Private Plan Change Request: Orakei Point by Orakei Point Trustee Limited

Plan Change Request including Section 32 Report

19 November 2018
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INTRODUCTION

1.1 This is a request under clause 21 of the Schedule 1 of the Resource Management Act 1991 (RMA) for a private plan change to rezone a small portion of privately owned land at Orakei Point from Open Space – Informal Recreation to Business - Mixed Use. The plan change also makes amendments to the boundary of the Orakei Point Precinct and to Precinct Plans 1-5 in the Orakei Point Precinct.

1.2 The Auckland Unitary Plan – Operative in Part (Auckland Unitary Plan) targets Orakei Point for transit-oriented development (TOD) to create a key growth node around the Orakei Station. Orakei Point Trustee Limited (OPT) and its associated companies owns or controls all the private land south of the rail line on Orakei Point. Auckland Council and Ngati Whatua own land north of the Orakei rail line.

1.3 OPT and its associated companies are part way through the staged development of the southern portion of Orakei Point. The initial work has included the adaptive reuse of the former gin factory and existing industrial buildings on 228 Orakei Road to form a retail, food and beverage and arts centre (Orakei Bay Village). This work has been completed with the facility opening in 2017 and making a significant contribution to the local community.

1.4 The second stage of the development is the construction of the first apartment block which is a critical aspect to forming the TOD at Orakei Point. Resource consent has been obtained for the first building being a 7-9 level apartment building containing 32 apartments.

1.5 The zoning pattern of Orakei Point zones the significant majority of the land Business - Mixed Use but with a strip of Open Space – Informal Recreation zoned land around the periphery of the Point. In the case of the south-western shoreline of Orakei Point, this is a serrated zoning configuration reflecting a previous, now outdated, concept plan for the area. This land was zoned open space originally to provide physical public access to what was to be the Hobson Bay walkway/cycleway and to provide landscape treatment along this foreshore.

1.6 Circumstances have changed. For various reasons, the Council no longer wants this land for access to the Hobson Bay walkway. This walkway/cycleway will now either be on the northern side of the rail embankment or in fact follow the alignment of Ngapipi Road.
1.7 This application therefore seeks to rezone a narrow strip of the land adjoining the first, approved, apartment building from Open Space – Informal Recreation to Business – Mixed Use zone. The land has a total area of 431 m² and extends for a distance of 15.75 m. This will enable the apartment building to slide further north-west increasing the setback distance from the main trunk railway. This separation from the rail line is an aspiration of KiwiRail. It also makes more efficient use of the privately owned land.

1.8 Consequential amendments are made to include the land within boundary of the Orakei Point Precinct and to amend the text and maps within the Precinct.

1.9 A coastal landscape edge treatment is retained along the remainder of the south-western shoreline providing good visual amenity to residents and retaining the coastal character for those viewing Orakei Point over Hobson Bay.

1.10 The potential effects of the rezoning and the consequential repositioning of the building are considered to be less than minor for the following reasons:

- The site is sufficiently separated from the surrounding residential development that the change will be barely perceptible;
- The rezoning will enable a balance between enabling important residential development and protecting the rail corridor;
- The coastal character of the site will be maintained by the vegetation to the be maintained and the remaining serrated edge of open space zoned land;
- There will be no impact on the provision for open space needs as the Council does not wish to own the land, it is not and it need not be open to the public and as it is not of a functional size and use of itself;
- The plan change will have a positive effect on the rail corridor as the increased separation distance from the earthwire will enable increased safety and maintenance ability;
- The proposed rezoning will have no effect on infrastructure as no additional apartments are proposed
- There will be a positive effect on noise and vibration effects due to the increased separation from the rail corridor.

1.11 The conclusion of this report and the associated section 32 analysis is that this plan change will better deliver the objectives and policies of the Orakei Point Precinct Plan and the proposed planning methods are the best to achieve the policies. The planning analysis demonstrates that the effects of this change from
an urban design, visual, landscape, acoustic and infrastructure perspective, are all either positive or less than minor. This proposal meets the statutory tests for a plan change. This report:

(a) sets out the requested plan change and the impact of that plan change;

(b) sets out the property ownership and land management of the southern portion of Orakei Point;

(c) highlights the strategic importance of Orakei Point as a TOD;

(d) sets out an analysis of the site and locality;

(e) sets out an analysis of key planning aspects;

(f) undertakes a statutory assessment including a section 32 analysis;

(g) outlines the consultation undertaken as part of this plan change;

(h) addresses issues of notification.

1.12 This plan change request comprises:

(a) the requested plan change (this report);

(b) planning report and section 32 analysis by Tattico (this report);

(c) visual assessment and landscape assessment by Helena Architects (Attachment 3 to this report).
REQUESTED PLAN CHANGE

Auckland Unitary Plan Operative in Part

Proposed Plan Change X

Rezoning of a Small Area of Land at Orakei Point to Business - Mixed Use zone

Public Notification: X

Close of Submissions X

This is a privately initiated plan change under Clause 21 of the First Schedule to the RMA 1999

Explanatory note – not part of proposed plan change

The proposed change to the Auckland Unitary Plan seeks to rezone a small portion of land from Open Space – Informal Recreation zone to Business – Mixed Use zone. The plan change also makes:

- An amendment to the boundary of the Orakei Point Precinct to include the rezoned land;
- Amendments to Orakei Point Precinct Plans 1-5 to reflect the approved development and its possible future location;
- An amendment to the Activity Table in the Orakei Point Precinct to reflect the approved development and its possible future location.
There no proposed changes to any overlays or controls.

**Plan Change Provisions**

**Proposed Amendments to Auckland Unitary Plan GIS Viewer (maps)**

**Subject Property:** 236 Orakei Road, Orakei  
**Legal Description:** Pt Lot 3 DP 112856  
**Current Zone:** Open Space – Informal Recreation  
**Proposed Zone:** Business – Mixed Use

1. Rezone a small portion of land which is currently zoned Open Space – Informal Recreation to Business - Mixed Use so that the zoning reflects its ownership, intended purpose and use;

![Diagram showing land to be rezoned from Open Space – Informal Recreation to Business – Mixed Use]
2. Amend the boundary of the Orakei Point Precinct on the Auckland Unitary Plan – Maps GIS viewer so that the precinct includes the small portion of land that is to be rezoned from Open Space – Informal Recreation to Business - Mixed Use (the amended boundary of the precinct is shown below).

Proposed Amendments to Auckland Unitary Plan (Text)

1. Amend Activity Table I328.4.1 to insert the following line:

<table>
<thead>
<tr>
<th>(A26)</th>
<th>Underground parking and carpark ramps in the Open Space – Informal Recreation zone in the area dotted on Precinct Plan 5</th>
</tr>
</thead>
</table>

2. Amend Precinct Plans 1-5 in the Orakei Point Precinct as set out below.

- Remove buildings from the north-western end of the rail corridor and show the location of the approved building albeit in its future location;
- Remove the pedestrian link from Precinct Plan adjoining the approved building on Precinct Plan 3.
- Amend the boundary of the Orakei Point Precinct on Precinct Plans 1-5 Auckland Unitary Plan – Text so that it aligns with the boundary of the precinct on the Auckland Unitary Plan – Maps GIS viewer.

The amendments set out above are shown on the plans below.
قدر مدينة أركي بنت - خرائط المجمع 1

- 最大高度（高于奥克兰 datum 1946 的平均海平面）（以米为单位）
- 最多 4 层楼（高于底楼平台）
- 等同于最高点的 4 层楼

最终的最大高度是基于完成时的详细设计阶段的测量计划，以确定奥克兰路的准确 RL 水平及 Orakei 路段的水平。
I328.10.2 Ōrākei Point Precinct - Precinct plan 2
I328.10.4 Ōrākei Point Precinct - Precinct plan 4
I328.10.5 Ōrākei Point Precinct - Precinct plan 5
The proposed change is comprised of the following amendments:

1. Rezone a small portion of land which is currently zoned Open Space – Informal Recreation to Business - Mixed Use so that the zoning reflects its ownership, intended purpose and use;

2. Amend the boundary of the Orakei Point Precinct on the Auckland Unitary Plan – Maps GIS viewer so that the precinct includes the small portion of land that is to be rezoned from Open Space – Informal Recreation to Business - Mixed Use.

3. Amend the boundary of the Orakei Point Precinct on Precinct Plans 1-5 Auckland Unitary Plan – Text so that it aligns with the boundary of the precinct on the Auckland Unitary Plan – Maps GIS viewer.

4. Amendments to Precinct Plans 1-5 in the Orakei Point Precinct so that they reflect the approved development and its possible future location.

5. Amend the Activity Table in the Orakei Point Precinct to reflect the approved development and its possible future location.

The proposed rezoning and amendments to the precinct boundary and plans have the effect of making the 431m$^2$ of land available for development and residential use (as compared to open space uses and development). This change then enables the building platform of the approved building to be slid 15.75m to the north-west. In turn, this means that there is a greater separation between the apartment building and the North Island Main Trunk Rail Corridor. KiwiRail have identified that this is desirable for maintenance and increased public safety reasons.

The rezoning and the consequential movement of the building platform will not result in more apartments or any additional storeys being added to the building. Any potential effects of sliding the building platform are less than minor as set out in the following sections of this report.
1.13 Orakei Point Context

4.1.1 The location and context of Orakei Point is set out below. There is also an aerial photo which illustrates the various locations and activities at Orakei Point.

Diagram 1: Location of Orakei Bay within Hobson Bay
Diagram 2: Aerial photograph of Orakei Bay
1.9.2 Diagrams 1 and 2 above illustrate that Orakei Point:

(a) Is in one sense separated from the surrounding communities because of the geography of the area; and in another sense strategically centralised because of the rail network. Orakei is the first station from the Downtown Britomart Rail Station and has a travel time of 7 minutes. As such, this location is of strategic importance in terms of leveraging transit oriented development at Orakei Bay.

(b) Is a small peninsula bounded on the north-west by Hobson Bay, the north-east by Purewa Creek and the south-west by Orakei Basin. The peninsula itself has an approximate area of 5.7ha.

(c) Is 570m across Hobson Bay from the closest residential land in Remuera and 460m to the north from the closest residential community in Orakei.

(d) Is located adjoining the North Island Main Trunk railway. The railway corridor dissect Orakei Point dividing it into two halves – a northern half and a southern half. This line is used by both freight and passenger trains. Freight trains service the port and operate 24/7.

(e) The areas within Orakei Point can be characterised as follows:

- The north-western quadrant comprises the property at 246 Orakei Road. This is land owned by Ngati Whatua with a perpetual lease to Remuera Views Ltd Trustee Remuera Views Trust. This land is identified for future residential development but with significant open space along the northern and western coastline.

- The second component of this north-eastern quadrant is the Council’s park and ride facility. This is in a former cutting originally created for reclamation material to form the North Island main trunk across Hobson Bay and up Purewa Creek. It is currently used for a 186 vehicle park and ride facility.

- The south-western quadrant includes the land subject to this application. It is traditionally being used for a range of business and
retail uses in a variety of buildings. This is addressed in more detail below.

- The north-eastern quadrant comprises the convention and events facility at 231 Orakei Road. It creates an open space network around the perimeter of the Orakei Basin.

- The south-eastern quadrant comprises the parkland providing primary access to Orakei Basin.

4.1.3 Diagram 3 below shows that only a relatively small part of the communities of Remuera and Orakei are within the 400m – 800m walkability pedsheds for Orakei Station. No part of Remuera or Orakei is within the 400m pedshed.

Diagram 3: Orakei Station pedshed
4.2 Ownership

4.2.1 Diagram 4 below shows the land ownership of Orakei Point.

Diagram 4: Land ownership

4.2.2 There are five sites within the southern portion of Orakei Point (excluding the land owned by New Zealand Rail). These are all shown on Diagram 4.

(a) 234 Orakei Road is a freehold title owned by Auckland Council.

(b) 234A Orakei Road is owned by Ngati Whatua and on a long-term lease to Haywood Limited. This lease will expire in 2034. At that time the land will be leased to Hobson Views Ltd as trustee of Hobson Views Trust and come under the control of Orakei Bay Village (OBVL) on behalf of OPT.
(c) 234B Orakei Road is in the freehold ownership of Ngati Whatua O Orakei with Hobson Views Ltd as trustee of Hobson Views Trust having a perpetual lease of this land. This title is currently under the management of OBVL on behalf of OPT.

(d) 228 Orakei Road is owned by ORC Ltd Trust of ORC Trust. This is the area of the existing business buildings that have been significantly upgraded for a range of retail and food and beverage activities known as Orakei Bay Village. This site is controlled by OBVL on behalf of OPT.

(e) 236 Orakei Road is the site subject to this application and in the ownership of OPT.

(f) OBVL manages the sites at 236, 228 and 234B Orakei Road. When the lease of Mr Haywood expires in 2034, OBVL will manage 234A on behalf of OPT.

4.2.4 The key point is that OBVL on behalf of OPT and the Council ultimately has management over the entire southern portion of Orakei Bay, albeit that the land is in different titles.

4.2.5 OBVL has already delivered the retail precinct on the site at 228 Orakei Road. The approved building will deliver residential development. The cumulative effect of these two developments will create the nucleus for the TOD aspired to by both the Council, OBVL and OPT.

1.3 Site description

4.3.1 The location of the site within Orakei Point is illustrated on Diagram 5 below. It can be seen that the site is accessed via a driveway off Orakei Road and contains a large area of at grade parking and the building previously occupied by Kings Plant Barn. As identified above, the northern boundary of the site runs along the North Island Main Trunk railway whilst the southern boundary is the coastal edge with Hobson Bay.
1.3.2 The property details are set out below:

(a) Legal Description: Pt Lot 3 DP 112856
(b) Land area: 7396m².
(c) Owner: OP Trustee Limited.
(d) This land is managed by Orakei Bay Village Limited (OBVL) on behalf of OP Trustee Limited.
(e) The certificate of title is attached as Appendix 1 to this report.

1.4 Approved resource consent

4.4.1 On 12 July 2018, OPT obtained resource consent for a 32 unit apartment building on the site at 236 Orakei Road. Appendix 2 to this report has the consent and approved plans of the development.
4.4.2 If this plan change is successful, then OPT will seek a variation to realign the approved building to what, under that scenario, will be the new rezoned Mixed Use land. The building will be slid 15.75m to the north-west but will retain the same number of apartments, same building design, same height and same level of parking, albeit the basement parking layout is slightly reconfigured.

4.4.3 Diagram 6 below shows the location of the approved building (dotted) and the location of the building if it was slid to the north-west.

Diagram 6: Building Location(s)
2 STRATEGIC IMPORTANCE OF ORAKEI POINT

2.1 Orakei Point is a strategically important node on the Auckland public transport network. It is the closest station to the city with a high frequency service. However, it is the station with the lowest walkable catchment.

2.2 Orakei Point, because of its strategic location close to the city centre and its unique topography and location, means it is ideally suited for a TOD. Furthermore, it will only ever deliver a full contribution to Auckland’s growth and the public transport investment if it is developed as a TOD.

2.3 The planning reasons why development of Orakei Bay is strategically important to Auckland are:

   (a) Orakei Bay is strategically located with great access to the CBD, other stations on the rail network, Remuera, and the eastern bays.

   (b) The coastal topography of Orakei Bay means it is both a high amenity location for a TOD and also separated from other adjacent neighbourhoods so that any perceived effects of high intensity development are self-contained within Orakei Point.

   (c) Orakei Bay has a limited number of owners. The land is well placed for quality redevelopment.

   (d) Orakei Bay is one of the few locations close to the CBD and suitable for intensive housing development.

2.4 One of the main generators of patronage for the rail network currently is the park and ride. The majority of park and ride patrons are understood to be travelling some significant distance to catch the train at Orakei. There is also a high “drop off” catchment, especially school students. A TOD is the only opportunity to create a real catchment for the Orakei station.

2.5 A key plank of the Council’s growth strategy as outlined in the Auckland Plan and set out in the Unitary Plan is to pursue an urban consolidation strategy focused around the city centre, town centres and major public transport routes. To underpin this, Auckland has invested significantly in the upgrade of the rail infrastructure. The success of the urban consolidation strategy and the significant contribution of the key public transport network, particularly rail, depends on getting high intensity development around stations.

2.6 This principle is the genesis of what was plan change 260 to the Operative Auckland City District Plan, and was subsequently carried over into the Unitary Plan as the Orakei Point Precinct.
2.7 The Orakei Precinct (and its predecessor Plan Change 260) sets out a planning framework to enable a TOD at Orakei Bay. It requires integrated comprehensive development of the area for high density housing and other mixed use development.

2.8 It was originally envisaged that this would occur with the land all under the control of a single entity with development above the rail corridor spanning both north and south of the rail line. Logistical and other reasons have meant that the Council, Auckland Transport and KiwiRail have supported the TOD and integrated development, but have not supported the concept of building over the rail.

2.9 This means that integrated comprehensive development can still proceed, but there is a logical demarcation between the land south of the rail line and that north of the rail line.

2.10 The approved consent for 32 apartments is the important next step in enabling the development of a TOD. This plan change has a positive effect of refining the location of the approved building to give a further separation from the North Island Main Trunk Line.
3 PLANNING INFORMATION

3.1 Effective planning document

The provisions of Orakei Point are operative under the “Auckland Unitary Plan (Operative in Part)”.

3.1.2 Existing Zoning

Business - Mixed Use (light purple) and Public Open Space Informal Recreation Zone (green).

Diagram 7: Existing Zoning

3.1.3 Designations

(a) There are no designations applying to the land.

(b) The site adjoins the North Island main trunk line to the east which is designated for railway purposes.
3.1.4 Overlays/Controls

The following overlays apply to the site:

- Orakei Point Precinct (sub-precincts B-F)
- Natural hazards: coastal inundation – 1m sea level rise.
- Macroinvertebrate Community Index
Diagram 9: Auckland Unitary Plan overlays
7.1 Visual Analysis

As identified earlier in this report, this plan change rezones land from Open Space – Informal Recreation to Business – Mixed Use. If this plan change is approved, it will allow the approved building to be slid 15.75 to the north-west (if resource consent is approved).

Hulena Architects have prepared an assessment of the potential effects of moving the building to the new location (refer Attachment 3). This assessment includes a series of photos from 4 viewpoints which provide a comparison between the building in its current location and the future location if the land was rezoned. The viewpoints are shown in Diagram 10 below.

Diagram 10: Viewpoints
Overall, the above views show that the rezoning and the consequential movement of the building to the north-west by 15m has minimal, less than minor, effects. This is due to the separation distance between Orakei Point from the surrounding residential development and the minimal nature of the change i.e. 15m. This view is confirmed by the following statement in the assessment prepared by Hulena Architects:
“In summation we suggest that by moving the building 15.750m in a north westerly direction proposes an effect that can be described as minor or even less than minor.

7.2 Coastal Character

This proposal rezones a small portion of land (431m²) so that it can be used for residential development rather than open space uses. This rezoning will have little effect on the coastal character of the Orakei Point for the following reasons:

- The ecological investigations undertaken as part of the approved building confirmed that there is little natural character on the site. This is due to the fact that the land is reclaimed and the vegetation was largely comprised of exotic species (which have now been removed);

- The area of land to be rezoned is small in size. This means that it will not result in a substantial change as compared to the prior to the rezoning;

- A serrated edge of open space zoning will be retained. The serrated nature of this zoning means there is provision for larger and smaller open space areas along the coastal edge. This is preferable to a small consistent strip of open space which simply creates a “fringe” with no larger areas of open space / coastal planting.

- The majority of the existing planting along the coastal edge will be retained. This coastal planting will be supplemented by the planting that will be undertaken around the approved building.

Overall, it is considered that the proposed plan change will have little effect on the coastal/landscape values of the site.

7.3 Open Space

There are a number of open space areas surrounding Orakei Point, the most notable of which is the network of paths and open spaces running adjacent to Orakei Basin and Purewa Creek. In addition to these, there will also be a Headland Park and a coastal walkway around the northern portion of Orakei Point when this area is developed.
This plan change proposes to rezone the 431m$^2$ of land from Open Space – Informal Recreation to Business – Mixed Use. This triggers the need to consider if the proposed plan change will have potential effects on the provision of open space for recreation needs at Orakei Point.

It is considered that the proposed plan change will not have negative effects on the provision of open space for recreation needs for the following reasons:

- At the time of Plan Change 260, this land was going to be part of the open space network located around the fringe of Orakei Point and connecting into the walkway across Hobson Bay and the walkway around Orakei Basin. However, circumstances have changed. The land was offered to Council for purchase and was declined as the Council no longer see a role for this land as part of the open space network and as they are no willing to accept the maintenance obligation. A further factor is that open space use of this land would facilitate access to the electrified rail corridor which is not desirable for obvious reasons.

- Privately-owned land should not be zoned POS where the owner does not support that zoning. This principle was outlined in the decision of Dilworth Trust Board v Auckland City Council and is reflected in the provisions of open space zones and the regional policy statement within the Auckland Unitary Plan;

- The relatively small size of the land to be rezoned means that it is unlikely to be useful for an open space purpose on its own. Furthermore, the land is only accessible through private land and therefore cannot be used without permission from the landowner.

It is also noted that the Auckland Unitary Plan Independent Hearings Panel determined that the correct name for the open space zones was “open space” rather than “public open space”. This change in name was intended to reflect the fact that the zone includes public and privately owned land and that public access was not always available. Therefore, there should be no expectation that the land subject to the plan change would have been available for public use.

Overall, the fact that the Council does not wish to own this land and the fact that there is no obligation on a private landowner to provide for public recreation needs means that there will no adverse effects on open space/recreation needs as a result of this plan change.
7.4 Transit Orientated Development/Orakei Point Precinct/Efficient use of land

Section 5 of this report highlighted the strategic importance of a TOD development at Orakei Point. In essence, Orakei Point offers one of very few opportunities to undertake significant intensification very close to an existing, central Auckland, rail station.

This plan change adds additional land to the Orakei Point Precinct. Adding land to the precinct is considered to be an efficient use of strategically important land, particularly as the additional land will help to achieve the objectives and policies for the Orakei Point Precinct. In particular, the rezoning will:

1. Facilitate the construction of the approved building which will contain 32 apartments. The residents of the 32 apartments will be the beginnings of creating a residential catchment for the Orakei Rail Station and the mixed use development trading as Orakei Bay Village. Essentially the residential apartment building is the critical, missing component to achieving a TOD;

2. Allow the approved apartment building to be constructed with a greater separation from the rail corridor. While the approved building meets the current setback requirements, KiwiRail has advised that they consider that a greater separation distance would be preferable to ensure that there are no risks to residents and to better enable maintenance. Protecting the rail corridor was another key tenant of the TOD / Orakei Point Precinct objectives and policies.

Given that the plan change will achieve a balance between these two important factors is it considered to have positive planning effects.
7.5 North Island Main Trunk Rail Corridor – Separation Distance

The proposed rezoning will allow the approved building to be moved 15m to the north-west (provided that resource consent is obtained for this new position). This will mean that the building will be a minimum of 3.5m from the boundary of the site as compared to the approved building which directly adjoins the boundary. This will increase the separation of the building from the rail corridor and particularly from the earthline. The site boundary and the earthline are shown on the aerial photo below.

Diagram 11: Site boundary and earthline

This increased ability for separation is considered to have positive effects in that it result in increased safety margins and will facilitate better access to the rail corridor for maintenance.
7.6 Acoustic

As identified above, the approved building is located alongside the North Island Main Trunk rail corridor. This is an operational railway with significant freight and passenger volumes.

The Orakei Point Precinct has particular provisions to ensure appropriate noise attenuation and vibration management for apartments built alongside this heavy rail network.

The ‘Peninsula’ building has been particularly designed to take account of these issues. In terms of managing noise intrusion, the specific noise standards for Orakei Point can be meet either by using a winter garden (an indoor balcony) or by reducing the extent of glazing. This proposal chooses the “winter garden” or logia approach. A winter garden or logia approach sees two glazing lines between the living space and any outdoor decks. The first is the traditional glazing line between the living space and the deck. The second is the glazing line at the outer edge of the deck itself. It is this dual glazing line which gives high levels of noise attenuation.

If a winter garden is used residents will have the choice as to either enclose the building for noise suppression reasons or to open up the area for an outdoor open environment. Obviously residents can vary the level of noise attenuation through the day and night depending on the activity within the apartment.

In terms of vibration, the installation of vibration mitigation in the form of elastomeric pads to be incorporated between pile caps and the floor slab within 22m of the railway.

If the proposed plan change is approved, and the building is subsequently moved 15m to the north-west, the above design elements will remain unchanged and the greater separation distance can only have positive effects on noise and vibration.

7.7 Infrastructure

This rezoning will in turn enable the approved apartment building to be further separated from the North Island Main Trunk Railway.

Therefore, it will not enable any additional development per se rather it moves the same development from one location to another. As a result there will not be any additional demand on wastewater, stormwater or other utilities.
7.8 Effects Conclusion

This plan change relates to the rezoning of a small area (431m$^2$) of Open Space land adjoining the Orakei Point Precinct to Business – Mixed use. The ultimate outcome of the is to enable an approved apartment building to the re-positioned 15m further to the north-west (should resource consent be approved). The potential effects of the rezoning and the consequential repositioning of the building are considered to be less than minor for the following reasons:

- The site is sufficiently separated from the surrounding residential development that the change will be barely perceptible;
- The rezoning will enable and efficient use of land which will enable important residential development and also give greater protection to the rail corridor;
- The coastal character of the site will be maintained by the existing and proposed and the remaining serrated edge of Open Space zoned land;
- There will be no impact on the provision for open space needs as circumstances have changed and the Council no longer wishes to own the land and use it for open space purposes;
- The plan change will have a positive effect on the rail corridor as the increased separation distance will enable increased safety and maintenance ability;
- The proposed rezoning will have no effect on infrastructure as no additional apartments are proposed;
- There will be a no noise and vibration effects as the design of the building will not be changed.

8 Statutory Assessment


Section 5 of the RMA sets out the purpose of the RMA, and requires a broad judgement as to whether a proposal would promote the sustainable management of natural and physical resources. This exercise of judgement is informed by the principles in sections 6 to 8, and considered in light of the particular circumstances of each application.

Section 6 of the RMA sets out a number of matters of national importance which need to be recognised and provided for and includes, in no order of priority, the protection of outstanding
natural features and landscapes, the protection of areas of significance indigenous vegetation and significant habitats of indigenous fauna and the protection of historic heritage.

Section 7 identifies a number of “other matters” to be given particular regard to by a territorial authority in the consideration of any assessment for resource consent and includes the efficient use of natural and physical resources and the maintenance and enhancement of amenity values.

Section 8 requires Council to take into account the principles of the Treaty of Waitangi.

This plan change relates to land being rezoned from Open Space – Informal Recreation to the Business – Mixed Use zone. The small size of the land and the fact that it will have the same zone as the adjoining land means that the change will be barely perceptible to the wider public. Notwithstanding, the proposed plan change is considered to be consistent with Part 2 of the RMA as it provides for efficient use and development of urban land and also provides further protection to the rail corridor which is significant infrastructure. In addition, the coastal character and amenity values of the site will be maintained by serrated edge of open space which will adjoin the land and run along the south-western coastal edge.

While the loss of open space land would seemingly indicate that there may be an effect on recreation/public access to the coast, circumstances have changed and the Council no longer wishes to own this land to add it to its public open space network. Therefore, there is no impact as the public cannot access this land or the coast.

8.2 National Environmental Standards

National Environmental Standards are regulations issued under section 43 of the Resource Management Act 1991 and apply nationally. These standards are essential for maintaining a clean, healthy environment. The following standards are in force as regulations:

• National Environmental Standards for Air Quality;
• National Environmental Standards for Sources of Drinking Water;
• National Environmental Standards for Telecommunication Facilities;
• National Environmental Standards for Electricity Transmission Activities; and
• National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health.
National Environmental Standards on Ecological Flows and Water Levels and National Environmental Standards on Plantation Forestry currently under development by the Ministry for the Environment.

None of the above standards are relevant to this rezoning. It is noted that the National Environmental Standard for Electricity Transmission is not relevant to the earthwire in the rail corridor.

8.3 New Zealand Coastal Policy Statement

The purpose of the NZCPS is to set out policies in order to achieve the purpose of the RMA in relation to the coastal environment of New Zealand. While the subject land does not directly adjoin the coast it is in proximity to the coastal environment.

The plan change is considered consistent with the NZCPS as it will not detract from the coastal character of the site. This is because the land to be rezoned is small in size and therefore any development to be located on the land will be barely perceptible to the wider public as compared to the existing applied zones. Furthermore, the rezoning retains a serrated edge of open space land around the coast which will not only provide a setback from the coast but can also be planted with appropriate coastal species.

As stated previously in this report, there is no impact on public access to the coast as there is currently no access to the coast through this land and there never will be as the Council has declined the opportunity to purchase it.

8.4 National Policy Statements

National Policy Statements are instruments issued under section 52(2) of the Resource Management Act 1991 and state objectives and policies for matters of national significance. There are currently four national policy statements developed by the Ministry for the Environment. These are as follows:

- National Policy Statement on Urban Development Capacity;
At present, the Ministry for the Environment is in the process of developing a proposed National Policy Statement for Indigenous Biodiversity.

The National Policy Statement on Urban Development Capacity is relevant to this re-zoning as the re-zoned land will be able to be used for residential development in line with the Business – Mixed Use zone. As set out previously in this report, the provision for mixed use development on this site is important as it will result in the efficient use of land and better help to achieve the TOD outcomes sought for the Orakei Point Precinct.

8.5 Hauraki Gulf Marine Park Act 2000

The Hauraki Gulf Marine Park Act 2000 (HGMPA) has the purpose of seeking the integrated management of the natural, historic and physical resources of the Hauraki Gulf, its islands and catchments. It also established the Hauraki Gulf Forum, the Park itself and the recognition of the relationship of tangata whenua with the Hauraki Gulf and its islands. The HGMPA recognises that the Hauraki Gulf and its islands are matters of national significance.

The plan change is consistent with the HGMPA as the land to be rezoned is small in size and as any development that will result from the rezoning is able to be managed in such a way that there will be no wastewater or stormwater impacts and erosion and sediment control matters can be addressed through any future resource consent process.

8.6 Auckland Regional Policy Statement

The Orakei Point Precinct seeks to achieve an intensive, mixed use development centred around an existing rail station. This is consistent with the Auckland Regional Policy Statement in a whole range of ways but particularly with the objectives and policies relating to urban growth and form. These are set out below:

(1) A quality compact urban form that enables all of the following:
(a) a higher-quality urban environment;
(b) greater productivity and economic growth;
(c) better use of existing infrastructure and efficient provision of new infrastructure;
(d) improved and more effective public transport;
(e) greater social and cultural vitality;
(f) better maintenance of rural character and rural productivity; and
(g) reduced adverse environmental effects.

(2) Urban growth is primarily accommodated within the urban area 2016 (as identified in Appendix 1A).

(3) Sufficient development capacity and land supply is provided to accommodate residential, commercial, industrial growth and social facilities to support growth.

(4) Urbanisation is contained within the Rural Urban Boundary, towns, and rural and coastal towns and villages.

(5) The development of land within the Rural Urban Boundary, towns, and rural and coastal towns and villages is integrated with the provision of appropriate infrastructure.

The proposed re-zoning will add to the ability to achieve the above outcomes by enabling an apartment building with 32 dwellings. The fact that the proposed rezoning will allow the building to be further separated from the rail line is also consistent with the objectives of the Regional Policy Statement relating to infrastructure. These are set out below:

(1) Infrastructure is resilient, efficient and effective.

(2) The benefits of infrastructure are recognised, including:
   (a) providing essential services for the functioning of communities, businesses and industries within and beyond Auckland;
   (b) enabling economic growth;
   (c) contributing to the economy of Auckland and New Zealand;
   (d) providing for public health, safety and the well-being of people and communities;
   (e) protecting the quality of the natural environment; and
   (f) enabling interaction and communication, including national and international links for trade and tourism.

(3) Development, operation, maintenance, and upgrading of infrastructure is enabled, while managing adverse effects on:
   (a) the quality of the environment and, in particular, natural and physical resources that have been scheduled in the Unitary Plan in relation to natural heritage, Mana Whenua, natural resources, coastal environment, historic heritage and special character;
(b) the health and safety of communities and amenity values.

(4) The functional and operational needs of infrastructure are recognised.

(5) Infrastructure planning and land use planning are integrated to service growth efficiently.

(6) Infrastructure is protected from reverse sensitivity effects caused by incompatible subdivision, use and development.

(7) The national significance of the National Grid is recognised and provided for and its effective development, operation, maintenance and upgrading are enabled.

(8) The adverse effects of infrastructure are avoided, remedied or mitigated.
9 SECTION 32 EVALUATION

9.1 Section 32 tests

Section 32 of the Act requires any proposed plan change to provide an assessment of the appropriateness, effectiveness, efficiency, costs, benefits and risks of the requested plan change including alternative options. Section 32 states:

“32 Requirements for preparing and publishing evaluation reports
(1) An evaluation report required under this Act must—
   (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and
   (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—
      (i) identifying other reasonably practicable options for achieving the objectives; and
      (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
      (iii) summarising the reasons for deciding on the provisions; and
   (c) contain 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.”

The following section evaluates 3 options for the subject land and provides an assessment of each of the options.

9.2 Option One: Status Quo (“Do Nothing”)

This option relates to retaining the current Open Space – Informal Recreation zoning on the subject land. There would be no changes to the Orakei Point Precinct or the Precinct boundary.

9.2.1 The provision is the most appropriate way to achieve the objectives

Retaining the open space zoning on the land is not the most appropriate way of achieving the objectives of the open space zone as the objectives and policies of the open space zone relate to
meeting the recreational needs if the wider community. This is demonstrated by the following objective and policy:

(1) **Recreational needs are met through the provision of a range of quality open space areas that provide for both passive and active activities.**

(1) **Design, develop, manage and maintain open spaces to:**

(a) provide for the needs of the wider community as well as the needs of the community in which they are located;

(b) achieve the objectives for the open space zone;

(c) use resources efficiently and where appropriate be adaptable and multifunctional;

(d) provide for people of differing ages and abilities;

(e) be safe and attractive to users; and

(f) where appropriate for the zone, reflect the natural, heritage and landscape values of the area.

The fact that this area of land is privately owned precludes the land meeting the objectives and policies above as the wider community cannot access the land for recreational needs.

### 9.2.2 Efficiency and Effectiveness

If the existing zoning was retained this would not be the most effective or efficient way to provide for the recreation needs of the wider public. This is because the land is not in public ownership and is therefore not available for public use. In addition the Council has confirmed that it does not wish to purchase this land, therefore it will never be available for public use.

A further factor is that the small size of the land (431m²) means that it is not functional or effective in terms of providing for recreational needs.

### 9.2.3 Benefits and Costs

The key benefits of this option are that:

- No changes or further work is required i.e. the existing provisions can remain in place.
- It will retain a wider strip of land along the coastline that will only have limited development potential.
The potential cost of this option is that it does not provide for the efficient use of land in that the land cannot be used for public recreation purposes as the Council does not wish to own it and yet it is not zoned for urban development.

9.2.4 Risks

As stated above, there is a risk that if the existing zoning is retained that the land will not be efficiently used. In some circumstances this may be tolerable, but not where the land is located in a strategically important urban position and where the land could better promote the TOD outcomes sought for the precinct if it was able to be efficiently developed.

9.3 Option Two: Rezone the Site Business – Mixed Use but no Precinct Plan amendments

This option relates to rezoning the subject land from Open Space – Informal Recreation to Business – Mixed Use but does not include making any amendments to either the boundary of the Orakei Point Precinct or the Precinct provisions/plans themselves.

9.2.1 The provision is the most appropriate way to achieve the objectives

If the land was rezoned Business – Mixed Use it would help to achieve the objectives of the Business – Mixed Use zone as the land would be able to be developed for a mix of uses including apartments. This would in turn help to develop Orakei Point into a strong centre which would be part of the network of centres across the region. This is in-line with the following objective from the Mixed Use zone:

(1) A strong network of centres that are attractive environments and attract ongoing investment, promote commercial activity, and provide employment, housing and goods and services, all at a variety of scales.

However rezoning to Business – Mixed Use only and not making amendments to the Orakei Point Precinct is not the most appropriate means of meeting the objectives and policies of the Orakei Point Precinct. This is because the precinct provisions would not apply i.e. the land would be outside the precinct.
Having development land located at Orakei Point but outside the precinct has the ability to creating conflicting outcomes or stymie development.

### 9.2.2 Efficiency and Effectiveness

It is efficient and effective to apply the Business – Mixed Use zone to the subject site as this is the zoning that is applied to the adjoining land. This means that the subject site can be developed in a comprehensive and consistent manner as part of the adjoining development.

However, it would be difficult to achieve effective and efficient development if the land was not also included in the Orakei Point Precinct. This is because the precinct provisions would not apply to the land and therefore it would be difficult to achieve the nature and form development promoted by the precinct.

### 9.2.3 Benefits and Costs

The benefit of this option is that the Business – Mixed Use zone would apply to the land. This would have the benefit of providing mixed use type development as compared to the open space development provided for currently.

However, the cost of this approach is that the provisions of the Orakei Point Precinct would not apply. This means that development on this land might not be entirely consistent with the development on the adjoining land.

### 9.2.4 Risks

The risk of this approach is that it would not enable development that is consistent with that on the adjoining land which is in the Orakei Point Precinct.

A further risk is that the land may not be developed at all due to the inconsistencies between the zoning and the precinct. This would result in an inefficient use of land.
9.4 Option Three: Rezone the Site Business – Mixed Use and amended Precinct Plan

This option relates to rezoning the subject land from Open Space – Informal Recreation to Business – Mixed Use, making amendments to include the land within the Orakei Point Precinct and amend the precinct provisions to reflect the approved building and enable it to be moved 15m to the north-west.

If this option was adopted, it would make the land more available for mixed use development (as compared to open space development) it would also mean that this land can be developed in accordance with the Orakei Point Precinct.

9.2.1 The provision is the most appropriate way to achieve the objectives

If the land was rezoned Business – Mixed Use it would help to achieve the objectives of the Business – Mixed Use zone as the land would be able to be developed as part of the mixed use development sought for the precinct. This would in turn help to develop Orakei Point into a strong centre which would be part of the network of centres across the region. This is in-line with the following objective from the Mixed Use zone:

(1) A strong network of centres that are attractive environments and attract ongoing investment, promote commercial activity, and provide employment, housing and goods and services, all at a variety of scales.

The inclusion of the subject land within the Orakei Point Precinct would be consistent with the objectives of the Orakei Point Precinct as it will help to enable mixed use development and as it will further protect the rail corridor. The relevant objectives are set out below:

(1) Ōrākei Point is comprehensively developed for mixed-use activities which integrate well with the public transport network.

(4) Adverse effects from the current and anticipated future operation of the North Island Main Trunk Railway Line are avoided and mitigated.
9.2.2 Efficiency and Effectiveness

It is efficient and effective to apply the Business – Mixed Use zone to the land as this is the zoning that is applied to the adjoining land. This means that the subject site can be developed in a comprehensive and consistent manner as part of the adjoining development.

It is also efficient and effective to include the land in the Orakei Point Precinct as this will allow the land to be developed in a manner consistent with the adjoining land (which is all subject to the Orakei Point Precinct).

9.2.3 Benefits and Costs

The benefit of this option is that the land will have the same planning provisions as the adjoining land i.e. it will be zoned Business – Mixed Use and will also be subject to the Orakei Point Precinct. This will allow the land to be developed in a comprehensive and consistent manner.

This option will also have the benefit of enabling the approved building to be moved 15m to the north-west (provided that resource consent is obtained) and thereby providing additional separation from the rail corridor. This is because the land will be zoned appropriately and as the approved building will be shown on the precinct plans.

The cost of this approach is that the area of open space land along the coastline is reduced. This is only a cost in terms of coastal character and visual amenity (on which there is minimal effect) as the land would never be able to be used for public open space/recreation uses as the land is in private ownership.

9.2.4 Risks

The risk of this approach is that the area of open space land along the coastline is reduced. This is only a risk in terms of coastal character and visual amenity (on which there is minimal effect) as the land would never be able to be used for public open space/recreation uses as the land is in private ownership.
9.5 Monitoring

No specific monitoring other than the monitoring required by Section 35 of the RMA is proposed the rezoning. Consent monitoring will continue to be undertaken on a case by case basis.

9.6 Section 32 Evaluation conclusion

The option of rezoning the land to Mixed Use – Business and making amendments to the Orakei Point Precinct is the most appropriate option as this option is an effective and efficient means of enabling comprehensive, mixed use development at Orakei Point. This option also recognises the approved building and enables the opportunity to make a resource consent to move the approved building 15m to the north-west. This has the benefit of providing a greater separation from the rail corridor.

Overall, rezoning the land Business – Mixed Use and including the land in the Orakei Point Precinct will be consistent with two of the key objectives of the Orakei Point Precinct in that enable residential development and contribution to the creation of a TOD whilst also further protecting the rail corridor.
10 CONSULTATION

10.1 Consultation

KiwiRail has advised OPT that they seek a greater separation between the approved building and the rail corridor, notwithstanding the fact that there is no yard setback from the rail corridor in the Auckland Unitary Plan. This plan change helps to achieve KiwiRail’s outcome as re-zoning the land will help facilitate moving the building 15.75m to the north-west.

OPT consulted with Ngati Whatua O Orakei over the development of the Peninsula building. Ngati Whatua formally advised OPT that they do not object to that project. Notwithstanding, it is expected that Ngati Whatua and the other iwi groups will be notified of the plan change as part of the notification process.

The Council was consulted with extensively as part of the development of an alternative masterplan for Orakei Point South and the approved Peninsula Building. Notwithstanding that this rezoning only relates to a small piece of land, it is expected that the Council will be notified of this plan change also and will therefore have the opportunity to make a submission.

The other land owners within this area are all under the management of OPT. OPT is the authorised agent for these properties. For the record, the owners of 228, 234A, Orakei Road and the long term leaseholder of 234B Orakei Road have given their written consent to this application.
11 Notification

Clause 5A of Schedule 1 in the Resource Management Act 1991 enables limited notification of Plan Changes, but only if it is able to identify all the persons directly affected by the proposed change.

It is considered that the only parties directly affected by the plan change are the other landowners at Orakei Point. This is because:

- The area of land to be re-zoned is small and therefore the future use and development of the land will be barely perceptible from the wider environment;
- The area of land will be re-zoned to the Business – Mixed Use zone which will is the same as the adjoining and majority of land at Orakei Point. This means that development on the rezoned land will simply be consumed into the wider development and thereby not readily noticeable.
- Circumstances have changed and the Council no longer wish for this land to be used for open space purposes. This means that there will be no effect on public recreation or access to the land as the land is not open to the public currently and will not be in the future;
- A serrated edge of open space land is retained. This will maintain the landscape and coastal character of the southern coastal edge.

The landowners on Orakei Point were set out in Section 4 above but are repeated below (along with the ownership diagram) for ease of use:
Diagram 12: Land ownership (same as Diagram 4 above)

There are five sites within the southern portion of Orakei Point (excluding the land owned by New Zealand Rail):

(a) 234 Orakei Road is a freehold title owned by Auckland Council.

(b) 234A Orakei Road is owned by Ngati Whatua and on a long-term lease to Haywood Limited. This lease will expire in 2034. At that time the land will be leased to Hobson Views Ltd as trustee of Hobson Views Trust and come under the control of Orakei Bay Village (OBVL) on behalf of OPT.

(c) 234B Orakei Road is in the freehold ownership of Ngati Whatua O Orakei with Hobson Views Ltd as trustee of Hobson Views Trust having a perpetual lease of this land. This title is currently under the management of OBVL on behalf of OPT.
(d) 228 Orakei Road is owned by ORC Ltd Trust of ORC Trust. This is the area of the existing business buildings that have been significantly upgraded for a range of retail and food and beverage activities known as Orakei Bay Village. This site is controlled by OBVL on behalf of OPT.

(e) 236 Orakei Road is the site subject to this application and in the ownership of OPT.

(f) OBVL manages the sites at 236, 228 and 234B Orakei Road. When the lease of Mr Haywood expires in 2034, OBVL will manage 234A on behalf of OPT.

4.2.4 The key point is that OBVL on behalf of OPT and the Council ultimately has management over the entire southern portion of Orakei Bay, albeit that the land is in different titles.

Given the matters set out above, it is considered that this application should be limited notified to the following parties:

- Auckland Council
- KiwiRail
- Ngati Whatua.
CONCLUSION

This plan change relates to the rezoning of a small area (431m$^2$) of open space land adjoining the Orakei Point Precinct to Business – Mixed Use. The ultimate outcome of the rezoning is to enable an approved apartment building to the re-positioned 15m further to the north-west (should resource consent be approved). The potential effects of the rezoning and the consequential repositioning of the building are considered to be less than minor for the following reasons:

- The site is sufficiently separated from the surrounding residential development that the change will be barely perceptible;
- The rezoning will enable a balance between enabling important residential development and protecting the rail corridor;
- The coastal character of the site will be maintained by the vegetation to the be maintained and the remaining serrated edge of open space zoned land;
- There will be no impact on the provision for open space needs as the Council does not wish to own the land, it is not and it need not be open to the public and as it is not of a functional size and use of in itself;
- The plan change will have a positive effect on the rail corridor as the increased separation distance from the earthwire will enable increased safety and maintenance ability;
- The proposed rezoning will have no effect on infrastructure as no additional apartments are proposed
- There will be a positive effect on noise and vibration effects due to the increased separation from the rail corridor.

The option of rezoning the land to Mixed Use – Business and making amendments to the Orakei Point Precinct is the most appropriate option as it is an effective and efficient means of enabling comprehensive, mixed use development at Orakei Point. This option also recognises the approved building and enables the opportunity to make a resource consent to move the approved building 15m to the north-west. This has the benefit of providing a greater separation from the rail corridor.

Overall, rezoning the land Business – Mixed Use and including the land in the Orakei Point Precinct will be consistent with two of the key objectives of the Orakei Point Precinct in that enable residential
development and contribution to the creation of a TOD whilst also further protecting the rail corridor.

John Duthie

Director

November 2018
APPENDIX 1
Certificate of Title

COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952

Search Copy

Identifier
NA63C/143

Land Registration District
North Auckland

Date Issued
21 May 1987

Part-Cancelled

Prior References
NA866736 PROC 5712 PROC 5801
PROC 8136

Estate
Fee Simple

Area
7473 square metres more or less

Legal Description
Lot 3 Deposited Plan 112856

Proprietors
OP Trustee Limited

Interests
Subject to Part IV A Conservation Act 1987.

Subject to a right of way over parts marked B, CC, C, D, E, F, H, K, N, Q, G, N and IF and to a sewer right over parts marked F, Q and IF and to a stormwater right over parts marked K, CC and BB on DP 112856 specified in Easements Certificate B666666.2 - 21.5.1987 at 11.57 am

Appurtenant hereto are rights of way specified in Easement Certificate B666666.2 - 21.5.1987 at 11.57 am

C9915621 Gazette Notice acquiring part of the within land (77m²) in connection with a road and shall vest in the Auckland City Council subject to any leases registered or unregistered - 3.7.1992 at 2.20 pm

9525732 Mortgage to Golden Fund Limited - 17.5.2013 at 5:11 pm

95372241 Mortgage to Westpac New Zealand Limited - 20.12.2013 at 4:43 pm

95372242 Mortgage Priority Instrument making Mortgage 9537224.1 first priority and Mortgage 9392573.2 second priority - 20.12.2013 at 4:43 pm
APPENDIX 2

2018 Approved resource consent
APPENDIX 3
Assessment by Hulena Architects