applies to all freshwater (including rivers, streams, lakes, wetlands and groundwater) and to receiving environments affected by freshwater (which may include estuaries and the wider coastal marine area).²⁸
- 10.12. The fundamental concept of the NPS-FM is Te Mana o te Wai. It directs the management of natural and physical resources in a manner that prioritises, in order of hierarchy, first the health and wellbeing of water bodies and freshwater ecosystems, second the health needs of people (such as drinking water), and finally the ability of people and communities to provide for their social, economic and cultural wellbeing now and in the future.
- 10.13. Policy 2 of the NPS-FM requires the active involvement of tangata whenua (including in decision making processes), and Māori freshwater values are identified and provided for. Regional councils must engage with communities and tangata whenua to determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region.
- 10.14. Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community. The six principles that guide the development of Te Mana o te Wai are²⁹:

²⁶ Section 3.5(7) of the NPS-HPL

²⁷ Activities (A21) to (A23)

²⁸ NPS-FM 2020. Clause 1.5 Application

²⁹ Ibid. Clause 1.3 Fundamental concept – Te Mana o Te Wai

- a) Mana whakahaere: the power, authority and obligations of tangata whenua to make decisions that maintain, protect and sustain their relationship with freshwater,
 - b) Kaitiakitanga: the obligations of tangata whenua to preserve, restore, enhance and sustainably use freshwater for the benefit of current and future generations,
 - c) Manaakitanga: the process by which tangata whenua show respect, generosity, and care for freshwater and for others,
 - d) Governance: the responsibility for those with authority for making decisions about freshwater to do so in a way that prioritises the health and well-being of freshwater now and into the future,
 - e) Stewardship: the obligations of all New Zealanders to manage freshwater in a way that ensures and sustains present and future generations, and
 - f) Care and respect: the responsibility of all New Zealanders to care for freshwater in providing for the health of the nation.
- 10.15. Section 3.4 of the NPS-FM provides strong direction to local authorities to actively involve tangata whenua in freshwater management (to the extent they wish to be involved). Council is in the process of developing a plan change to give effect to the NPS-FM. A freshwater plan change was required to be notified by 31 December 2024 (RMA s80A), however on 23 December 2023 this timeframe was extended by three years to 31 December 2027 to allow for the government to finalise a replacement NPS-FM and for councils to then implement that version.
- 10.16. The freshwater plan change can include AUP(OIP) RPS and regional plan provisions. The new Freshwater Planning Process under RMA s80A does not apply to district plan or regional coastal plan provisions that relate to freshwater. These aspects of the AUP(OIP) are subject to the timing requirement in NPS-FM cl 4.1 which requires that local authorities give effect to the policy statement as soon as reasonably practicable.
- 10.17. Engagement with the mana whenua of Tāmaki Makaurau has identified that restoring, enhancing and protecting the mauri of the freshwater is a practical application of restoring its mana. Mana whenua seek a transformative, aspirational and innovative approach consistent with Te Ao Māori that prioritises halting further degradation and achieves remediation of the freshwater environment. This requires taking a whole of catchment approach and looking beyond site boundaries.
- 10.18. While the SSMW overlay provisions are district and regional coastal plan provisions, the presence of a scheduled SSMW or MHS over or near freshwater does influence how the regional plan provisions are applied.
- 10.19. An example is contained in AUP(OIP) Section E3 Lakes, Rivers and Streams. The general standards for permitted activities in E3.6.1.1 states that any Permitted Activity must not destroy, damage or modify any sites scheduled as a SSMW. Failure to comply

makes the proposed activity a Restricted Discretionary Activity where the relevant overlay objectives and policies would be considered³⁰.

- 10.20. Of the 12 nominated sites, seven have freshwater bodies included in their site extents. These include urban streams, forest streams, and creeks traversing farmland. In the case of the eastern extent of Kaarearea Paa, the nominated area contains both a stream and wetland area.
- 10.21. Through scheduling as SSMW and MHS, activities within or adjacent to freshwater bodies are considered with respect to the cultural impacts development may have. This ensures mana whenua will be consulted with respect to the management of freshwater on these sites, and therefore to exercise their mana whakahaere, kaitiakitanga and manaakitanga. This is consistent with the NPS-FM.
- 10.22. As is outlined in iwi planning documents held by Council and as has been demonstrated in the working relationship Council have with mana whenua entities, the preference of iwi and hapū is to avoid or mitigate effects on freshwater systems through natural approaches such as limiting bore water takes, increased riparian margins and 'green infrastructure' solutions. This approach seeks to maintain and enhance the ecological health and wellbeing of waterbodies and freshwater systems as both customary resources and representatives of deities of the natural world.
- 10.23. The scheduling of these sites as SSMW and MHS gives effect to the NPS-FM as it provides a mechanism for mana whenua to be involved in resource management decisions affecting freshwater and to provide their mātauranga as to how to enhance the mauri of the wai from a cultural perspective.

National Policy Statement on Urban Development 2020 (NPS-UD)

- 10.24. The NPS-UD recognises the national significance of having 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.
- 10.25. The policy statement also seeks to provide sufficient development capacity to meet the different needs of people and communities.
- 10.26. The NPS-UD requires councils to plan well for growth, ensuring urban development occurs in a way that takes into account the principles of the Treaty of Waitangi.
- 10.27. In December 2021, the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act was passed into law. Among other things, this required the Council to give effect to Policies 3 and 4 of the policy statement and incorporate Medium Density Residential Standards to all relevant residential zones within Tāmaki Makaurau³¹.

³⁰ AUP(OIP) Chapter C1.8(1)

³¹ Section 80E of the RMA

- 10.28. Council is currently progressing PC78 to give effect to these requirements. PC78 was notified in August 2022. There are no proposed changes to the HGI provisions through PC78.
- 10.29. Of the 12 nominated sites, only Waipapa Awa traverses urban business and residential zones. These are Terraced Housing and Apartment Buildings and Business-Mixed Use zoned sites.
- 10.30. Scheduling the Waipapa Awa does not prevent development from occurring, but does seek to ensure development does not result in further degradation of the stream. In areas where the historical extent is mapped, the scheduling seeks design acknowledgement in future development to recognise the cultural significance.³².
- 10.31. The RMA recognises the significance of matters of national importance in the application of the NPS-UD. The Act provides for exemptions to the MDRS through the application of Qualifying Matters³³ and the SSMW overlay is identified in PC78 as a 'qualifying matter'.
- 10.32. In the case of Pararēkau Island in the Pahurehure Islands, Council's position on PC78 recognises the cultural significance of the island, and it is therefore not addressed through these plan changes.
- 10.33. Accordingly, the scheduling proposed in the plan changes gives effect to the NPS-UD and are part of a well-functioning urban environment.

New Zealand Coastal Policy Statement 2010 (NZCPS)

- 10.34. The coastal environment as defined in Policy 1 of the NZCPS includes both land and the CMA. Six of the nominated sites are located within the coastal environment³⁴ and recognise the CMA as an intrinsic part of current and historic cultural activities undertaken on the sites.
- 10.35. Several objectives and policies in the NZCPS generally relate to sites of significance to tangata whenua and historic heritage in the coastal environment³⁵.

Objective 3 of the NZCPS:

To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:

- *recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;*

³² Refer to photo 5 of Waipapa Awa in Attachment 7 – some design recognition already exists with the Carlaw Mixed Use Precinct

³³ Sections 771 and 770 of the RMA

³⁴ Te Wai o Ruarangi, Pahurehure Islands, Manukapua, Ruahine, Komahunga, Korotiti

³⁵ NZCPS policies 1(2)(g), 6(1)(j), 10(f), 15(c)(viii), 20(1)(e) and (g) and 26(1)

- *promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;*
- *incorporating mātauranga Māori into sustainable management practices; and*
- *recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.*

Objective 6 seeks:

To enable people and communities to provide for their social, economic and cultural wellbeing and their health and safety, through subdivision, use and development, recognising that:

...

- *historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use and development.*

- 10.36. Policy 2 - The Treaty of Waitangi, Tangata Whenua and Māori, requires the principles of Te Tiriti o Waitangi and kaitiakitanga to be taken into account in the coastal environment. The policy recognises the traditional and continuing cultural relationships tangata whenua have with the coastal environment. It provides for the early and meaningful involvement of iwi authorities and hapū in the preparation of plans.
- 10.37. As far as is practicable, in accordance with tikanga Māori, mātauranga Māori should be incorporated into plans and in the consideration of resource consent applications, notices of requirement and private plan changes. Opportunities should be provided for tangata whenua to exercise kaitiakitanga over waters, forests, lands and fisheries in the coastal environment through appropriate methods for the management, maintenance and protection of taonga.
- 10.38. Policy 2(g) addresses recognising Māori cultural and heritage values in relation to the coastal environment as below:
- (g) *in consultation and collaboration with tangata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tangata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:*
- (i) *recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and*
 - (ii) *provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.*

- 10.39. Policy 6 of the NZCPS addresses activities in the coastal environment, recognising that the provision of infrastructure is important to the social, economic and cultural well-being of people and communities. It recognises that other use and development of the CMA potentially provides contributions to the social, economic and cultural wellbeing of people and communities.
- 10.40. Policy 17 specially relates to the identification and protection of historic heritage in the coastal environment from inappropriate subdivision, use and development.
- 10.41. The resource management approach adopted for the PPC102 and PPM15 gives effect to the above NZCPS objectives and policies, as it uses an existing planning framework which has been found to give effect to the policy statement.
- 10.42. The plan changes seek to protect limited areas of the CMA determined to be culturally significant to iwi and hapū. Coastal permits sought under section 12 of the RMA will be required to consider the cultural implications of activities within the nominated site extent. The AUP(OIP) enables the operation and maintenance of infrastructure within those scheduled sites located within the coastal environment³⁶.
- 10.43. The plan changes seek to ensure that the cultural values associated with SSMW and MHS in the coastal environment are recognised and provided for. Auckland-wide provisions control activities to ensure undiscovered Māori heritage in the coastal environment can be protected.
- 10.44. The sites have been identified in consultation and collaboration with mana whenua and have been assessed using cultural value assessments and historical and archaeological information. The provisions apply both on land and within the coastal marine area to recognise the cultural relationship Māori have with the coastal environment.

National Policy Statement for Indigenous Biodiversity (NPS-IB)

- 10.45. The NPS-IB applies to indigenous biodiversity in the terrestrial environment throughout Aotearoa New Zealand. Both the NZCPS and NPS-IB apply in the terrestrial coastal environment.
- 10.46. The NPS-IB recognises the interconnectedness between indigenous species, ecosystems, the wider environment, and the community at both a physical and metaphysical level³⁷. Several of the nominated sites, particularly those on Aotea / Great Barrier Island, contain indigenous biodiversity.
- 10.47. Of relevance to PPC102 and PPM15, Part 1.5(3) states decision-making principles that must inform the implementation of the NPS-IB. These include:
- (a) prioritise the mauri, intrinsic value and wellbeing of indigenous biodiversity,*

³⁶ Permitted Activities – Table E26.6.3.1

³⁷ NPS-IB Part 1.5

- (b) take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi),*
 - (c) recognise the bond between tangata whenua and indigenous biodiversity based on whakapapa relationships,*
 - (d) recognise the obligation and responsibility of care that tangata whenua have as kaitiaki of indigenous biodiversity,*
 - (e) recognise the role of people and communities (including landowners) as stewards of indigenous biodiversity,*
 - (f) enable the application of te ao Māori and mātauranga Māori,*
 - (g) form strong and effective partnerships with tangata whenua.*
- 10.48. The objective and policies of the NPS-IB seek to maintain indigenous biodiversity and recognises the role of tangata whenua to exercise kaitiakitanga for indigenous biodiversity in their rohe³⁸.
- 10.49. The ability of mana whenua to exercise kaitiakitanga to restore, protect and enhance areas of indigenous vegetation is provided for both by the policy direction and the standards of the AUP(OIP).
- 10.50. Scheduling areas of indigenous biodiversity as part of SSMW will strengthen the recognition of this relationship in the plan, thereby increasing the extent to which the AUP(OIP) gives effect to the NPS-IB.
- 10.51. The current objectives and policies in Section D9 (Significant Ecological Areas) identify the importance of recognising and providing for the relationship of mana whenua and their customs and traditions with indigenous vegetation and fauna and is supported by appropriate methods.
- 10.52. The HGI has more limited provisions for recognising the cultural relationship Māori have with indigenous biodiversity, however scheduling as MHS does regulate earthworks activities likely to be necessary as part of vegetation removal. Indirectly this allows mana whenua to exercise kaitiakitanga over the management of indigenous vegetation on those sites, giving greater effect to the NPS-IB than exists currently.
- 10.53. Vegetation management on the Hauraki Gulf Islands is regulated by the HGI and not the AUP(OIP)³⁹. Part 7.11 Ecologically Significant Sites regulates activities for scheduled indigenous biodiversity. The development controls in Part 10c.5.1 Vegetation protection manage all vegetation within the islands.
- 10.54. For these reasons, PPC102 and PPM15 will give effect to the NPS-IB.

³⁸ Ibid Part 2.1 (1)(b)(i) and 2.2 Policy 2

³⁹ E15.4 Activity table preamble – bullet point 4

National Policy Statement Conclusions

- 10.55. NPS provide national direction for matters of national significance. All of the relevant NPS recognise the cultural relationship tangata whenua have with land, water, biodiversity, and the coastal environment. They also recognise the importance of restoration of the natural environment and the social and economic welling arising from the use and development of resources in these areas.
- 10.56. The proposed plan changes have been developed through a partnership approach with the mana whenua of Tāmaki Makaurau and seek to provide greater protection, recognition and consideration of the cultural relationship mana whenua have with all natural aspects of these sites. The plan changes give effect to this national policy direction.

National Environmental Standards

- 10.57. National Environment Standards (NES) establish a nationally consistent set of planning standards at regional and district levels.
- 10.58. Depending on the standard, Council may impose more stringent or more lenient provisions in its plans. In some cases, the NES standard is absolute. Local authorities must amend a plan or proposed plan to remove duplication or conflict between proposed methods and NES⁴⁰.
- 10.59. There are nine NES currently in force. Of these, the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017⁴¹ and Resource Management (National Environmental Standards for Freshwater Management) Regulations 2020 are relevant.
- 10.60. PPC102 does not propose to amend standards in the AUP(OIP) and the amended provisions recommended for the HGI in PPM15 do not address commercial forestry or freshwater management.
- 10.61. Accordingly, the proposed plan changes will not introduce any duplication or conflict between the plans and NES.

National Planning Standards

- 10.62. Section 58B of the RMA sets out the purposes of the National Planning Standards which are:

(a) to assist in achieving the purpose of this Act; and

⁴⁰ Section 44A of the RMA

⁴¹ Renamed and amended from the NES for Plantation Forestry on 3 November 2023

(b) to set out requirements or other provisions relating to any aspect of the structure, format, or content of regional policy statements and plans to address any matter that the Minister considers—

(i) requires national consistency:

(ii) is required to support the implementation of a national environmental standard, a national policy statement, a New Zealand coastal policy statement, or regulations made under this Act:

(iii) is required to assist people to comply with the procedural principles set out in [section 18A](#).

- 10.63. The first set of National Planning Standards were published in 2019. Pursuant to Standard 17 (Implementation Standard), unitary authorities are required to implement the national planning standards within 10 years of them coming into effect.
- 10.64. While Council is not yet required to implement the NPS, it is noted that the current structure of the AUP(OIP) and HGI with respect to SSMW and MHS is generally consistent with the standards.

11. Other Acts

Hauraki Gulf Marine Park Act 2000

- 11.1. The Hauraki Gulf Marine Park Act 2000 (HGMPA) was established to promote integrated management and the protection and enhancement of the Hauraki Gulf, its islands, and its catchments. In order to achieve the purpose of the HGMPA, all persons exercising powers or carrying out functions for the Hauraki Gulf under any Act specified in Schedule 1 must, in addition to any other requirement specified in those Acts for the exercise of that power or the carrying out of that function, have particular regard to the provisions of sections 7 and 8.
- 11.2. The Hauraki Gulf Marine Park includes all the coast and coastal marine area from Mangawhai in the north to an area beyond the Auckland region in the south. The catchment area of the park extends inland to the first ridgeline. Three of the sites proposed to be included in PPC102 and PPM15 are within the park's boundaries.
- 11.3. The following sections of the HGMPA are of relevance to the plan changes:
- section 8(a) – the protection and where appropriate, the enhancement of the life-supporting capacity of the environment of the Gulf, its islands and catchments.
 - section 8(b) - the natural, historic and physical resources of the Gulf's islands and catchments are to be protected and, where appropriate, enhanced,
 - section 8(c) - the protection and, where appropriate, the enhancement of those natural, historic, and physical resources (including kaimoana) of the Hauraki Gulf, its islands, and catchments with which tangata whenua have an historic, traditional, cultural, and spiritual relationship,

- section 8(d) - the protection of the cultural and historic associations of people and communities in and around the Hauraki Gulf with its natural, historic, and physical resources
- 11.4. The addition of the three SSMW and MHS that are within the Hauraki Gulf Island Marine Park as part of the plan changes has particular regard to section 8 of the HGMPA, as scheduling these areas will provide for the ecological protection of these places. Scheduling will regulate the disturbance of the CMA and also influence land use activities which may have consequential effects on the marine environment.
- 11.5. Recognising these places as SSMW and MHS also serves to protect the cultural and historical associations of mana whenua in and around the Hauraki Gulf. The resource management approach of the plan changes is consistent with the objectives set out in the HGMPA.

Reserves Act 1997

- 11.6. The purpose of the Reserves Act is for DOC or local authorities, where DOC has delegated responsibility, to administer land for the purpose of providing, for the preservation and management for the benefit and enjoyment of the public, areas of New Zealand possessing various values and features, including those that are cultural and historic in nature.
- 11.7. Seven of the nominated sites are located within or partly within reserves managed by Auckland Council and/or DOC. The identification of the sites and places within these reserves, and the proposal to include them in Schedule 12 and Appendix 2f of the respective plans, supports the cultural values contained within the reserves and has the potential to enhance the benefit and enjoyment of the public of these places due to the values being identified and protected.
- 11.8. The formal identification of these cultural sites in the plans will help to inform current and future management strategies for these areas, which are developed in consultation with iwi and hapū.
- 11.9. The proposed resource management approach of PPC102 and PPM15 is consistent with the Reserve Act 1997.

Heritage New Zealand Pouhere Taonga Act 2014

- 11.10. The purpose of the Heritage New Zealand Pouhere Taonga Act (HNZPTA) is to promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand. Under this Act, Heritage NZ maintains the New Zealand Heritage List/Rārangi Kōrero (NZHL/RK). The heritage list identifies significant and valued historical and cultural heritage places for the purposes of providing information to the public and landowners, and to promote and assist in the protection of the listed places.
- 11.11. The list includes historic areas including wāhi tūpuna and wāhi tapu. Places can be nominated by anyone for inclusion on the list, however the NZHL/RK is primarily an advocacy tool and the inclusion of a place on the list does not in itself protect the place.

- 11.12. The regulatory provisions of the HNZPTA provide some protection whereby persons wishing to undertake work that may damage, modify or destroy an archaeological site must obtain an authority from Heritage NZ.
- 11.13. The scheduling proposed for the 12 nominated sites provides separate recognition and consideration of the cultural values of a site at a regional coastal plan and district plan level.
- 11.14. The plan changes promote the protection of cultural heritage within Tāmaki Makarau. This is consistent with the purpose of the Heritage New Zealand Pouhere Taonga Act.

12. Regional Planning Context

Auckland Unitary Plan Operative in Part - Regional Policy Statement

- 12.1. The Regional Policy Statement (RPS) of the AUP(OIP) provides an overview of the resource management issues of the region. The RPS includes policies and methods to manage the region's natural and physical resources in an integrated manner to address these issues. It applies to the whole Auckland region including the Hauraki Gulf Islands.
- 12.2. The RPS recognises that very little mana whenua cultural heritage has traditionally been scheduled in Auckland.⁴² Council has a statutory responsibility under section 6(e) of the RMA to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga, and to protect mana whenua sites of significance from inappropriate subdivision, use and development under s6(f) of the Act.
- 12.3. This can best be achieved through taking a collaborative approach to working with mana whenua, an approach directed by the RPS. The process for identifying the further sites and places of significance included in PPC102 and PPM15 has been developed with mana whenua as part of the wider Māori Cultural Heritage Programme.
- 12.4. Chapter B6 Mana Whenua, contains overarching objectives and policies that work across the plan to recognise Māori values and to protect mana whenua cultural heritage.⁴³ This section of the RPS sets out a Treaty partnership approach for working with, and understanding the role and responsibilities of mana whenua during the development, amendment and implementation of the AUP(OIP) and HGI.
- 12.5. With respect to the subject matter of these plan changes, the RPS seeks to protect an array of cultural values pertaining to identified sites using a framework of existing provisions. In particular, Policy B6.5.2 sets out the criteria to identify and evaluate new sites of cultural significance for inclusion in the respective plans. These criteria are repeated in Appendix 4 of the HGI as criteria for scheduling MHS. These criteria form

⁴² Section B6.6 Explanation and principal reasons for adoption

⁴³ Section B6 Mana Whenua

- the basis of the cultural values assessments in Attachment 3 demonstrating that the nominated sites achieves Policy B6.5.2.
- 12.6. Chapter B4, Natural Heritage, contains objectives and policies to recognise the ancestral relationships of mana whenua and their culture and traditions with the landscapes and natural features of Auckland⁴⁴.
- 12.7. PPC102 proposes to amend the ONF schedule in the AUP(OIP) to recognise mana whenua's relationship with two scheduled ONF. Of relevance is Policy B4.2.2(4)(k) identifies 'the importance of the feature or site to mana whenua' is also relevant for identifying and evaluating outstanding natural features.
- 12.8. It is also proposed that two scheduled HHP be updated to recognise the cultural significance of these places. RPS Chapter B5, Historic Heritage, seeks to protect significant historic heritage places from inappropriate subdivision, use and development, and ensure they are used appropriately. The objectives and policies in this chapter recognise the significance of places to mana whenua as one of the criteria used to identify and evaluate historic heritage places within Auckland⁴⁵.
- 12.9. Section B7.6 is relevant to the balancing of mineral extraction activities with the protection of cultural heritage. This is relevant to one nominated site, Kaarearea Paa. The policies are focussed on providing for the ongoing supply of extractable materials and safeguarding against inappropriate land use and development that may inhibit such activities.
- 12.10. Mineral extraction activities are required to avoid, remedy or mitigate significant adverse environmental effects, which include cultural associations with natural and physical resources.
- 12.11. Chapter B8 of the RPS, Coastal Environment, seeks to preserve the characteristics and qualities of the coastal environment and, where degraded, restore and rehabilitate this environment. This part of the plan contains objectives and policies to protect sites within the coastal environment that have been scheduled as significant to mana whenua from inappropriate use and development⁴⁶.
- 12.12. A detailed assessment of PPC102 and PPM15 against the relevant objectives and policies of the RPS is included in Attachment 9 of this report.

Regional Policy Statement Conclusions

- 12.13. The RPS contains numerous references to the importance of recognising and protecting the relationship mana whenua have with the natural environment. The policy statement seeks to strike a balance between the development and use of resources for economic and social wellbeing, and retaining and enhancing biodiversity, ecological wellbeing and cultural heritage for current and future generations.

⁴⁴ Section B4.2 Outstanding Natural Features and Landscapes

⁴⁵ Policy B5.2.2(1)(c)

⁴⁶ For example Policies F2.3.3(4)(a) (Depositing and disposal of material) and F2.4.3(4)(e) (dredging)

- 12.14. The objectives and policies of Section B6 Mana Whenua recognise the importance of identifying, protecting and enhancing both tangible and intangible values of mana whenua cultural heritage. The provisions are directive in protecting mana whenua cultural heritage and including such places as scheduled items in the plan. The factors used to evaluate such sites is explicit in the policies and such sites are to be protected from the adverse effects of subdivision, use and development.
- 12.15. The importance of mana whenua being active participants in how resources are identified and managed is a key policy direction in the RPS, which is to be undertaken in a manner consistent with the principles of the Treaty of Waitangi. The formal recognition and protection of sites and places of cultural significance allows mana whenua mātauranga and tikanga to be employed to avoid, remedy and mitigate adverse environmental effects.
- 12.16. The RPS has directive provisions for the recognition and protection of mana whenua cultural heritage. These complement objectives and policies across the RPS including those that address natural heritage, historic heritage, and the coastal environment.
- 12.17. Cultural vitality is an important aspect of achieving a quality compact urban form and the recognition of mana whenua cultural heritage in urban environments supports that vitality.
- 12.18. The RPS provides for the development, operation, maintenance and upgrading of infrastructure on such sites where there is a functional and operational need to locate in culturally significant areas.
- 12.19. With respect to mineral extraction activities, the RPS provides for these in appropriate areas to secure supply of extractable minerals for Auckland's continuing development. There is a requirement for such activities to be established and operated in ways which avoid, remedy or mitigate significant adverse effects on the environment.
- 12.20. This is complemented by the directive policies in the RPS to recognise and protect mana whenua cultural heritage that may be present on such sites. Use and development which destroys sites in whole and in part, or which has significant adverse effects on the values and associations mana whenua have with a site or place are to be avoided. This can be achieved by working in collaboration with mana whenua through development proposals, a process encouraged by formal recognition of these sites.
- 12.21. PPC102 and PPM15 give effect to the objective and policy direction of the RPS.

Auckland Regional Plan and Regional Coastal Plan Objectives and Policies.

- 12.22. The amendments being proposed through PPC102 and PPM15 are to district and regional coastal plan provisions. As has been outlined earlier, they also have relevance to the application of other regional level provisions which incorporate consideration of te ao Māori concepts such as mauri of freshwater and the tapu of places

- 12.23. A district plan must not be inconsistent with a regional plan.⁴⁷ and a regional plan must not be inconsistent with another regional plan. The plan changes do not propose to introduce additional objectives and policies into either plan, therefore the existing policy provisions of the regional plans which broadly recognise and provide for the relationship of mana whenua with the environment remain. The plan changes are not inconsistent with the regional plan and regional coastal plan.
- 12.24. An assessment against the regional objectives and policies of the AUP(OIP) is undertaken as follows.

Regional Plan - Chapter E Auckland-wide

- 12.25. Sections E1 to E19 of the AUP(OIP) contain objectives, policies and rules relating to natural resource management. Consideration of mana whenua values are embedded broadly within the objectives and policies of these sections as is the case in the RPS. Particular regional level objectives and policies relevant to PPC102 and PPM15 are discussed as follows.
- 12.26. Objectives in Sections E1 Water quality and integrated management and E2 Water quantity, allocation and use, in particular:
- Obj E1.2(2) The mauri of freshwater is maintained or progressively improved over time to enable traditional and cultural use of this resource by mana whenua; and*
- Obj E2.2.(5) Mana whenua values including the mauri of water, are acknowledged in the allocation and use of water.*
- 12.27. Relevant General policies in E3 Lakes, rivers, streams and wetlands, include:
- Pol E3.3(5) Avoid significant adverse effects, and avoid, remedy or mitigate other adverse effects of activities in, on, under or over the beds of lakes, rivers, streams or wetlands on:*
- (a) the mauri of the freshwater environment; and*
- (b) Mana whenua values in relation to the freshwater environment.*
- Pol E3.3(6) Manage the adverse effects on mana whenua cultural heritage that is identified prior to, or discovered during, subdivision, use and development by:*
- (a) complying with the protocol for the accidental discovery of kōiwi, archaeology and artefacts of Māori origin;*
- (b) undertaking appropriate actions in accordance with mātauranga and tikanga Māori; and*
- (c) undertaking appropriate measures to avoid adverse effects, or where adverse effects cannot be avoided, effects are remedied or mitigated.*
- 12.28. The scheduling of seven sites with freshwater waterbodies will serve to provide greater recognition of the cultural importance of these freshwater environments and manage development in a manner that protects these values.

⁴⁷ Section 75(4) of the RMA

12.29. These plan changes give effect to the NPS-FM and RPS which seeks to ensure that tangata whenua are actively involved in freshwater management. Enabling their role as kaitiaki through these plan changes is consistent with the above objectives and policies.

12.30. Relevant policies in E11 Regional land disturbance include:

Pol E11.3(1) Avoid where practicable, and otherwise mitigate, or where appropriate, remedy adverse effects on areas where there are natural and physical resources that have been scheduled in the Plan in relation to natural heritage, mana whenua, natural resources, coastal environment, historic heritage and special character; and

Pol E11.3(2)(d) maintain the cultural and spiritual values of mana whenua in terms of land and water quality, preservation of wāhi tapu, and kaimoana gathering.

12.31. The scheduling of sites provides greater visibility of locations of significant cultural value to mana whenua. The standards associated with the scheduling manage land disturbance activities so as to protect these values and ensure that mana whenua are provided an opportunity to exercise kaitiakitanga through the use of their mātauranga. The proposed plan changes are therefore consistent with the above policies.

12.32. Relevant objectives and policies in E15 Vegetation Management include:⁴⁸

Obj D9.2(3) The relationship of mana whenua and their customs and traditions with indigenous vegetation and fauna is recognised and provided for

Pol D9.3(2) Adverse effects on indigenous biodiversity values in significant ecological areas that are required to be avoided, remedied, mitigated or offset may include, but are not limited to, any of the following:

...

(o) the destruction of, or significant reduction in, educational, scientific, amenity, historical, cultural, landscape, or natural character values;

...

Pol D9.3(3) Enhance indigenous biodiversity values in significant ecological areas through any of the following:

...

(g) providing for the role of mana whenua as kaitiaki and for the practical exercise of kaitiakitanga in restoring, protecting and enhancing areas.

12.33. The identification of the nominated sites provides the most effective plan mechanism for formally recognising the relationship mana whenua have with these natural and physical

⁴⁸ The relevant Obj and Pol for SEA are contained in Section D9

resources. It enables their involvement in resource management processes both for scheduled sites and for natural resources yet to be scheduled.

Regional Coastal Plan

- 12.34. Chapter F contains the Coastal Plan provisions of the AUP(OIP). The areas of the CMA proposed to be scheduled as SSMW are all within the General Coastal Marine Zone.
- 12.35. Objectives and policies of relevance include Objective F2.5.2(2), which requires that activities that have long-term impacts or involve more than a minor level of disturbance, should avoid, remedy or mitigate adverse effects on historic heritage and mana whenua values.
- 12.36. Policy F2.5.3(3) provides for the disturbance of the foreshore or seabed that is necessary to protect, maintain or enhance historic heritage or mana whenua values, geological, ecological or habitat values, or for public access or research, where this is consistent with maintaining the values of the area.
- 12.37. These provisions, along with others such as those relating to mineral extraction in the CMA identify the need to consider mana whenua values when considering the removal of sand and shell. These provisions refer specifically to Tapura in the Kaipara Harbour⁴⁹, an area around the nominated site of Manukapua Island.
- 12.38. Recognising the cultural significance of this part of the CMA in association with Manukapua Island is consistent with an approach to recognising the cultural relationship tangata whenua have with the coastal environment and providing opportunities for iwi and hapū to exercise kaitiakitanga over their taonga, thereby giving effect to the NZCPS.
- 12.39. PPC102 is consistent with the objectives and policies set out in the Regional Plan and Regional Coastal Plan sections of the AUP(OIP). The Regional Coastal Plan is not relevant to PPM12 which is a plan change to the HGI district plan.

13. Other plans

The Auckland Future Development Strategy 2023-2053

- 13.1. The Auckland Future Development Strategy (FDS) has been developed under the National Policy Statement on Urban Development 2020 to promote the integrated, long-term strategic planning of urban growth within Tāmaki Makaurau over the next 30 years.
- 13.2. It replaces the Development Strategy in the Auckland Plan 2050 and aims to achieve well-functioning urban environments. It also seeks to ensure there is enough development capacity in the region and integrate land use planning and infrastructure planning and funding⁵⁰.

⁴⁹ Section F2.6.1 Background

⁵⁰ FDS. Planning Environment and Parks Committee 2 November 2023 Business Meeting. Attachment to agenda. Section 1.1.

- 13.3. The FDS was adopted by Council on 2 November 2023, pending any final changes to the strategy before publication (Resolution number PEPCC/2023/144). A final version of the FDS was published in December 2023.
- 13.4. The FDS is centred around a Future Development Strategy Strategic Spatial Framework, with a vision that 'Auckland's built environment underpins the development of prosperous, inclusive, and vibrant communities. Quality development helps to regenerate the environment and deliver our commitments to greenhouse gas emission reduction as we grow and change'⁵¹.
- 13.5. The strategy seeks to honour Te Tiriti o Waitangi, enable Te Tiriti outcomes, and incorporate iwi and hapū aspirations for urban development which include considerations of mauri, rangatiratanga, mātauranga Māori, and kaitiakitanga.
- 13.6. An ability for each hapū and iwi to apply their tribal knowledge and wisdoms to achieve innovative solutions to resource management issues is an urban development aspiration of Māori, as is supporting ecosystems and native biota to enhance the mauri of the natural environment.
- 13.7. Four spatial outcomes guide what is to be achieved through the FDS with a key theme being to achieve quality living environments which integrate the natural and built environment with the stories of mana whenua.
- 13.8. Development is intended to support iwi and hapū aspirations and create opportunities for Māori to thrive in Tāmaki Makaurau. Part 2.2.2 of the strategy identifies a need to identify and protect remnants of mana whenua occupation, so they are not destroyed or obscured by urban development.
- 13.9. The proposed plan changes seek to recognise and protect culturally significant sites in a way which enables tribal knowledge to be considered as part of resource management processes. Mana whenua are enabled to assert their kaitiakitanga in a way which can enhance the mauri of these sites and achieve innovative solutions to resource management issues. The plan changes are therefore consistent with the FDS.

The Auckland Plan 2050

- 13.10. The Auckland Plan 2050 (AP2050) is the Council's long term spatial plan that sets the strategic direction to 2050. It was adopted by Council on 5 June 2018.
- 13.11. The purpose of the spatial plan is to contribute to Auckland's social, environmental, and cultural well-being⁵² and it is a relevant statutory document with respect to the proposed plan changes.
- 13.12. The plan has six outcomes, a development strategy and associated maps. Of the six outcomes, the Māori Identity and Wellbeing Outcome/ Te tuakiri Māori me tōna oranga

⁵¹ Ibid Part 2

⁵² Local Government (Auckland Council) Act 2009. s79(2)

and the Environment and Cultural Heritage Outcome/ Te taiao me ngā tikanga ā-iwi tuku iho are the most relevant to these proposals.

- 13.13. Under the Māori Identity and Wellbeing Outcome, Focus Area 5 seeks to *advance mana whenua rangatiratanga in leadership and decision-making and provide for customary rights*. One of the areas that the plan seeks for efforts to be focussed is *continuing to identify and protect sites of cultural heritage, particularly in the planning and development of Tāmaki Makaurau and sites of significance*.
- 13.14. The Environment and Cultural Heritage Outcome seeks that *Aucklanders preserve, protect and care for the natural environment as our shared cultural heritage, for its intrinsic value and for the benefit of present and future generations*.
- 13.15. Direction 2 of that outcome is to *apply a Māori world view to treasure and protect our natural environment (taonga tuku iho)*. Focus area 4 seeks to *protect Auckland's significant natural environments and cultural heritage from further loss*.
- 13.16. This focus area notes that *unique cultural sites, landscapes and sites of significance to Māori must be protected from the pressures of growth as well as other emerging threats and risks, and, Some of Auckland's cultural heritage sites, cultural landscapes and sites of significance to Māori are also under pressure from development, either directly or from incompatible uses or activities close by*.⁵³
- 13.17. The AP2050 identifies the importance of enabling mana whenua to exercise their rangatiratanga and kaitiakitanga in the identification and protection of sites of cultural significance. It sets a strategy of continuing to identify and protect sites of cultural significance and notes that some of Auckland's sites are under pressure from development. The proposed plan changes respond to this strategic direction.

Māori Plan for Tāmaki Makaurau 2017

- 13.18. The Māori Plan was developed by the Independent Māori Statutory Board with Tāmaki Makaurau Māori (mana whenua and mataawaka). It is non-statutory, long-term plan based on Māori values and outcomes and intended to guide how the Council and other agencies can act more responsively towards Māori.
- 13.19. This includes taking issues of importance to Māori in Tāmaki Makaurau into account and acting in accordance with the principles of Te Tiriti o Waitangi. The Māori Plan also provides a framework to monitor outcomes and measure changes to Māori wellbeing.
- 13.20. Of relevance to PPC102 and PPM15 is the following Māori Plan Issue of Significance:
- Mana whenua are enabled to maintain and protect sites of significance to reaffirm connections to the whenua and preserve for future generations*.⁵⁴

⁵³<https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/auckland-plan/environment-cultural-heritage/Pages/focus-area-protect-aucklands-significant-environments.aspx>

⁵⁴ Māori Plan 2017, p.23

13.21. Adding sites and places to the relevant schedules will ensure that identified sites of cultural significance to Māori will be valued, restored and protected. This is also consistent with a measure of the plan monitoring the number of sites of significance to Māori formally protected or scheduled in the AUP(OIP).⁵⁵.

Iwi Planning Documents

13.22. Under the RMA, when a local authority is preparing a change to a regional plan or a district plan, it must take into account any relevant planning document recognised by an iwi authority and which is lodged with the Council.⁵⁶ These are known as iwi planning documents (IPD)

13.23. There are currently 12 plans held by Council which are recognised by an iwi authority:

- Ngātiwai Trust Board 2015. Iwi Environmental Policy Document (2015)
- Te Uri o Hau Settlement Trust, Environs Holdings (2011). Te Uri o Hau Kaitiakitanga o te Taiao.
- Te Pou o Kahu Pokere Iwi Management Plan for Ngāti Whātua Ōrākei (2018)
- Kawerau a Maki Trust Resource Management Statement (1995)
- Ngāti Te Ahiwaru Environmental Plan 2019 Te Whakawhanake o to tatou iwi, hapu, whanau. On behalf of the Makaurau Marae Maori Trust
- Makaurau Marae Maori Trust - Te Ahiwaru Strategic Management Plan 2019-2029
- Ngaa Tikanga o Ngaati Te Ata Tribal Policy Statement. Awaroa ki Manuka (1991)
- Ngāti Te Ata Waiohua Issues and Values. A Paper Prepared by Ngāti Te Ata Waiohua to Assist the Auckland Council. 29 Whiringarangi 2011
- Ngaati Whanaunga Environmental Management Plan. Prepared by Ngaati Whanaunga Environmental Services Department 2020
- Ngāti Tamaterā Asset Management Strategy 2019
- Ngāti Tamaterā Mātauranga Innovation & Digital Strategic Framework Toikuranui 2022
- Rautaki mō mātou kāinga Housing Strategy Ngati Tamatera Treaty Settlement Trust 2023-2026

13.24. These documents and others located on the official websites of the iwi authorities have been reviewed where they have a bearing on the subject matter of the proposed plan

⁵⁵ Māori Plan 2017, p.46

⁵⁶ s66(2A)(a) and s74(2A)

changes. Where they specifically mention the nominated site, it is noted in Attachments 3 and 4.

- 13.25. There are a wide range of themes raised in the plans which are generally consistent with those matters raised in both the AP2050 and Māori Plan (2017). Key aspirations of relevance to these plan changes include the desire for the recognition, protection and restoration of sites of cultural significance, and the environmental restoration of the coast, freshwater and indigenous biodiversity. Regard has been had to these matters throughout this evaluation.
- 13.26. It is cited as a preference in some plans that this be done through a partnership approach with the Council, government agencies and other key stakeholders.

14. Development of the Plan Changes

- 14.1. Through the MCHP, the Council in partnership and collaboration with the 19 mana whenua entities of Tāmaki Makaurau co-developed and applied a process for the identification, nomination and assessment of sites and places.
- 14.2. In its co-development and implementation, the Council gave specific attention to meeting its RMA Schedule 1 requirements and in particular:

3 Consultation

(1) During the preparation of a proposed policy statement or plan, the local authority concerned shall consult—

(d) the tangata whenua of the area who may be so affected, through iwi authorities; and

(e) any customary marine title group in the area.

3B Consultation with iwi authorities

For the purposes of clause 3(1)(d), a local authority is to be treated as having consulted with iwi authorities in relation to those whose details are entered in the record kept under section 35A, if the local authority—

(a) considers ways in which it may foster the development of their capacity to respond to an invitation to consult; and

(b) establishes and maintains processes to provide opportunities for those iwi authorities to consult it; and

(c) consults with those iwi authorities; and

(d) enables those iwi authorities to identify resource management issues of concern to them; and

(e) indicates how those issues have been or are to be addressed.

- 14.3. As the sites and places nomination and assessment process proceeded, the MCHP ensured that there were opportunities to identify and recognise that many sites and

places have overlapping mana whenua interests. In some cases, nominations are jointly made and supporting cultural values assessments are provided by more than one mana whenua group. These are included in the cultural values assessments in Attachment 3.

- 14.4. The footnote for each CVA in Attachment 3 acknowledges:

The nominating entity is the hapū/iwi group(s) that have nominated the place for assessment and does not necessarily correlate to primary or exclusive interest in a place, for example some hapū/iwi work together to divide the many heritage places that need assessment into work allocations, while other hapū/iwi may have interests but are not actively participating in a given place assessment due to capacity or other issues. Reference to the nominating hapū/iwi is not in the schedule itself due to risk of misinterpretation and misapplication.

Methodology

- 14.5. The MCHP work was initiated by the identification of sites and places that may be appropriate for assessment. This occurs primarily through mātauranga, tikanga Māori, and mana whenua guidance but may also be an outcome of Council research subject to mana whenua confirmation. Another source may be through sites and places identification in IPDs.
- 14.6. The nomination of sites and places is confirmed by the relevant mana whenua entity(ies) and an address/location and first draft spatial extent is required for site assessment to commence.
- 14.7. A six-task assessment process is applied for the nominated site or places to be considered for inclusion in the plan changes. The tasks or aspects of the tasks may be conducted concurrently or out of sequence as may be appropriate. This is guided by mana whenua, the landowner, and the council planning assessment process. Each of the tasks supports the investigation of the significance of the site or place and its extent as may be proposed for scheduling purposes.

Task 1: Research and information gathering.

- 14.8. Included is collating public records for archaeological, geological, geographical and historical information providing a research baseline of information for each site and identifying the existing AUP(OIP)/HGI planning provisions that apply and the planning implications of different management options.

Task 2: Mātauranga Māori and assessment against RPS criteria

- 14.9. The focus for this task is identifying Māori cultural values both before and after a site visit. Specifically, CVAs are prepared by mana whenua considering the 6 factors set out in RPS Policy B6.5.2 (2) and HGI Appendix 4:
- a) *Mauri: ko te mauri me te mana o te wāhi, te taonga rānei, e ngākaunuitia ana e te mana whenua. The mauri (life force and life-supporting capacity) and mana (integrity) of the place or resource holds special significance to mana whenua;*
 - b) *Wāhi tapu: ko tērā wāhi, taonga rānei he wāhi tapu, arā, he tino whakahirahira ki ngā tikanga, ki ngā puri mahara, o ngā wairua a te mana whenua. The place or*

resource is a wāhi tapu of special, cultural, historic, metaphysical and or spiritual importance to mana whenua;

- (c) *Kōrero Tūturu/historical: ko tērā wāhi e ngākaunuitia ana e te mana whenua ki roto i ōna korero tūturu. The place has special historical and cultural significance to mana whenua;*
- (d) *Rawa Tūturu/customary resources: he wāhi tērā e kaweā ai ngā rawa tūturu a te Mana whenua. The place provides important customary resources for mana whenua;*
- (e) *Hiahiatanga Tūturu/customary needs: he wāhi tērā e eke ai ngā hiahia hinengaro tūturu a te Mana whenua. The place or resource is a repository for mana whenua cultural and spiritual values;and*
- (f) *Whakaaronui o te Wa/contemporary esteem: he wāhi rongonui tērā ki ngā Mana whenua, arā, he whakaahuru, he whakawaihanga, me te tuku mātauranga. The place has special amenity, architectural or educational significance to mana whenua.*

14.10. An additional factor of *Horopaki* (context) is included in the CVAs to provide the context of why a nominated site or place is significant. *Horopaki* is included for information purposes and is not one of the AUP(OIP)/HGI factors for scheduling purposes.

14.11. The CVAs supporting the scheduling are included as Attachment 3. They have been confirmed by the nominating mana whenua entity/entities and were made available for the inspection and the input from other mana whenua entities with interests in the nominated site or place if they elected to do so.

Task 3: Site visits are undertaken with mana whenua present

14.12. Site visits are an essential and integral part of the assessment process of whether sites or places are appropriate for inclusion in the proposals.

14.13. Site visits were undertaken with mana whenua attending to better understand the threats and issues affecting the nominated sites. Where the sites were not publicly accessible, they were observed from public vantage points such as roads and reserves.

14.14. Following the sites visits, the scheduled heritage site extent was considered and refined through research, further mana whenua engagement, and ground-truthing during the site visit.

Task 4: Threat and Risk Assessment Conducted with Mana Whenua.

14.15. Assessing threat and risk helps identification of the most appropriate management response options to recognise, protect and manage a site or place.

Task 5: Planning and Management Response

14.16. On completion of the preceding tasks, the nominating mana whenua entity (at governance and kaitiaki level) and Council planning and heritage officers consider the

assessment findings and the potential application of a range of management response options (statutory and non-statutory) including scheduling in the AUP(OIP)/HGI.

Task 6: Landowner Engagement

- 14.17. At this point, landowner and key stakeholder engagement was undertaken. This was done online and in person following mailed correspondence being sent which identified the nominated site, provided a brief description of its cultural significance, and included supporting information about the Council MCHP. Sufficient time was provided for this to accommodate absentee landowners who are based overseas.
- 14.18. In instances where the nominated sites were not suitably accessible or visible from public areas, site visits on privately owned sites were undertaken with the landowner's permission.
- 14.19. The collated historical, geological, geographical and archaeological information, CVAs, site visits and threat analysis, consideration of the planning history of sites, and mana whenua, landowner and key stakeholder discussions have informed the consideration of the appropriate options to recognise and protect the nominated sites in the Proposals.
- 14.20. Prior to the Council decision to notify the plan change proposals, it provided a full draft of the Proposals to mana whenua for their advice in accordance with clause 4A of schedule 1 of the RMA. Particular regard was given to the mana whenua advice received and there was opportunity to discuss the responses either individually or collectively.

Site extents for nominated sites

- 14.21. The extent of each site was nominated by mana whenua and has been refined through discussions with mana whenua and landowners and during site visits. For water-based sites, in particular the Te Wai o Ruarangi, property boundaries have generally been used to determine the extent. It is noted that waterbodies, especially rivers, change course over time and the extent of sites mapped may not be accurate in the future. The extent for Te Wai o Ruarangi is mapped to the legal boundaries of properties as recorded by Land Information New Zealand (LINZ).

Mātauranga and Archaeology

- 14.22. Included in Attachment 5 are archaeological summaries for each site. While the presence of archaeology can assist in understanding the occupational history and use of sites, it is not determinative of a cultural association with a site which may also be metaphysical and associative in nature.
- 14.23. For reasons such as the limited extent of archaeological survey, historic land disturbance, or the nature of the traditional use of an area, archaeological records may not exist or be incomplete in respect of a particular site. The archaeological reports have been provided in Attachment 5 for reference purposes only and to provide further evidence of historical occupation and use.

Consultation

- 14.24. Clauses 3, 3B and 4A of Schedule 1 of the Act require specific consultation with iwi authorities. This includes considering ways to facilitate communication between iwi and the council, providing draft copies of proposed plans, and having processes in place to ensure iwi are given adequate opportunities to respond. There are currently no Mana Whakahono a Rohe agreements in place within Tāmaki Makaurau.
- 14.25. The consultation for these plan changes has been undertaken in two phases which are discussed in the following sections.

Consultation: Phase 1

- 14.26. All 19 mana whenua entities currently recognised by Council within the Auckland region have had the opportunity to participate in the MCHP. Six of these entities have progressed work on articulating cultural values for the nominated sites as part of these Tranche 2a plan changes. The mana whenua entities who have nominated sites included in these plan changes are:
- Ngāti Whātua Ōrākei
 - Ngāti Te Ata
 - Ngāti Tamaoho
 - Ngāti Rehua Ngatiwai ki Aotea
 - Te Ahiwaru Waiohua
 - Te Uri o Hau
- 14.27. As part of the first phase of consultation, the Council actively consulted with these mana whenua entities from January until September 2021 to understand the cultural values and methods of management. Site visits for nominated sites were carried out from April to September 2021 with all parties available within this period. These visits were from public viewing platforms to understand the site extents and did not involve landowners and occupiers. Covid 19 restrictions which were in force during that time restricted the ability for Council officers to undertake site visits and engage with landowners.
- 14.28. From September 2022 until March 2023, engagement was undertaken with 117 landowners. This was done online and in person following mailed correspondence being sent which identified the nominated site, provided a brief description of its cultural significance, and included supporting information about the Council MCHP.
- 14.29. As part of this phase on consultation, the Council along with iwi representatives also met with the respective landowners where this was possible. With the permission of the nominating mana whenua entities, landowners were supplied with confidential cultural information if requested. This was in order for landowners to better understand the nature of the culturally significant sites.

14.30. The Tranche 2a sites affect several public bodies across the region. These are:

- Auckland Council
- Waka Kotahi NZ Transport Agency
- Auckland Transport
- Department of Conservation
- Watercare Services Limited
- KiwiRail

14.31. Pre-notification engagement has been undertaken with all of these stakeholders and feedback has been received and considered.

Consultation: Phase 2

14.32. A second phase of consultation was initiated between October and November 2023 where, in accordance with clause 4A of Schedule 1 of the RMA, all 19 mana whenua entities participating in the MCHP were provided with the following documentation to provide any further advice on:

- i. The draft Section 32 evaluation report (this report),
- ii. The proposed text and maps associated with the plan change,
- iii. The cultural values assessments associated with the site as described by the nominating iwi authority,
- iv. The current planning framework for the nominated sites,
- v. Supporting information for ONF and HHP scheduling, and
- vi. The archaeological reports supporting the plan changes.

14.33. The engagement feedback of all parties is summarised in Table 3.

Table 3: Summary of Consultation Feedback

| Mana Whenua | |
|---|---|
| 19 Mana Whenua Entities | <p>Individual discussions were held with Ngāti Rehua Ngātiwai ki Aotea regarding the proposed changes to the HGI standards. The iwi agreed with the changes proposed.</p> <p>Ngāti Rehua Ngātiwai ki Aotea made some amendments to the cultural values assessments for the five Aotea/Great Barrier Islands sites. These changes did not affect the nominated extents or the level of cultural significance of the sites.</p> <p>The nominating mana whenua Ngāti Te Ata and Ngāti Tamaoho provided confirmation of a modified site extent for Kaarearea Paa following agreement being reached with the landowner, Stevenson Aggregates Ltd. The agreed extent is reflected in Attachments 1 and 4.</p> |
| Key Stakeholders and Landowners: | |
| Auckland Council (Parks and Community Facilities) | <p>They are not opposed to the scheduling of the sites as proposed both from the perspective of operating council facilities and parks, and from a leasing perspective.</p> <p>The Parks and Community Facilities team undertake robust engagement with mana whenua entities when developing new strategy and reserve management plans.</p> <p>Leaseholders will be made aware of new requirements as necessary.</p> |
| Auckland Council (Healthy Waters) | <p>Are not opposed to the scheduling of the sites as proposed and note that it is standard operating practice for engagement to occur with mana whenua when considering activities.</p> |
| Waka Kotahi NZ Transport Agency | <p>Have expressed no opposition to the scheduling of the nominated sites.</p> |
| Auckland Transport (AT) | <p>While not opposed to the scheduling overall, AT noted that for the Waipapa Stream site there is a pedestrian underpass being constructed near the northern end of the station. That underpass is now constructed.</p> <p>AT requested consideration be given to avoiding the road reserve, strategic corridor zones, and planned or existing transport infrastructure.</p> <p>AT sought the application of 'site exception rules' where sites cover the road reserve, strategic corridor zones, and planned or existing transport infrastructure. In their view this is due to physical</p> |

| | <p>evidence of Māori cultural heritage being unlikely in these locations due to their highly modified nature.</p> <p>It was requested that as far as possible, clear descriptions of the site of significance and cultural values assessments or information on the sites be readily available.</p> <p>Finally, AT sought that consideration be given to specific planned AT projects and their significant benefits when assessing the costs and benefits of the proposal.</p> | | | | | | |
|--|--|-----------------|---------------------------------------|------------|---|-------------------|----|
| Watercare Services Limited | <p>Overall, Watercare Services are not opposed to the scheduling. They noted that the Oruarangi Creek contains a suspended wastewater pipe and a separate water main attached to the Oruarangi road bridge.</p> <p>There is also a wastewater pumpstation located near the Oruarangi Creek which may discharge into the creek during extreme rainfall events. Projected sea level rise and storm surge for the future make it likely that the existing pumpstation will either need to be raised or re-located near-by.</p> <p>It is likely that future urban, industrial and airport growth in this location will necessitate and upgrade to existing facilities, so construction activities will be needed at that time.</p> | | | | | | |
| Department of Conservation | <p>Generally support the scheduling of sites as proposed by the plan changes. DOC notes that section 4(3) of the RMA exempts any work or activity of the Crown from district level restrictions on the use of land where that land is held or managed under the Conservation Act 1987 and is consistent with a conservation management strategy or other management plan.</p> | | | | | | |
| KiwiRail | <p>Generally support the scheduling of the sites noting that designations apply over land used for rail operations. Noted that the overlay for Waipapa applies to the surface of the land and will not affect the subsurface designation for the Parnell Tunnel.</p> | | | | | | |
| Private Landowners | | | | | | | |
| <p>Landowner engagement has been undertaken across all 12 nominated sites affecting 117 owners. The below table lists the number of potentially affected private landowners.</p> <table border="1" data-bbox="277 1794 1066 2000"> <thead> <tr> <th>Tranche 2a site</th> <th>Number of affected private landowners</th> </tr> </thead> <tbody> <tr> <td>Hirakimatā</td> <td>2</td> </tr> <tr> <td>Te Wai o Ruarangi</td> <td>12</td> </tr> </tbody> </table> | | Tranche 2a site | Number of affected private landowners | Hirakimatā | 2 | Te Wai o Ruarangi | 12 |
| Tranche 2a site | Number of affected private landowners | | | | | | |
| Hirakimatā | 2 | | | | | | |
| Te Wai o Ruarangi | 12 | | | | | | |

| | |
|-------------------|------------|
| Pahurehure Island | 1 |
| Whakahuranga Pā | 3 |
| Manukapua | 0 |
| Poutekorua | 1 |
| Ruahine | 4 |
| Komahunga | 1 |
| Korotiti | 4 |
| Te Rae o Kāwharu | 0 |
| Waipapa Awa | 88 |
| Kaarearea Paa | 1 |
| Total | 117 |

The property owners include individuals, corporations, businesses, trusts and body corporates.

In the case of Manukapua, while no private landowners are affected, engagement has been undertaken with Winstone Aggregates Limited as they jointly hold a sand mining permit with Mt Rex Shipping Ltd. The consented extraction area is within part of the nominated extent.

The feedback received falls into one of several themes as follows:

- General support of the sites and greater recognition of Māori cultural values within the region,
- A support of planning controls which control development, retain native vegetation and promote ecological restoration,
- A concern that scheduling will allow public access to private sites and/or be a precursor to acquiring private land,
- A concern that the cultural significance of the nominated areas hasn't been raised by iwi in previous consenting processes the iwi have been involved in,
- A desire to see archaeological evidence of occupation and use on individual privately owned sites,
- A desire to strike an appropriate balance between cultural recognition and protection, and development certainty on urban sites,
- An ability to undertake building maintenance, fencing repair, domestic activities on residential and rural sites,
- Justification for nominated site extents when they adjoin but do not include archaeological sites,
- The extent to which it is appropriate to recognise historic sites which have undergone subsequent planning processes involving mana whenua

engagement. The need to recognise nationally significant infrastructure which may be affected by scheduling.

Kaarearea Paa – Stevenson Aggregates Ltd

Stevenson Aggregates Ltd has been engaging with mana whenua representatives from five iwi authorities over the last 18 months with respect to a proposed quarry expansion. The proposed expansion area overlaps with the nominated site extent for the SSMW.

An agreement has been reached between the landowner and nominating mana whenua entities. This addresses an area of concern for the landowner pertaining to an already quarried western section of the nominated area.

Pahurehure Islands - Karaka Harbourside Estates Limited (KHEL)

KHEL has been actively engaging with mana whenua representatives both as part of these plan changes, and that of PC78 to give effect to the National Policy Statement on Urban Development.

A key concern of KHEL has been the lack of certainty the scheduling of Pararēkau Island with the SSMW overlay provides for residential development of the island. The SSMW overlay applies a Discretionary Activity status on all new buildings and also to building additions which increase the building footprint. Pararēkau Island is currently undergoing a comprehensive residential subdivision and enabling land use consent to establish vacant residential lots. The site is zoned for residential use (Single House Zone).

Auckland International Airport Limited (AIAL)

AIAL acknowledges and respects the importance of the Oruarangi Creek to Te Ahiwaru and is not opposed to the scheduling of Te Wai o Ruarangi provided existing lawfully established or consented stormwater assets relating to Airport operations and other existing developments are not compromised.

AIAL does not support the southernmost section of the nominated site which recognises a now realigned and tributary of the creek (refer to Figure 1 below). In their view the development uncertainty and potential cost introduced by scheduling this branch of the awa outweighs any potential benefits.

They note that designations and precincts already apply to this section of the nominated area which address the cultural significance of the area and the area has already been developed.

AIAL note that the Auckland Airport is both nationally and regionally significant infrastructure.



Figure 1: AIAL seek the removal of the portion of the nominated site in red

Local Boards:

The twelve nominated sites fall within six local board areas.

| | | |
|----|---|--|
| 1. | Aotea/ Great Barrier Island Local Board | <p>The local board support the scheduling of the five sites on Aotea to ensure their protection and recognition of kaitiakitanga.</p> <p>They request ongoing engagement with both Ngāti Rehua Ngātiwai ki Aotea Trust and landowners when scheduling these sites (Resolution GHBI/2024/33)</p> |
| 2. | Franklin Local Board | <p>Supportive of the public notification of the plan change to enable wider community understanding and an ability to participate in the plan change process.</p> <p>The local board reserves the right to provide further feedback following the receiving of submissions on Kaarearea Paa. (Resolution FR/2024/21)</p> |
| 3. | Māngere-Ōtāhuhu Local Board | <p>The local board is supportive of Te Wai or Ruarangi’s preservation to honour its cultural significance. They acknowledge concerns regarding the southern portion of the site and the potential uncertainties created for core activities such as building development in the Auckland Airport Precinct.</p> |

| | | |
|----|-----------------------|---|
| | | The local board supports a balanced approach to addressing these uncertainties whilst preserving heritage and requests a collaborative approach be taken. (Resolution MO/2024/28) |
| 4. | Papakura Local Board | The Papakura local board have agreed to the recommended scheduling of the Pahurehure Islands (which excludes Pararēkau Island). (Resolution PPK/2024/18) |
| 5. | Rodney Local Board | The local board is supportive of the scheduling of both Manukapua and Whakahuranga Pā. (Resolution RD/2024/44) |
| 6. | Waitematā Local Board | The local board is supportive of scheduling the Waipapa Awa but not Te Rae o Kāwharu. They seek the consideration of a compensation mechanism for private property owners if they can show a reduction in property value as the result of a site of significance to mana whenua being applied to their site. The local board notes concerns about impacts on existing individual property rights. |

15. Evaluation of Provisions

Current Plan Provisions (AUP(OIP) and HGI)

AUP(OIP)

- 15.1. The AUP(OIP) currently contains 106 sites within Schedule 12 – Sites and Places of Significance to Mana Whenua. These comprise those on land and those within, or partially within the CMA.
- 15.2. There are 254 Outstanding Natural Features identified in Schedule 6 – Outstanding Natural Features Overlay Schedule, and over 2,500 Historic Heritage Places contained in Schedule 14.1 – Historic Heritage Overlay of the plan.
- 15.3. The provisions applying to these three schedules are contained within Chapter D - Overlays of the AUP(OIP). Section D21 - Sites and Places of Significance to Mana Whenua Overlay contains a comprehensive set of objectives, policies, rules and other methods applying specifically to scheduled sites. This is similarly the case for Section D10 - Outstanding Natural Features Overlay and Section D17 - Historic Heritage Overlay
- 15.4. Throughout the remainder of the AUP(OIP) there are a variety of provisions which also recognise Māori cultural values and heritage. In some cases they refer more generally to cultural values, and in some cases they refer specifically to SSMW. The provisions vary from introducing Permitted Activity standards, to applying specific activity statuses

on scheduled sites. Related provisions are most notably contained within the following AUP(OIP) sections:

- Volcanic viewshafts (D14),
- Water quality and integrated management (E1),
- Lakes, Rivers, Streams and Wetlands (E3),
- Taking, using, damming and diversion of water and drilling (E7),
- Land disturbance – District (E12),
- Infrastructure (E26),
- Subdivision (E38/E39),
- Coastal (F2),
- Open Space Zones (H7), and
- Rural Zones (H19).

HGI

- 15.5. Part 1.3.5 – Introduction (Tangata Whenua) and Annexure 1a of the HGI briefly outlines the history of Māori settlement in Tāmaki Makaurau. The plan acknowledges Ngāti Rehua as maintaining their ahi kā status on the islands and in particular Aotea / Great Barrier Island. It notes that the association Ngāti Rehua has with the islands can be traced back over many centuries. The plan identifies the importance of proposed developments having regard to wāhi tapu (sacred ancestral site), wai tapu (sacred water) and other culturally significant sites.
- 15.6. Part 7.13 Māori Heritage contains the main provisions in the plan specific to MHS. It contains a policy and rule framework, and assessment matters applying to scheduled sites. Other rules relating to external lighting, temporary activities, and signage on scheduled sites are contained in Part 4 – General Rules. These provisions make any of these activities on a scheduled site a Discretionary Activity. There are currently four sites listed on Waiheke Island and none on Aotea/ Great Barrier Island.
- 15.7. Evaluation criteria by which to identify and evaluate new MHS are in Appendix 4 – Criteria for Scheduling Heritage Items. These replicate the evaluation factors listed in Policy B6.5.2(2) of the RPS. The HGI anticipates that sites would be introduced over time in consultation with iwi.
- 15.8. In the HGI, there are currently four MHS scheduled in Appendix 1f (Schedule of Māori heritage sites inner islands) and none scheduled in Appendix 2f (Schedule of Māori heritage outer islands).
- 15.9. Part 7.13 of the HGI contains one objective, three policies and two rules. These rules state that all new ground disturbance, and toilets (including portaloos) or changing

facilities require Discretionary Activity resource consent approval within the scheduled sites. Several assessment matters against which to assess these resource consent applications are listed in the corresponding land units to guide planning assessments (refer to Part 10a.24.8 as an example).

- 15.10. There are broader objectives in Part 2.5.8 Māori of the HGI that apply generally. Some parts, such as Part 5.8 Network Utilities, make general reference to heritage values.

Provisions Proposed by PPC102 to the AUP(OIP)

- 15.11. PPC102 does not introduce any objectives, policies or methods into the plan but rather seeks to add an additional nine nominated sites into Schedule 12 of the AUP(OIP).
- 15.12. In addition, the 'importance to mana whenua' criterion is to be applied to two sites which are already scheduled as ONF under Schedule 6. The 'mana whenua' criterion is also being applied to two sites already listed in Schedule 14.1 as HHP. The name of one scheduled historic heritage place⁵⁷ is proposed to be amended. The planning maps are updated to reflect the scheduling.
- 15.13. Scheduling will result in the existing objectives, policies, rules and methods of the AUP(OIP) Section D21 - Sites and Places of Significance to Mana Whenua Overlay applying to the scheduled sites.
- 15.14. The Māori cultural heritage provisions contained within the broader RMA definition of 'Historic Heritage' are provided greater emphasis across the two newly annotated sites in the objectives and policies of the AUP Section D17 - Historic Heritage Overlay (in addition to the Section D21 provisions).
- 15.15. The existing Māori related objectives, policies and methods of the AUP Section D10 - Outstanding Natural Features Overlay will apply more explicitly to the two newly annotated sites (in addition to the Section D21 provisions).
- 15.16. There will also be greater recognition of the Māori cultural significance and values of the nine nominated sites addressed in the provisions of other sections of the AUP(OIP). A selection of these is listed in paragraph 15.4.

Effect of the Application of the AUP(OIP) Overlays D21, D17, D10

- 15.17. While the addition of the 'mana whenua criterion' to the HHP and ONF apply greater emphasis on the existing Māori cultural heritage provisions to some of the sites, the most notable change will be through the application of the Sites and Places of Significance to Mana Whenua Overlay provisions (D21). The Section D21 overlay does the following:
- a. It introduces a range of objectives and policies designed specifically to protect and enhance the identified sites, avoid significant adverse effects and manage adverse effects.
 - b. It applies Activity Table D21.4.1:

⁵⁷ Item 693 –Kaarearea Paa is proposed to be added to the existing name Ballards Cone Pā

- i. making **Disturbance in the Coastal Marine Area** a Discretionary Activity (the coastal provisions currently provide for a range of activity classifications from Permitted to a Discretionary Activity);
 - ii. making **Temporary Activities** a Restricted Discretionary Activity (these currently vary from Permitted to a Discretionary Activity on land);
 - iii. making **Any New Buildings and Structures a Discretionary Activity** (these are currently Permitted Activities for residential and rural zones subject to standards);
 - iv. making **Alterations and Additions to Existing Buildings where the Building Footprint is Increased** a Discretionary Activity (currently Permitted Activities for residential and rural zones subject to standards); and
 - v. making **Subdivision that results in a site or place of significance to mana whenua extending across multiple lots** a Discretionary Activity (currently Restricted Discretionary Activity to Non-Complying Activity depending on zone and lot size standards).
- c. It introduces standards and assessment criteria specific to the protection and enhancement of scheduled sites.

Effect of Scheduling in Other AUP(OIP) Sections

15.18. The scheduling has the net effect of bringing greater assessment weight on the Māori cultural values of sites and how proposed activities affect these values. Sections of the AUP(OIP) focused on the management of water, land, and the coastal environment, place a policy and rule emphasis on the protection and enhancement of identified SSMW. These would need to be considered as part of seeking a resource consent⁵⁸, a water or coastal permit, a designation, or plan change. Scheduling applies district Land Disturbance (E12), Infrastructure (E26), and Lakes Rivers and Streams (E3) provisions which are discussed as follows.

Land Disturbance E12

15.19. Activity Table E12.4.2 applies to all SSMW and introduces more stringent activity statuses for land disturbance of specified activities. It also removes any permitted level of earthworks for activities not otherwise provided for. Permitted Activity standards are more prescriptive for activities on SSMW.

Infrastructure E26

15.20. Section E26.6 – Network Utilities and Electricity Generation – Earthworks Overlays Except Outstanding Natural Features Overlay, and Section E26.10 - Network Utilities and Electricity Generation – Sites and Places of Significance to Mana Whenua contain specific infrastructure provisions applying to SSMW. They include activity tables prescribing more stringent activity statuses (Activity Tables E26.6.3.1 and E26.10.3.1). They also apply standards to these activities.

⁵⁸ In the case of Controlled and Restricted Discretionary activities, where the matters of discretion allow the consideration of cultural effects.

- 15.21. Waipapa Awa, is proposed to be subject to the 'site exception rule'. This rule applies to sites indicated with an asterisk within Schedule 12 and it denotes sites where it is acknowledged that while they contain intangible values associated with historic events, occupation, and cultural activities they no longer contain any physical evidence of their historic use due to their highly modified state⁵⁹.
- 15.22. Within the infrastructure section, the 'site exception rule' provides for a lower activity status of earthworks for service connections (Permitted Activity instead of Restricted Discretionary), and network utilities and electricity generation facilities not otherwise provided for (Restricted Discretionary Activity instead of a Discretionary Activity).

Lakes, Rivers and Streams E3

- 15.23. General permitted standard E3.6.1.1(7) states that: 'The activity must not destroy, damage or modify any sites scheduled in the Historic Heritage Overlay or the Sites and Places of Significance to Mana Whenua Overlay'. This applies to all Permitted Activities within Activity Table E3.4.1 of this section, thereby setting an additional regulatory test with respect to identified SSMW.

Net effect of scheduling in the AUP(OIP)

- 15.24. The net effect of the scheduling is that, while it does not prohibit activities within scheduled sites, it does raise the consenting threshold for parties seeking to obtain land use and subdivision consent within the sites, and for those parties seeking new water and coastal permits. It also adds greater weight to objectives and policies addressing Māori cultural heritage in the AUP(OIP).
- 15.25. For activities proposed to be adjacent to SSMW, where the AUP(OIP) allows discretion in the relevant standards, the effects of activities on the scheduled sites may also be considered in resource consent processes⁶⁰.
- 15.26. In the case of plan changes and designations, the presence of SSMW is likely to influence the consideration of proposals and notices of requirement. For SSMW located in rural areas, it is generally the preference of iwi to retain a rural zoning as opposed to allowing urban expansion which may affect such sites through subsequent development.

Provisions Proposed by PPM15 to the HGI

- 15.27. The five sites proposed for recognition and protection on Aotea/Great Barrier Island are generally in remote, steep, bush-clad areas. Some are privately owned and site visits and discussions with landowners have confirmed that the properties contain fences, walking tracks, and the occasional holiday dwelling.
- 15.28. As is discussed in Section 7 of this report, PPM15 proposes changes to the provisions of Part 7.13 of the HGI but not the objective and policies.

⁵⁹ Topic 037 Chloe Trenouth EIC. Appendix C.

⁶⁰ Auckland Council Resource Consents. Practice and Guidance Note – Considering mana whenua values in resource consent processes. RC 3.3.23(v1). Auckland Design Manual.

- 15.29. The changes serve two purposes. Firstly, to remove superfluous wording and employ the defined term of 'earthworks' (as opposed to 'ground disturbance'). This is to enhance the clarity and utility of the provisions.
- 15.30. Secondly, the changes provide some flexibility for earthworks for residential and farming maintenance activities on privately owned land as a Permitted Activity. This is to allow for reasonable use and essentially aligns the provisions more closely with the AUP(OIP). Additional dispensation is proposed for the following activities:
- Gardening for domestic purposes,
 - Earthworks for the maintenance and repair of fences and effluent disposal systems limited to areas and ground depths which have previously been disturbed or modified,
 - Earthworks for the maintenance and repair of existing farming, walking and cycling tracks limited to areas and ground depths which have previously been disturbed or modified, and,
 - Earthworks for the operation, maintenance and repair of driveways and parking areas limited to areas and ground depths which have previously been disturbed or modified.
- 15.31. An assessment of the proposed amendments to the provisions of Part 7.13 is included from paragraph 7.7 of this report and a copy of the marked up provisions is included in Attachment 1.

Effect of scheduling in the HGI

- 15.32. Apart from the earthworks exemptions listed above, scheduling of the five sites as MHS will result in the following:
- a. The objectives of Part 2.5.8 - Māori of the HGI will apply to the scheduled sites,
 - b. Network utility activities for which Discretionary Activity resource consent would be sought under Part 5.8 Network Utilities will require greater consideration of the Māori cultural heritage values of the scheduled sites,
 - c. The provisions of Part 7.13 - Māori Heritage will apply to the scheduled sites. This applies one objective and three policies to recognise and protect the sites. Earthworks and stand-alone toilet or changing facilities are regulated as Discretionary Activities (with some exemptions). Several assessment matters against which to assess Discretionary Activity resource consent applications under this rule are listed in Part 7.13.4,
 - d. The General Rules provisions of Part 4 will apply a Discretionary Activity status to Temporary Activities, Lighting and Signs on the scheduled sites. This part of the HGI also introduces several assessment matters against which these Discretionary Activities would be assessed, and,
 - e. There will no longer be any permitted level of earthworks within the scheduled sites (other than the activity exemptions listed).

Net effect of scheduling in the HGI

- 15.33. The net effect of PPM15 is to place greater restrictions on two specific activities and three general activities within the scheduled sites, namely the establishment of stand-alone toilets or changing facilities, earthworks, temporary activities, lighting and signs. It will also place greater emphasis on the objectives and policies throughout the plan which address Māori cultural heritage when considering applications affecting the scheduled sites.

16. Immediate Legal Effect of the Provisions

- 16.1. When deciding the date on when a plan change takes effect, the RMA provides in section 86B(3) that:

“A rule in a proposed plan has legal effect only once a decision on submissions relating to the rule is made and publicly notified”

Exceptions are provided for in 86B(3) where:

A rule in a proposed plan has immediate legal effect if the rule—

- (a) protects or relates to water, air, or soil (for soil conservation); or*
- (b) protects areas of significant indigenous vegetation; or*
- (c) protects areas of significant habitats of indigenous fauna; or*
- (d) **protects historic heritage**; or*
- (e) provides for or relates to aquaculture activities.*

[emphasis added]

- 16.2. In accordance with Section 86B(3) of the RMA, PPC102 and PPM15 have immediate legal effect. The addition of SSMW into Schedule 12 of the AUP(OIP) and MHS to Appendix 1f of the HGI protect historic heritage as they are sites of significance to Māori, including wāhi tapu sites.

17. Conclusion

- 17.1. The purpose of the plan changes is to recognise and protect the tangible and intangible Māori cultural values of 12 sites and places within Tāmaki Makaurau to provide for the relationship of mana whenua with their cultural heritage.
- 17.2. The sites have been nominated by mana whenua entities participating in the MCHP. Cultural evidence has been provided by six mana whenua entities to substantiate the current and ongoing cultural relationship they have with these sites. The nominated sites cover a range of environments within Tāmaki Makaurau and are variable in the values they recognise and protect. They also vary in terms of their planning histories and existing plan provisions which apply.

- 17.3. The ability for mana whenua to be involved in, and influence resource management decisions that affect their cultural heritage is important in allowing them to exercise their rangatiratanga and kaitiakitanga under Te Tiriti o Waitangi. A partnership approach is the preferred option of mana whenua when working with landowners and key stakeholders to reach mutually beneficial solutions to resource management issues.
- 17.4. The costs and benefits of applying planning regulation to public and private property covered by the 12 nominated extents has been examined where it is concluded that the significant cultural benefit of recognition and protection outweighs the additional costs which may be incurred.
- 17.5. The evaluation demonstrates that formal recognition and protection of the land and coastal marine extents of the 12 nominated sites in these plan changes as proposed in Attachment 1 of this report is the most efficient and effective way to achieve the purpose of the RMA.

18. List of Attachments

Attachment 1: Proposed Plan Changes

Attachment 2: Nominated Site Extents

Attachment 3: Cultural Values Assessments

Attachment 4: Evaluations of Options by site

Attachment 5: Archaeological reports by site

Attachment 6: Supporting information for ONF and HHP scheduling

Attachment 7: Site Photos

Attachment 8: Nominated and Recommended Site Extents

Attachment 9: Assessment Against the Auckland Regional Policy Statement

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