

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



Proposal

To rezone properties at 144, 152, 158, 180 and 252 Park Estate Road, Hingaia and make changes to the Hingaia 1 Precinct provisions. The rezoning relates to changing the zone of land from Residential Mixed Housing Suburban zone to Residential Mixed Housing.

This plan change is **APPROVED** with modifications to that notified. An Executive Summary and full reasons for **APPROVING** the plan change are set out below.

Private Plan Change:	67 - Hingaia 1 Precinct
Applicant:	Hugh Green Limited
Hearing commenced:	Tuesday, 1 February 2022, 9.30 a.m.
Hearing panel:	William Smith (Chairperson) Rebecca Skidmore Mark Farnsworth MNZM
Appearances:	<p><u>For the Applicant:</u> Ms Asher Davidson, Legal Counsel Mr Aaron Green, Planning Mr Nicholas Rae – Urban Design Mr Leo Hills – Transportation Mr Ryan Pitkethley - Engineering Mr Patrick Gavaghan and William Platts, Corporate</p> <p><u>For the Submitters:</u> Firstgas Limited represented by - Mr Graeme Roberts (Planning) Auckland Transport represented by - Mr Chris Freke and Teresa George (Corporate) - Mr Trevor Mackie (Planning) - Mr Martin Peake (Transport Engineering)</p> <p>Papakura Local Board represented by - Mr Brent Catchpole, Chair - Ms Jan Robinson, Deputy Chair</p> <p>Auckland Council (as submitter) represented by - Ms Alina Wimmer (Planning) - Mr Rowan Ashton (Legal submissions)</p>

	<p><u>For Council (as regulator):</u> Mr Craig Cairncross, Team Leader Mr David Wren, Planner Mr Andrew Temperley, Traffic Engineer Mr Matt Riley, Urban Designer Ms Fiona Davis, Ecologist Mr Trent Sunich, Stormwater Engineer Ms Lea Vanheerden, Parks Planner</p> <p>Mr Nick Somerville, Hearings Advisor</p> <p><u>Tabled Statements:</u> Transpower – Ms Trudi Burney Senior Environmental Planner, 25 February 2022</p> <p>Waka Kotahi New Zealand Transport Agency, Mr Kevin Fleckney Principal Traffic Engineer, 3 February 2022</p>
Hearing adjourned	10:48am, Tuesday, 8 March 2022
Commissioners’ site visit	22 February 2022
Hearing Closed:	4 April 2022

EXECUTIVE SUMMARY

1. We have set out at a ‘high level’ the key matters in this Executive Summary to provide ‘context’ when reading the substantive part of the decision. Other matters are also addressed that are not included in the Executive Summary.
 - We have approved the Plan Change with amendments.
 - The Plan Change will give effect to the National Policy Statement on Urban Development (**NPS-UD**). It also gives effect to the Regional Policy Statement (**RPS**) in terms of B2 – Urban Growth and Form and B3 – Infrastructure, transport and energy. The amended precinct provisions are appropriate, workable and will ensure transport infrastructure improvements are addressed if a specified development threshold is breached.
 - Stormwater – our decision is that the SMAF2 control(s) should apply to the Precinct.
 - Coastal Margin – our decision is to adopt the alternative provisions offered by the applicant (and supported by Ms Wimmer) as our view is that they strike a reasonable balance between recognising the risks and enabling growth.
 - Gas Pipeline – we have not agreed to include a 40 metre-wide corridor in PC67 but have agreed with the applicant that the gas-line should be shown on the Precinct Plan in its existing location (but not subject to any further controls).

- MDRS – our finding is that the MDRS should not be included in PC67.

INTRODUCTION

2. The private Plan Change request was made under Clause 21 of Schedule 1 to the Resource Management Act 1991 (**'RMA'**) and was accepted by Auckland Council (**"the Council"**), under clause 25(2)(b) of Schedule 1 to the RMA on 2 July 2021
3. A report in accordance with section 32 and 32AA (in relation to the changes sought) of the RMA was prepared¹ in support of the proposed plan change for the purpose of considering the appropriateness of the proposed plan change and its precinct provisions.
4. This decision is made on behalf of the Auckland Council (**"the Council"**) by Independent Hearing Commissioners William Smith (Chairperson), Rebecca Skidmore and Mark Farnsworth appointed and acting under delegated authority under sections 34 and 34A of the RMA.
5. The Commissioners have been delegated the authority by the Council to make a decision on Plan Change 67 (**"PC 67"**) to the Auckland Council Unitary Plan Operative in Part (**"AUP OP"**). In making our decision we have considered all of the material put before us, including: the application, all of the submissions, the section 32 and 32AA evaluations, the Section 42A report (prepared by **Mr David Wren**, Consultant Planner), the Joint Witness Statements of Experts², opening legal submissions, expert and lay evidence, tabled material and closing reply evidence and closing legal submissions.

EXISTING PLAN PROVISIONS

6. The Section 42A Report³ provides a useful summary of existing zoning provisions (Figure 1 below):

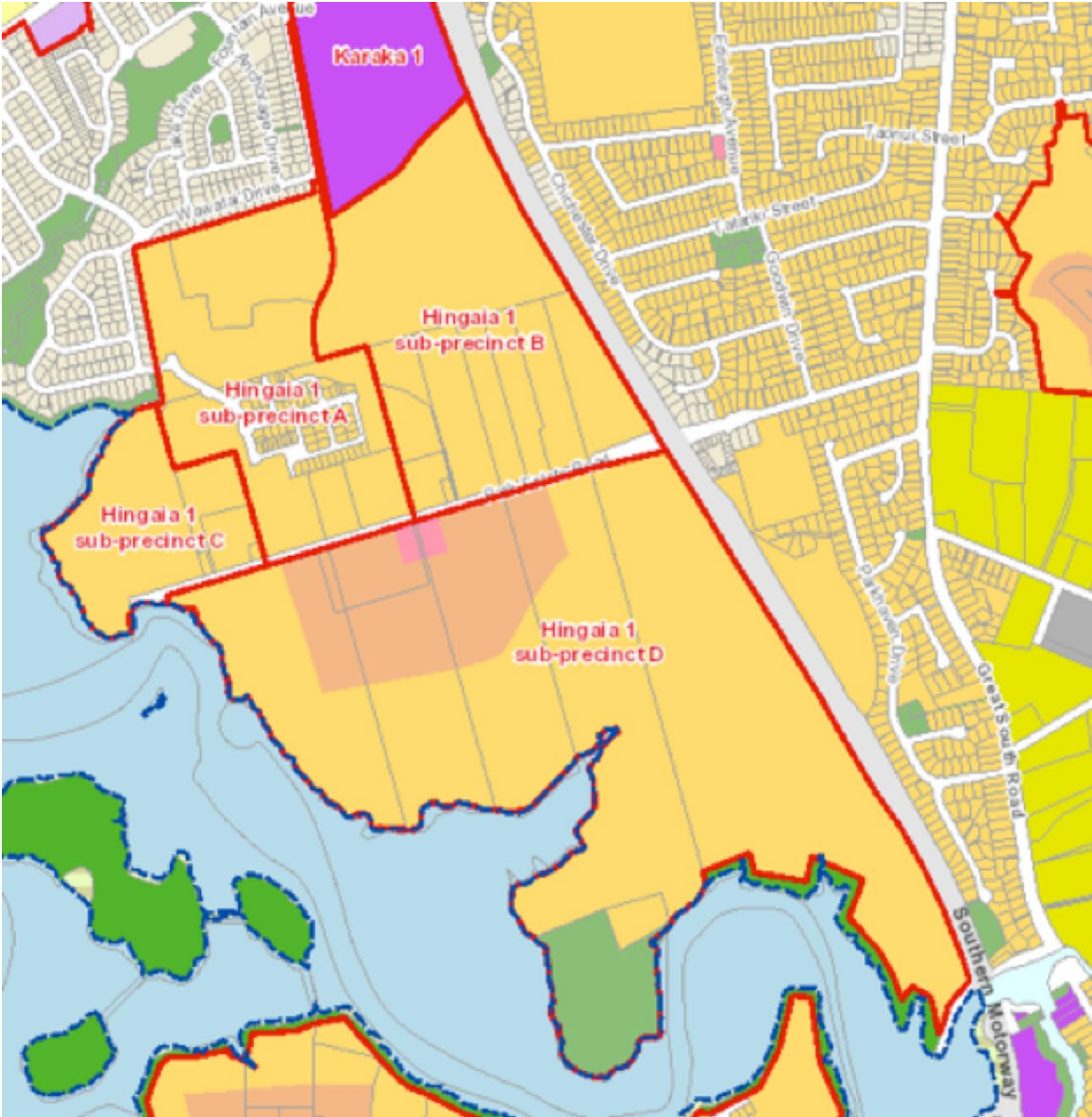
"With the exception of an 8000m² area of Business – Neighbourhood Centre zone halfway along Park Estate Road, all of the Precinct is subject to an urban residential zone, the majority of which is Residential – Mixed Housing Suburban zone (MHS) with a smaller area of Residential – Mixed Housing Urban zone (MHU) located around the neighbourhood centre land".

¹ *Hugh Green Limited – Request for a change to the Auckland Unitary Plan Operative in Part - Hingaia 1 Precinct* May 2021, Aaron Grey CivilPlan Consultants Limited (**Plan Change Request**)

² The following Joint Witness Statements of experts was pre-circulated: Joint Witness Statements (JWS) in Relation to Planning (1 February 2022) & Planning and Transportation (3 February 2022)

³ Section 42A Report at [13]

Figure 1: Current Zoning



SUMMARY OF PLAN CHANGE AS NOTIFIED AND AS AMENDED BY THE APPLICANT

7. The proposed Plan Change is described in detail in the Applicant's Plan Change Request⁴ and in the Council's section 42A hearing report⁵; Figure 2 shows the requested Precinct Plan and Figure 3 depicts the requested zoning.

Figure 2: Requested Precinct Plan

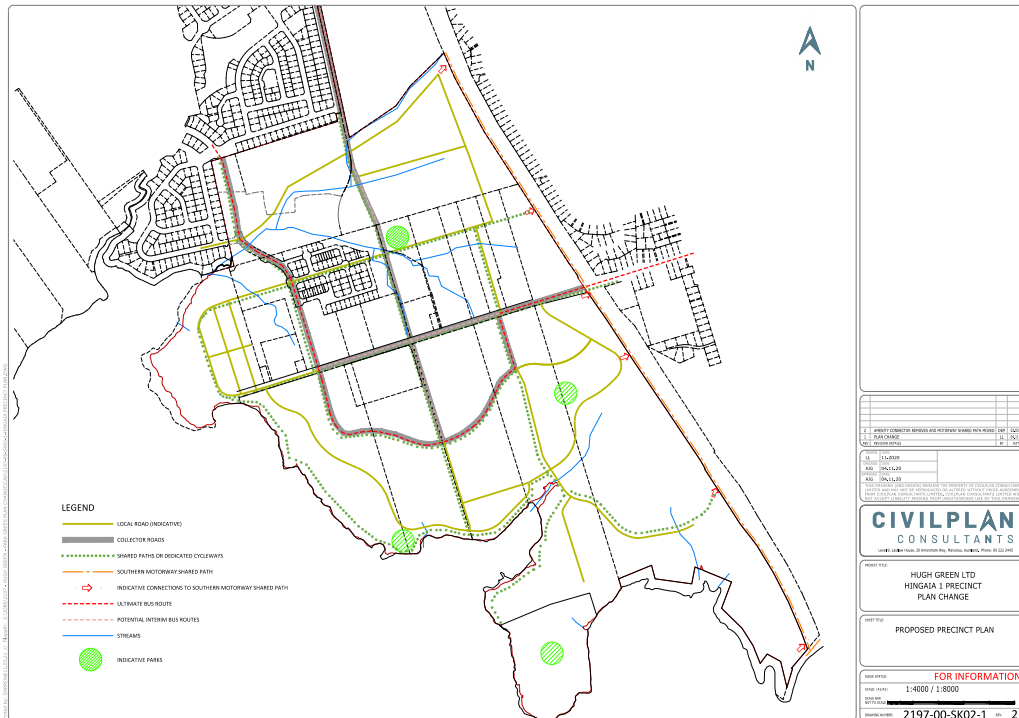
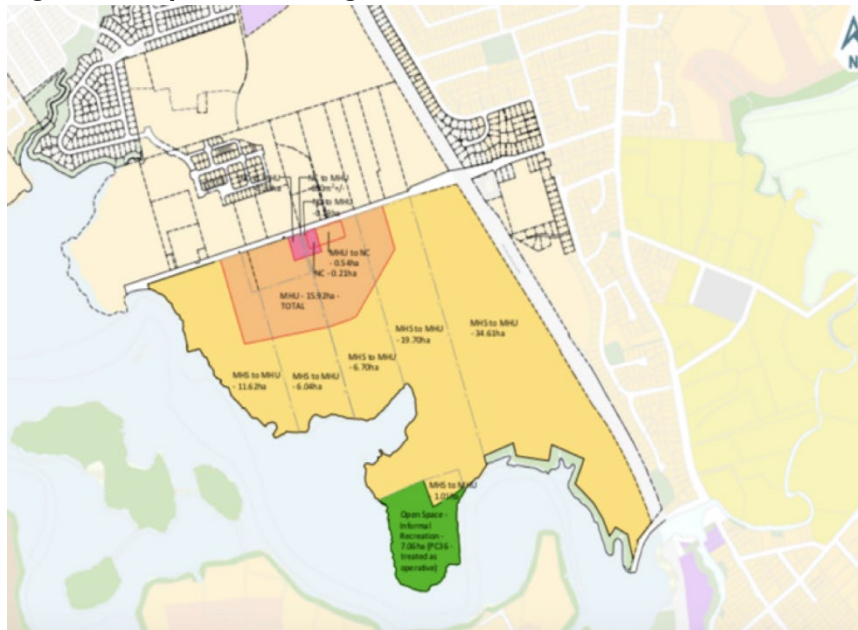


Figure 3: Requested Zoning



⁴ Plan Change Request in Section 3

⁵ Section 42A at Section 2

8. The Plan Change Request records⁶:

“The scope of the plan change request by Hugh Green Limited is confined to:

- *Changes to the text of the Hingaia 1 Precinct; and*
- *The zoning of the properties at 144, 152, 158, 180, 200, 202 and 252 Park Estate Road (or any future sites resulting from subdivision of these properties)”.*

9. In summary the applicant proposes:

a. In terms of Residential Zoning and Activities

- Rezoning those parts of the properties at 144, 152, 158, 180 and 252 Park Estate Road currently zoned MHS to MHU.
- Changing the Hingaia 1 Precinct provisions:
 - i. to promote higher densities by enabling increased development opportunities,
 - ii. that would enable limited use of the MHU alternative height in relation to boundary standard as a permitted activity within the applicant’s land holding.
- Removal of the Precinct development control for fencing (with the zone standard still being applicable).

b. In terms of Commercial Zoning and Activities

- Rezoning parts of the properties at 180, 200 and 202 Park Estate Road in order to relocate the Neighbourhood Centre zone to be wholly within 180 Park Estate Road.
- Amend Precinct provisions.

c. In terms of Coastal and Reserve Interface Provisions

- Amend Precinct provisions.

d. In terms of Other Provisions

- Amend Precinct provisions.

e. Ensure consistency with the Auckland Unitary Plan (Operative in Part) (**AUP:OP**)

⁶ Plan Change Request at [3.1]

- f. Ensure Consistency with Hugh Green Limited's Resource Consent Master Planning Exercise.
10. The purpose of, and the reasons for, PC 67 were outlined in detail the Plan Change Request⁷ with the Applicant noting there were 30 themes⁸ driving the Plan Change. The Section 42A Report provided⁹ a summary:
- The reasons given by the applicant for the plan change request include the following:*
- (a) There have been a number of resource consents granted;*
 - (b) There are some difficulties with the Hingaia 1 Precinct provisions partly due to the fact that the provisions reference the Proposed Auckland Unitary Plan Notified Version (PAUP:NV) rather than the AUP:OP;*
 - (c) A number of deviations from the Hingaia 1 Precinct provisions have been agreed by council. These relate to how stormwater should be managed, the roading layout, bus routes, road cross-sections and the location of parks.*
 - (d) The designation of part of the land for a school by the Minister of Education; and*
 - (e) The developable area has been reduced through park acquisition, the school designation, the road widening of SH1, and wetland restoration.*
11. The Applicant's Opening Legal Submissions noted Hugh Green's witnesses had recommended alterations to the PC 67 provisions taking into account the concerns expressed by the Council (as regulator), submitters and responding to issues. The changes are discussed further below.

THE SITE AND SURROUNDING ENVIRONMENT

12. The Plan Change Request¹⁰ provides a site description of the Plan Change area and the local context. The plan change request relates to all properties that are subject to the Hingaia 1 Precinct; most specifically to the following properties, which are proposed to be subject to rezoning:
- 144 Park Estate Road;
 - 152 Park Estate Road;
 - 158 Park Estate Road;
 - 180 Park Estate Road;
 - 200 Park Estate Road;
 - 202 Park Estate Road; and
 - 252 Park Estate Road.

⁷ Plan Change Request at [3.2]

⁸ Plan Change Request at [3.2.1 – 3.2.20]

⁹ Section 42A Report at [19]

¹⁰ Plan Change Request at [2.1]

13. The Plan Change Requests records:

“The Hingaia 1 Precinct totals a land area of approximately 185 ha, located to the southwest of the Papakura Metropolitan Centre. The area is bordered to the east by the Southern Motorway (between the Papakura and Drury interchanges), to the north by the established Karaka Lakes development and Karaka Bloodstock centre and to the southwest by the meanders of the Drury Creek, which forms part of the coastal marine area and drains to the Manukau Harbour (to the north). Across the Drury Creek to the south of the site is the emerging residential neighbourhood of Auranga.

The precinct area is bisected by Park Estate Road, running east to west from a bridge over State Highway 1. This road has recently been upgraded to an urban collector road standard, including construction of a separated cycle way, although no upgrades have yet to be undertaken to the bridge over the Southern Motorway (to be completed by NZTA alongside works to widen the motorway).

Park Estate Road currently is the sole access point for the majority of the sites within the Hingaia 1 Precinct. However, the northernmost sites within Hingaia 1 Precinct have no access to Park Estate Road, instead having access from roads in the Karaka Lakes development to the north”.

14. Our site visit confirmed the Plan Change area is currently being progressively developed.

NOTIFICATION PROCESS AND SUBMISSIONS

15. PC 67 is a private plan change that has been prepared following the standard RMA Schedule 1 process (that is, the plan change is not the result of an alternative, 'streamlined' or 'collaborative' process as enabled under the RMA).
16. The plan change was publicly notified on 26 August 2021 following a feedback process involving Iwi, as required by Clause 4A of Schedule 1. Notification involved a public notice as well as letters to directly affected landowners and occupiers alerting them to the plan change. The latter step was aimed at ensuring that landowners and occupiers of properties affected by potentially significant changes were made aware of the changes.
17. The date for lodging submissions closed on 23rd September 2021. Forty-five submissions were received¹¹. The submitters and their submissions are addressed in the tables in section titled “Decisions” later in this decision.
18. The summary of decisions requested was notified on the 18 November 2021 with the closing date being 2 December 2021. Five further submissions were received¹².

¹¹ Section 42A Report at Appendix 4

¹² Section 42A Report at Appendix 4

19. The Section 42A Report provided comprehensive tabulations¹³ of the issues raised by the submitters in their submissions and further submission; and the relief sought. In summary, submissions addressed:
- Supporting PC67 in its entirety;
 - Opposing PC67 in its entirety;
 - Submissions seeking PC67 be rejected on security grounds;
 - Submissions seeking PC67 be rejected because of increased density;
 - Traffic and Transportation;
 - Approval of different zone;
 - Services and infrastructure;
 - Natural Environment;
 - Affordable Housing;
 - Transmission Infrastructure;
 - Plan Provisions; and
 - Commercial Provisions.
20. We address the submitters concerns in some detail below. Of particular significance to this decision are our findings in relation to the submissions of Auckland Transport (**AT**) and Auckland Council as a submitter (**ACS**), who, as their initial position, conditionally opposed the grant of PC 67. As a result of constructive caucusing between expert witnesses for various parties, by the conclusion of the formal hearing process their position modified, to one of conditional support as long as precinct provisions were amended to ensure that the required transport infrastructure upgrades are addressed if specified density thresholds are breached.

SECTION 42A – OFFICERS RECOMMENDATION

21. In preparing the Section 42A Report Mr Wren was assisted by the following ‘technical inputs’ from the following experts:

Matter	Reviewing specialist
Stormwater	Mr Trent Sunich
Urban Design	Mr Matt Riley
Ecology	Ms Fiona Davies
Transportation	Mr Andrew Temperley
Open Space	Mr Lea van Heerden

¹³ Section 42A Report at Section 10

22. Mr Wren provided a 'qualified recommendation' in his Section 42A Report; he noted¹⁴:

“My overall conclusion is that the impacts of PC67 particularly in respect of traffic matters are not yet fully understood and additional work is required to show that the adjoining transport network is adequate for the additional traffic likely to be generated from the Precinct following the changes. Work is also required to more fully identify streams and wetlands in accordance with the NES:FW. At this time therefore I cannot recommend that PC67 be approved.

If, however the wider impacts of PC67 can be managed, then subject to the changes set out in Appendix 5 to this report PC67 can be approved”.

23. Mr Wren, in addressing his Section 42A recommendation at the final day of the hearing,¹⁵ modified his recommendation (in line with ACS and AT) to one of conditional support as long as precinct provisions were amended to ensure that the required transport infrastructure upgrades are addressed if specified density thresholds are breached.

LOCAL BOARD COMMENTS

24. The section 42A Report provides¹⁶ a full summary of the Papakura Local Board comments. The Board Chairperson **Mr Brent Catchpole** (supported by **Ms Jan Robinson**, Deputy Chairperson) used a 'PowerPoint presentation' to highlight their key points in relation to:

- Planning for good community outcomes;
- Parks & Reserves;
- Road widths, parking, cycleways and connectivity;
- Public transport;
- Traffic congestion in the area;
- Neighbourhood centre;
- Affordable housing; and
- Stormwater

25. To the extent we are able, and in the context of submissions to PC 67, we have had regard to the views of the Board.

EXPERT CONFERENCING

26. Following the close of the submission period, we directed that expert conferencing on planning and transportation be facilitated. This occurred on the 1st (planning) and 3rd (joint planning and transportation) February 2002.

¹⁴ Section 42a Report at Section 12

¹⁵ Dated on 19 November 2021

¹⁶ Section 42A Report at Section 7

27. We found that the outcome of expert conferencing was extremely constructive in both narrowing and resolving issues associated with planning and transportation.¹⁷ In this regard ACS's Planner Ms Wimmer recorded:

"In my view the pre-hearing expert conferencing has considerably narrowed the range of live issues in dispute between the parties".

HEARING AND HEARING PROCESS

28. The Hearing for PC 67 commenced on Monday 7 March 2022 and was adjourned on Tuesday 8 March 2022. Due to the COVID 19 restrictions the hearing was held by Remote Access (audio visual means via *Teams*). We appreciate the way everyone conducted themselves.
29. Prior to the hearing, all the Commissioners visited the Site and the local surroundings on 22 February 2022.

RELEVANT STATUTORY PROVISIONS

30. The RMA sets out an extensive set of requirements for the formulation of plans and changes to them. These requirements were set out in the Section 42A Report¹⁸ and legal submissions.
31. The Applicant, in its Private Plan Change Request¹⁹, provided an evaluation pursuant to section 32, and the additional information (Clause 23) requested by the Council.
32. We do not need to repeat contents of the Plan Change Request with its Section 32 Assessment Analysis²⁰ in any detail, as we address the merits of those below. We accept the appropriate requirements for the formulation of a plan change have been comprehensively addressed in the material before us. However, in its evidence and at the hearing, we note that the Applicant proposed amendments²¹ to the precinct provisions in response to concerns raised by the Council and Submitters.
33. We also note that the Section 32 Assessment Report clarifies that analysis of efficiency and effectiveness of the plan change is to be at a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal. Having considered the application and the evidence, we are satisfied that PC 67 has been developed in accordance with the relevant statutory requirements.

¹⁷ We thank all of the participants who took part in expert conferencing, which in our view made the hearing process and Plan Change outcome much more efficient and effective. We are grateful to and thank Ms Oliver, Independent Facilitator, for being able to 'bring the parties together' as much as possible.

¹⁸ Section 42A Report at [4.1.3]

¹⁹ Request for Plan Change – at Section 11

²⁰ Request for Plan Change – at Section 5

²¹ Mr Grey's Evidence-in-Chief at [21.1]

34. Clauses 10 and 29 of Schedule 1 require that this decision must include the reasons for accepting or rejecting submissions. We address these matters below, setting out our reasons for accepting or rejecting the submissions.
35. Section 32AA of the RMA requires a further evaluation for any changes that are proposed to the notified plan change after the section 32 evaluation was carried out²². This further evaluation must be undertaken at a level of detail that corresponds to the scale and significance of the changes²³. In our view this decision, which among other thing, addresses the modifications we have made to the provisions of PC 67 satisfies our section 32AA obligations.
36. In Section 4, the Section 42A Report²⁴ set out the relevant policy framework which must be considered and provided a summary analysis of the proposal against the relevant provisions. The Plan Change Request also provided an analysis of the applicable statutory documents. We do not intend to repeat those analyses here.
37. The relevant provisions are found in:
- The National Policy Statement on Urban Development 2020 (NPSUD);
 - The National Coastal Policy Statement 2010;
 - The National Policy Statement on Freshwater Management 2020 (NPSFM);
 - The National Policy Statement on Electricity Transmission 2008 (NPSET);
 - Auckland Unitary Plan Regional Policy Statement (RPS); and
 - Auckland Unitary Plan (AUP OP).
38. We address both the NPS: UD and RPS in more detail later in this decision as a submission²⁵ raised issues whether the plan change gives effect to the NPS: UD and RPS. We also address the issue of incorporating the MDRS into PC67 later in this decision.

Other Plans and Strategies

39. Both the Plan Change Request²⁶ and the Section 42A Report²⁷ noted that Section 74(2)(b)(i) of the RMA requires that a territorial authority must have regard to plans and strategies prepared under other Acts when considering a plan change. The Auckland Plan 2050, prepared under section 79 of the Local Government (Auckland Council) Act 2009, is a relevant strategy document that the Council should have regard to when considering PC67.
40. There was general agreement that PC67 is generally consistent with the Auckland Plan.

²² RMA, section 32AA(1)(a)

²³ RMA, section 32AA(1)(c)

²⁴ Section 42A Report at [4.2 – 4.5]

²⁵ Ms Wimmer Evidence-in-chief at Section 8

²⁶ Plan Change Request at [6.2]

²⁷ Section 42A Report at [4.6]

FINDINGS AND REASONS FOR APPROVING THE PLAN CHANGE

41. The following section addresses our overall findings on PC 67 and why we have approved it; having heard and considered all of the material and evidence before us.
42. At the hearing we had written statements of evidence placed before us from: Auckland Council as submitter (**ACS**); Auckland Transport; First Gas; Transpower and Waka Kotahi. These parties requested a number of specific and detailed changes to the precinct provisions. Many of these were addressed by the Applicant's Planner Mr Aaron Grey in his Evidence-in Chief. Where Mr Grey accepted them, they were incorporated into a subsequent iteration of the precinct provisions²⁸. Mr Grey in his Rebuttal Evidence²⁹ suggested a number of additional changes to the Hingaia 1 Precinct text to give comfort to ACS and AT. Mr Grey did not recommend further amendments after reviewing submitters' evidence.³⁰ The changes not supported by the Applicant were also addressed in Mr Grey's evidence.
43. We have specifically addressed the matters raised in the hearing evidence. We have considered the changes sought that we considered were significant in the context of this decision. Where they have not been specifically addressed, the provisions we have accepted are those in the precinct provisions attached to this decision. They are, in the vast majority of cases, those recommended by the Applicant's planner Mr Grey for the reasons set out in his evidence (and addressed in the Applicant's legal submissions).
44. We also address the submissions received to PC 67 and the relief sought in those submissions. In this respect, in accordance with Clause 10(2) of the RMA, we have grouped together those submissions under the headings that were used in the Section 42A report for consistency.
45. With respect to further submissions, they can only support or oppose an initial submission. Our decisions, on the further submissions reflects our decisions on those initial submissions having regard, of course, to any relevant new material provided in that further submission. For example, if a Further Submission supports a submission(s) that opposes the Plan Change and we have recommended that the initial submission(s) be rejected, then it follows that the Further Submission is also rejected.
46. We also note that we must include a further evaluation of any proposed changes to the Plan Change arising from submissions; with that evaluation to be undertaken in accordance with section 32AA of the RMA. With regard to that section, the evidence presented by the Applicant, Submitters and Council Officers and this report, including the changes we have made, effectively represents that assessment. All the material needs to be read in conjunction with this decision report where we have determined that changes to PC 67 should be made.

²⁸ Mr Grey Evidence-in Chief Appendix 1 -4

²⁹ Mr Grey Rebuttal Evidence at [4.33]

³⁰ Mr Grey Rebuttal Evidence at [8.1]

Reasons for the Plan Change Proposal

47. We accept the Applicant's rationale for seeking to change the AUP (OP) and rezoning of the site from MHS to MHU. This was detailed in the Application³¹, evidence³² and the Applicant's legal submissions³³.
48. For the reasons that follow, it is our view that the provisions of PC 67 (as we have determined them) are more efficient and appropriate in terms of the section 32 and section 32AA of the RMA analysis than those currently in the AUP (OP) and satisfies the Part 2 provisions of the RMA. We address these matters below.
49. In addition to the position set out by the Applicant's planner and in the section 42A report, to provide a context to our commentary below we have set out the various other planners'(for submitters) positions:

Ms Wimmer³⁴ (Planner ACS):

"In my view the pre-hearing expert conferencing has considerably narrowed the range of live issues in dispute between the parties. Provided the outstanding matters can be resolved, I do not consider that PPC 67 should necessarily be declined in its entirety. In my opinion, for PPC 67 to proceed, it should be supported by a more realistic yield assumptions, modelling to assess the potential transport network impacts at those higher yields, identify and confirm a funding and finance solution for transport infrastructure, and seek to better manage the coastal erosion and minimum lot size issue. If these matters are not resolved, then in my opinion the PPC should be declined".

Mr Mackie³⁵ (Planner AT):

"Overall, it would be difficult at this stage to maintain the relief sought of declining the plan change. However, if it is to proceed it should be supported by more realistic yield assumptions for the MHU zone, modelling to assess potential transport network impacts at those higher yields and management of those risks within the precinct provisions."

Mr Wren³⁶ (Section 42A Report):

"My overall conclusion is that the impacts of PC67 particularly in respect of traffic matters are not yet fully understood and additional work is required to show that the adjoining transport network is adequate for the additional traffic likely to be generated from the Precinct following the changes. Work is also required to more fully identify streams and wetlands in accordance with the NES:FW. At this time therefore I cannot recommend that PC67 be approved."

³¹ Plan Change Request at [3.2]

³² Mr Grey Evidence-in Chief Section 3

³³ Ms Davidson Opening legal Submissions at [5 -10]

³⁴ Ms Wimmer Evidence-in-chief at [B]

³⁵ Mr Mackie Evidence-in-chief at [49]

³⁶ Section 42A Report at [304 – 305]

If, however the wider impacts of PC67 can be managed, then subject to the changes set out in Appendix 5 to this report PC67 can be approved.”

The Panel’s Decision-Making Focus

50. We heard legal advocacy from legal counsel for the Applicant³⁷ (Ms Asher Davidson) and ACS (Mr Rowan Ashton), as to the appropriate focus the panel should take in terms of its decision-making. The Applicant’s Legal Counsel pointed out to us:

“What is potentially different about this plan change, as opposed to many, is that the land is already zoned for urban purposes. PC67 is not a greenfields plan change”.³⁸

“The difference between what is proposed by PC67 and what applies under the status quo is therefore more subtle. When applying the statutory tests, the required focus is the change made by PC67 to what can already occur under the operative provisions, and not the change from a ‘bare land’ situation³⁹”.

“This is an important point to bear in mind as the Commissioners consider the submissions and the evidence before you. Much of the relief sought by lay submitters is aimed at preserving a situation that no longer exists in a planning sense, in that they wish to retain the rural nature of the area⁴⁰”.

“To the extent that submissions seek to remedy perceived existing issues with the Precinct, they misunderstand the scope of the Commissioners’ task at this hearing⁴¹”.

“Auckland Council and Auckland Transport both seek relief related to the effects of traffic from the PC67 area on roading infrastructure that appear to go well beyond effects of the change resulting from PC67⁴²”.

51. Mr Ashton advocated⁴³:

“The Courts have long recognised that it is bad resource management practice and contrary to the purpose of RMA to zone land for development where the necessary infrastructure does not exist and there is no commitment to provide it.

Further matters concerning the funding and timing of infrastructure are directly related to decisions on zoning and not secondary consideration”.

“Caselaw should inform the Panel’s consideration of the transportation infrastructure integration issues that are raised by ACS and AT.”

³⁷ Ms Davidson Opening legal Submissions at [11 – 19]

³⁸ Ibid at [12]

³⁹ Ibid at [13]

⁴⁰ Ibid at [15]

⁴¹ Ibid [16]

⁴² Ibid at [19]

⁴³ Mr Ashton Opening Legal Submissions at section 3

52. Ms Davidson suggested that Mr Ashton was disagreeing that the appropriate focus for the Commissioners is the difference between effects that can be generated under the operative provisions and what could be generated under the provisions as proposed. Rather Mr Ashton was suggesting that the Commissioners are not so limited and have jurisdiction to impose controls on effects that would equally be able to be generated under the existing provisions.
53. Mr Ashton referred us to the *Laidlaw College Inc v Auckland Council* decision. We accept our considerations should be informed by caselaw and we agree with the general proposition that a Requestor is not required to resolve existing infrastructural problems neither should it add significantly to them. We also accept the roading network immediately around the site will need to be considered, but equally, depending on the nature of the roading network and potential for flow-on effects, a wider consideration of the network may be appropriate depending on the case.
54. In essence we concur with the advocacy of Ms Davidson that the appropriate focus for us is the difference between effects that can be generated under the operative provisions and what could be generated under the provisions as proposed.

Will the change in zoning impact on residential yield – density?

55. Ms Davidson in her Opening legal Submissions⁴⁴ succinctly highlighted the key matter we needed to address:

“What difference does PC67 make to potential residential yield?

That is a crucial lens through which to consider the primary outstanding issue as between HGL on the one hand, and Auckland Council, both as submitter and regulator, and Auckland Transport on the other, which is the issue of residential yield.

In short, Council and Auckland Transport say that PC67 has the potential to generate a residential yield of upwards of 3000 dwellings”.

“If the Commissioners find the changes to the precinct provisions ‘unlock’ the ability to deliver additional yield, then that needs to be assessed.”

56. Ms Davidson suggested there should be three crucial elements to our enquiry⁴⁵:
- *What residential yield can be achieved under the operative provisions?*
 - *What greater residential yield might be achieved if PC67 is approved? And*
 - *What are the effects of the difference in yield?*

⁴⁴ Ibid at [20 – 23]]

⁴⁵ Ms Davidson Opening Legal Submissions at [22]

57. We received considerable and differing evidence on the potential residential yield for the PC area. Ms Wimmer reminded us of the importance of changing residential yield and how it is used by asset owners:

“Council, Auckland Transport and NZTA must plan for network upgrades based on what housing development will likely be achieved over time”⁴⁶.

The Applicant’s Integrated Transport Assessments (ITAs), Water and Wastewater Strategies and Stormwater Management Plans (SMPs) are used as the basis for staff to develop business cases for bulk infrastructure upgrades and financial planning purposes. They all rely on accurate and consistent estimates of future dwellings to be serviced⁴⁷.

58. The Applicant’s Urban Designer Mr Nicholas Rae told⁴⁸ us the proposed change will provide for greater densities and a range of living environments. Mr Aaron Grey, the Applicant’s Planner opined⁴⁹:

“Given that the site already provides for a form of medium density residential development, the Auckland-wide provisions of the AUP still apply and, in my view, PC67 will not directly increase the anticipated number of dwellings – only the form, scale and appearance of such dwellings will change. The scale of the potential effects generated as a direct result of PC67 (when compared to the operative provisions), including traffic, infrastructure, noise and safety effects and effects on the natural environment, are expected to be minimal”.

59. Auckland Transport’s Planner Mr Trevor Mackie provided us with detailed evidence on yield; his ‘executive summary⁵⁰ is a useful overview of what he presented to us:

“Yield assumptions are too low for the MHU zone, at 1660 dwellings. The Applicant’s yield assumptions do not reflect what can and is being developed on sites within this zone. My assessments used the Auckland Design Manual model solutions for terraced housing and apartment developments in the MHU zone, and compared them to a subdivision scenario and a volumetric building floorspace scenario from comprehensive development of whole land blocks. These showed maximum dwelling yields of plan-enabled capacity up to and above 6,000 dwellings in the PC 67 area, and realistic proportional contributions of those scenarios creating a possible and probable 3,000 dwelling yield. In my view, that higher yield should have been modelled by the Applicant to assess transport network impacts and their management and/or mitigation of these impacts. Based on available information Mr Peake is of the view there will be additional effects on the immediate network”.

⁴⁶ Ms Wimmer Evidence-in Chief at [5.10]

⁴⁷ *ibid* at [6.1]

⁴⁸ Mr Rae Evidence-in-Chief at [13]

⁴⁹ Mr Grey Evidence-in-Chief at [9]

⁵⁰ Mr Mackie Evidence -in Chief at [1]

60. ACS's Planner Ms Alina Wimmer also addressed yield noting⁵¹:

“For PPC 67 to proceed, it should be supported by a more realistic yield assumptions, modelling to assess the potential transport network impacts at those higher yields, identify and confirm a funding and finance solution for transport infrastructure, and seek to better manage the coastal erosion and minimum lot size issue”.

61. In his rebuttal evidence Mr Grey questioned the approach of both Ms Wimmer and Mr Mackie. He was of the view⁵²:

“The same number of dwellings can be established under the operative provisions, given that PC67 does not change the minimum average lot size or the maximum number of dwellings that can be established on each site as a permitted activity. When that is considered, the conclusion must be made that, when using this method, there is no change in dwelling density or yield as a result of PC67”.

62. Mr Grey provided an analysis⁵³ of how density could be calculated and commented on the case studies provided by Ms Wimmer and Mr Mackie. He confirmed his conclusions⁵⁴:

- *“There is unlikely to be any increase in dwelling density or yield as a result of PC67, given that the operative provisions and MHS zoning already provide for densities similar to those provided for by the PC67 provisions and MHU zoning; and*
- *It is highly unlikely that the total number of dwellings south of Park Estate Road will exceed 2,300”.*

63. Mr Wren disagreed that there would be no change in density recording MHU provides for more density by way of additional bulk (building can be higher and skinnier). Mr Wren opined⁵⁵:

“I understand that the Applicant intends something different, but there is nothing in PC 67 to restrict development to an intended level or master plan and I believe you have to plan for what is realistically allowed”.

64. We questioned Mr Wren on factors that could result in additional density. He indicated that a change in typology could allow more three-storey terrace housing to be constructed, which in turn may result in additional density.

⁵¹ Ms Wimmer Evidence-in Chief at [B]

⁵² Mr Grey Evidence-in Chief at [2.11]

⁵³ Ibid at [2.13 – 2.36]

⁵⁴ Mr Grey Rebuttal Evidence at [2.42]

⁵⁵ Mr Wren Notes for hearing response 8 March 2022

65. Ms Davidson submitted in her closing legal Submissions:

“HGL maintains that it has not been demonstrated that there is a reasonable prospect of density being increased as a result of PC67 beyond what could equally be delivered under the operative provisions. That is a question of fact, on the evidence, for the Commissioners to determine. In my submission, no evidence has been given that reliably demonstrates that there is a reasonable prospect of density above 2,300, or that an equal number of dwellings could not already be delivered if that was the outcome sought by the landowner”⁵⁶.

66. Ms Davidson also advocated⁵⁷ on using the 2,300 figure as a basis for the trigger:

“The masterplan predicts dwellings around 1,500. 2,300 is Mr Grey’s estimate of what could realistically occur if the applicant departed from its masterplan and developed more intensively than it currently intends”.

67. In making a finding on yield we were faced with three different propositions: Mr Grey’s; Ms Wimmer’s; and Mr Mackie’s. Each of the witnesses provided justification for the approach they had taken.

68. As a starting point we agree with Mr Wren’s opinions that:

- The change in zoning to MHU has the potential to increase density; and
- and there is nothing in PC 67 to restrict development to the intended level in the Applicant’s master plan.

69. On the evidence placed before us, and given all the possible development permutations, through time, going forward, it is our finding that the change in zoning, coupled with the precinct provisions, has the potential to ‘unlock’ the ability to deliver additional yield above 2,300. However, we are not in a position to set a firm figure on the quotient of any potential increase in density. In our view the final yield is likely to be somewhere between the theoretical yield calculations presented to us by Mr Mackie and the current ‘real world’ yield illustrated in the masterplan prepared by Hugh Green Ltd. The key implication of the yield that requires determination is its implication in relation to transport infrastructure and requirements for network upgrades. As set out below, provisions have been proposed that would address the implications of an increased yield, should this eventuate.

Residential Yield - Density & Transportation

70. The effects of PC 67 (increasing residential yield – density) on transportation was addressed, at length, in the expert evidence provided by: the Applicant, Section 42A Report; Auckland Council (as submitter); Auckland Transport; Waka Kotahi, and in submissions.

⁵⁶ Ms Davidson Closing Legal Submissions at [31]

⁵⁷ Ibid at [35]

71. As noted above, expert conferencing had significantly reduced matters of disagreement between expert witness. By the time of the hearing these were confined to potential yield (a Planning issue) and the need for additional SIDRA network modelling.
72. Mr Hills noted⁵⁸ additional network SIDRA modelling had been undertaken, as well as a revised 2018 FLOW analysis, which has confirmed that the upgrades proposed are the same as those previously identified as part of the original Plan Change in 2014/15.
73. Mr Leo Hills, for the Applicant, opined⁵⁹:

“I consider that the full extent of development enabled by PC 67 can be appropriately supported by the existing road network and upgrades to the existing transport network which are already anticipated by operative provisions. Appropriate levels of safety and efficiency on the surrounding transport network will be maintained”.

74. Ms George and Mr Freke (for AT) also highlighted⁶⁰ that the key matter remaining outstanding between the planning experts was the potential residential yield from the Applicant’s land with the proposed zoning change to MHU zone. As noted above ACS; ATS and Mr Wren considered that more intensive housing typologies may occur within the Applicant’s land and therefore a greater yield could occur.
75. Ms George and Mr Freke emphasised the proposition that underestimating the housing yield for an area can mean that appropriate transport network improvements or elements are not identified, and projects are not progressed and / or that funding arrangements are not put in place until much of the development has already occurred. They noted traffic modelling for PC 67 has identified intersection upgrades and new roading connections within the Hingaia Precinct that will be required. In particular, the transport assessments have identified that the upgrade of Park Estate Road and Great South Road intersection is required to provide access to the plan change area and to mitigate the effects of development on the transport network.
76. Mr Peake in his evidence records⁶¹:

“Should the number of dwellings exceed the 2,300 previously assessed by Mr Grey, the potential effects of traffic from the additional dwellings on the operation of the transport network have not been assessed, including the effect on public transport.

There are three key areas of concern:

- a) Park Estate Road;*
- b) Hingaia Road and Beach Road corridor; and*
- c) Internal intersections.*

⁵⁸ Mr Hill Evidence-in Chief at [42]

⁵⁹ Mr Hills Evidence-in Chief at [40]

⁶⁰ Ms George & Mr Freke Evidence-in Chief Summary

⁶¹ Mr Peake Evidence-in Chief at [38 – 39]

77. Ms George and Mr Freke noted that AT is concerned that the current lack of certainty around the financing and funding of transport infrastructure and services may result in a situation where mitigation of transport effects cannot be provided at the time it is required to support development enabled through PC 67. For this reason, AT's position remains, in these circumstances, that PC 67 should be declined without more certainty around the mitigation required and its funding.
78. In accepting the above then our focus should be on the difference between effects that can be generated under the operative provisions and what could be generated under the provisions as proposed. We need to focus on the transportation effects that could be generated by an increase in density.
79. We were reminded a number of times that the operative zoning requires upgrades to be undertaken and those are not to be relitigated through this proceeding and that if PC67 was withdrawn or declined, AT and ACS would have no ability to stop development exceeding 1500 dwellings, potentially substantially.
80. Waka Kotahi in its tabled hearing statement⁶² noted:
- “If the commissioners were to find that there would be a significant increase in traffic because of the proposed plan change Waka Kotahi would support provisions which would control the level of development and/or provisions which require further assessments of the surrounding road network (including the Papakura Interchange) at consent stage”.*
81. As already noted, we are not in a position to make a definitive finding on a density quotient, rather we have accepted, and found, that potentially there could be an increase in density, and we need to ensure that the provisions of PC 67 address that potentiality.
82. Ms Davidson advocated⁶³:
- “HGL maintains that it has not been demonstrated that there is a reasonable prospect of density being increased as a result of PC67 beyond what could equally be delivered under the operative provisions. That is a question of fact, on the evidence, for the Commissioners to determine. In my submission, no evidence has been given that reliably demonstrates that there is a reasonable prospect of density above 2,300, or that an equal number of dwellings could not already be delivered if that was the outcome sought by the landowner”.*
83. Mr Grey in his rebuttal evidence noted⁶⁴ the majority of the off-site effects on any potential increase above 1,500 dwellings up to 2,300 dwellings can be addressed by the same transport upgrades that were already determined to be necessary by Plan Variation 1. Any gap in funding of outstanding transport upgrades affecting development in the Hingaia 1 Precinct area already occurs without PC67 being confirmed, not as a result of

⁶² Waka Kotahi Hearing Statement for Plan Change 67 – Tabled letter 4 March 2022

⁶³ Ms Davidson Closing Submissions at [31]

⁶⁴ Mr Grey Rebuttal Evidence at [4.5]

it, and Auckland Council has a range of options available for funding required infrastructure.

84. Mr Grey provided an analysis⁶⁵ of why he disagreed with Mr Mackie's trigger provisions. He referenced the potential adverse traffic effect that are of concern namely:

- The signalisation of the intersection of Great South Road and Park Estate Road;
- Potential upgrades to the intersection of Park Estate Road and Goodwin Drive, should the full construction of Hinau Road and/or Ngakoro Road not yet be completed;
- The roundabout upgrade of the intersection of Park Estate Road and Clover Avenue; and
- Potential additional upgrades should the number of dwellings south of Park Estate Road exceed 2,300.

85. While not recommending them, Mr Grey suggested⁶⁶ that the following additional provisions could be inserted into the Hingaia 1 Precinct text in order to give comfort to Auckland Transport and Auckland Council.

(a) Insert the following matter of discretion into I4XX.8.1(9):

(cc) effects on the transport network;

(b) Insert the following assessment criteria into I4XX.8.2(13):

(cc) whether there is a need for any of the following transport network upgrades:

- (i) the signalisation of the intersection of Great South Road and Park Estate Road;*
- (ii) if Hinau Road or Ngakoro Road is not yet constructed to collector road standard between Wawatai Drive and Park Estate Road, any upgrades to the intersection of Park Estate Road and Goodwin Drive;*
- (iii) the installation of a roundabout at the intersection of Park Estate Road and Clover Road when the northern fourth leg is constructed; and*
- (iv) if the development will provide for an average density of more than 40 dwellings per net hectare (excluding roads and open space) across all of the Hingaia 1 Precinct area south of Park Estate Road, any other upgrades to the transport network resulting from this increased density.*

⁶⁵ Mr Grey Rebuttal Evidence at [4.7 -4.26]

⁶⁶ Mr Grey Rebuttal Evidence at [4.33]

86. Mr Wren noted⁶⁷

“I consider that the approach taken by AW⁶⁸ and AG⁶⁹ to additional consent issues is an appropriate solution. If the applicant or future owners act as intended these will not come into play”.

87. Given our findings on density we concur and our focus on the difference between effects that can be generated under the operative provisions and what could be generated under the provisions, we agree with Mr Wren that the inclusion of assessment criteria as a “backstop” on a “precautionary basis” is a “sensible solution”. It is one that HGL has agreed to because, as it has consistently said, it does not propose to come anywhere close to the 2,300 trigger. We find that it is an appropriate method to address the traffic effects of an increased density over the specified threshold level of 2,300, should this eventuate.

88. We note, and record, we heard extensive evidence from AT on the transport infrastructure that still requires addressing, and that which needs to be addressed. The various funding methods that the Council has to address infrastructural needs was discussed at some length. These methods were addressed by the applicant (Mr Leo Hills), ACS and AT (Ms George and Mr Freke). They provided comments on the merits, limitations and opportunities of the various method.

Submitters’ concerns over transport effects

89. ‘Decline the plan change on traffic grounds’ was a common theme of many of the non-corporate submissions⁷⁰. For example:

- Dean Cunningham⁷¹ submitted:
The Hinau is already too busy at times
- Lovejit Kaur⁷² submitted:
There will be too much traffic heading through our road...
- Sunjay Malik⁷³ submitted:
Massive increase in vehicle traffic.....
- Kelly Guo⁷⁴
The current traffic is already busy at peak times.....

⁶⁷ Mr Wren - Notes for hearing response 8 March 2022

⁶⁸ Ms Wimmer

⁶⁹ Mr Grey

⁷⁰ Submitter Numbers: 2, 5, 7, 9,11,12,13, 14,15, 16, 17, 18, 22, 23,28, 30, 34, 36, 37, 42 & 44

⁷¹ Submitter No 2

⁷² Submitter No 5

⁷³ Submitter No 7

⁷⁴ Submitter No 15

- Paul Dawkins⁷⁵
The access to the Southern motorway at Karaka Lakes side of Hingaia will be severely affected by the increased housing density proposed.
- Dennis Greeman⁷⁶
Altered traffic flows; exacerbate existing problems....
- Jason Fox⁷⁷
Congestion and risk to our community⁷⁸.

90. We have considered the potential impact of increasing density on transportation above. Our decision to include assessment criteria to address the impact of an increased yield over a specified threshold level goes some way to meeting the intent of the submitters.

Submitters' concerns over density effects – Character, visual & social impacts

91. Non-corporate submissions⁷⁹ also addressed density and asked for the plan change to be declined. For example:

- Dean Cunningham⁸⁰ submitted:

The Hinau is already too busy at times...

- Danny Maera⁸¹ submitted:

"I believe the ability to have more houses on less land, and three storey high buildings on land in the area will create more problems and more noise.

- Andre Gil⁸² submitted:

"We don't want social housing and high-density building – smells of social housing"

92. Mr Wren identified⁸³ this group of submissions as expressing concerns that the additional development provided for by PC67 will result in density of development that is not needed or desired in this neighbourhood. Mr Wren points out that a proportion of the land to the south of Park Estate Road is already zoned MHU and that a certain proportion of the land will be developed in three storey development regardless of this plan change. Mr Wren opined:

⁷⁵ Submitter No 23

⁷⁶ Submitter No 30

⁷⁷ Submitter No 44

⁷⁸ Mr Fox provided comments and observations under this heading

⁷⁹ Submitter Numbers: 3, 5, 8, 9, 18, 22, & 44

⁸⁰ Submitter No 2

⁸¹ Submitter No 8

⁸² Submitter No 9

⁸³ Section 4.2A Report at [220 – 222]

“I consider that the additional density provided, so far as character and visual effects go is appropriate and will not be significantly different from the current potential under the existing zone pattern”.

93. In the absence of being able to question the submitters we have accepted the opinion of Mr Wren as our finding.

Should Medium Density Residential Standards (MDRS) be incorporated into the Precinct Provisions?

94. The Resource Management (Enabling Housing Supply and Other Matters) Amendment (EHS) Bill was introduced on 19 October 2021, a few days before the close of submissions on PC67. The Applicant made a submission seeking to incorporate the changes require by the Bill, namely the incorporation of the MDRS into the Precinct provisions, subject to any amendments made to the Bill prior to being enacted. The Bill became law on 20 December 2021.

95. The applicant’s submission to incorporate the MDRS attracted considerable comment from ACS and resulted in extensive justification from the applicant.

96. Ms Davidson noted⁸⁴

“The Council are required to introduce the MDRS through an intensification planning instrument (IPI) and the intensification streamlined planning process (ISPP).³³ This is due to be notified in August 2022. As discussed below, the EHS Act specifically contemplates that MDRS might already be incorporated through existing plan changes”.

97. Mr Grey in his rebuttal evidence discussed the variation noting⁸⁵ that:

“The variation would be to PC67 rather than the IPI. Secondly, clause 34 of Schedule 12 only applies to plan changes where “the MDRS is not already being incorporated through any proposed rules”, so if the decision on PC67 incorporates the MDRS then the “proposed rules” would change to those specified in the decision and clause 34 would no longer apply to PC67”.

98. Mr Mackie told us the MDRS should not be incorporated into the PC 67, as the Council is able to include financial contributions in its enabling Variation, to manage infrastructure effects. The MDRS should await the Council’s Variation in August 2022. He also noted that the Applicant does not acknowledge any potential MDRS effects on infrastructure capacity, including transport, and offers no accompanying financial contribution provisions.
99. Ms Wimmer told⁸⁶ us she did not support the MDRS provisions being introduced into the PC67 precinct provisions through the Applicant’s submission. Her reasons for this are that

⁸⁴ Ms Davidson Opening Legal Submissions at [81]

⁸⁵ Mr Grey Rebuttal Evidence at [5.3]

⁸⁶ Ms Wimmer Evidence-in Chief section 9

the supporting application was prepared on the basis of a predominantly Mixed Housing Urban zoning and the application falls within the transitional provisions of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 that require Council to prepare a Variation to its Intensification Planning Instrument. The proposal seeks to 'leap-frog' the ISPP process and risks plan integration issues with the Auckland-wide rules or application of the underlying zones.

100. Ms Wimmer also recorded that the Council is at a formative stage in working through how qualifying matters (**QMs**) will be applied, and while Mr Grey has analysed the proposal in terms of the NPS-UD, she could not say how some qualifying matters will be expressed e.g., an existing overlay or Standards Variation Control on height, density etc. She was of the view that it would be better for the same planning methodologies to be applied across all precincts.
101. Mr Wren, in his *Hearing Notes* provided at the conclusion of the hearing, stated that he remained opposed to including the MDRS and provided us with his reason why MDRS should not be included; we don't know what MDRS will look like in the AUP and how the QMs will work with other changes to implement the NPS UD. Therefore, there remains potential for inconsistency into the future – something this PC was designed to avoid. He was also of the view that the sunset clause offered by the Applicant is ambiguous. If it means August 2022 then it is fairly pointless.
102. Mr Grey countered, recommending a similar approach to that which has occurred in the Flat Bush Sub-precinct C for incorporating the MDRS into PC67, allowing for the Auckland-wide approach to incorporating the MDRS to ultimately apply to the precinct, whilst ensuring similar outcomes can be provided for in the interim, all whilst preventing the need for a Schedule 1 process to remove any potential inconsistency between the to-be-determined Auckland-wide provisions and the precinct provisions and maintaining long-term plan integrity. The owners of land in the first stages of the Park Green development are applying for buildings consents for the first dwellings in the neighbourhood right now. The rules that apply now will shape the design of this new residential neighbourhood.
103. Mr Grey provided us with a detailed consideration⁸⁷ of the extent to which the operative provisions and PC67 give effect to the various requirements (the qualifying matters) of the MDRS, and what further changes (within scope of the relief sought by submission 32) would be necessary in order to incorporate each requirement of the MDRS.
104. While we do have some sympathy for the approach being recommended by Mr Grey it is our finding that MDRS should not be incorporated into PC 67. Our finding is predicated on timing, with the simple reason that Auckland Council intends to float an AUP variation in August 2022; in just less than 4 months' time. That variation will require consideration of the entire region and will provide a consistent, region-wide, approach. The need for consistency was one of the factors that influenced our decision. If we were to include provisions now into PC67 we could potentially create inconsistency between PC67 provisions and the Auckland-wide provisions being put forward by way of the variation.

⁸⁷ Mr Grey Evidence -in-Chief at [6.22 - 6.91]

One of the Applicant's the reasons for promoting PC 67 was to ensure consistency with the AUP:OP.

Should provision be made for forty-metre-wide gas corridor?

105. Mr Graeme Roberts provided a brief of expert planning evidence for Firstgas Limited on their submission points. The focus of his evidence was on the protection of the existing gas transmission network within the Project area. In particular, Firstgas was seeking a 20m setback for all new residential buildings from the centreline of the existing gas transmission pipeline in order to manage the risks associated with future development in proximity to the pipeline. Firstgas tabled a number of requirements including, by way of example:

“Amend ‘Table I444.4.1 Activity Table – Land use activities’ requiring a setback from the gas transmission pipeline for residential buildings is necessary to protect and provide for Firstgas transmission pipeline”.

“A new standard is required for all new buildings containing habitable rooms to be setback 20m from the centreline of the existing gas transmission pipeline traversing 144 Park Estate Road”.

“A new matter of discretion for new buildings that cannot comply with proposed Standard I444.6.1.X Gas transmission pipeline setback is required⁸⁸”.

106. Mr Wren recorded⁸⁹ that while it may be appropriate to include a mechanism to protect the gas line in a similar manner to which the National Grid lines are protected, he considered that this is better achieved through a mechanism that applies to the entire gas transmission network or through a designation. Only a small portion of the gas line is located within this Precinct and it was his view its protection is better achieved through a city-wide approach rather than more ad-hoc provisions.
107. Ms Davidson advocated⁹⁰ that if the requirement as sought by Firstgas are imposed it would bring an entirely new restriction on development of the land that is already zoned for residential use under the operative provisions.
108. Ms Davidson also advocated⁹¹ that if the gas-line is insufficiently protected then that is an Auckland-wide issue that should be resolved on an Auckland-wide basis, either through designation or a wider plan change. A designation process would require a full alternatives assessment that would require Firstgas to justify the 20-metre blanket setback, and properly consider the costs and benefits on an Auckland-wide basis.
109. Mr Grey⁹² considered that under the requirements of section 32, the option of Firstgas designating the gas line corridor would be more appropriate way to achieve the

⁸⁸ Mr Roberts Evidence -in Chief at [6.4]

⁸⁹ Section 42A Report at [266]

⁹⁰ Ms Davidson Opening Legal Submissions at [72]

⁹¹ Ms Davidson Closing Legal Submissions at [9]

⁹² Mr Grey Hearing Summary Notes at [17]

objectives of the AUP related to the safe and efficient operation of infrastructure than the relief they sought.

110. We concur with both Mr Wren and Mr Grey; the approach being sought by Mr Roberts is ad-hoc and could result in a precedent for other plan change requests. We are also of the view that Mr Roberts did not adequately demonstrate that applying the current provisions are deficient or unworkable. We have also considered the rebuttal evidence of Mr Pitkethley⁹³ and the ongoing negotiations that he has/is undertaking on behalf of HGL with Firstgas.
111. In closing, Ms Davidson advocated⁹⁴ that HGL agreed (although did not consider it necessary) to show the gas-line on the Precinct Plan in its existing location (but not subject to any further controls) We find that it would be helpful to indicate the location of the gas-line on the Precinct Plan.

Coastal Density

112. In their submission, ACS opposed the removal of the 600m² minimum lot size requirement adjacent to the coast, on the basis that a larger lot size is required to address coastal hazards.
113. Mr Wren records⁹⁵ that from an urban design perspective the removal of the 600m² site area is acceptable and that there are no characteristics of the coastal area of the Precinct that would require a built form that is different from other coastal areas in Auckland. The Council's Ecologist, Ms Davis has concerns about the impact of development adjoining the coast and its effects on wading bird habitats on the CMA adjoining parts of the Precinct.
114. Mr Wren pointed out there will be a 20m esplanade required by the RMA. He suggested it would be helpful to understand if the intensification of housing adjacent to coast will result in harm to the wading bird habitat.
115. Mr Grey accepted⁹⁶ that HGL had not provided any ecological assessment related to effects of PC67 on wading birds in Drury Creek. He did not consider that an assessment was necessary in order to support the removal of the coastal density restrictions, given the primary purpose of the minimum lot size control as set out in the Precinct objectives and policies.
116. Mr Grey opined⁹⁷ that he considered there to be very little difference in outcomes when considering the ecological effects of the change proposed by PC67 compared to the operative provisions. The continued application of a minimum lot size of 600m² adjacent to the coast is unnecessary.

⁹³ Mr Pitkethly Evidence-in Chief at [2]

⁹⁴ Ibid at [61c]

⁹⁵ Section 4.2A Report at [91 -93]

⁹⁶ Mr Grey Evidence-in-chief at [9.22]

⁹⁷ Grey Evidence-in-chief at [9.23]

117. Ms Davidson advocated (based on the evidence of Mr Grey) that the operative AUP PO specifically addresses coastal erosion, through Auckland-wide rules in E36 and E38, and suggested that the rationale for the larger lot size falls away with the application of those Auckland-wide controls.
118. Ms Wimmer pointed⁹⁸ out to us that Hingaia has had known coastal erosion and natural hazards issues for some time. The key outstanding concerns outlined in Council's original submission relate to managing coastal erosion by providing adequate space for buildings set back within lots. She noted that the Applicant had offered alternative provisions which would, in her view, strike a reasonable balance between recognising the risk of adverse effects arising from coastal hazards/erosion and enabling growth.
119. We recognise that the provisions put forward by Mr Grey were provided to assist us if we agreed with Ms Wimmer's position. He did not recommend those provisions as being necessary. We reviewed the sufficiency of the requirements of E36 and E38, and the requirement for esplanade reserves, to address coastal hazard risk in Hingaia. We came to the view that coastal erosion could be a potential problem and adopted the position of Ms Wimmer that the alternative provisions offered⁹⁹ by the Applicant strike a reasonable balance between recognising the risk of adverse effects arising from coastal hazards/erosion and enabling growth.
120. With regard to ecological effects and coastal character we accept the conclusion of Mr Grey's comprehensive analysis of why the lot size is not required to protect ecology. We accept its retention for ecological reasons would be inconsistent with the requirement in s 32(1)(b) that a provision must be the most appropriate way to achieve the relevant objectives.

Affordable Housing

121. 'Decline the plan change due to the removal of the provisions that relate to 'affordable housing' were raised by:
- Cassie Ju¹⁰⁰ submitted:
The increase in density is not providing lower cost housing..
 - Janson Deng¹⁰¹ made the same submission.
 - Maria Taka submitted:
Decline the plan change because of the removal of affordable housing rules.

⁹⁸ Ms Wimmer Evidence-in-chief at [10.1 – 10.3]

⁹⁹ Mr Grey Evidence-in Chief at Appendix 9

¹⁰⁰ Submitter No 11

¹⁰¹ Submitter No 12

122. Mr Wren noted¹⁰²:

“This group of submissions are concerned that the existing provisions relating to requiring affordable housing will be removed by PC67. I share these concerns. However, this does leave a plan consistently issues in that these types of provisions have been removed from the AUP and on an Auckland wide basis there is likely to be little impact on house prices through the retention of these rules’.

123. In the absence of being able to question the submitters, and the acceptance of other parties that the affordable housing provisions in the Hingaia 1 Precinct should be deleted, we find that the provision should be withdrawn. We were told that this would be appropriate in the context of the AUP (including Policy B2.4.2(11) of the Regional Policy Statement) and the repeal of the HASHAA.

Transpower

124. Trudi Burney provided (tabled) a letter¹⁰³ on behalf of Transpower noting:

“There are a limited number of submission points of relevance to Transpower that are being considered as part of PC67 Hearing and, where relevant, Transpower generally agrees with the recommendations given in the Section 42A Report for this plan change.”

125. The section 42A Report notes¹⁰⁴ that Transpower’s submissions were concerned with the protection of existing transmission infrastructure on part of the land within the Precinct. Transpower transmission lines only run along the eastern side of the Precinct (the gas transmission line follows a similar route).

126. Mr Wren was of the view that as the D26 Overlay is now operative there is no need to have duplicate provisions within Precinct provisions, particularly as they have slightly different wording. It is more efficient and more consistent to rely on D26.

127. Transpower saw no need to attend the hearing. We have adopted Mr Wren recommendations.

Mana Whenua

128. The Applicant’s Plan Change Request addressed¹⁰⁵ iwi consultation; noting Cultural Values Assessments (‘CVAs’) were obtained from representatives of Ngāti Tamaoho, Ngāti Te Ata and Te Ākitai Waiohua as part of the plan variation process. The recommendations of these CVAs have been referred to during the master planning exercise for Hugh Green Limited and by the applications for resource consent applied for and obtained to date.

¹⁰² Section 42A Report at [255]

¹⁰³ Transpower letter dated 25 February 2022

¹⁰⁴ Section 42A Report at [259 – 261]

¹⁰⁵ Plan Change Request at [8.4]

129. Recommendations followed to date include retaining a large proportion of the existing wetland areas, providing for a treatment train approach to stormwater, cultural monitoring during first strip of earthworks, protection of coastal midden within esplanade reserves and replacement of weeds from the esplanade reserves with replacement native plantings (not yet implemented).
130. The requested changes to the AUP are not considered to prevent or upset continued achievement of the recommendations specified above. The Applicant sent letters to Ngāti Te Ata, Te Ākitai Waiohū, and Ngāti Tamaoho advising them of the Plan Change.
131. The section 42A Report records¹⁰⁶:

“It would appear that there are no matters of concern to Mana Whenua. No Mana Whenua groups have made submissions and no major concerns were raised through the pre-notification consultation processes.”

132. In absence of Tanga whenua submissions or evidence we are satisfied, based on the information and evidence from the Applicant, that PC 67 would give effect to the RPS and Part 2 in relation to Mana Whenua interests and values.

SUBMISSIONS and FURTHER SUBMISSIONS

Submissions opposing PC67 in its entirety

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Panel’s Decision
1.1	Nicholas Paul Kroef	Opposes the plan change in its entirety		Reject
7.3	Sunjay Malik	Decline the plan change because of negative impacts on property values		Reject
17.4	Maria Taka	Decline the plan change as wishes the neighbourhood to remain unchanged		Reject
22.1	Mackenzie Schultze	Decline the plan change due to decrease in property value		Reject
36.1	Logan Billing	Decline the plan change because of negative impacts on property values		Reject
37.1	Sue Billing	Decline the plan change because of negative impacts on property values		Reject

¹⁰⁶ Section 42A Report at [82]

44.1	Karine and Jason Fox	Decline the plan change because of negative impacts on property values		Reject
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Decision

133. We have addressed these issues throughout the decision noting that some of the issues are in relation to the effect on property values and in approving PC 67 we have provided a set of precinct provisions that we think appropriately address effects associated with the development.

134. We are satisfied that, based on the issues and evidence before us, the matters relating to the above have been appropriately addressed. On this basis we **reject** those submissions which opposed PC67 in its entirety.

Traffic/ Transportation

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Panel's Decision
2.1	Dean Bruce Cunningham	Decline the Plan Change on traffic grounds		Reject
5.1	Lovejit Kaur	Decline the Plan Change on traffic grounds		Reject
7.1	Sunjay Malik	Decline the Plan Change on traffic grounds		Reject
9.2	Andre Gil	Decline the Plan Change on traffic grounds		Reject
11.1	Cassie Ju	Decline the Plan Change as increased density will cause traffic problems		Reject
12.1	Jason Deng	Decline the Plan Change on traffic and lack of public transport grounds		Reject
12.3	Jason Deng	Decline the Plan Change due to additional traffic		Reject
13.1	Ryan Wang	Decline the Plan Change on traffic grounds		Reject
14.1	James Han	Decline the Plan Change as do not want additional traffic on Kahanui Drive		Reject

15.1	Kelly Guo	Decline the Plan Change due to additional traffic		Reject
16.2	Yusuf Jariwala	Decline the Plan due to increased traffic and lack of public transport		Reject
17.1	Maria Taka	Decline the Plan Change due to traffic concerns especially at intersection of Great South Road and Park Estate Road		Reject
18.2	Wenjing Qin	Decline the Plan Change due to concerns over increased traffic and limited access		Reject
20.1	Waka Kotahi NZ Transport Agency c/- Evan Keating	Provide a revised Transport Assessment Reports which clearly identifies the effects of the increased vehicle movements enabled by this plan change and suitable provisions if required to resolve any adverse effects		Accept
20.3	Waka Kotahi NZ Transport Agency c/- Evan Keating	Decline the deletion of objective 10 or in the alternative draft new objectives which protect the safe and efficient operation of the state-highway network and minimise the adverse effects from land transport on the residents of the sub-Precinct		Reject
20.4	Waka Kotahi NZ Transport Agency c/- Evan Keating	Reword policy 17 to read; Require subdivision to be consistent with the Electricity Transmission and <u>to minimise the effects of High Land Transport Noise Overlay land transport noise residents of the sub-Precinct</u>		Reject
20.5	Waka Kotahi NZ Transport Agency c/- Evan Keating	Decline proposed change to Rule 444.5.2 Notification		Reject
20.6	Waka Kotahi NZ Transport Agency c/- Evan Keating	Insert a new standard to give effect to objective 10 and policy 17 as set out in submission or similar as may be proposed or agreed with Waka Kotahi		Reject

22.2	Mackenzie Schultze	Decline the plan change due to increased traffic congestion		Reject
23.1	Paul Dawkins	Decline the Plan Change on traffic grounds		Reject
28.1	Shahrokh Mansoursafaei an	Decline the Plan Change as does not wish the area to get too busy		Reject
30.1	Dennis Greenman	Objects to plan change due to traffic concerns		Reject
32.1	Hugh Green Limited C/- CivilPlan Consultants Limited	Add the following to proposed standard I444.6.1.7 Vehicle access restrictions; Standards I444.6.1.7(1) and I444.6.1.7(2) above do not apply to: (a) the use of a vehicle crossing that exists on [legal effect date] that serve no more than one dwelling per site; and (b) the construction or use of vehicle crossing that has been shown on the plans of an approved subdivision consent that will serve no more than one dwelling per existing or approved site.		Accept
34.1	Roseanne Heather Hosken	Decline the Plan Change on traffic grounds		Reject
36.2	Logan Billing	Decline the Plan Change on traffic grounds		Reject
37.2	Sue Billing	Decline the Plan Change on traffic grounds		Reject
38.1	Auckland Council c/- Alina Wimmer	That the plan change be declined. - In the alternative, any other such relief that would mitigate the effects on the wider transport network from the urbanization proposed by plan change request.		Accept in part

38.2	Auckland Council c/- Alina Wimmer	That the plan change be declined. - In the alternative, any other such relief that would mitigate the effects on the wider transport network from the urbanization proposed by plan change request.		Accept in part
40.1	Auckland Transport c/- Teresa George	Declined PPC 67. If PPC 67 is to be approved, Auckland Transport seeks that its concerns as outlined in this submission are resolved.		Accept in part
40.2	Auckland Transport c/- Teresa George	Decline PPC 67 on the basis that the proposed rezoning does not give effect to the regional Policy Statement (RPS) under the AUP (OP).		Reject
40.3	Auckland Transport c/- Teresa George	PPC 67 be declined. If PPC 67 is not declined, then given that there is no certainty around funding and delivery for required infrastructure improvements, there is a need to consider a range of mitigation methods including the potential deferral of development or a review and implementation of land development staging to ensure co-ordination and alignment with the required transport network mitigation.		Accept in part
40.4	Auckland Transport c/- Teresa George	If PPC 67 is not declined, amend PPC 67 to include appropriate activity rules, standards, matters of discretion and assessment criteria in relation to staging requirements.		Accept in part

40.5	Auckland Transport c/- Teresa George	<p>Further assessment of the transport effects of the enabled land use activities proposed in the PPC 67 Precinct plan provisions is sought from the applicant.</p> <p>Auckland Transport requests that the traffic modelling be based on yields commensurate with the zoning envelope sought.</p> <p>The modelling should include the intersection on Hingaia Road / Beach Road corridor (including SH1 interchange) as a network.</p> <p>Auckland transport requests that the modelled signalized intersection at the Great South Road / Park Estate Road in the Flow modelling report be demonstrated to be feasible within the existing road reserve.</p> <p>Depending on the outcome of the required further assessment, identify the transport mitigations required and the Precinct mechanisms to give effects to the delivery of the mitigation measures, including locations, timing, and organization responsible for delivery and funding.</p>	FS4.4	Accept in part
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40.6	Auckland Transport c/- Teresa George	<p>Amend PPC 67 to include provisions relating to the minimum road reserve widths and key design elements and functional requirements of new roads and existing roads which need to be upgraded to the applicable urban standards, including but not limited to:</p> <ul style="list-style-type: none"> • Carriageway • Role and function road • Pedestrian provision • Cycle facilities • Public Transport (agreed interim and long-term routes, dedicated lanes, geometry, bus stops etc) • Ancillary Zone (Parking, Public Transport stops, street trees) • Berm • Frontage • Building Setback • Design Speed (e.g., to support safe active mode movements) • Confirming that the proposed width of the collector roads is adequate to accommodate required design elements and increase if necessary. 		Reject
40.7	Auckland Transport c/- Teresa George	<p>Amend Activity Table 4 Minimum Road Construction Standards with required detail as listed above, for Collector, Amenity Collector, Local Road, Minor Street, Reserve Edge Link and Park Edge Road. This should still be standard guiding the creation of new roads through subdivision, rather than restricted discretionary assessment.</p>		Reject
40.8	Auckland Transport c/- Teresa George	<p>To guide developers and Council the Precinct Plan should be updated to identify the location of the various road types outlined above.</p>		Reject

40.9	Auckland Transport c/- Teresa George	Amend the Matters of Discretion for Integrated Residential Development to include Standard I444.6.1.7.	FS4.5	Reject
40.10	Auckland Transport c/- Teresa George	Expand the Matters of Discretion for I444.8.1(8) to include alignment with Policy 13.	FS4.6	Accept
40.11	Auckland Transport c/- Teresa George	Auckland Transport seeks that the indicative bus routes be removed from the proposed Precinct Plan and replaces by a column in a Road Construction Standards table) as per above submission point) providing for the provision of buses on all collector roads within the Hingaia 1 Precinct.		Reject
42.1	Ray and Terry Davies	Decline the Plan Change on traffic grounds both in respect of local and motorway access.		Reject
44.3	Karine and Jason Fox	Decline the Plan Change because of the increase in traffic congestion and the risk for the community		Reject

Decision

135. We have addressed these matters in the decision above.
136. In approving PC 67 we have provided a set of precinct provisions that we think appropriately address transportation effects associated with density above a set threshold limit of 2,300.
137. We are satisfied that, based on the issues and evidence before us, the matters relating to transport matters have been appropriately addressed. On this basis we **accept** or **accept in part** those submissions which supported or sought changes which we have accepted to address transport matters, and **reject** those submissions which sought changes to the transport provisions which we have not made.

Submissions supporting PC67 in its entirety

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Panel's Decision
6.1	Akbar Sheikh	Supports the plan change in its entirety		Accept
19.1	Moncur Family c/- Kevin Moncur	Supports the plan change in its entirety		Accept
21.1	Jahanzeb Aslam Khan	Supports the plan change in its entirety		Accept
25.1	Yu Lun Lin	Supports the plan change in its entirety		Accept
27.1	Amishkumar Patel	Supports the plan change in its entirety		Accept
33.1	Lee Woo Lim and Baek Seungkyu	Supports the plan change in its entirety		Accept
39.4	Parklands Properties Limited c/- Euan Williams	Supports the plan change in its entirety		Accept

Decision

138. The support of these submissions is noted. We have approved the Plan Change, but have made a number of changes to the precinct provisions based on the evidence before us (including the JWS) with many of those changes being offered and/or agreed by the Applicant.
139. On the basis we have approved the Plan Change we **accept** the supporting submissions.

Approve - Different Zoning

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Panel's Decision
4.1	Blue Kiwi Property Consulting Trust c/- Paul Brian Magill	Approve the plan change but zone the area in Rosehill including Sunnypark Drive MHU		Reject
38.5	Auckland Council c/- Alina Wimmer	That the plan change be amended to generally reflect the underlying Auckland-wide and Residential zone objectives, policies, land use and development controls.		Reject
38.6	Auckland Council c/- Alina Wimmer	Delete the rule enabling cafes to establish as a restricted discretionary activity.		Reject
38.7	Auckland Council c/- Alina Wimmer	In the alternative, any other such relief that would respect the Mixed Housing Suburban and Urban Zone integrity.		Reject
38.15	Auckland Council c/- Alina Wimmer	If the proposed Plan Change is accepted, amend PC67 to re-zone land purchased by Council for Open Space.		Accept
38.17	Auckland Council c/- Alina Wimmer	Retain existing Height in Relation to Boundary control between residential and Open Space Land.		Accept
38.18	Auckland Council c/- Alina Wimmer	Support the fencing provision rule I444.6.1.4 allowing a planted interface between privately owned sites and open space.		Accept
39.1	Parklands Properties Limited c/- Euan Williams	Theme 8 (provision for show homes) be amended to apply to all residential zones in the Precinct.		Accept

39.2	Parklands Properties Limited c/- Euan Williams	Amendments are made across Hingaia 1 Precinct to remove duplicate and/or contradictory provisions and include references to the relevant Auckland-Wide or Zone provisions of the AUP.		Reject
39.3	Parklands Properties Limited c/- Euan Williams	That no other changes are made to the Hingaia 1 Precinct Plan as it relates to the northern side of Park Estate Road.		Reject

Decision

140. In approving PC 67 we have provided a set of precinct provisions that, in our view, appropriately address the zoning change sought by the Applicant's PC 67.
141. We are satisfied that, based on the issues and evidence before us, the matters relating to zoning sought have been appropriately addressed. On this basis we **accept** or **accept in part** those submissions which supported the zoning changes and **reject** those submissions which sought to maintain the status quo or sought other changes to the precinct zonings or provisions which we have not made.
142. Mr Wren notes¹⁰⁷, the submission of the Blue Kiwi property Consulting Trust sought the rezoning of an area of land to the east of the site over the SH1/ Motorway. This land is located outside of the plan change area. Mr Wren opined that this submission is outside of the scope of PC67. We concur with Mr Wren accordingly it is not able to be accepted.

Security

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Panel's Decision
7.2	Sunjay Malik	Decline the plan change on security grounds		Reject
36.3	Logan Billing	Decline the plan change because of the negative impact on security, graffiti and rubbish.		Reject
37.3	Sue Billing	Decline the plan change because of negative impact on security, pollution and safety.		Reject

¹⁰⁷ Section 42A Report at [196]

42.2	Rae and Terry Davies	Decline the plan change because of adverse effects on pedestrian access and safety.		Reject
44.2	Karine and Jason Fox	Decline the plan change because of negative impact on security, crime and safety.		Reject

Decision

143. This group of submissions are concerned that the additional development provided for by PC67 will result in adverse security and safety effects being experienced in this and nearby neighbourhoods.
144. We concur with, and have adopted the opinion of Mr Wren that the difference in the scale of development as experienced by people will not be significantly different to what is allowed through the existing Precinct provisions. Mr Wren noted the Council's urban design consultant Mr Riley considered that the character of the area will not appreciably change as a result of PC67. Based on that assessment he considered that there is likely to be little change in these matters as a result of PC67. We were not able to question, or seek clarification from the submitters.

Density

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Panel's Decision
3.1	Leo	Decline the plan change as the area is already crowded.		Reject
5.2	Lovejit Kaur	Decline the plan change as poor-quality houses will crown the area.		Reject
8.1	Danny Maera	Decline the plan change as the change to MHU zone additional density not desired or necessary.		Reject
9.1	Andre Gil	Decline the plan change as do not want high social and high-density housing in the area.		Reject
9.3	Andre Gil	Decline the plan change because high density on small sections is not visually pleasant		Reject

18.3	Wenjing Qin	Decline the plan change because of effect on the community's amenity and well-being		Reject
22.4	Mackenzie Schultze	Decline the plan change due to increased noise		Reject
44.6	Karine and Jason Fox	Decline the plan change as additional MHU zoning is inappropriate for this area.		Reject

Decision

145. We have addressed these matters in the decision above. We are satisfied the additional density provided, so far as character and visual effects go is appropriate and will not be significantly different from the current potential under the existing zone pattern.

Services and infrastructure

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Panel's Decision
9.4	Andre Gil	Decline the plan change as there is insufficient provision for services		Accept in part
16.1	Yusuf Jariwala	Decline the plan change due to effects on urban amenity		Accept in part
22.3	Mackenzie Schultze	Decline the plan change due to increased load on infrastructure		Accept in part
38.10	Auckland Council c/- Alina Wimmer	If the Plan Change is approved, amend the Precinct to add objectives, policies, and rules to develop in accordance with an updated Stormwater Management Plan that addresses the greater site coverage proposed. - In the alternative, any other such relief that would manage stormwater effects.		Accept in part

38.11	Auckland Council c/- Alina Wimmer	<p>If the Plan Change is approved, amend to include Precinct provisions to support implementation of stormwater management rules</p> <ul style="list-style-type: none"> - Amend the Precinct to include specific provisions to manage flood risk and climate change impacts, water quality and hydrology mitigation. - In the alternative, any other such relief that would give effect to the updated stormwater management plan. 		Reject
38.13	Auckland Council c/- Alina Wimmer	<p>If the Plan Change is accepted, apply the SMAF1 control to the Precinct, or</p> <ul style="list-style-type: none"> - Retain bespoke hydrology mitigation requirement. - In alternative, any such other relief that would achieve hydrology mitigation. 		Accept in part
38.12	Auckland Council c/- Alina Wimmer	<p>If the Plan Change is accepted, amend to retain policy 11 and introduce rules to give effect to it.</p> <ul style="list-style-type: none"> - In the alternative, any such other relief that would address climate change effects. 		Reject
38.14	Auckland Council c/- Alina Wimmer	<p>If the Plan Change is accepted, retain the reference to E38 rules.</p> <ul style="list-style-type: none"> - In the alternative, any such other relief that would avoid subdivision of residential land within a floodplain or avoid coastal erosion hazards and inundation. 		Accept in part
43.1	Veolia Water Services (ANZ) Pty Ltd c/- Sanjev Morar	<p>Existing water infrastructure is modelled to ensure sufficient capacity. Should there be insufficient capacity, it is the responsibility of the Applicant to, at its cost, design and construct the required network infrastructure upgrades.</p>		Accept

43.2	Veolia Water Services (ANZ) Pty Ltd c/- Sanjev Morar	Wastewater disposal from the Plan Change Area is required to be connected to the public wastewater network, discharging to the Hingaia Wastewater Pump Station.		Accept
43.3	Veolia Water Services (ANZ) Pty Ltd c/- Sanjev Morar	The Applicant will, at its cost, design and construct: i. any wastewater infrastructure required to enable the connection of the Plan Change Area to the public wastewater disposal and collection system ii. any water infrastructure required to enable the connection to the Plan Change Area to the public retail water network		Accept
43.4	Veolia Water Services (ANZ) Pty Ltd c/- Sanjev Morar	The Applicant obtains approval from Veolia for the connection points to the local network to service the Plan Change Area.		Accept
44.4	Karine and Jason Fox	Decline the plan change because of adverse effects of wastewater		Accept in part

Decision

146. We are satisfied that, based on the issues and evidence before us, the matters relating to infrastructure matters have been appropriately addressed. On this basis we **accept** or **accept in part** those submissions which supported or sought changes which we have accepted to address infrastructure matters, and **reject** those submissions which sought changes to the provisions which we have not made.
147. The evidence before us clearly showed that the necessary infrastructure referred to in the above table is/or can be provided for the development and that the applicant has arrangements in place for the provision of such infrastructure.
148. Mr Pitkethley's statement of evidence addressed the site context and characteristics, existing infrastructure, infrastructure assessment method, required infrastructure to service the site, hazards and conclusion. We did not hear any other expert engineer evidence to refute his evidence.
149. In relation to stormwater, we heard evidence from Mr Pitkethley and in his rebuttal evidence he outlined the discussions that he had been having with Ms Vincent of Healthy Waters regarding stormwater aspects of the AKCL submission and attached to his

evidence an addendum to the stormwater management plan that had been agreed with Ms Vincent. Our decision is to accept that the SMAF2 control will apply to the Precinct.

150. In regards to water supply he referred to the agreement between HGL and Watercare (WSL) which guarantees a supply equivalent to 3,000 development unit equivalents (DUE's), equivalent to 3,000 dwellings and in regards to wastewater calculations were completed for wastewater flows up to a total of 2,300 dwellings. In paragraph 4.2 he outlined the methodology and processes he had used to undertake the infrastructure assessments for roading, stormwater, wastewater, water supply, Chorus, Power and Gas.

Natural environment

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Panel's Decision
10.1	Wenting Cao	Decline the plan change to reserve nature		Reject
17.2	Maria Taka	Decline the plan change as the developer's loss of land for environmental benefits is not a sufficient reason for a change of zoning		Reject
24.1	Benjamin Hussey	Decline the plan change because of negative impact on wildlife and fauna	FS 1	Reject
29.1	Jarrod Raill	Decline the plan change as construction risks pollutants entering the water and adverse effects on wildlife.		Reject
29.2	Jarrod Raill	Decline the plan change as construction risks pollutants entering the water and adverse effects on wildlife.		Reject
35.1	Ke Li	Decline the plan change as the provisions may change the environment and value of the Karaka Lakes community		Reject

38.8	Auckland Council c/- Alina Wimmer	<p>If the plan change is accepted, that the minimum vacant lot size adjoining the coast remains at 600m².</p> <ul style="list-style-type: none"> - Strengthen Precinct objectives, policies and rules to aligns with RPS objectives and policies on natural hazards. - In the alternative, any other such relief that would avoid, mitigate, or remedy geotechnical/coastal hazards. 		Accept in part
38.9	Auckland Council c/- Alina Wimmer	<p>If the plan change is accepted, retain the esplanade layer on the Precinct map, and amend to provide greater setback of development along the southern coastline.</p> <ul style="list-style-type: none"> - Amend the Precinct provisions to strengthen the link to underlying natural hazard objectives and policies in E36 and E38 to avoid the creation of new risks to people, property and infrastructure and ensure adequate setback of development. - In the alternative, any such relief that would take into account the likely impact of climate change and reduce the risk of urban development conflicting with the coastal processes. 		Accept in part
38.16	Auckland Council c/- Alina Wimmer	Amend PC67 to demonstrate through amended objective, policy and rules, Precinct diagrams, rules and assessment criteria how walking and cycling access along coastal areas will be achieved.		Accept in part
38.19	Auckland Council c/- Alina Wimmer	Amend provisions to refer to Open Space or public places rather than reserves to be consistent with the definitions section, Chapter J of the AUP.		Accept in part

38.20	Auckland Council c/- Alina Wimmer	In the alternative, such other relief as would be secure quality public Open Space outcomes in the Precinct.		Accept in part
42.3	Rae and Terry Davies	Decline the plan change because of the impact on NZ endemic and native fauna.		Reject
44.5	Karine and Jason Fox	Decline the plan change because of the impact of pollution on nature and wildlife.		Reject
45.1	Steph Cutfield	Decline the plan change due to effects on the neighbourhood and environment		Reject

Decision

151. We are satisfied that, based on the issues and evidence before us, the matters relating to environmental matters have been appropriately addressed. On this basis we **accept** or **accept in part** those submissions which supported or sought changes which we have accepted to address environmental matters, and **reject** those submissions which either sought that the plan change be declined or sought changes to the provisions which we have not made.
152. We did not hear any evidence from submitters in relation to ecological matters. The Application documents included an ecological report¹⁰⁸ that provided substance to the Applicant's view that in terms of ecological the effects of the existing provisions and those being proposed under PC67 are similar. The Council's ecologist Fiona Davies in her memo to Mr Wren did not raise any significant ecological issues.
153. As we have set out above the appropriate focus for us is the difference between effects that can be generated under the operative provisions and what could be generated under the provisions as proposed and our view is, based on the evidence before us, that there will be no difference on the environment between what could happen under the plan change provisions and the operative provisions. The Precinct Plan will show (for example) the shared paths and dedicated cycleways (including the southern motorway shared path), indicative walking and cycling connections to the esplanade reserves/coasts, indicative streams and parks.

¹⁰⁸ Application Appendix 12 Park Estate SHA Ecological Assessment

Affordable housing

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Panel's Decision
11.2	Cassie Ju	Decline the plan as increase density is not providing lower cost housing		Reject
12.2	Jason Deng	Decline the plan as increase density is not providing lower cost housing		Reject
17.3	Maria Taka	Decline the plan change because of the removal of affordable housing rules		Reject

Decision

154. This group of submissions were concerned that the existing provisions relating to requiring affordable housing will be removed by PC67. Mr Wren observed that these types of provisions have been removed from the AUP and on an Auckland wide basis there is likely to be little impact on house prices through the retention of these rules. We did not hear from any of the submitters and were unable to question them about their submission and based on the evidence before us the submissions requesting that the plan change be declined are therefore rejected.

Effects on existing transmission infrastructure

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Panel's Decision
31.1	Transpower New Zealand Limited c/- Trudi Burnley	Supports the retention of the National Grid Corridor insofar as it relates to the Hingaia 1 Precinct		Accept
31.2	Transpower New Zealand Limited c/- Trudi Burnley	Decline the deletion of objective 10		Reject

31.3	Transpower New Zealand Limited c/- Trudi Burnley	Decline the deletion of policy 1444.3 17		Reject
31.4	Transpower New Zealand Limited c/- Trudi Burnley	If 1444.5 2 . Notification is retained it is requested that 'within 37m of the centreline of a National Grid transmission line" be amended to "within the National Grid Corridor".		Reject
31.5	Transpower New Zealand Limited c/- Trudi Burnley	Amends 1444.6.1 land use standard to remove the 'if listed' at the end of the sentence. Land use activities listed in table I444.4.1 Activity Table – Land use activities must comply with the standards listed in the column in table I444.4.1 called Standards to be complied with, including the relevant overlay, Auckland-wide and zone standards, if listed .	FS3.1, FS4.1	Accept
31.6	Transpower New Zealand Limited c/- Trudi Burnley	Amend 1444.6.2 Subdivision standards to; Subdivision activities listed in Table I444.4.2 Activity Table – Subdivision must comply with the standards listed in the column in Table I444.4.2 called Standards to be complied with, including the relevant overlay and Auckland-wide standards, if listed , except that the following standards to not apply to any proposed allotment 4 ha or greater in area:	FS3.1, FS4.2	Accept
41.1	Firstgas Limited c/- Beca Limited, John McCall	Firstgas seeks to include a 20m setback required for all new residential buildings from the centreline of the existing gas transmission line – recognising the duty of the care responsibilities under the HSW Act. The submission included the amendments to the Precinct provisions to achieve this including for resource consents where required setbacks cannot be achieved.		Reject

41.2	Firstgas Limited c/- Beca Limited, John McCall	Firstgas seeks to include restrictions on earthworks within proximity to the existing pipeline – ensuring the safe, efficient, and effective operation of the existing gas transmission line during future development of 144 Park Estate Road. The submission included amendments to the Precinct provisions to achieve this including for resource consent where required standards cannot be achieved.		Reject
41.3	Firstgas Limited c/- Beca Limited, John McCall	Firstgas seeks to include the existing gas transmission pipeline and proposed setback and earthworks corridor on the Precinct maps. The following amendments to the Precinct provisions are therefore proposed: <ul style="list-style-type: none"> • Amend Figure I444.10.1. Hingaia 1 – Precinct Plan to include the extent of the existing gas transmission pipeline. • Insert a new Figure that illustrates the centreline of the gas transmission pipeline and the 20m corridor either side of the centreline (to aid Plan users in the application of the proposed ‘Gas transmission pipeline setback’ and ‘earthworks within proximity to a gas transmission pipeline’ standards sought through this submission) 		Reject

Decision

155. We have dealt with the Transpower and Firstgas submissions earlier in this report noting that both parties were concerned with the protection of their existing infrastructure on part of the land within the Precinct. Transpower transmission lines only run along the eastern side of the Precinct (the gas transmission line follows a similar route).
156. Transpower saw no need to attend the hearing and in relation to its submission we have adopted Mr Wren’s recommendations.
157. As we have said earlier we concur with both Mr Wren and Mr Grey that the approach being sought by Mr Roberts is ad-hoc and could result in a precedent and we are also of the view that Mr Roberts did not adequately demonstrate that applying the current

provisions are deficient or unworkable. We have agreed with HGL that, although not considered to be necessary, the gasline will be shown on the Precinct Plan in its existing location (but not subject to any further controls).

New Rules

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Panel's Decision
32.2	Hugh Green Limited C/- CivilPlan Consultants Limited	Make changes as specified in the submission to give effect to Resource Management (Enabling housing Supply and Other Matters) Amendment Bill introduced to the House of Parliament on 19 October 2021.	FS5, FS4.3	Reject
38.4	Auckland Council c/- Alina Wimmer	The NPS-UD implementation by Council would provide more consistent zoning approach and regionally consistent position on affordable housing than a privately initiated plan change that may not consider wider plan integrity. - In the alternative, any other such relief that would achieve plan integrity with NPS-UD implementation.		Accept in part

Decision

158. The issue of the NPS-UD has been covered earlier in this report and while we do have some sympathy for the approach being recommended by Mr Grey it is our finding that MDRS should not be incorporated into PC 67. Our finding is predicated on timing, with the simple reason that Auckland Council intends to float a AUP variation in August 2022; in just under 4 months' time. That variation will allow for region-wide input into the variation and ultimately a consistent, region-wide, approach. If we were to include provisions now into PC67 we create the potential for inconsistency between PC67 provisions and the Auckland-wide provisions, noting that one of the reasons that PC67 was promoted was to ensure consistency with the AUP:OP.

Commercial

Sub. No.	Name of Submitter	Summary of the Relief Sought by the Submitter	Further Submissions	Panel's Decision
18.1	Wenjing Qin	Concerned about the lack of employment opportunities in the area		Reject
38.3	Auckland Council c/- Alina Wimmer	<p>Decline or amend the plan change or</p> <ul style="list-style-type: none"> - That Neighbourhood Centre objectives, policies and rules should be consistent with the underlying zone. - The reduction in the extent of the Neighbourhood Centre zone is supported. - That the plan change retains the current amount of Mixed Housing Urban and Suburban zoned land around the re-located Neighbourhood Centre. - In the alternative, any other such relief that would be consistent with the centres hierarchy within the plan change boundary. 		Accept in Part
26.1	Lei Wu	Approve the plan change without amendments including the relocation of the Business Neighbourhood Centre Zone		Accept in Part
20.2	Waka Kotahi NZ Transport Agency c/- Evan Keating	Retain the proposed neighbourhood centre zoning as notified.		Accept

Decision

159. This group of submissions concerns the Neighbourhood Centre within the Precinct. The plan change proposed to make a relatively minor change to the location of the neighbourhood centre zone and also remove two floor area restrictions being a maximum of 450m² for any one tenancy and 1000m² of all commercial and retail activities in total. The area of the land zoned Neighbourhood Centre is proposed to be 7495m². Mr Riley supported the location of the relocated centre from an urban design perspective. The removal of the total area maximums will allow much more of the zone to be developed for commercial activity which will more closely match the land area provided.

160. The removal of precinct provisions for the Business – Neighbourhood Centre zone allows for the underlying zone provisions to be relied on and agreement was reached during the expert conferencing on 1 February 2022 to remove all precinct provisions relating to the neighbourhood centre, including objectives and policies and we did not hear any evidence to refute the opinion of the experts. The relevant experts also considered it appropriate to provide for show homes as a permitted activity and we agree subject to the criteria shown in the actual Plan Change document.

Further Submission

160. In paragraph 157 of his report Mr Wren referred to the further submission from Val Murugen which did not appear to refer to an original submission and Mr Wren was unable to include the further submission in his table for our consideration. Having read the submission we agree with Mr Wren view and as we were unable to question Ms Murugen we have decided that the further submission should not be accepted. However, we do note that the submission did refer to PC67 being approved without amendments.

SECTION 32AA EVALUATION

161. Section 32AA of the RMA requires a further evaluation for any changes that are proposed to the notified plan change after the section 32 evaluation was carried out.¹⁰⁹ This further evaluation must be undertaken at a level of detail that corresponds to the scale and significance of the changes.¹¹⁰

162. In our view this decision report, which among other things, addresses the modifications we have made to the provisions of PC 67, satisfies our section 32AA obligations.

Part 2

163. Section 5(1) RMA provides that the purpose of the Act is to promote the sustainable management of natural and physical resources. We find that Part 2 of the RMA is met by PC 67 for the reasons we have set out above, and provide in summary below.

164. PC 67 enables:

- a. Formatting and layout changes to the Hingaia 1 Precinct text to provide consistency with the remainder of the Auckland Unitary Plan (AUP);
- b. Amending and updating Hingaia 1 Precinct provisions that pre-date decisions on the Proposed AUP to align with the current planning content; and
- c. Providing for greater development opportunities (particularly for residential activities) on the southern side of Park Estate Road, including applying the Residential – Mixed Housing Urban zone to those parts of this land currently zoned Residential – Mixed Housing Suburban.

¹⁰⁹ RMA, section 32AA(1)(a)

¹¹⁰ RMA, section 32AA(1)(c)

165. PC 67 provides for the sustainable management of the PC 67 land, in a manner that contributes to the region's ability to accommodate future growth in accordance with the NPS UD.
166. We find that PC 67 incorporates provisions that, in conjunction with the balance of the AUP (OP), appropriately recognises and provides for the matters of national importance listed in section 6 of the RMA and have particular regard to the other matters listed in section 7 of the RMA.

Letters have been sent to iwi and we accept HGL is endeavouring to meet the concerns expressed in Variation 1. We are satisfied that PC 67 does not raise any issues in terms of section 8 of the RMA.

OVERALL DECISION

167. That pursuant to Schedule 1, Clauses 10 and 29 of the Resource Management Act 1991, that Proposed Plan Change 67 to the Auckland Unitary Plan (Operative in Part) be **approved**, subject to the modifications as set out in this decision.
168. Submissions on the plan change are accepted, accepted in part or refused in accordance with this decision.



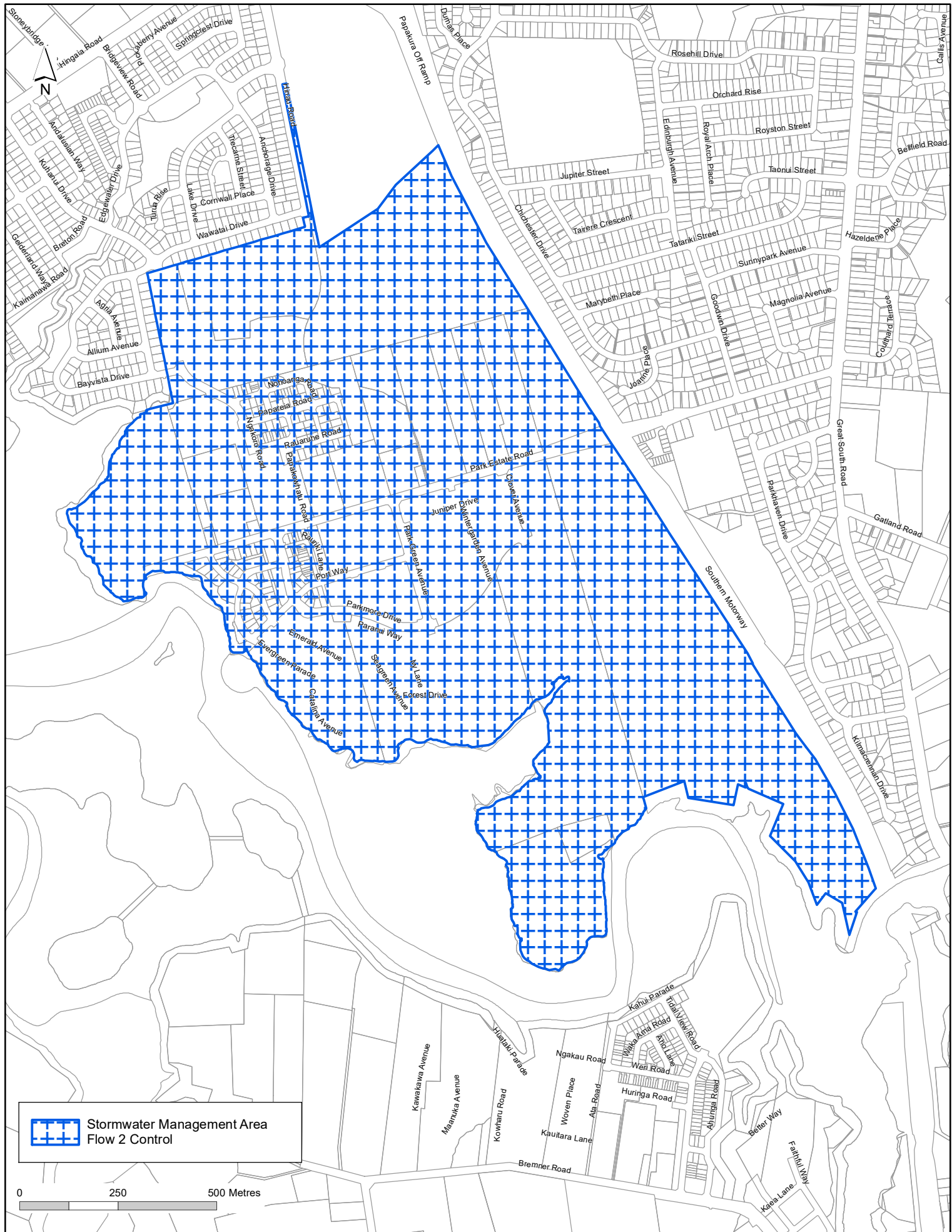
William Smith - Chairperson

- for Commissioners Rebecca Skidmore and Mark Farnsworth

13 May 2022

APPENDICES

In addition to the decision precinct provisions, changes have been made to the zone maps (as per Para. 65 of Applicants right of reply) and the overlay provisions (SMAF 2 control layer).



Auckland Council

Te Kaunihera o Tāmaki Makaurau

Plan Change 67: Stormwater Management Area Flow 2 Control