

I hereby give notice that an ordinary meeting of the Planning, Environment and Parks Committee will be held on:

**Date:** Thursday, 2 February 2023  
**Time:** 10.00am  
**Meeting Room:** Reception Lounge  
**Venue:** Auckland Town Hall  
301-305 Queen Street  
Auckland

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**Updated 31.01.2023**

Due to the State of Emergency in effect in Auckland, this meeting has been rescheduled to **Thursday, 9 February 2023 at 1.30pm.**

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## **Komiti mō te Whakarite Mahere, te Taiao, me ngā Papa Rēhia Planning, Environment and Parks Committee OPEN AGENDA**

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### **MEMBERSHIP**

**Chairperson**

Cr Richard Hills

**Deputy Chairperson**

Cr Angela Dalton

**Members**

IMSB Member Edward Ashby

Cr Andrew Baker

Cr Josephine Bartley

Mayor Wayne Brown

Cr Chris Darby

Cr Julie Fairey

Cr Alf Filipaina, MNZM

Cr Christine Fletcher, QSO

Cr Lotu Fuli

IMSB Member Hon Tau Henare

Cr Shane Henderson

Cr Mike Lee

Cr Kerrin Leoni

Cr Daniel Newman, JP

Cr Greg Sayers

Deputy Mayor Desley Simpson, JP

Cr Sharon Stewart, QSM

Cr Ken Turner

Cr Wayne Walker

Cr John Watson

Cr Maurice Williamson

(Quorum 11 members)

**Sandra Gordon**

**Kaitohutohu Mana Whakahaere Matua /  
Senior Governance Advisor**

**26 January 2023**

Contact Telephone: +64 9 890 8150

Email: [Sandra.Gordon@aucklandcouncil.govt.nz](mailto:Sandra.Gordon@aucklandcouncil.govt.nz)

Website: [www.aucklandcouncil.govt.nz](http://www.aucklandcouncil.govt.nz)



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**1 Ngā Tamōtanga | Apologies**

**2 Te Whakapuaki i te Whai Pānga | Declaration of Interest**

**3 Te Whakaū i ngā Āmiki | Confirmation of Minutes**

Click the meeting date below to access the minutes.

That the Planning, Environment and Parks Committee:

- a) whakaū / confirm the ordinary minutes of its meeting, held on [Thursday, 8 December 2022](#), including the confidential section, as a true and correct record.

**4 Ngā Petihana | Petitions**

**5 Ngā Kōrero a te Marea | Public Input**

**6 Ngā Kōrero a te Poari ā-Rohe Pātata | Local Board Input**

**7 Ngā Pakihi Autaia | Extraordinary Business**



# Approval of Auckland Council's submission on the Spatial Planning Bill and the Natural and Built Environment Bill

File No.: CP2022/16657

Item 8

## Te take mō te pūrongo

### Purpose of the report

1. To seek approval for Auckland Council's submission on the Natural and Built Environment Bill and Spatial Planning Bill to the Environment Select Committee.

## Whakarāpopototanga matua

### Executive summary

2. Government's comprehensive reform of the resource management system will repeal the Resource Management Act 1991 (RMA) and replace it with three new pieces of legislation:
  - the Natural and Built Environment Act (NBA)
  - the Spatial Planning Act (SPA)
  - the Climate Adaptation Act (CAA).
3. The Natural and Built Environment Bill (NBE Bill) and Spatial Planning Bill (SP Bill) were introduced to Parliament on 15 November 2022 and have been referred to the Environment Select Committee. Submissions on both bills close on 5 February 2023. The chair of this committee requested, and was granted, an extension to 19 February for Auckland Council. The select committee will report back to Parliament by 22 May 2023.
4. The NBE Bill will replace the RMA. The SP Bill will replace the current requirements for a spatial plan for Auckland and will work in tandem with the NBE Bill. The scale of reform is substantial and will have significant impacts on Auckland Council.
5. Final approval of council's submission was delegated to the Chair and Deputy Chair of the Planning, Environment and Parks Committee and an Independent Māori Statutory Board member on 8 December 2022 [PEPCC/2022/3 refers]. This was because the deadline for submissions falls between Planning, Environment and Parks Committee meetings.

## Ngā tūtohunga

### Recommendation/s

That the Planning, Environment and Parks Committee:

- a) whai / approve Auckland Council's submission on the Natural and Built Environment Bill and Spatial Planning Bill (at Attachments A and B of this agenda report), subject to any further direction of the Committee at this meeting.
- b) tuhi ā-taipitopito / note that council's submission was informed by council's previous submissions.
- c) tuhi ā-taipitopito / note that final approval of council's submission is delegated to the Chair and Deputy Chair of the Planning, Environment and Parks Committee and an Independent Māori Statutory Board member.

## Horopaki Context

### Resource management system reform

6. Central Government is reforming the resource management system.
7. In February 2020, the council submitted on the Resource Management Review Panel's proposed future resource management system [PLA/2020/21 refers].
8. Cabinet largely modelled the system reform on the Panel's recommendations.
9. In February 2021, Cabinet agreed to repeal and replace the RMA with the Natural and Built Environment Act (NBA), the Strategic Planning Act (SPA) (later re-named the Spatial Planning Act), and the Climate Adaptation Act (CAA).
10. An exposure draft of the NBA was released in June 2021. While the council submitted on this exposure draft [PLA/2021/75 refers], there are many matters in the NBE Bill that were not included, and council has an opportunity to submit on these now.
11. These matters include the process to develop the National Planning Framework (NPF), consenting, compliance and enforcement, urban tree cover, subdivision, designations, the functions and roles of Ministers and agencies, and regional councils and territorial authorities, in the system.
12. The council submitted on key components of both bills in March 2022 in its response to Our Future Resource Management System Discussion Document [PLA/2022/3 refers].
13. The council also submitted on the direction of the Climate Adaptation Act in mid-2022, alongside consultation on the National Adaptation Plan under the Climate Change Response Act 2002.
14. Approval was given to staff in December 2022 to prepare a draft submission, with authority delegated to the Chair and Deputy Chair of the Planning, Environment and Parks Committee and an Independent Māori Statutory Board member to approve the final submission on the Natural and Built Environment Bill and Spatial Planning Bill [PEPCC/2022/3 refers].

## Tātaritanga me ngā tohutohu Analysis and advice

15. Auckland Council's draft submissions on the bills are attached (see Attachments A and B).
16. The submissions generally support the intent of the bills in many areas but have concerns in a number of others, and therefore recommend a wide range of amendments. At the time of writing, the following submission points are tentative, subject to change based on any further direction of this Committee, and will be finalised post Committee meeting.

### Spatial Planning Bill – submission points

#### Central – local government relationship

17. Stronger collaboration mechanisms between central and local government are required for better alignment, partnering, and co-investment for the benefit of communities. Regional Spatial Strategies (RSSs) have the potential to deliver on long-term outcomes at the regional level. Stronger Government commitment to resourcing regional priorities and the creation of new funding tools will address a key barrier to implementation.



## Governance

18. The proposed Regional Planning Committee (RPC) approach is unnecessarily complex and adds a new layer of bureaucracy. It replaces the fundamental planning role of councils, diminishes local voice and lacks democratic accountability, and undermines integration with decision-making on funding and financing. Auckland Council's Planning, Environment and Parks Committee (or equivalent) is ideally placed to perform this role, augmented with additional representation. Regional statements of priorities, or a National Spatial Strategy, would assist with communicating Government's investment priorities.

## Purpose of the Spatial Planning Bill

19. Although the council supports the concept of 'te Oranga o te Taiao', further guidance on its application is required. Auckland Council strongly recommends that there is a clear hierarchy of outcomes in the legislation. Decisions will need to be made on conflicting system outcomes. Direction on how trade-offs are to be managed is therefore required. The Bill should be amended to provide a clear and succinct purpose statement, including the RSSs' role in setting regional-level outcomes, to provide a link to national outcomes in the NBE Bill.

## Scope of RSSs

20. The purpose of RSSs is unclear and needs to reflect their role in providing direction on communities' aspirations for the environment and future development. RSSs need to recognise the complexity of urban areas and reflect the importance of interrelationships between different components such as land use and infrastructure provision. The scope and content need to properly reflect system outcomes such as well-functioning urban and rural areas and ensure that relevant content within existing spatial plans can form the basis of new RSSs.

## Infrastructure funding and financing

21. The Bill misses the opportunity to create stronger linkages between planning outcomes, infrastructure investment and funding. Implementation plans do not address the infrastructure challenges facing many communities and how this will be funded. There is a disconnect between more permissive planning proposed and current tools. Including a funding and financing plan alongside the RSS could commit partners to deliver infrastructure investment in a way that is affordable and an efficient use of scarce infrastructure funding.

## RSSs' role in promoting integration

22. The Bill's intent to promote better integration between land use planning and infrastructure is supported as is stronger legal linkages with other plans. Provisions intended to address the cumulative effects of development are also supported. Land and infrastructure funding are a limited resource. The Bill should require RSSs and implementation plans to sequence the development of land or its change in use to help manage land supply and infrastructure provision. It should also include identified funding mechanisms. Auckland Council is concerned that there could still be a loss of integration between RPC decisions and infrastructure funding and financing as provided for under the RLTP for example. The Bill should clarify the relationship between RPCs and the new Water Services Entities (WSEs), and the relationship between the RSS and plans prepared by those entities.

## Impacts of climate change

23. The reforms were intended to include the Climate Adaptation Act (CAA). Without the CAA, it is difficult to anticipate how the reforms will reduce emissions and effectively address the impacts of climate change. The Bills should be amended to avoid locating development and infrastructure in areas vulnerable to the effects of climate change. The impacts of climate change should be explicit considerations to inform decisions on the location of development and existing and planned infrastructure investment. RSSs are not the right instrument to canvas options for managed retreat or determine who will meet the related costs of adaptation.

### Public participation

24. Auckland Council supports provisions that enable each RPC to develop its own consultation and engagement processes. However, it is recommended that minimum requirements be applied nationally.

### Ministerial powers

25. The Bill centralises powers to Ministers and diminishes the influence of local communities and councils. These powers go too far and amount to Ministerial overreach whereby a Minister could direct changes to an RSS for political reasons without any prior public consultation or engagement with Māori. Auckland Council recommends that provisions which enable the Minister to direct a RPC to amend its RSS be removed.

### Reciprocal information sharing

26. The Bill should include a reciprocal duty on Government to share information. Decision-makers should engage with local government before decisions are made that affect the status of that entity (financial obligations, duties, power to act). The Bill should clarify requirements on Māori to share cultural knowledge.

## Natural and Built Environment Bill – submission points

### A strong role for local government

27. Auckland Council supports a strong role for local government and local democratic input in the new resource management system. However, the proposed system has significantly diminished the role of local government and may prevent local government from fulfilling its statutory purpose. The independent RPCs, limited connectivity to local communities, and the Minister for the Environment's much greater role, power and discretion weakens democratic input and accountability to communities.

### Regional Planning Committees and unitary authorities

28. Auckland Council strongly opposes independent RPCs. Auckland Council requests that when a region is a unitary authority, the RPC should be the same as the standing planning committee of that council augmented with one ministerial appointee for SPA functions and at least two Māori representatives. Auckland Council supports increased Māori representation on RPCs (or the standing planning committee). Auckland Council recommends central government funding be made available to fund RPCs, rather than a cost to local government.

### Prioritisation or hierarchy of system outcomes

29. Auckland Council supports the shift to an outcomes-based system and supports achieving positive outcomes as the focus of the new system. This focus is required given historic natural environment degradation and the climate and biodiversity crises we face. To achieve positive outcomes requires a clear hierarchy of systems outcomes. The system design for outcomes needs to ensure the pursuit of one system outcome does not occur at the expense of other system outcomes. The absence of a hierarchy sets up conditions for trade-offs between system outcomes and uncertain policy priorities.

### Honouring te Tiriti o Waitangi

30. Auckland Council strongly supports all the clauses in the Bill that ensure the principles of te Tiriti o Waitangi must be given effect to. Council is strongly supportive of all mechanisms that ensure inclusion of Māori, iwi and hapū in decision-making, and encourages the Minister and the Ministry for the Environment to continue direct engagement, resourcing and funding to support the proposed system and its implementation.

### Good governance principles and natural justice

31. Auckland Council opposes the relatively sweeping and unfettered powers given to the Minister in the Bill. This includes, but is not limited to, powers to dissolve RPCs, investigate and make recommendations around the performance of RPCs and local authorities, and direct a plan change. The execution of these ministerial functions and powers will involve additional operational expenditure and, in many cases, undermine local democratic input and decision-making.

### Infrastructure funding and finance

32. Auckland Council requests a new suite of funding and financing tools for growth infrastructure. Appropriate financing and funding for infrastructure – both in the tools available and the quantum of funding available – is a significant barrier to successful integration of land use and infrastructure. If new tools are not provided, the status quo is likely to endure, irrespective of the legislative changes being proposed. Auckland Council recommends that the funding and financing tools contained in the Infrastructure Funding and Financing Act 2020 and the Local Government Act 2002 – and application of these tools – be reviewed to support the more permissive planning regime proposed.

### National Planning Framework (NPF)

33. Auckland Council supports a mandatory national planning framework (NPF) to provide consistent national direction. While Auckland Council supports the setting of environmental limits to prevent degradation of ecological integrity and protect human health, we recognise they do not lead to enhancement or improvement of the natural environment. Council opposes the use of interim limits, and exemptions for interim limits, because they work against the intended purpose of the Bill. Council also strongly opposes the offsetting and redress for cultural heritage in the effects management framework (EMF). Auckland Council advocates for the EMF to apply to all system outcomes and natural environment domains, not just significant biodiversity and cultural heritage.

## Tauākī whakaaweawe āhuarangi Climate impact statement

34. A key objective for the new resource management programme is to better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions.
35. The importance of climate change is recognised in the NBE Bill at the system outcome level (Part 1 of the Bill). This outcome states “in relation to climate change and natural hazards, achieve the reduction of greenhouse gas emissions, removal of greenhouse gases from the atmosphere and reduction of risks arising from – and better resilience of the environment to – natural hazards and effects of climate change”.
36. Under the SP Bill, the RSS must identify areas that are vulnerable to significant risks from natural hazards and areas impacted by climate change. It must also identify measures for reducing those risks, addressing effects and increasing resilience.
37. Under Part 2 of the NBE Bill (Duties and restrictions), NBE plans can make rules that will affect existing rights and land use consents when there are risks associated with natural hazards and climate change.
38. The resource management reform programme also includes the Climate Adaptation Bill. This will be released in 2023 and will address issues associated with managed retreat.
39. Without the Climate Adaptation Act (CAA), it is difficult to anticipate how the three acts work together and how the reforms will reduce emissions and effectively address the impacts of climate change. The clauses above state intent but without a clear hierarchy of outcomes, and how trade-offs are to be managed, for example, it is questionable how effective the bills will be in addressing the climate crisis.

## Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

40. The proposals will have significant impacts across the Auckland Council group.
41. A technical team, made up of experts from across the council group, contributed to the preparation of the draft submission.
42. The Water Services Entities Act, under the Three Waters Reform programme, establishes the Northern Water Services Entity for the Tāmaki Makaurau Auckland and Northland regions. This submission addresses the role of this new entity as a significant delivery partner in the legislation. There are a few points where the views of Watercare and the council group are not aligned – in these cases they have not been included in the draft submission.
43. The submission highlights the potential loss of integration between decision-making on the RSS and Regional Land Transport Programme and the need for infrastructure providers to be involved in the development of the RSS.

## Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe Local impacts and local board views

44. Local boards were invited to provide input into council's submission. Feedback received to date is appended in Attachment C. Local boards' feedback has not yet been incorporated into council's draft submissions. The deadline for local board feedback to be appended to the submissions is 3 February 2023.
45. The NBE and SP Bills do not identify any specific role for local boards. The NBE Bill contains proposals for Statements of Community Outcomes (SCOs). These are voluntary instruments to provide local authorities with a mechanism to directly input local voice into RSSs and NBE plans. SCOs will be prepared by territorial authorities and will express the views of a district or local communities.
46. It is critical that there is a strong voice for local communities and local boards, and consideration of local issues, in the development of strategies and plans. The submission points out that community input leads to better plans through the sharing of local knowledge, and identification of local priorities. Council also supports an approach where appropriate engagement outcomes are prescribed in legislation to ensure that this reflects local boards' statutory functions. This is not currently addressed in the Bills.

## Tauākī whakaaweawe Māori Māori impact statement

47. A key Government objective for the new resource management system is to “give effect to the principles of Te Tiriti o Waitangi and provide greater recognition of te ao Māori, including mātauranga Māori”. This has been provided for throughout the NBE and SP Bills starting with the purpose statement, which includes recognising and upholding te Oranga o te Taiao.
48. There are a number of positive outcomes or impacts for Māori that include:
  - a new requirement to ‘give effect to’ the principles of te Tiriti o Waitangi
  - three system outcomes that cover 1) the relationship of iwi and hapū (and their kawa, tikanga, and mātauranga) in relation to their ancestral lands, water, sites, wāhi tapu, wāhi tūpuna and other taonga, 2) protection of protected customary rights and recognition of statutory acknowledgement, and 3) the conservation of cultural heritage
  - mana whenua representation on RPCs (a minimum of two persons)

- iwi and hapū can provide te Oranga o te Taiao statements to RPCs
  - establishment of an independent National Māori Entity to provide independent monitoring of decisions and
  - Mana Whakahono ā Rohe and engagement agreements.
49. The Supplementary Analysis Report (SAR), accompanying the Bills, states that central government will provide funding for Māori participation during the establishment and transition phase for the NBE and SP Bills. This will support development of the NPF, Kaupapa Māori selection processes and the National Māori Entity.
50. The SAR report also states central government will provide a funding contribution to local government to support areas such as iwi / hapū management plans, negotiation of Mana Whakahono ā Rohe agreements, Māori governance, and technical capability and capacity building.
51. Local government will fund Māori participation in the performance of local government functions and duties and powers under the NBE Bill (e.g. consenting, compliance and monitoring, etc).
52. A communication on the NBE and SP Bills was sent to all iwi entities and their feedback sought. No feedback was received recognising that iwi entities may prefer to make their own submissions. The IMSB secretariat staff worked with the council's technical team throughout the development of the submission. The IMSB will also be making their own submission.

### Ngā ritenga ā-pūtea Financial implications

53. The submission was developed within existing resources.
54. The SAR report states that the costs of the new resource management system will increase for councils. These costs will be driven by the transition and establishment costs, development of new plans, strategies and instruments, and enhanced compliance and enforcement duties.
55. The estimated increase in total costs spread across all regional, territorial and unitary councils is \$43 million per year. The estimated increased costs are not calculated on a per council basis. However, given our experience with the development of the Auckland Unitary Plan, we estimate the short-medium term additional costs on Auckland Council will be in the millions.
56. The intent of the new system is for most costs to fall on central and local government which, in turn, delivers decreased costs for system users.
57. There is a lack of detail on central government funding to support local government with transition and implementation of the new system.
58. Auckland Council will be required to fund the RPC and the associated secretariat. The council currently performs similar functions at a governance and operational level. However, the RPC will be made up of local government and mana whenua representatives. Auckland Council's submission recommends that central government fund RPCs, rather than a cost to local government.
59. The NBE Bill states that, in the case of a region with a unitary authority, that authority must determine the amount of funding to be provided to the RPC. The RPC must prepare and make publicly available a statement of intent each financial year that reflects the budget agreed for the RPC. If any disputes arise, the RPC or local authority may apply to the Minister of the Environment to resolve the dispute. Decisions are binding on the local authorities.




## Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations

60. Financial and legal expertise were sought in the development of the submission to identify possible financial, legal and reputational risks to the council associated with the new resource management system.
61. Risks identified to date include:
  - the separation of the planning function from funding and financing decisions (such as the long-term plan process)
  - insufficient coordination and alignment with the Three Waters Reform (the removal of water infrastructure from council control impacts planning and funding decisions)
  - lack of detail on central government funding to support local government with transition and implementation of the new system
  - lack of opportunities or clear avenues for local democratic input in the system
62. The new system has a long transition period of 10 years for establishment, transformation, and consolidation phases. In that time, the NPF will be developed through a Board of Inquiry process to enable development of the RSS and NBE Plan.
63. The NPF will be rolled out in stages after the bills are enacted. The first version will integrate existing national direction to inform RSS development and future iterations will inform NBE plan development.
64. The details of the NPF are vitally important for the new system and remain unknown currently. Council will want to play a strong advocacy role throughout the development of the NPF.

## Ngā koringa ā-muri Next steps

65. The chair requested an extension from 30 January to 10 February 2023 to enable the council to better consider the proposals and any implications. The select committee extended its closing date to 5 February 2023. Auckland Council was offered an extension up to 19 February. However, the select committee also noted that early lodgement would be appreciated as it plans to hear submissions after Waitangi Day.
66. While the extension of time is welcomed, the very short timeframe given to respond to such a significant reform is noted. This has impacted on the level of analysis able to be carried out across the bills and it is therefore possible that all potential implications have not been identified.
67. The Council has been invited to brief the committee on its initial response to the bills, and any high level concerns on 7 February 2023. This is separate to any written submission or subsequent oral submission made.
68. A committee workshop was held on 31 January 2023 to consider the draft submission.
69. The delegated group will consider, provide direction and sign off council's submission. They may be requested to attend a select committee hearing after the submission has been lodged.
70. Once the select committee report is released on 22 May 2023, staff will provide the Committee with a memo summarising the select committee conclusions.
71. Auckland Council will have an opportunity to submit on the Climate Adaptation Bill when it is introduced to Parliament in mid-2023.

## Ngā tāpirihanga Attachments

No.	Title	Page
A 	Submission to the Environment Select Committee on the Spatial Planning Bill (draft)	
B 	Submission to the Environment Select Committee on the Natural and Built Environment Bill (draft)	
C 	Local Boards' input to Auckland Council's submission on the Spatial Planning and Natural and Built Environment Bills	

## Ngā kaihaina Signatories

Authors	Karryn Kirk - Principal Strategic Adviser Auckland Plan Implementation Amber Dunn - Principal Strategic Advisor
Authorisers	Jacques Victor – General Manager Auckland Plan Strategy and Research Megan Tyler - Chief of Strategy





## Auckland Unitary Plan - Proposed Plan Change - Rezoning of 1023 and 1039 Linwood Road, Kingseat

File No.: CP2022/16988

Item 9

### Te take mō te pūrongo Purpose of the report

1. To seek approval to prepare and notify a proposed plan change to the Auckland Unitary Plan (AUP) to rezone 1023 and 1039 Linwood Road, Kingseat from Open Space – Sport and Active Recreation zone to Residential – Single House zone.

### Whakarāpopototanga matua Executive summary

2. Planning for development in the Kingseat area was initiated by the legacy Franklin District Council and advanced by Auckland Council after amalgamation in 2010. The area is identified in the Auckland Plan for urban development and the AUP zonings for the Kingseat precinct are based on the 2011 Kingseat Structure Plan. Both 1023 and 1039 Linwood Road are located in the Kingseat precinct and are zoned Open Space – Sport and Active Recreation zone. The properties are privately owned.
3. Staff from the council's Community and Social Policy department have assessed the open space needs and provision in the area against the council's Open Space Provision Policy. They have advised the owners that the council does not wish to acquire any additional open space land adjoining the council's existing three-hectare suburb park.
4. Privately owned land is not typically zoned open space unless there is agreement with the landowner. Environment Court decisions have supported this approach in the past, however it is noted that there is no hard and fast legal principle to this effect. As the council is unwilling to acquire 1023 and 1039 Linwood Road, the owner does not support the properties being zoned for open space and has requested the properties are re-zoned Residential – Single House zone via a council-initiated plan change. The re-zoning would enable approximately 90 additional houses to be built within the Kingseat precinct.
5. Auckland Transport staff expressed an initial concern that the rezoning of the two properties could result in adverse effects on the transport network and that an Integrated Transport Assessment (ITA) was required.
6. Two reports have subsequently been prepared that assess the transport and traffic effects of rezoning the two properties to Residential – Single House zone:
  - a) An Integrated Transport Assessment (ITA) to assess a potential plan change
  - b) A wider transport review/assessment of the Kingseat precinct.
7. The ITA concludes that additional development provided by a change in zoning to Residential – Single House zone could be accommodated by the local transport network.
8. In terms of the wider area, the additional transport review/assessment concludes that the currently anticipated land use in the wider area will increase the level of morning peak period traffic congestion on both Linwood Road and Hingaia Road and increase traffic volumes at the Papakura interchange.

9. On 2 June 2022, the Planning Committee resolved (PLA/2022/54):
  - a) *request staff to pause any further work on the preparation and notification of a proposed plan change to rezone 1023 and 1039 Linwood Road, Kingseat from Open Space – Sport and Active Recreation pending the forthcoming central government release of the National Policy Statement for Highly Productive Land, and the resolution of water supply and wastewater infrastructure issues, and advise the land owners of this direction.*
  - b) *as a result of a) request staff to re-consider the appropriate zoning and any other options for the land at 1023 and 1039 Linwood Road, Kingseat and report back to the relevant committee of the new council with recommendations on any next steps.*
10. 1023 and 1039 Linwood Road contain prime soils. The National Policy Statement for Highly Productive Land 2022 (NPS-HPL) came into effect on 17 October 2022. It restricts the rezoning of land from a general rural or rural production zone to an urban zone. As both 1023 and 1039 Linwood Road are currently zoned open space (and not a general rural or rural production zone), the NPS-HPL does not apply.
11. Ngāti Tamaoho and Ngaati Te Ata Waiohua have expressed concerns with the proposed rezoning due to the absence of adequate water supply and wastewater infrastructure in the Kingseat area. It is noted that there are rules in the Kingseat precinct that would make land subdivision without the necessary public water supply and wastewater infrastructure in place, a non-complying activity. Should a resource consent application of this nature be received, iwi authorities would be provided with the opportunity to raise their concerns, and if notified, make formal submissions.
12. The proposed rezoning is supported by the Franklin Local Board.
13. The key alternatives to initiating a council plan change to rezone the properties to Residential – Single House zone are:
  - retain the current open space zoning
  - retain the current open space zoning and acquire the properties
  - rezone the properties to a rural zone.
14. If the council does not rezone or acquire the properties, the land owners have two key options. They can:
  - seek a declaration from the Environment Court requiring the council to rezone the properties
  - apply for a private plan change.
15. Having regard to the history of planning for the Kingseat precinct, Environment Court caselaw regarding the zoning of private property as open space, the transport analysis that has been undertaken, and the council's Open Space Provision Policy, it is recommended that the council prepares and notifies a plan change to rezone the properties at 1023 and 1039 Linwood Road from Open Space – Sport and Active Recreation to Residential – Single House zone.

## Ngā tūtohunga Recommendation/s

That the Planning, Environment and Parks Committee:

- a) whakaae / approve the preparation and notification of a proposed plan change to the Auckland Unitary Plan (Operative in Part) to rezone 1023 and 1039 Linwood Road, Kingseat from Open Space – Sport and Active Recreation zone to Residential – Single House zone, together with consequential amendments to the maps and text in the Kingseat precinct to reflect the proposed change in zoning.

## Horopaki Context

16. Plan Change 28 (Kingseat Structure Plan) to the legacy Franklin District Plan was publicly notified on 20 January 2011 and made operative on 21 July 2015 following the resolution of appeals. The structure plan showed a future sports park in the vicinity of 1023 and 1039 Linwood Road, Kingseat.
17. The AUP zoned 1023 and 1039 Linwood Road as Open Space – Sport and Active Recreation zone. It also applied other zones to the Kingseat area, including Business – Local Centre, Business – Light industry, Residential – Mixed Housing Suburban and Residential – Single House zone.
18. 1023 and 1039 Linwood Road, Kingseat are owned by Kingseat Village Limited. The open space zoning was included in Plan Change 28 to the legacy Franklin District Plan with the agreement of the landowner.
19. In October 2019, staff within the council’s Community and Social Policy department confirmed that, in accordance with the council’s Open Space Provision Policy, the council does not wish to acquire any additional open space land adjoining the council’s existing three hectare suburb park. The provision of formal sports fields for current and future residents of the Kingseat precinct will be catered for at the nearby Karaka Recreation Reserve.
20. 1023 and 1039 Linwood Road, Kingseat were originally proposed to be included in Proposed Plan Change 60 – Open Space and Other Rezoning Matters. However, Auckland Transport expressed concern that the rezoning of the two properties could result in adverse traffic effects and that an Integrated Transport Assessment (ITA) was required to support the plan change. The properties were subsequently withdrawn from Proposed Plan Change 60.



21. Flow Transportation Specialists Limited were subsequently engaged to assess the transport and traffic effects of rezoning the two properties to Residential – Single House zone. Two reports have been prepared:
  - a) An Integrated Transport Assessment (ITA) to assess a potential plan change
  - b) A wider transport review/assessment of the Kingseat precinct.
22. The findings of the two studies are considered under the analysis and advice section below.

## Tātaritanga me ngā tohutohu Analysis and advice

### Open Space Caselaw

23. Privately owned land is not typically zoned open space unless there is agreement with the land owner.
24. There is relevant caselaw on the zoning of private land as open space (or equivalent). This includes:
  - a) Dilworth Trust Board v Dunholme Lawn Tennis Club & Auckland City (1980) A142/80
  - b) Golf (2012) Ltd v Thames-Coromandel District Council [2019] NZEnvC 112.
25. In the Dilworth case, the Environment Court found it was unreasonable to apply Recreation D zoning from the Auckland City District Plan to private land used for recreation purposes, without the consent or acquiescence of the owner of that land. The Court noted that in “the case of the present appellants, they oppose that form of zoning for their land. The appeals must therefore be allowed”.
26. However, in the Golf (2012) Ltd case, the Environment Court found that there is no general principle that private land cannot be zoned as open space against the owner’s wishes and that the planning history of an area is relevant to determining the appropriateness of zoning for a particular site. The Court concluded that each case needs to be determined on its own merits.
27. The particular factors that were determinative in this case were that the site had been zoned open space for a number of years and this was known to the appellant when it was purchased, and the site and surrounding area also had high amenity value which required protection. It should be noted that in the Court’s decision, it was recommended that the council and Matarangi Community make it a priority to formally acquire the land of the golf course which was zoned open space. Therefore, this case could be distinguished from others where such factors are not present.
28. There are no special or unusual factors applying to 1023 and 1039 Linwood Road that would warrant the retention of the open space zoning.

### Integrated Transport Assessment and Wider Area Effects

29. In the ITA, Flow Transportation Specialists Ltd consider that additional development opportunities provided by a potential plan change could be accommodated by the local transport network. They also consider that the existing Kingseat Precinct provisions are adequate to ensure that any development within the plan change area would provide appropriate improvements to the local transport network to support development.
30. In terms of the wider transport network, the transport specialists consider that the currently anticipated land use development in the wider area will increase the level of morning peak period traffic congestion on both Linwood Road and Hingaia Road, and increase pressure on Papakura interchange. The effects of this increasing congestion have not previously been fully considered, through for example the Te Tupu Ngatahi/Supporting Growth Alliance programme of work.
31. Whether or not this land is developed, demands for private car travel on the Linwood Road/Hingaia Road corridor are predicted to exceed its capacity in the future, as will demand for travel through the Papakura interchange. This is to be expected through growth anticipated across the wider South Auckland area. Waka Kotahi will continue its role of managing demand on the motorway network through ramp metering, and prioritising high productivity vehicles through T2/truck lanes at the Papakura interchange. However, there is little ability to increase the capacity of the general traffic network in this area, so residents living in Kingseat and Karaka North will need to be given better choices to ‘opt out’ of peak period congestion. Options include:

- Travel Demand Management measures that reduce the need for travel
  - a land use development pattern that provides local destinations, such as local schools, shops and community facilities within Kingseat
  - significantly improved public transport offering, relative to the existing peak direction bus service on Linwood Road. This may include:
    - more frequent bus services to Waiuku and Papakura
    - new bus services such as to Drury, and to the proposed new train stations at Drury West and Paerata
    - interventions to make the proposed new train stations at Drury West and Paerata more attractive. These stations are intended to include park and ride facilities that may well attract commutes from Kingseat and Karaka North
    - interventions to prioritise high productivity vehicles, such as transit lanes on Hingaia Road.
32. Auckland Transport concurred with the findings of the ITA and the wider area assessment of effects.
33. Auckland Transport, in conjunction with Waka Kotahi, the Franklin Local Board and the community will determine which mix of options will best serve the Kingseat and Karaka North communities as the areas continue to develop. These decisions will, of course, be dependent on future funding decisions.

### Water Supply and Wastewater Infrastructure

34. Kingseat is not currently serviced by public reticulated water supply and waste water infrastructure.
35. In terms of water and wastewater, the Kingseat precinct contains the following policy:  
*(10) Ensure infrastructure provision for public water supply and one public waste water system in the precinct is in advance of, or concurrent with, any resource consents for subdivision and development, provided that resource consent for the reticulated and treated waste water disposal and any required resource consents for storm water discharge have been granted.*
36. This is implemented via the following precinct standard:  
*1418.6.12. Wastewater and Water Supply*  
*(1) Any site located within the Kingseat precinct must be connected to a public reticulated wastewater treatment and disposal system.*  
*(2) Any site located within the Kingseat precinct, must be connected to a public reticulated water supply and network.*
37. Subdivision of sites within the Kingseat Precinct that are not connected to a public reticulated water supply or a public reticulated sewage disposal system, and where all necessary resource consents have not been granted for a public reticulated water supply network and a public reticulated sewage disposal system, is a non-complying activity.
38. Both Watercare and the owner of 1023 and 1039 Linwood Road – Kingseat Village Limited, are currently investigating the provision of water supply and wastewater infrastructure for the Kingseat area.
39. Kingseat Village Limited has been granted a resource consent (on 1 April 2022) “to take and use a total of 714m<sup>3</sup>/day and 260,610m<sup>3</sup> per year of ground water from the Franklin Te Hihi North Waitemata Aquifer with three proposed bores for a reticulated water supply to service residential, commercial and community uses in the Kingseat Precinct area”.

**Elite and Prime Soils & the National Policy Statement for Highly Productive Land (2022)**

40. On 2 June 2022, the Planning Committee resolved:
- a) *request staff to pause any further work on the preparation and notification of a proposed plan change to rezone 1023 and 1039 Linwood Road, Kingseat from Open Space – Sport and Active Recreation pending the forthcoming central government release of the National Policy Statement for Highly Productive Land, and the resolution of water supply and wastewater infrastructure issues, and advise the land owners of this direction.*
  - b) *as a result of a) request staff to re-consider the appropriate zoning and any other options for the land at 1023 and 1039 Linwood Road, Kingseat and report back to the relevant committee of the new council with recommendations on any next steps.*
41. Kingseat, including 1023 and 1039 Linwood Road, is identified as an area of prime soils.
42. The National Policy Statement for Highly Productive Land (2022) came into effect on 17 October 2022.
43. The objective of the NPS is that *“Highly productive land is protected for its use in land – based primary production, both now and for future generations”*.
44. Policy 5 of the NPS states that *“the urban rezoning of highly productive land is avoided, except as provided for in this National Policy Statement”*. Policy 7 states *“the subdivision of highly productive land is avoided, except as provided for in this National Policy Statement”*.
45. Under Section 1.3 Interpretation:
- Urban rezoning means changing from a general rural or rural production zone to an urban zone, and*
- Urban, as a description of a zone, means any of the following zones:*
- a) *Low density residential, general residential, medium density residential, large lot residential and high density residential*
- ...
46. Under Section 3.5 – Implementation, of the NPS
- (7) Until a regional policy statement containing maps of highly productive land in the region is operative, each relevant territorial authority and consent authority must apply this National Policy Statement as if references to highly productive land were references to land that, at the commencement date:*
- (a) is (i) zoned general rural or rural production; and*
  - (ii) LUC 1, 2, or 3 land; but*
  - (b) is not: (i) identified for future urban development; or*
  - (ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.*
47. As both 1023 and 1039 Linwood Road are currently zoned Open Space (and not a general rural or rural production zone), the NPS does not apply.
48. The AUP contains an objective for the growth of existing or new rural and coastal towns and villages that states:
- “Avoid elite soils and avoid where practicable prime soils which are significant for their ability to sustain food production.”*

49. This objective has been the subject of extensive litigation in the Environment Court and High Court in response to the council’s rejection of the Auckland Unitary Plan Independent Hearings Panel’s recommendation to enable urban development at Crater Hill and Pūkaki near Māngere. The High Court recently (28 November 2022) dismissed the appeal against the Environment Court’s 2020 decision and the matter is now settled.
50. Both 1023 and 1039 Linwood Road were part of the original Kingseat Structure Plan. That plan resulted in urban zonings being applied to the Kingseat area, which is identified in the Auckland Plan for urban development. The two properties have a combined area of approximately five hectares. They are contiguous with land zoned Residential – Single House zone. The original intention of the structure plan was that the two sites (along with a third site owned by the council) were to be developed and used for sport and active recreation and not used for food production. They are currently grassed and not used for food production.

### Analysis of zoning options

51. When land is no longer required as open space, the most appropriate alternative zone is typically the zoning of the adjacent land. 1039 Linwood Road, Kingseat is adjacent to the Residential – Single House zone. 1023 Linwood Road is adjacent to the Rural – Rural Production zone.
52. The main advantages and disadvantages of the key zoning options are summarised in the table below:

	Open Space – Sport and Active Recreation	Residential – Single House	Rural – Rural Production
<b>Advantages</b>	<p>Reflects the original Kingseat Structure Plan</p> <p>Minimises potential reverse sensitivity effects by limiting development adjacent to the proposed primary school</p> <p>No costs associated with preparing a council plan change</p>	<p>Provides for additional residential development (up to 90 dwellings) in close proximity to the future village centre</p> <p>Likely to enhance the economic viability of the centre</p> <p>Additional development in close proximity to the centre and primary school thereby reducing vehicle trips that would come from further away</p> <p>Consistent zone boundary between urban zones and rural zoned land</p> <p>Reflects the original Kingseat Structure Plan boundary</p>	<p>Retention of prime soils</p> <p>Consistent zoning with land to the east</p> <p>Retains “open character” of the land</p>

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	Open Space – Sport and Active Recreation	Residential – Single House	Rural – Rural Production
<b>Disadvantages</b>	<p>Additional open space is not required in this area</p> <p>To secure the land as a park, the council would be required to pay for the acquisition of the open space which is not required</p> <p>Costs associated with potential Environment Court declaration proceedings by the land owners</p>	<p>Residential development of five hectares of prime soils</p> <p>Additional five hectares of land that requires servicing</p> <p>Costs associated with preparing a council plan change</p>	<p>Loss of additional residential development (up to 90 dwellings)</p> <p>Economic viability of the centre is reduced</p> <p>Zone boundary between urban zonings and rural zoned land loses its consistency</p> <p>Does not reflect the original Kingseat Structure Plan boundary</p> <p>Potential reverse sensitivity effects from rural production activities adjacent to the future primary school</p> <p>Costs associated with preparing a council plan change</p>

53. Taking into account the factors identified in the table above, the planning history of the Kingseat area, the relatively small land area in question from a viable productive land use perspective, and the fact that the Kingseat precinct (including the two properties) is identified for urban development in the Auckland Plan, on balance, the proposed rezoning to Residential – Single House zone is considered to be appropriate and consistent with the objectives and policies of the AUP. This reflects the original Kingseat Structure Plan boundaries, minimises potential reverse sensitivity effects from the adjacent future primary school and will support the economic viability of the future Kingseat Village centre.

### National Policy Statement on Urban Development 2020

54. Policy 3(d) of the National Policy Statement on Urban Development (NPS UD), as amended by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 states:

*Policy 3: In relation to tier 1 urban environments, regional policy statements and district plans enable:*

...

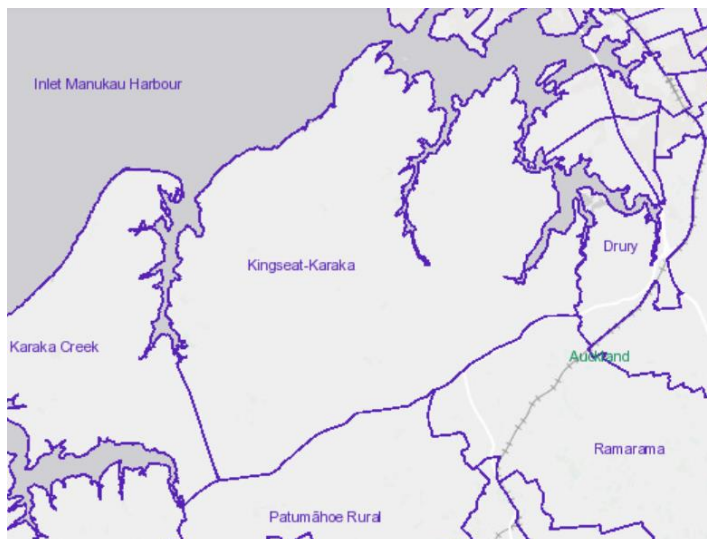
*d) Within and adjacent to neighbourhood centres zones, local centre zones, and town centre zones (or equivalent), building heights and density or urban form commensurate with the level of commercial activity and community services.*

55. Kingseat village is zoned as a Business – Local Centre zone. However, at present it does not provide a range of commercial and community services and is not served by frequent public transport. As such, a more intensive zoning than the Residential – Single House zone is considered to be at odds with the over-arching intent of the NPS UD of creating well-functioning urban environments.



## Resource Management (Enabling Housing Supply) Amendment Act 2021

56. Under section 77F Duty of specified territorial authorities to incorporate Medium Density Residential Standards (MDRS) and give effect to policy 3 or 5 in residential zones:
- (1) *Every relevant residential zone of a specified territorial authority [includes Auckland Council] must have the MDRS incorporated into that zone*
  - (2) *Every residential zone in an urban environment of a specified territorial authority must give effect to policy 3 or policy 5, as the case requires, in that zone.*
57. Section 2 – Interpretation, contains the following definitions:
- Relevant Residential zone
- a) *means all residential zones; but*
  - b) *does not include –*
    - (i) *a large lot residential zone;*
    - (ii) *an area predominantly urban in character that the 2018 census recorded as having a resident population of less than 5,000, unless a local authority intends the area to become part of an urban environment.*
58. The Kingseat – Karaka statistical area (see map below) had a 2018 usually resident population of 2904. Kingseat – Karaka also lies outside the Auckland Unitary Plan’s Rural Urban Boundary.



59. Therefore, the Kingseat area is not subject to the Resource Management (Enabling Housing Supply) Amendment Act 2021.

## Tauākī whakaaweawe āhuarangi Climate impact statement

60. 1023 and 1039 Linwood Road are not located in an area that is at risk of coastal inundation or coastal erosion, however approximately 15 percent of 1023 Linwood Road is located within the 1 percent Annual Exceedance Probability (AEP) flood plain. The extent of the flood plain is minor enough that it can be managed/avoided at the subdivision/land development stage. As such, the proposed rezoning will not increase the risk of exposure to the adverse effects of climate change.

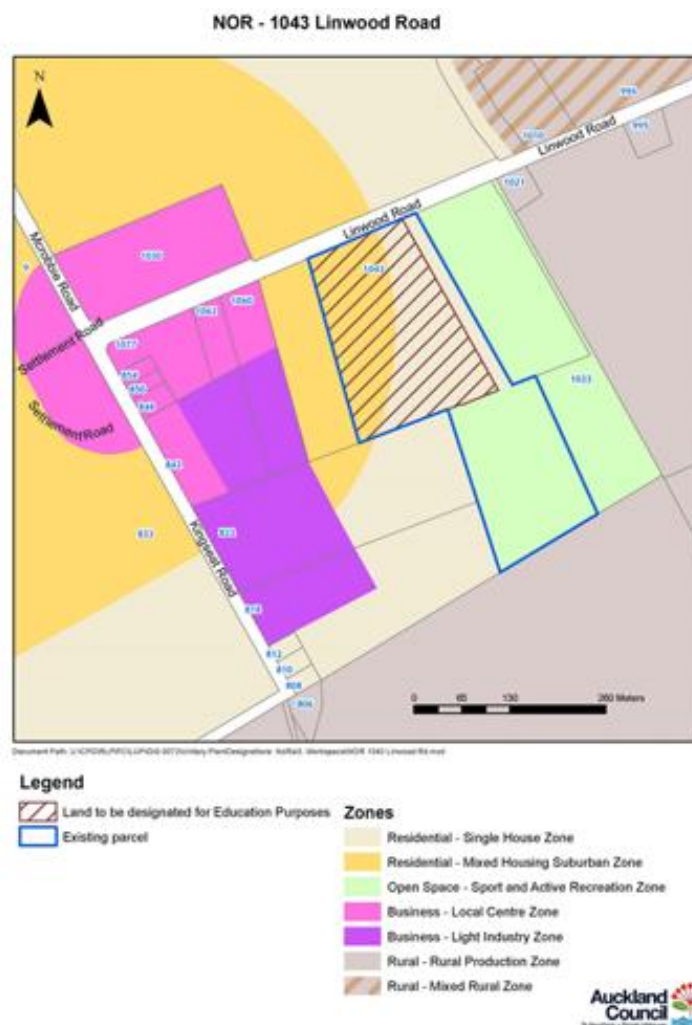
61. With respect to mitigating impacts on climate, it is likely that a reasonable proportion of the residents living in the additional dwellings that would be enabled by the proposed rezoning would drive to work on a regular basis, and that in the short term, this could result in an increase in vehicle emissions compared to not enabling additional development in the Kingseat area. Secondary school children and those attending tertiary institutions would also need to be driven or drive on a regular basis. However, as the area develops, the viability of a local bus service to Pukekohe is likely to increase, and with that, a reduction in private vehicle trips and emissions.
62. With respect to other transport trips, the properties are in close proximity (250m to the edge) to the proposed Kingseat village centre, and therefore walking and cycling would be the most common mode of travel to local goods and services.

### Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

63. The proposed plan change is in response to advice from the council's Community and Social Policy department, who have advised that 1023 and 1039 Linwood Road, Kingseat are not required as open space.
64. As discussed above, Auckland Transport staff expressed an initial concern that the rezoning of the two properties could result in adverse traffic effects and that an Integrated Transport Assessment (ITA) was required to support the proposed plan change.
65. Flow Transportation Specialists Ltd have assessed the transport and traffic effects of rezoning the two properties to Residential – Single House zone. Two reports have been prepared:
  - b) An Integrated Transport Assessment (ITA) to assess a potential plan change
  - c) A wider transport review/assessment of the Kingseat precinct.
66. Auckland Transport staff have reviewed and provided input into both reports and agree with the conclusions reached (i.e. that the proposed rezoning can proceed), because the potential number of additional houses enabled, is not significant in comparison to the wider area.
67. Watercare is currently investigating water supply and wastewater issues in the wider Kingseat area. Watercare staff advise they have no objection to the proposed rezoning and the council proceeding with the plan change process.

### Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe Local impacts and local board views

68. Initial consultation occurred with the Franklin Local Board in 2019 when 1023 and 1039 Linwood Road, Kingseat was initially included in Plan Change 60. It was subsequently withdrawn from that plan change due to concerns over traffic/transport issues arising from its development for residential purposes.
69. The Chairperson of the Franklin Local Board had raised an issue in late 2019 relating to a park and school that would be divided by an access road to a new residential development (see map below showing the proposed school (hatched and within the blue outline) and 1039 Linwood Road (with the blue outline)). The Chair was concerned this was a poor design and safety outcome and expressed the view that the council should work with Ministry of Education (MoE) to suggest that the school and park land are contiguous, meaning the access road to the rear residential area is on the outside of the western and southern sides of the MoE land.



70. Since the withdrawal of 1023 and 1039 Linwood Road, Kingseat from Plan Change 60, the designation for a new primary school has advanced.

71. The Franklin Local Board raised a number of traffic and access matters in relation to the NOR. It also sought to ensure that the school boundary was contiguous with the adjacent open space. Its views on the proposed designation were in a resolution dated 23 March 2021 (Resolution number FR/2021/27) which included:

- a) support the Ministry of Education acquisition of land for a school at Kingseat, noting that a school will be an important centre of this growing community
- b) recommend that the design of the space is reviewed so that the designated reserve adjacent to the proposed school property is adjoined with the school and separation by road avoided.

72. The MoE's comments on b) above are summarised below: -

*“As part of the negotiations to purchase the land the seller (Kingseat Village Limited - KVL) needed to retain access to the only existing road – Linwood Road. Therefore, KVL retained a strip from Linwood Road to the rear of the site to ensure they have practical road access for future use of that site. Other inductive roads cross land they do not own so there is no guarantee of the timing or alignment of those roads.....”*

*Whilst the matter raised by the Board is acknowledged, the Ministry have settled on the land purchase subject to the NoR and does not own the strip separating it from the Council reserve. The matter raised by the Board as part of the NOR consultation was after the purchase of the land had been completed, so it is not a matter that the Ministry is in a position to change. The land at the rear is still zoned reserve so would require a plan change to be developed for residential use.*

*If a future road is developed to serve land at the rear, we envisage that a pedestrian crossing(s) with traffic calming measures such as speed bumps or a raised table could be implemented to ensure safe and suitable connections between the school and the park. Further, advice from Abley [MoE's traffic expert] is that any side road at this location would likely to be designed to a 30km/h speed limit (as per AT's TDM recommendations) and would also be beneficial for providing alternative road access from Linwood Road to the school".*

73. On 26 May 2021, a panel of Independent Hearing Commissioners appointed by Auckland Council issued its recommendation to Minister of Education that the Notice of Requirement be confirmed.
74. On the 4 June 2021, pursuant to s172(1) of the Resource Management Act 1991 ("the Act"), the Minister advised that the council's recommendation was accepted in full.
75. The future subdivision of 1023 and 1039 Linwood Road will be the appropriate time to address the issue of the proposed primary school and existing park being separated by the access to 1039 Linwood Road, Kingseat. Any required changes in zoning can be addressed at a later date via the council's annual open space zoning plan change.
76. The Franklin Local Board once again considered the possibility of a proposed plan change at its meeting on 22 March 2022 and supported the proposed rezoning.

### **Tauākī whakaaweawe Māori Māori impact statement**

77. Both 1023 and 1039 Linwood Road, Kingseat were originally part of Plan Change 60.
78. During the preparation of Plan Change 60, a copy of the draft plan change was forwarded to all Auckland's 19 iwi authorities as required under Section 4A of the first schedule above of the RMA. The properties were subsequently withdrawn from Plan Change 60, but the feedback received remains relevant.
79. Feedback on the plan change as a whole was received from:
  - a) Ngāti Manuhiri – who wished to reserve their rights for cultural engagement and to be notified of the plan change;
  - b) Waikato Tainui – who support mana whenua to take the lead role in this plan change.
80. There was no feedback specifically on 1023 and 1039 Linwood Road, Kingseat.
81. Subsequent discussions with representatives from Ngāti Tamaoho and Ngaati Te Ata Waiohua have indicated that they have concerns with the proposed rezoning and the absence of water supply and wastewater infrastructure in the Kingseat area.
82. As discussed under the Water Supply and Wastewater Infrastructure section of this report, there are rules in the Kingseat Precinct which would make any proposed subdivision without the necessary public water supply and wastewater infrastructure in place, a non-complying activity.
83. Further, Ngāti Tamaoho and Ngaati Te Ata Waiohua were both involved in the Kingseat Village Limited's resource consent process to take water and would likewise be involved in any resource consent process for public reticulated sewerage disposal and water supply systems.
84. Both WaterCare and Kingseat Village Limited are progressing work on resolving water supply and wastewater treatment issues. These will need to be resolved before urban development can take place.

## Ngā ritenga ā-pūtea Financial implications

85. The possibility of having to progress this plan change has been known about since 2019 and the project is part of the Plans and Places department work programme. The costs of the plan change process are therefore able to be managed within the department's current operating budget. Costs associated with the plan change hearing are covered by the Democracy Services department budget.
86. There are existing financial issues in terms of longer term and wider infrastructure requirements for water supply, waste water and transport in the Kingseat and wider area. However, analysis by council, Auckland Transport and Watercare staff and consultants has confirmed that the proposed rezoning and additional dwellings that would be enabled is insignificant compared to the existing development already enabled under the Auckland Unitary Plan. In terms of transport, there is currently no funding available to address the wider issues. The Kingseat precinct in the AUP is able to address local transport issues. In terms of water and wastewater, as discussed above, Kingseat Village Limited is pursuing its own infrastructure solution at its own cost. In parallel, Watercare is pursuing a solution for Kingseat as part of a wider network solution.

## Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations

87. The only identified risk associated with the proposed rezoning of 1023 and 1039 Linwood Road, Kingseat from Open Space – Sport and Active Recreation zone to Residential – Single House zone is development occurring within the 1 percent AEP flood plain. This risk is mitigated through the subdivision and development rules in the Auckland Unitary Plan. Those rules enable the council to decline resource consent applications that fail to avoid or mitigate the adverse effects of exposing people to natural hazards.
88. As noted above, the effects of increased traffic volumes in the wider area is an existing issue that will require attention in the future.
89. The AUP has methods in place to address the issue of the current absence of public reticulated water supply and waste water infrastructure with subdivision of sites within the Kingseat Precinct that are not connected to a public reticulated water supply or a public reticulated sewage disposal system, and where all necessary resource consents have not been granted for a public reticulated water supply network and a public reticulated sewage disposal system, being a non-complying activity.
90. Both water supply and wastewater treatment issues will need to be resolved before urban development can take place

## Ngā koringa ā-muri Next steps

91. If the Planning, Environment and Parks Committee approves notification of the proposed plan change, it would then follow the normal plan change process set out in the RMA.

## Ngā tāpirihanga Attachments

There are no attachments for this report.

## Ngā kaihaina Signatories

Author	Tony Reidy - Team Leader Planning
Authorisers	John Duguid - General Manager - Plans and Places Megan Tyler - Chief of Strategy

**Item 9**

# Auckland Unitary Plan - Making operative in part Plan Change 60 - Open Space (2020) and Other Rezoning Matters

File No.: CP2022/17000

Item 10

## Te take mō te pūrongo Purpose of the report

1. To make operative in part Plan Change 60 – Open Space (2020) and Other Rezoning Matters.

## Whakarāpopototanga matua Executive summary

2. Plan Change 60 Open Space (2020) and Other Rezoning Matters (PC60) has four components:
  - i) Rezoning 49 land parcels that have been recently vested and/or acquired as open space so that the zoning reflects their purpose, function and intended use.
  - ii) Rezoning 22 land parcels to correct anomalies and errors. These include aligning and updating zone boundaries with new property boundaries, rezoning Department of Conservation land incorrectly shown as road and privately owned land incorrectly zoned as open space.
  - iii) Rezoning 26 land parcels as part of Auckland Council's land disposal and rationalisation process.
  - iv) Rezoning eight land parcels that include land swaps between Kāinga Ora and Auckland Council to facilitate redevelopment of certain neighbourhoods.
3. The decision on Plan Change 60 was notified on 9 September 2022. No appeals have been received against the decision.
4. The decision was significant as 11 of the 26 sites proposed to be rezoned as part of Auckland Council's land disposal process were rejected by the commissioners and their open space zoning was retained.
5. The relevant parts of the Auckland Unitary Plan (Operative in Part) can now be amended and made operative in part, in accordance with the hearing commissioners' decisions.
6. The plan change can only be made operative in part (rather than fully operative) because ten land parcels are the subject of a variation – Variation 4.
7. Variation 4 to Plan Change 60 seeks to amend the zoning of ten land parcels in PC 60 to apply "relevant residential zones" to land that is proposed to be rezoned from an open space zone to a residential zone, where the zoning of the adjacent lots is proposed to change under Plan Change 78 - Intensification. The variation is required as a result of the National Policy Statement on Urban Development 2020 and the amendments introduced by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021.
8. Submissions on the variation will be heard by the Independent Hearings Panel (IHP) as part of the intensification plan change. The IHP will make a recommendation to the council in late 2023/early 2024 which will then make the decision.
9. Schedule 1 of the RMA 1991 sets out the statutory process for plan changes. Clause 17(2) enables the council to approve part of the plan change if all appeals relating to that part have been disposed of. Under the Resource Management Act, the procedural decision to make a plan change operative (or operative in part as in this case) must be made by the Governing Body or a relevant committee comprising the Mayor and all councillors.

10. Clause 20 of Schedule 1 sets out the process that is required to be undertaken for the notification of the operative date.

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## Ngā tūtohunga Recommendation/s

That the Planning, Environment and Parks Committee:

- a) whakaae / approve in part Plan Change 60 to the Auckland Unitary Plan (Operative in Part) as included in Attachment A of the agenda report, under clause 17(2) of Schedule 1 of the Resource Management Act 1991
- b) tono / request staff to complete the necessary statutory processes to publicly notify the date on which the plan change becomes operative in part as soon as possible, in accordance with the requirements in clause 20(2) of Schedule 1 of the Resource Management Act 1991.

## Horopaki Context

11. On 3 December 2020 the Planning Committee resolved to publicly notify Plan Change 60 – Open Space (2020) and Other Rezoning Matters, to the Auckland Unitary Plan (Operative in Part). (PLA/2020/113).
12. Plan Change 60 (PC60) had four components:
  - i) Rezoning 49 land parcels that have been recently vested and/or acquired as open space so that the zoning reflects its purpose, function and intended use.
  - ii) Rezoning 22 land parcels to correct anomalies and errors. These include aligning and updating zone boundaries with new property boundaries, rezoning Department of Conservation and incorrectly shown as road and privately owned land incorrectly zoned as open space.
  - iii) Rezoning 26 land parcels as part of Auckland Council's land disposal and rationalisation process.
  - iv) Rezoning eight land parcels that include land swaps between Kāinga Ora and Auckland Council to facilitate redevelopment of certain neighbourhoods – Mangere East, Owairaka & Northcote.
13. Key dates associated with the plan change were:
  - Notified on 28 January 2021
  - Submissions closed on 1 March 2021
  - Summary of Decisions Requested was notified on 25 March 2021
  - Further submissions closed on 12 April 2021
  - A hearing by independent commissioners took place on 8 February 2022 and 26 May 2022.
14. The decision on Plan Change 60 was notified on 9 September 2022. No appeals have been received against the decision.
15. The decision was significant as 11 of the 26 sites proposed to be rezoned as part of Auckland Council's land disposal process were rejected by the independent commissioners and their open space zoning was retained.



16. The key reasons for rejecting the rezoning of the 11 land parcels were:
  - Lack of open space in the respective locations
  - Significant intensification already provided for under the Auckland Unitary Plan operative zones and the proposed response to the National Policy Statement on Urban Development (Plan Change 78)
  - Evidence from the community on the use and value of the sites by/to the community
  - Opposition from local boards to some of the proposed rezonings
  - Loss of mature trees (if the site were rezoned and developed) which was considered to be inconsistent with Auckland Council's declaration of a Climate Emergency and Urban Ngāhere Strategy
  - In light of the above, the need to review the Open Space Provision Policy (2016) and the Parks and Open Space Acquisition Policy (2013) which are used to guide the disposal process was raised.
17. The relevant parts of the Auckland Unitary Plan (Operative in Part) can now be amended and made operative in part, in accordance with the hearing commissioners' decision.
18. The plan change can only be made operative in part (rather than fully operative) because ten land parcels are the subject of a variation – Variation 4. These are:
  - R24 Linwood Ave, Forrest Hill
  - 67 East Street, Pukekohe
  - Section 1 SO 430835 Princes Street West, Pukekohe
  - Lot 6 DP 16500 Paerata Road, Pukekohe
  - 33R Pohutakawa Road, Beachlands
  - 17W Hawke Crescent, Beachlands
  - 8 Magnolia Drive, Waiuku
  - 5R Ferguson Street, Mangere East
  - 50 Mayflower Close, Mangere East
  - 62 Mayflower Close, Mangere East.
19. Variation 4 to Plan Change 60 seeks to amend the zoning of the ten land parcels in PC 60 to apply relevant residential zones to land that is proposed to be rezoned from an open space zone to a residential zone, where the zoning of the adjacent lots is proposed to change under Plan Change 78 - Intensification. The variation is a result of the National Policy Statement on Urban Development 2020 and the amendments introduced by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021.
20. Key dates associated with the variation are:
  - Notified on 18 August 2022
  - Submissions closed on 29 September 2022
  - Summary of Decisions Requested was notified on 5 December 2022
  - Further submissions closed on 20 January 2023.
21. Submissions on the variation will be heard by the Independent Hearings Panel (IHP) as part of the intensification plan change (PC78) and related plan changes and variations. The IHP will make a recommendation to the council which will then make the decision.

## Tātaritanga me ngā tohutohu Analysis and advice

22. Schedule 1 of the RMA 1991 sets out the statutory process for plan changes. Clause 17(2) enables the council to approve part of the plan change if all appeals relating to that part have been disposed of. The majority of PC60 can be approved, with only the sites subject to the variation unable to be finalised.
23. Clause 20 of Schedule 1 sets out the process that is required to be undertaken for the notification of the operative date. Staff within the Plans and Places department will notify the operative date as soon as possible following the Planning, Environment and Parks Committee's resolution.

## Tauākī whakaaweawe āhuarangi Climate impact statement

24. As the approval of a plan change is a procedural matter, impacts on climate change are not relevant to this recommendation. However, the retention of open space in some areas will assist in progressing some of the council's climate change goals.

## Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

25. As the approval of a plan change is a procedural matter, no views are being sought from any council departments.

## Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe Local impacts and local board views

26. The views of all local boards were sought on the proposed plan change. Many local boards provided feedback which was considered by the commissioners.
27. Local board views were not sought for this report as making a plan change operative is a procedural matter.

## Tauākī whakaaweawe Māori Māori impact statement

28. As a procedural step, there are no impacts on Māori associated with the approval of the plan change.
29. All iwi authorities were consulted with during the preparation of the plan change and sent letters when Plan Change 60 was publicly notified. No submissions were received from iwi authorities on the plan change.

## Ngā ritenga ā-pūtea Financial implications

30. There are no financial implications associated with making Plan Change 60 operative in part. Approving plan changes and amending the Auckland Unitary Plan (Operative in Part) is a statutory requirement and is budgeted expenditure for the Plans and Places department.

## Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations

31. There are no risks and mitigations associated with making Plan Change 60 operative in part.

## Ngā koringa ā-muri

### Next steps

32. The final step in making the plan change operative in part is to publicly notify the date on which it will become operative in part, and to update the Auckland Unitary Plan (Operative in Part).
33. Plans and Places staff will undertake the actions required under Schedule 1 of the Resource Management Act to make Plan Change 60 operative in part.

## Ngā tāpirihanga

### Attachments

No.	Title	Page
A 	Plan Change 60 Decision	

## Ngā kaihaina

### Signatories

Author	Tony Reidy - Team Leader Planning
Authorisers	John Duguid - General Manager - Plans and Places Megan Tyler - Chief of Strategy



# Auckland Unitary Plan (Operative in Part) - Request to make operative Private Plan Change 70 (751 and 787 Kaipara Coast Highway, Kaukapakapa)

File No.: CP2022/17236

Item 11

## Te take mō te pūrongo Purpose of the report

1. To make operative Private Plan Change 70, to rezone 751 and 787 Kaipara Coast Highway, Kaukapakapa, in the Auckland Unitary Plan (Operative in Part).

## Whakarāpopototanga matua Executive summary

2. Plan Change 70 (PC70) is a privately initiated plan change by Riverview Properties Limited to rezone 751 and 787 Kaipara Coast Highway Kaukapakapa, from Rural – Countryside Living zone to Residential – Rural and Coastal Settlement zone. PC70 removes the Subdivision Variation Control – Rural, Kaukapakapa Countryside Living from 751 and 787 Kaipara Coast Highway, Kaukapakapa, as the control will no longer be relevant to the sites in the plan change area under the proposed rezoning.
3. The private plan change was publicly notified on 27 January 2022. Five submissions were received. One further submission was received.
4. PC 70 was considered by Independent Hearing Commissioners on 25 July 2022. The commissioners, in their decision on behalf of the council, considered the submissions received and concluded that the private plan change should be approved with no modifications. The decision was publicly notified on 14 October 2022. No appeals have been received on the decision.
5. The relevant parts of the Auckland Unitary Plan (Operative in Part) can now be amended and made operative as set out in the decision dated 3 October 2022 (refer to Attachment A). Under the Resource Management Act, the procedural decision to make a plan change operative must be made by the Governing Body or a relevant committee comprising the Mayor and all councillors.

## Ngā tūtohunga Recommendation/s

That the Planning, Environment and Parks Committee:

- a) whakaae / approve Private Plan Change 70 to the Auckland Unitary Plan (Operative in Part) under Clause 17(2) of Schedule 1 of the Resource Management Act 1991
- b) tono / request staff to complete the necessary statutory processes to publicly notify the date on which the private plan change becomes operative as soon as possible, in accordance with the requirements in clause 20(2) of Schedule 1 of the Resource Management Act 1991.

## Horopaki Context

6. PC70 – 751 and 787 Kaipara Coast Highway, Kaukapakapa sought to:
  - rezone 751 and 787 Kaipara Coast Highway, Kaukapakapa from Rural – Countryside Living zone to Residential – Rural and Coastal Settlement zone

- remove the Subdivision Variation Control – Rural, Kaukapakapa Countryside Living from 751 and 787 Kaipara Coast Highway, Kaukapakapa, as the control will no longer be relevant to the sites in the plan change area under the proposed rezoning.
7. PC70 was notified on 27 January 2022 and five submissions were received. One further submission was received.
  8. The hearing for PC70 was held on 25 July 2022. The hearing was conducted by Independent Hearing Commissioners who were given full delegation to make a decision on the submissions received for PC70. The decision, issued on 3 October 2022, concluded that PC70 be approved without modifications.
  9. No appeals have been received. Therefore, the relevant parts of the Auckland Unitary Plan (Operative in Part) can now be amended and made operative as set out in the decision (refer to Attachment A).

## Tātaritanga me ngā tohutohu Analysis and advice

10. Schedule 1 of the Resource Management Act 1991 sets out the statutory process for plan changes. Clause 17(2) enables the council to approve part of the plan change if all appeals to that part have been disposed of. The entirety of PC70 can be approved, with no matters subject to appeal.
11. Clause 20 of Schedule 1 sets out the process that is required to be undertaken for the notification of the operative date of a plan change. Plans and Places staff will notify the operative date as soon as possible following the Planning, Environment and Parks Committee's resolution.

## Tauākī whakaaweawe āhuarangi Climate impact statement

12. As a procedural request, impacts on climate change are not relevant to the recommendation made in this report. However, it is noted that while the additional 16 houses enabled by the plan change in this location do not have access to good public transport, walking and cycling connections, this scale of this is such that it will have a negligible impact on carbon emissions and climate change.

## Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

13. As a procedural request, no views are being sought from any council departments or council controlled organisations. However, it is noted that Auckland Transport submitted in opposition to the private plan change and presented expert evidence at the hearing.
14. The findings of the Independent Hearing Commissions in relation to transport matters are discussed in paragraphs 94 to 97 of their decision (see Attachment A).

## Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe Local impacts and local board views

15. The views of the Rodney Local Board were sought on the private plan change following lodgement of the request. The local board provided comments through a resolution at its meeting on 24 April 2022. The local board's concerns related to transport issues, in particular concerns regarding the lack of public transport, and provision for walking and cycling. The local board's comments were included in the hearing report. A representative from the Rodney Local Board attended and presented the local board's views on the private plan change at the hearing.

16. As discussed, the findings of the Independent Hearing Commissioners in relation to transport matters are discussed in paragraphs 94 to 97 of their decision (see Attachment A).
17. Local board views were not sought for this report as making a plan change operative is a procedural matter.

### Tauākī whakaaweawe Māori Māori impact statement

18. As a procedural step, there are no impacts on Māori associated with the approval of PC70 and it being made operative.
19. It is noted that all Mana Whenua groups identified on Auckland Council's GIS mapping viewer as having an interest in the area in which PC70 is located were notified of the private plan change. No submissions from iwi authorities were received.
20. The Independent Hearing Commissioners, in their decision, found that PC70 is consistent with the Auckland Unitary Plan Regional Policy Statement, and gives effect to Part 2 of the Resource Management Act 1991, in relation to Mana Whenua interests and values.

### Ngā ritenga ā-pūtea Financial implications

21. There are no financial implications arising from this procedural decision. Approving plan changes and amending the Auckland Unitary Plan (Operative in Part) is an administrative and statutory requirement. Costs are recoverable from the applicant (Riverview Properties Limited).

### Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations

22. There are no risks associated with making PC70 operative.

### Ngā koringa ā-muri Next steps

23. The final step in making PC70 operative is to publicly notify the date on which it will become operative, and to update the Auckland Unitary Plan (Operative in Part).
24. Plans and Places staff will undertake the actions required under Schedule 1 of the Resource Management Act 1991 to make PC70 operative.

### Ngā tāpirihanga Attachments

No.	Title	Page
A 	Plan Change 70 - Decision	

### Ngā kaihaina Signatories

Author	Jo Hart - Senior Policy Planner
Authorisers	John Duguid - General Manager - Plans and Places Megan Tyler - Chief of Strategy





# Auckland Unitary Plan (operative in Part) - Making operative further parts of the Auckland Unitary Plan – Crater Hill/Ngā Kapua Kohuora and Pūkaki Peninsula

File No.: CP2023/00138

Item 12

## Te take mō te pūrongo Purpose of the report

1. To make those parts of the Auckland Unitary Plan (Operative in Part) (AUP) associated with Ngā Kapua Kohuora/Crater Hill and Pūkaki Peninsula that are no longer subject to appeal, or further appeal, operative under clause 20 of Schedule 1 to the Resource Management Act 1991 (RMA).

## Whakarāpopototanga matua Executive summary

2. On 19 December 2022, all Planning, Environment and Parks Committee members, all Independent Māori Statutory Board members and all Local Board Chairs were provided with a memorandum summarising the High Court decision, *Gock v Auckland Council* [2022] NZHC 3126, which was issued on 28 November 2022. A copy of this memorandum is provided in Attachment A to this report. This is an important decision that follows related decisions from the Environment Court and High Court concerning the location of the Rural Urban Boundary and zoning at Ngā Kapua Kohuora/Crater Hill and Pūkaki Peninsula.
3. The decisions support the council's consistent position that the area should not be urbanised because of its important cultural, landscape, geological and other values, and due to presence of high-quality soils that are important for Auckland's food production needs. The council and Te Ākitai Waiohū have worked closely with one another throughout the process. The decision is highly significant for Te Ākitai Waiohū.
4. In accordance with section 152(2) of the Local Government (Auckland Transitional Provisions) Act 2010 (LGATPA), if an appeal is lodged on any part of the Proposed Auckland Unitary Plan, when all those appeals, including further appeals, are withdrawn or determined that part is deemed to have been approved by the council under clause 17(1) of Schedule 1 of the RMA. All appeals, including further appeals associated with the location of the Rural Urban Boundary and zoning at Ngā Kapua Kohuora/Crater Hill and Pūkaki Peninsula have now been determined and the relevant parts of the AUP are deemed to have been approved by the council.
5. Section 160 of the LGATPA requires that the council publicly notify the date on which the AUP, or each part of the AUP will become operative in accordance with clause 20 of Schedule 1 of the RMA. Clause 20(1) provides that an approved policy statement or plan shall become an operative policy statement or plan on a date which is to be publicly notified.
6. The parts of the AUP that are now deemed to have been approved can be notified under clause 20 of Schedule 1 of the RMA and made "operative" (i.e. the final formal procedural step in the plan-making process). A map showing the location of the Rural Urban Boundary and zoning at Ngā Kapua Kohuora/Crater Hill and Pūkaki Peninsula to be made operative is provided in Attachment B to this report.

## Ngā tūtohunga Recommendation/s

That the Planning, Environment and Parks Committee:

- a) tuhi ā-taipitopito / note that in accordance with section 152(2) of the Local Government (Auckland Transitional Provisions) Act 2010, those parts of the Proposed Auckland Unitary Plan associated with Ngā Kapua Kohuora/Crater Hill and Pūkaki Peninsula that are no longer subject to appeal or further appeal, are deemed to have been approved by the council under clause 17(1) of Schedule 1 of the Resource Management Act 1991.
- b) tono / request staff to complete the necessary statutory processes under clause 20 of Schedule 1 of the Resource Management Act 1991, to publicly notify the date on which those parts of the Proposed Auckland Unitary Plan associated with Ngā Kapua Kohuora/Crater Hill and Pūkaki Peninsula that are no longer subject to appeal or further appeal will become operative.

## Horopaki Context

7. An appeal associated with the location of the Rural Urban Boundary and zoning at Ngā Kapua Kohuora/Crater Hill and Pūkaki Peninsula has been resolved by decisions of the Environment Court and the High Court. No application for leave to appeal to the Court of Appeal was filed against the High Court decision *Gock v Auckland Council* [2022] NZHC 3126 issued on 28 November 2022. On 19 December 2022, all Planning, Environment and Parks Committee members, all Independent Māori Statutory Board members and all Local Board Chairs were provided with a memorandum summarising the High Court decision.
8. The decisions support the council's consistent position that the area should not be urbanised because of its important cultural, landscape, geological and other values, and due to presence of high-quality soils that are important for Auckland's food production needs. The council and Te Ākitai Waiohūa have worked closely with one another throughout the process. The decision is highly significant for Te Ākitai Waiohūa.

## Tātaritanga me ngā tohutohu Analysis and advice

9. The parts of the AUP associated with the location of the Rural Urban Boundary and zoning at Ngā Kapua Kohuora/Crater Hill and Pūkaki Peninsula can now be made operative under clause 20 of Schedule 1 of the RMA.
10. As there are no further appeals, the associated appeal annotations will be removed from the AUP. As a result, those parts of the AUP will no longer be shown as under appeal and will be deemed 'approved' under section 152 of the LGATPA.
11. It is those parts of the AUP (that were formerly under appeal) that can now be made operative under clause 20. Section 160 of the LGATPA requires that the council notify the date on which the AUP, or each part of the AUP, will become operative in accordance with clause 20 of Schedule 1 to the RMA. Clause 20(1) provides that an approved policy statement or plan shall become an operative policy statement or plan on a date which is to be publicly notified.
12. In order to complete that process, this report seeks a resolution from the Planning, Environment and Parks Committee.

## **Tauākī whakaaweawe āhuarangi** **Climate impact statement**

13. There are not considered to be any issues pertaining directly to climate change in respect of this procedural decision. However, it is noted that there are climate change related benefits in ensuring significant food production opportunities are retained within the Auckland region (i.e. reduced distances to transport food to consumers and therefore reduced vehicle emissions).

## **Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera** **Council group impacts and views**

14. It is not necessary to obtain the views of the wider council group in respect of this procedural decision.

## **Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe** **Local impacts and local board views**

15. Local Board views are not required in respect of this procedural decision.

## **Tauākī whakaaweawe Māori** **Māori impact statement**

16. The final step in making parts of the AUP operative is a procedural matter only and does not have any direct impact on Māori. However, it is important to acknowledge at this final step, the support provided by Te Ākitai Waiohua throughout the appeal process (and indeed prior to this) and the importance of the decision to Te Ākitai Waiohua. Ngā Kapua Kohuora/Crater Hill and Pūkaki Peninsula are components of a significant cultural landscape within Tāmaki Makaurau that would have been compromised by urbanisation. The council and Te Ākitai Waiohua have worked in close partnership to ensure this did not occur.

## **Ngā ritenga ā-pūtea** **Financial implications**

17. There are no financial implications arising from this procedural decision. Amending the AUP is an administrative and statutory requirement and is budgeted expenditure for the Plans and Places Department.



## **Ngā raru tūpono me ngā whakamaurutanga** **Risks and mitigations**

18. There are no risks arising from this procedural decision.

## **Ngā koringa ā-muri** **Next steps**

19. Following the Planning, Environment and Parks Committee's decision, staff will publish a public notice advising of the date on which the location of the Rural Urban Boundary and zoning for Ngā Kapua Kohuora/Crater Hill and Pūkaki Peninsula will be made operative. All costs associated with this are provided for within existing budgets.

## Ngā tāpirihanga Attachments

No.	Title	Page
A 	Memorandum dated 19 December 2022 - High Court decision – Gock v Auckland Council [2022] NZHC 3126	
B 	Map showing the location of the Rural Urban Boundary and zoning at Ngā Kapua Kohuora/Crater Hill and Pūkaki Peninsula to be made operative	

## Ngā kaihaina Signatories

Author	Marc Dendale - Team Leader Planning - South
Authorisers	John Duguid - General Manager - Plans and Places Megan Tyler - Chief of Strategy

## Submission to Inquiry into the 2022 Local Elections

File No.: CP2022/17359

### Te take mō te pūrongo

#### Purpose of the report

1. To present a draft submission to the Justice Committee's Inquiry into the 2022 local elections, for approval by this committee.

### Whakarāpopototanga matua

#### Executive summary

2. Parliament's Justice Committee is conducting an inquiry into the 2022 local elections and is calling for submissions, which close on 14 February 2023. It is usual practice for the Justice Committee to conduct an inquiry following a parliamentary or local election in case there are issues that require a legislative response. For this inquiry, the committee will examine the law and administrative procedures for the conduct of the 2022 local elections, with particular reference to:
  - a. low voter turnout
  - b. the provision of election services by private organisations, with particular reference to:
    - special voting
    - provision of ballot papers
    - complaint processes
    - accountability for local elections
    - postal voting (including security of ballots and whether postal voting is an effective method of receiving votes)
  - c. the age of eligible voters (with reference to lowering the age of eligible voters to 16 years).
3. The changes to legislation requested in the draft submission are:
  - (i) Overseas voters should have the ability to obtain and return a vote electronically as they do for parliamentary elections
  - (ii) votes date-stamped by the postal provider on the day of elections (or earlier) to be accepted
  - (iii) increasing the nomination deposit fee for mayoral candidates to reduce the risk of having to re-run an election if any candidate is found, prior to election day, to not be qualified to stand for election
4. Staff will report a fuller evaluation of the 2022 Auckland elections to the Governing Body meeting on 23 March 2023. Due to the Justice Committee's early submission deadline it was not possible to complete this within the timeframe.
5. The draft submission is attached as Attachment A and focusses on the issues the Justice Committee has identified. The body of this report provides an overview of the points made in the submission.
6. The draft submission does not take a position on the question of lowering the voting age but makes comments that are relevant to Auckland Council's context. This committee might wish to consider whether to resolve a position on voting age.

7. Due to the constrained timeframe local boards have not been able to meet to provide feedback but have used their urgent decision-making processes. Feedback that is received prior to the committee meeting will be circulated. As is practice, all local board comments will be appended to the Auckland Council submission.

## Ngā tūtohunga Recommendation/s

That the Planning, Environment and Parks Committee:

- a) whiwhi / receive local board feedback that is circulated prior to the meeting and agree that all local board feedback is appended to the council's submission
- b) whakaae / approve the draft submission to the Justice Committee Inquiry into the 2022 Local Elections in Attachment A of the agenda report, amended with any changes agreed by the Committee
- c) whakamana / authorise the Mayor and Deputy Mayor to approve any minor changes to the final submission and to determine who will present the submission to Parliament's Justice Committee.

## Horopaki Context

8. Parliament's Justice Committee is conducting an inquiry into the 2022 local elections and is calling for submissions, which close on 14 February 2023. For this inquiry, the Justice Committee will examine the law and administrative procedures for the conduct of the 2022 local elections, with particular reference to:
- a. low voter turnout
  - b. the provision of election services by private organisations, with particular reference to:
    - special voting
    - provision of ballot papers
    - complaint processes
    - accountability for local elections
    - postal voting (including security of ballots and whether postal voting is an effective method of receiving votes)
  - c. the age of eligible voters (with reference to lowering the age of eligible voters to 16 years).
9. The draft submission focusses on these issues and raises some additional matters for legislative change.
10. The Minister of Justice has separately established an Independent Electoral Review to review electoral law. In September 2022 the review panel released its consultation document and submissions closed in November 2022. The panel will publish a draft report in May 2023 for public comment on the panel's recommendations and will provide its final recommendations to Government in November 2023<sup>1</sup>. This review deals with Parliamentary electoral law but is of relevance to local government in that matters such as the electoral term and voting age are within its scope.

<sup>1</sup> <https://electoralreview.govt.nz/have-your-say/>

11. The key steps in a local election by postal vote comprise:
  - the Electoral Commission updates the Parliamentary electoral roll
  - the council's Electoral Officer updates the ratepayer roll
  - the council's Electoral Officer calls for and receives nominations for candidates
  - the council's Electoral Officer arranges for voting documents to be posted to those on the residential and ratepayer rolls
  - voters have about three weeks to post their ballots
  - the ballots are counted, and the council's Electoral Officer declares the results.

## Tātaritanga me ngā tohutohu Analysis and advice

### Low voter turnout

12. The submission compares turnout in Auckland with turnout in other New Zealand metropolitan councils and with some councils overseas.
13. The level of turnout in Auckland is in-line with these, though higher turnout is experienced in countries with compulsory voting and in a few standouts such as Denmark.
14. The submission conveys the results of the council's most recent post-election survey where respondents were asked why they did not vote. The top reasons were:
  - I don't know anything about the candidates
  - I forgot to vote
  - I am not interested in politics or politicians.
15. Some common suggestions to improve turnout include online voting (which Auckland Council has supported in the past). This is on hold while the Government Communications Security Bureau has concerns about cyber-security. In Canada over 150 municipalities conduct online voting, but a researcher there advised turnout increased by only about 3 percent.
16. The draft submission also comments on the possibility of providing booth voting as well as postal voting. For the 2022 elections there was a noticeable increase in those who wished to vote on election day itself. Booth voting on election day, in addition to postal voting in the weeks prior, would reduce barriers for some. Electors of councils in the United Kingdom have the option of both, but turnout is same as for Auckland Council, if not lower.
17. The submission also considers the argument for introducing political parties into local elections but, again, this is the case with councils in the United Kingdom, which have low turnouts.
18. Compulsory voting would be a major change and should be left to the Independent Electoral Review panel.
19. The draft submission notes there are no obvious easy solutions to increasing turnout (other than compulsory voting) however it notes options for reducing barriers and improving voter experience.

### Provision of election services by private organisations

20. The draft submission notes that it is impossible for staff to run elections as well as undertaking their normal duties. The routine election services need to be contracted out for the sake of efficiency and effectiveness.

21. For the 2022 elections, Auckland Council utilised 25 staff (mostly on a part-time basis) from across the main organisation to undertake those activities that it had a responsibility for. Collaboration between this virtual team and Elections Services was important and worked well.

### Special voting

22. The identification of special voting centres and their staffing is a collaborative undertaking between the Electoral Officer, Election Services and the council. Council facilities are used and council staff take part and are trained by the Electoral Officer to undertake the associated duties.
23. There have been issues experienced with running out of special voting papers due to electors attending special voting centres outside of their area. An option being investigated for 2025 is to provide the ability to print special voting documents at special voting centres if hard copies run out.

### Provision of ballot papers

24. The draft submission notes the various reasons an elector might not receive a ballot paper, a frequent one being that electors forget to update their details on the electoral roll with the result their ballot paper is sent to their former address.

### Complaint processes

25. The submission notes that there are three agencies involved in complaints about local elections, those being:
- the Electoral Commission in terms of matters relating to the electoral roll
  - the Electoral Officer, who is responsible for the conduct of the election
  - the council, which is responsible for regulations relating to election signs and for promoting the elections.
26. This can be confusing for electors who sometimes contact the wrong agency when making a query or wanting to make a complaint. Auckland Council has learnt that there needs to be excellent communication between the agencies to ensure that queries and complaints are dealt with appropriately.
27. Council advisory staff dealt with:
- 32 complaints / queries relating to election signs
  - 54 complaints / queries relating to election protocols for staff and incumbent members
  - 63 complaints / queries not categorised
28. Council bylaw enforcement staff conducted 154 visits of election signs as a result of complaints.
29. The Electoral Officer referred three complaints of alleged offences to the Police.

### Accountability for local elections

30. The submission notes that the council has previously expressed support in principle for the administration of local elections to be the responsibility of the Electoral Commission. Until that happens the council believes the current arrangements, with their respective accountabilities, work well.

### Postal voting

31. The submission notes that postal services are now in decline and that Auckland Council provided vote boxes for voters to deposit their ballots at:
- Countdown supermarkets
  - train stations
  - libraries and other council facilities.



32. There were 136 vote boxes with 127,000 votes deposited into them (31 percent of all votes).
33. The submission notes that postal voting does not serve overseas voters well. Staff are aware of one voter in Australia whose voting pack was posted on 16 September and who received it on 15 October, in the week following election day. This was subsequently found to be a problem with an overload in the local mail centre.
34. For Parliamentary elections, overseas voters may download their voting paper, fill it in and upload it back. This happens over the internet and regardless of GCSB concerns about online voting, staff believe this is a risk worth taking and the same option should be available for overseas voters in local elections. A recommendation is made for legislative change to allow this.

### Age of eligible voters

35. The draft submission does not commit the council to a position on this topic but makes comments about some matters that are relevant to local elections and to the council:
  - (i) Local elections use the parliamentary electoral roll which is established under the Electoral Act 1993. Age eligibility is not set separately under the Local Electoral Act 2001, and this should continue to be the case
  - (ii) Local elections include electing licensing trust members. Young people cannot purchase alcohol until they are 18 years of age. This is due to greater vulnerability of younger people to alcohol harm. Vulnerability to alcohol is a separate issue to the competency to vote and should not disenfranchise a young person. Older people who are vulnerable to alcohol are not disenfranchised.
  - (iii) The council's Youth Advisory Panel has a minimum age of 14 though the youngest to date has been 15 years old. Experience is that younger people contribute with well-considered opinions.
36. If the committee wishes to consider the matter of lowering the voting age in more detail and resolve a position for Auckland Council, the following comments might assist.

### Some of the arguments

37. The Supreme Court made a declaration in terms of the New Zealand Bill of Rights Act that the case for discrimination on the basis of age had not been justified. If 16- and 17-year-olds are to be discriminated against there needs to be sufficient justification. Arguments against lowering the voting age might be based on life experience, maturity or alignment with other age-based rules such as the requirement to be at least 18 in order to enter a contract.
38. While a 16-year-old might choose to stay at home and continue their study, the law considers that at this age they are old enough to leave home and work full-time. If they work full-time then they pay tax as full-time workers and, if they rent accommodation, they contribute to rates. It is believed that voting can be habit forming and that it is good if a voting habit can be established early in life.
39. An argument against lowering the voting age is that young people are not motivated enough to vote<sup>2</sup>, yet there has recently been a strong advocacy group to lower the voting age. In New Zealand the act of voting is not compulsory but registering on the electoral roll is compulsory. A compromise position might be to retain the requirement to enrol at age 18 but to allow 16- and 17-year-olds to choose to enrol if they wish to take part, otherwise if the voting age is lowered to 16, any person of 16 years or over who does not register commits an offence.

<sup>2</sup> <https://aceproject.org/ace-en/topics/yt/yt20/lowering-the-voting-age> A good background in a New Zealand context <https://nzhistory.govt.nz/te-akomanga/contexts-activities/should-voting-age-be-lowered-to-16>

### Supreme Court case

40. The Supreme Court recently heard the case<sup>3</sup> brought by Make It 16 Incorporated which sought declarations that the provisions setting the minimum voting age in the Electoral Act 1993 and the Local Electoral Act 2001 are inconsistent with the right to freedom from discrimination on the basis of age which is protected by s 19 of the New Zealand Bill of Rights Act 1990 (the Bill of Rights). The Bill of Rights, in section 5, provides that rights and freedoms may be subject to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.
41. In its judgement, the Court addressed the issue of maturity and noted a report by the Canadian Children’s Commissioner which referred to a study that:
- “... identified that when situations call for deliberation in the absence of high levels of emotion (cold cognition), such as voting, granting consent for research participation, and making autonomous medical decisions, the ability of an individual to reason and consider alternative courses of action reaches adult levels during the mid-teen years. When situations that involve emotionally-charged situations where time for deliberation and self-restraint is unlikely or difficult (hot cognition), such as driving, consuming alcohol, and criminal behaviour, impulse choices are more likely and mental processes are slower to develop, reaching adult levels into adulthood.*
- The ... study advocates for two different legal age boundaries. One for decisions typically made with deliberation, with a suggested designation at 16 years of age, and a second for decisions made in emotionally-charged situations in which psychosocial immaturity may compromise judgement, with a suggested designation at 18 years or older.”*
42. The Court made a declaration “...that the provisions of the Electoral Act 1993 and of the Local Electoral Act 2001 which provide for a minimum voting age of 18 years are inconsistent with the right in s 19 of the New Zealand Bill of Rights Act 1990 to be free from discrimination on the basis of age; these inconsistencies have not been justified in terms of s 5 of the New Zealand Bill of Rights Act.”

### Candidate deposit to stand for mayor

43. If a candidate for mayor is found, between the close of nominations and election day, to be unqualified to stand for election the election for mayor is declared void and has to be held again. The cost of doing this is covered by insurance but it would be extremely inconvenient to electors and increase the risk of reputational damage. The election of a new mayor would not be finalised until the following year.
44. There are no other positions where this is required.
45. For the 2022 Auckland Council elections, there were 23 candidates for mayor. The higher the number of candidates, the greater the risk of an unqualified mayoral candidate, and invalidated election. If the threshold for standing for mayor was raised, it would reduce candidates to those who were serious about standing and the risk of having to hold the elections again would be reduced. The submission proposes raising the deposit for mayoral candidates from \$200 to \$500. A balance needs to be struck between mitigating this risk, and not limiting candidacy for mayor to those who are wealthy.

### Tauākī whakaaweawe āhuarangi Climate impact statement

46. Most of the issues discussed in the submission do not impact the climate except that it is likely online voting would reduce emissions if it meant that voting documents and booklets for over 1 million electors no longer needed to be printed and posted. This reduction would be ongoing.

<sup>3</sup> <https://www.courtsofnz.govt.nz/assets/cases/2022/2022-NZSC-134.pdf>

## Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

47. There are no impacts on the council group.

## Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe Local impacts and local board views

48. Local board comments will be appended to the council's submission.

## Tauākī whakaaweawe Māori Māori impact statement

49. The impact of elections on representation of Māori on Auckland Council is an important matter and is being considered separately to this submission.

## Ngā ritenga ā-pūtea Financial implications

50. There are financial implications associated with matters discussed in the submission, but these have not yet been quantified. For example, if the council introduces booth voting in addition to postal voting, then there will be an additional cost to running the election.
51. On the other hand if the return of ballot papers is not through New Zealand Post but by voters depositing their ballots in council vote boxes, there could be a small reduction in cost due to the freepost reply not needing to be paid.


## Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations

52. The risks associated with a mayoral candidate being unqualified to stand election with the result the election has to be run again is raised in the council's submission. This is a significant risk for Auckland Council.

## Ngā koringa ā-muri Next steps

53. Staff will make changes to the draft submission as decided by this committee, have them approved then lodge the submission, with local board comments appended, with the Justice Committee.

## Ngā tāpirihanga Attachments

No.	Title	Page
A 	Draft submission to Inquiry into the 2022 Local Elections	

## Ngā kaihaina Signatories

Author	Warwick McNaughton - Principal Advisor
Authorisers	Rose Leonard - Manager Governance Services Phil Wilson - Director, Governance & CCO Partnerships Megan Tyler - Chief of Strategy

**Item 13**

## Appointment of representatives to Ark in the Park Governance Group

File No.: CP2022/17329

Item 14

### Te take mō te pūrongo

#### Purpose of the report

1. To appoint two representatives to the Ark in the Park Governance Group.

### Whakarāpopototanga matua

#### Executive summary

2. Ark in the Park is a community-led conservation project in the northern part of the Waitākere Ranges Regional Park that is managed in partnership between Forest and Bird and Auckland Council, with the support of Te Kawerau ā Maki.
3. Ark in the Park works to restore the ecology of the area to its natural state through controlling non-native pests and predators and reintroducing native species which have become extinct from the area.
4. Auckland Council has a partnership agreement with Forest and Bird for this project (see Attachment A).
5. As specified in the partnership agreement, the management of the project is overseen by a governance group made up of:
  - two representatives from the Governing Body of the Auckland Council
  - one representative from the Waitākere Ranges Local Board
  - one representative of the Executive of Forest and Bird
  - two representatives of the Waitākere Branch of Forest and Bird.
6. In line with the partnership agreement, staff recommend the Planning, Environment and Parks Committee, as a committee of the whole of the Governing Body, appoints two representatives to the group. These representatives can be either councillors or Independent Māori Statutory Board members.
7. Staff recommend that appointed representatives have a connection with the Waitākere Ranges, or an interest in the protection of indigenous biodiversity.

### Ngā tūtohunga

#### Recommendation

That the Planning, Environment and Parks Committee:

- a) kopou / appoint two members to the Ark in the Park Governance Group for the 2022 to 2025 electoral term

### Horopaki

#### Context

8. The Ark in the Park Open Sanctuary Project aims to enhance biodiversity in the Waitākere Ranges, while conserving the natural, recreational, historical and cultural features of the Ranges.
9. The project covers approximately 2,270ha of the Upper Waitākere River catchment within the Waitākere Ranges Regional Park.

10. The Ark in the Park project is identified as a commitment under Auckland Council's Regional Parks Management Plan (September 2022). It also enables the council to deliver on the goals of the Waitākere Ranges Heritage Area Act 2008.
11. The Ark in the Park project contributes significantly towards achieving objectives of Auckland Council's Indigenous Biodiversity Strategy, notably:
  - *Objective 1: Conserve the greatest number and most diverse range of Auckland's indigenous ecosystems and sequences.*
  - *Objective 2: Achieve long-term recovery of the greatest number of threatened species whose range includes the Auckland Region.*

## Tātaritanga me ngā tohutohu Analysis and advice

### Partnership agreement between Auckland Council and Forest and Bird

12. The Ark in the Park project is managed in partnership between Forest and Bird and Auckland Council.
13. The partnership agreement for the project (Attachment A) specifies that it should have a governance group composed of:
  - two representatives from the Governing Body of the Auckland Council
  - one representative from the Waitākere Ranges Local Board
  - one representative of the Executive of Forest and Bird
  - two representatives of the Waitākere Branch of Forest and Bird.
14. The purpose of the Ark in the Park governance group is to oversee and review the overall direction of the project, approve the annual Ark plan and long-term restoration plan.
15. The Forest and Bird representatives on the governance group are to be advised. On 8 December 2022 the Waitākere Ranges Local Board appointed member Mark Allen as their lead representative and Liz Manley as alternate representative to the governance group for the 2022-2025 term (resolution number WTK/2022/141).
16. The Governance Group will meet twice yearly or as may be otherwise agreed between the parties. The meeting commitment over the last term was approximately once per annum.

### Preferred option – appoint two representatives to the group

17. In accordance with the partnership agreement, staff recommend that the Planning, Environment and Parks Committee appoint two representatives to sit on the Ark in the Park Governance Group for the 2022-2025 electoral term.
18. Staff recommend that appointed representatives have an association with the Waitākere Ranges or an interest in the protection of indigenous biodiversity.
19. The other option available to the committee is to not appoint representatives. This option is not recommended as it would mean that the council is not complying with the partnership agreement.
20. It would also mean that a regional perspective for the council is not represented on the Governance Group, in the case that any decisions are required.

## Tauākī whakaaweawe āhuarangi Climate impact statement

21. The ongoing operation of the Ark in the Park project protects a substantial area of mature native forest in the Waitākere Ranges. This provides habitat for a host of native animal species and supports their resilience in the face of climate change effects.

22. Maintenance of the forest ecosystem also provides carbon sequestration and helps regulate the hydrology of the Waitākere River catchment. This contributes to resilience in extreme weather events.

## Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

23. The Ark in the Park work programme is developed in consultation with the relevant departments of the council, including Regional Parks and Environmental Services.
24. The project manager also liaises with other impacted parts of the council family, such as Watercare, when required.

## Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe Local impacts and local board views

25. The Waitākere Ranges Local Board have appointed local board member Mark Allen as their lead representative and Liz Manley as alternate representative to the governance group for this term at their 8 December 2022 meeting (resolution WTK/2022/141).
26. The Ark in the Park work programme is well aligned with the aspirations of the Waitākere Ranges Local Board, in particular the following outcomes identified in the Local Board Plan 2020:
  - *Outcome 1: The Waitākere Ranges Heritage Area is protected and enhanced, and connections with surrounding communities are strengthened*
  - *Outcome 3: We work to respect, protect and restore the environment*
27. To give effect to these aspirations the local board invests a significant component of their annual budget to local environmental projects. These projects restore and enhance the natural environment in partnership with their communities. Ark in the Park complements these local board projects.

## Tauākī whakaaweawe Māori Māori impact statement

28. A specific objective of the project is to “acknowledge the role of Te Kawerau ā Maki as mana whenua for Te Wao Nui a Tiriwa.” To achieve this, the project manager and Western Principal Ranger, Parks liaise directly with Te Kawerau ā Maki representatives to seek their advice and recommendations.
29. This objective is also achieved through wider initiatives that take place in the Waitākere Ranges Regional Park. Iwi involvement in the Ark in the Park project includes attendance and ceremonial involvement with wildlife translocation events such as the release of pōpokotea (whitehead) and kōkako.
30. The current Ark in the Park five-year plan includes the following goals in relation to iwi involvement:
  - seek opportunities to work with Te Kawerau ā Maki
  - foster the relationship with Te Kawerau ā Maki
  - provide opportunities for mentoring rangatahi
  - acknowledge the role of Te Kawerau ā Maki in media communications about the project.
31. Representatives from the Governing Body could be either councillors or Independent Māori Statutory Board members.

## Ngā ritenga ā-pūtea Financial implications

32. A full-time project manager employed by Forest and Bird manages the day-to-day aspects of the project. Auckland Council contributes \$60,000 per year, which is paid to Forest and Bird and covers part of the salary for that role.
33. Environmental Services and Parks department budgets provide operational funding for council staff salaries and resources to support the Ark in the Park activities.
34. In addition to the governance group, a management committee consisting of council staff, Forest and Bird employees, and project volunteers meets six times a year to guide Ark in the Park operations.
35. The decision to appoint Governing Body members to the governance group does not have any specific financial implications.

## Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations

36. There are minimal risks associated with the recommended decision.
37. If the Governing Body does not appoint representatives to the group, the main risk is a lack of regional representatives on the body in case of a required decision.

## Ngā koringa ā-muri Next steps

37. When representatives are appointed to the group, staff will liaise with them to advise the date of the first governance group meeting. Meetings occur as required, typically once a year.

## Ngā tāpirihanga Attachments

No.	Title	Page
A 	Ark in the Park partnership agreement	

## Ngā kaihaina Signatories

Author	Tracey Parsons - Team Manager Mainland Central/West, Natural Environment Delivery
Authorisers	Rachel Kelleher - General Manager Environmental Services Barry Potter - Director Infrastructure and Environmental Services Megan Tyler - Chief of Strategy



# National Policy Statement for Freshwater Management - Appointment of Political Working Group

File No.: CP2023/00079

Item 15

## Te take mō te pūrongo

### Purpose of the report

1. To re-establish a Political Working Group to guide the implementation of the National Policy Statement for Freshwater Management 2020 (NPS-FM).
2. To provide an update on progress with the NPS-FM implementation programme.

## Whakarāpopototanga matua

### Executive summary

3. The NPS-FM 2020 is national direction that aims to significantly improve the way in which freshwater is managed in New Zealand. The NPS-FM includes a range of new requirements relating to the fundamental concept of 'Te Mana o te Wai' and the National Objectives Framework. The Framework is a core part of the NPS-FM, and includes a series of steps that every regional council or unitary authority must follow.
4. The council is required to notify changes to the AUP to implement the NPS-FM by December 2024.
5. Recent work in the NPS-FM programme has been focused on: developing Regional Policy Statement provisions; engagement on visions, values and freshwater management units; and the identification of baseline states. In the coming months, work will need to include the development of target attribute states (measurable components of water health) and proposals for limits on resource use and action plans in order to achieve relevant environmental outcomes and ensure that our waterways meet the prescribed national bottom lines for ecosystem health and human contact.
6. In the previous council term, a Political Working Group was established to oversee the implementation of the NPS-FM. It is recommended that this Working Group be re-established to guide decision making in the development of the NPS-FM plan change and related action plans.

## Ngā tūtohunga

### Recommendation/s

That the Planning, Environment and Parks Committee:

- a) whakaae / approve the establishment of a Political Working Group to guide the implementation of the National Policy Statement for Freshwater Management 2020.
- b) whakaae / approve the draft terms of reference for the Political Working Group (included as Attachment A to the agenda report) for inclusion in the Auckland Council Governing Body Terms of Reference 2022 – 2025.
- c) whakaū / confirm the membership of the Political Working Group as:
  - i) Chair of the Planning, Environment and Parks Committee
  - ii) Deputy Chair of the Planning, Environment and Parks Committee
  - iii) Two councillors
  - iv) One Independent Māori Statutory Board member.

## Horopaki Context

### Requirements of the NPS-FM 2020

7. The NPS-FM was introduced as part of the Government’s “Essential Freshwater” package in September 2020, along with the National Environmental Standards for Freshwater, the Stock Exclusion Regulations, and amendments to the RMA to require freshwater farm plans and provide for a faster freshwater planning process. The goals of the new national direction are to “protect and improve our rivers, streams, lakes and wetlands”; and specifically, to:
  - stop further degradation of freshwater
  - start making immediate improvements so that water quality improves within five years
  - reverse past damage to bring our waterways and ecosystems to a healthy state within a generation.
8. The RMA requires that councils notify a plan change to amend regional policy statements and regional plans to give effect to the NPS-FM by 31 December 2024. Councils are also required to develop ‘action plans’ to coordinate non-regulatory activities.
9. The fundamental concept of the NPS-FM is Te Mana o te Wai, which includes a hierarchy of obligations that prioritises:
  - first, the health and well-being of water bodies and freshwater ecosystems
  - second, the health needs of people (such as drinking water)
  - third, the ability of people and communities to provide for their social, economic and cultural wellbeing, now and in the future.
10. Every council must develop long-term visions for freshwater in its region and include those long-term visions as objectives in its regional policy statement. Long-term visions:
  - a) may be set at Freshwater Management Unit (FMU), part of an FMU, or catchment level
  - b) must set goals that are ambitious but reasonable (that is, difficult to achieve but not impossible)
  - c) identify a timeframe to achieve those goals that is ambitious and reasonable (for example, 30 years after the commencement date).
11. The National Objectives Framework (NOF) is a core part of the NPS-FM, and includes a series of steps that every regional council or unitary authority must follow, including to:
  - identify the FMUs in the region
  - identify values for each FMU
  - set environmental outcomes for each value and include them as objectives in regional plans
  - identify attributes (measurable components of water health) for each value and identify baseline states for those attributes
  - set target attribute states, environmental flows and levels, and other criteria to support the achievement of environmental outcomes
  - set limits as rules and prepare action plans (as appropriate) to achieve environmental outcomes.
12. The NOF also requires that regional councils monitor water bodies and freshwater ecosystems and take action if degradation is detected.

13. FMUs are essentially the spatial arrangements adopted by the council for the management of freshwater. All freshwater water bodies and their related catchments must be within an FMU. While the NPS-FM is primarily concerned with the management of freshwater, it does also require an integrated management approach – ki uta ki tai – including consideration of the relationship of freshwater and its management to the coastal receiving environment.
14. The NPS-FM includes four compulsory values which must be identified and managed in each FMU, namely:
  - *Ecosystem health*: the extent freshwater bodies support an ecosystem, which comprises five components of water quality, water quantity, habitat, aquatic life and ecological processes (each of which must be applied)
  - *Human contact*: the extent to which an FMU supports people being able to connect with the water through activities like swimming, waka, boating, fishing or mahinga kai
  - *Threatened species*: the extent to which a FMU that supports a population of threatened species has the critical habitats and conditions necessary to support the presence, abundance, survival and recovery of the threatened species
  - *Mahinga kai*: kai is safe to harvest and eat. In FMUs that are valued for providing mahinga kai, customary resources are available for use, customary practices are able to be exercised to the extent desired, and tikanga and preferred methods are able to be practised.
15. The other values that must be considered in managing FMUs are:
  - *Natural form and character*: the particular natural qualities that people value
  - *Drinking water supply*: water quality and quantity is sufficient for drinking water supply
  - *Wai tapu*: places where ritual and ceremonies are performed or have special significance to tangata whenua
  - *Transport and tauranga waka*: water bodies that are navigable for identified means of transport, along with places to launch waka and water craft
  - *Fishing*: for areas valued for fishing, the numbers of fish are sufficient and suitable for human consumption
  - *Hydro-electric power generation*: this does not apply to Auckland
  - *Animal drinking water*: water quality and quantity meet the needs of farmed animals
  - *Irrigation, cultivation and production of food and beverages*: water quality and quantity are suitable for irrigation and food production requirements
  - *Commercial and industrial use*: water quality and quantity can provide for commercial and industrial activities.
16. For each of the values which apply within an FMU, the council must identify appropriate attributes to assess the extent to which these values are provided for. The NPS-FM sets out national bottom-line states that need to be met for the ecosystem health and human contact values. Target attribute states must be set at or above these baseline state for each attribute, meaning water quality must be maintained or improved. For the human contact value, the target must be above the baseline state unless the state is already identified as being in the highest quality band.
17. The relationship between the elements of the National Objectives Framework is set out in Figure 1.

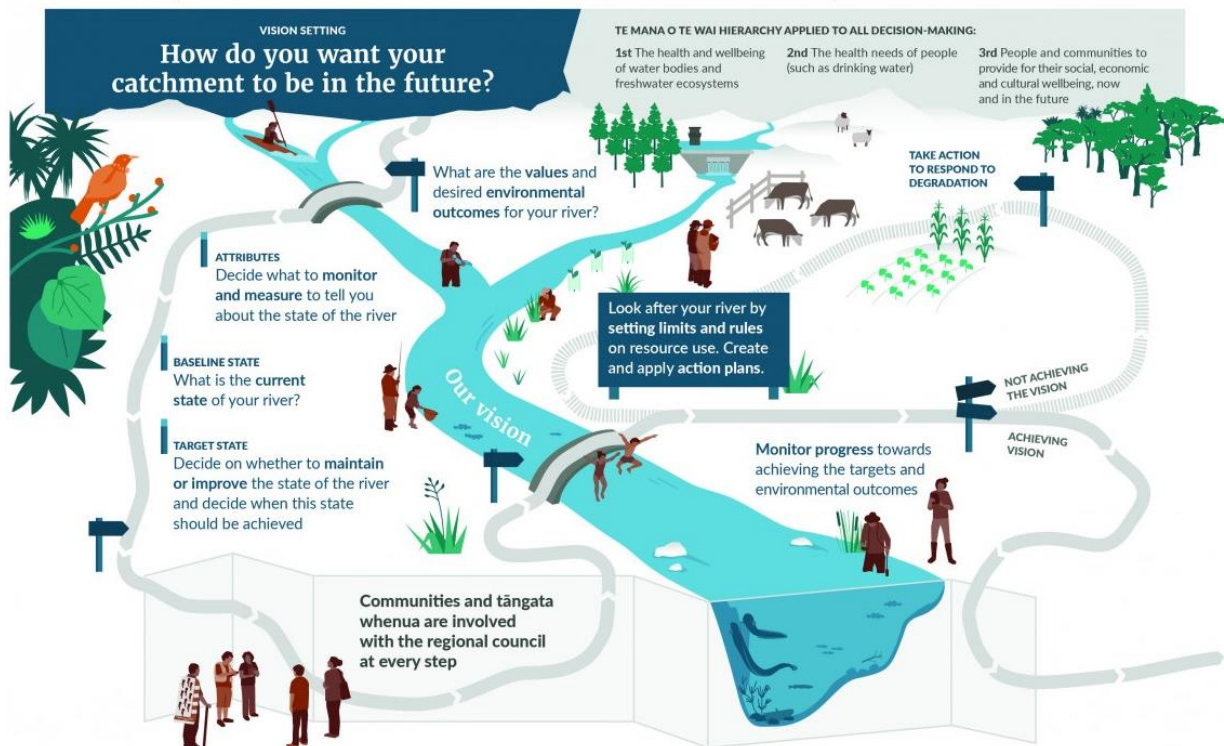


Figure 1 Summary of NPS-FM National Objectives Framework (MfE infographic).

### Previous establishment of a political working group

18. A report to the Planning Committee meeting on 4 March 2021 set out a high-level implementation plan for the NPS-FM, and proposed that a working group be established. The Committee resolution was:

*Resolution Number PLA/2021/12*

*That the Planning Committee:*

- a) *approve the high-level implementation plan outlined in Table 1 as a basis for Auckland Council's implementation of the National Policy Statement for Freshwater Management 2020*
  - b) *appoint a National Policy Statement for Freshwater Management 2020 Working Group to oversee the development of the Council's implementation of the National Policy Statement for Freshwater Management 2020, comprising of the Chair and Deputy Chair of the Planning Committee, the Chair and Deputy Chair of the Environment and Climate Change Committee and a representative of the Independent Māori Statutory Board.*
  - c) *note that final decisions on the Council's implementation of the National Policy Statement for Freshwater Management 2020 will be made by the whole of the Planning Committee.*
  - d) *request six monthly regular reporting to the Planning Committee, with an additional report in June 2021.*
19. Update reports were provided to the Planning Committee in August 2021 and June 2022.
20. The Working Group met in May 2021 (to discuss the initiation of engagement with mana whenua), and in June 2022 (to discuss the community engagement on visions, values and freshwater management units that occurred in June and July 2022).

### Update on implementation progress

21. A summary of the NPS-FM programme is shown in Attachment A. Engagement with mana whenua and stakeholders is on-going throughout the programme. Initial community engagement on visions, values and FMU's was undertaken in June and July 2022. A second stage of community engagement is planned for October and November 2023. The AUP plan change will then be notified for public submissions in late 2024.
22. The NPS-FM programme has, to date, focused on engagement and the foundational workstream, covering matters such as:
  - Te Mana o te Wai
  - RPS provisions
  - visions
  - values
  - environmental outcomes
  - sub-FMUs and the AUP structure
  - development of the baseline state report for compulsory attributes.
23. The implementation approach is based on the following principles:
  - Timing efficiency – the required Regional Policy Statement and Regional Plan changes will be notified at the same time (i.e. not a staged approach). A decision needs to be made by this Committee (through subsequent reporting) regarding the timing of related district plan changes.
  - A region-wide approach to plan development – including all of Auckland in the engagement process and in drafting the planning provisions (i.e. not a catchment by catchment approach), and using bespoke management responses, processes and provisions where they are necessary.
  - Ongoing engagement with mana whenua and stakeholders – continuous series of hui with iwi; regular communications with stakeholders.
  - Stages of community and mataawaka and stakeholder engagement – two phases of community engagement, but no engagement on a full draft
  - Integration between plan changes and action plans – action plans will be developed at the same time as plan changes, rather than sequentially.
24. Feedback from the community and mana whenua has been strongly supportive of the proposal to have three FMUs based around the coastal receiving environments: Kaipara, Manukau and Hauraki. (Attachment B has a map of the proposed FMUs.) This proposed approach provides the opportunity to both address the management of freshwater for its own sake, while also explicitly considering its relationship to the coastal environment. There is also wide recognition that there is a need to manage some areas/types of waterbodies in a more refined way through policy tools such as AUP overlays or controls.
25. Mana whenua have also supported the proposed approach to Te Mana o te Wai – building on the council's Water Strategy vision: *Te mauri o te wai, the life-sustaining capacity of Auckland's water, is protected and enhanced. If te mauri of te wai is degraded there can be no Mana o te Wai.*
26. The NPS-FM programme involves staff from several council departments and teams, including: Plans and Places, Research and Evaluation (RIMU), Natural Environment Strategy, Healthy Waters, Environmental Services, Regulatory Services, and Engagement. The programme's Steering Committee includes representatives from Auckland Transport and Watercare, Legal Services and Nga Matarae.

27. Recent technical work that supports the wider development of the council's response to the NPS-FM includes:
- Expansion of the State of the Environment monitoring network
  - Development of the 'baseline state report'
  - Publication of technical reports on the Freshwater Management Tool and its baseline state assessment for rivers
  - Development of a draft Fish Passage Action Plan.

## Tātaritanga me ngā tohutohu Analysis and advice

28. The complexity of the changes required by the NPS-FM means that there will be many aspects that require political consideration and decision making. It would be beneficial to have on-going guidance from a Political Working Group with a strong understanding of the requirements of the NPS-FM.
29. The purpose of the NPS-FM Political Working Group would be to:
- guide the development of the policy direction of the plan change (or concurrent plan changes) to the Auckland Unitary Plan and related action plans
  - make interim decisions in order to provide guidance on policy issues as these arise in developing the plan change (or concurrent plan changes) to the Auckland Unitary Plan and related action plans.
30. Draft terms of reference for the recommended NPS-FM Political Working Group are included in Attachment C.

## Tauākī whakaaweawe āhuarangi Climate impact statement

31. The fundamental concept of the NPS-FM Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community. This concept is in line with the natural environment priority of Te Tāruke-ā-Tāwhiri: Auckland's Climate Plan, which sets the goal:

*"Oranga taiao, oranga tāngata: a healthy and connected natural environment supports healthy and connected Aucklanders. The mauri (life essence) of Tāmaki Makaurau is restored".*

32. The NPS-FM includes the following policy direction in response to climate change:
- Policy 4: Freshwater is managed as part of New Zealand's integrated response to climate change.*
33. The NPS-FM also requires councils to have regard to the foreseeable impact of climate change when setting limits on resource use, when setting environmental flows and levels, and when assessing and reporting on the effectiveness and efficiency of plan provisions under section 35(2A) of the RMA.
34. The implementation of the NPS-FM will help to promote the resilience of freshwater ecosystems to the impacts of climate change. The development of freshwater action plans will require sustainable land and water management practices to enhance the mauri and health of waterways, which is in line with actions prioritised in Te Tāruke-ā-Tāwhiri: Auckland's Climate Plan.

## Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

35. The NPS-FM is relevant to all of the council's functions. All relevant council departments and Council Controlled Organisations (CCOs) are involved in the NPS-FM implementation, including through supporting the NPS-FM engagement, providing technical advice, and review of policy responses developed to give effect to the NPS-FM.

## Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe Local impacts and local board views

36. Under the Local Government Act 2002, local boards are responsible for identifying and communicating to Auckland Council the interests and performances of the people in its local board area in relation to the content of council's strategies, policies, plans, and bylaws. Local Boards have a detailed understanding of their areas including freshwater values and issues and are in a position to provide important input to the development of NPS-FM responses.
37. Prior to the public engagement in June / July 2022, a memo titled "*Implementing the National Policy Statement for Freshwater Management 2020 for Auckland*" was provided to all local boards. The memo advised the key principles, consultation and timeframe requirements of implementing the NPS-FM, and the opportunities for local board input through the process.
38. A webinar was presented to local boards in a meeting on 3 June 2022 and planning staff presented at several individual local board meetings where requested. Almost all of the local boards provided feedback on visions, values and FMU's following the close of public engagement.
39. There will be future opportunities for local board involvement prior to the next community engagement in October / November 2023.

## Tauākī whakaaweawe Māori Māori impact statement

40. The NPS-FM requires the council to "actively involve tangata whenua (to the extent they wish to be involved) in freshwater management" including in identifying Māori values and decision-making processes relating to Māori freshwater values.
41. Engagement with mana whenua in Auckland is being undertaken through an on-going process of hui with mana whenua entities throughout the NPS-FM implementation programme. Since July 2021, 43 hui have been held with the 19 iwi entities, ranging from one to four hui held with each iwi entity.
42. Engagement with the mana whenua of Tāmaki Makaurau about the NPS-FM has also been undertaken in the broader context of the government's Three Waters Reform and the development and implementation of the council's Water Strategy, to enable mana whenua to provide a more holistic consideration of the management of water.

## Ngā ritenga ā-pūtea Financial implications

43. There are no additional financial implications from the appointment of a Political Working Group as recommended in this report.
44. Programme planning to implement the NPS-FM has been completed, which has identified \$9.4m in unbudgeted costs that will be required over the next 4 years to support plan development, technical analysis, public engagement, and the operation of an independent hearing panel.
45. Additional costs identified relating to the current financial year will be met through existing budgets and a re-prioritisation of work programmes. The remaining \$7.7m required from FY24 to FY26 has been included in the draft FY2023/2024 annual budget.




## Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations

46. The government has set a deadline of December 2024 for the council to publicly notify the AUP plan change to implement the NPS-FM. Given the scale and complexity of the work, and limited resources, there is a risk that the council may not achieve this deadline.
47. This risk is being mitigated through comprehensive programme management and across-council leadership of the policy development processes.
48. The NPS-FM programme is expected to generate a high level of mana whenua and community interest due to the changes that may be required to achieve improvements in Auckland's freshwater bodies.
49. This will be managed through an extensive engagement programme that provides numerous opportunities for input prior to the notification of the plan change (or concurrent plan changes).
50. Both of these risks could be further addressed through ongoing guidance from a Political Working Group.

## Ngā koringa ā-muri Next steps

51. The re-establishment of a Political Working Party will enable ongoing political guidance of the development of proposals to discuss with mana whenua and stakeholders, and when the council seeks community feedback on the NPS-FM implementation programme later in 2023.
52. The Committee and Local Boards will have further opportunities to review the proposed plan change(s) and action plans as they evolve. This will occur before the plan change to the Regional Policy Statement and Regional Plan is approved for public notification (that approval will be sought in the second half of 2024) to meet the NPS-FM deadline for notification by 31 December 2024.

## Ngā tāpirihanga Attachments

No.	Title	Page
A 	NPS-FM implementation programme timeline	
B 	Draft Freshwater Management Units in Auckland	
C 	Draft NPS-FM Political Working Party Terms of Reference	

## Ngā kaihaina Signatories

Authors	Warren Maclennan - Manager - Planning, Regional, North, West & Islands Kath Coombes - Team Leader - Regional Planning
Authorisers	John Duguid - General Manager - Plans and Places Megan Tyler - Chief of Strategy



## Summary of Planning, Environment and Parks Committee information memoranda and briefings - 2 February 2023

File No.: CP2022/16547

Item 16

### Te take mō te pūrongo

#### Purpose of the report

1. To whiwhi / receive a summary and provide a public record of memoranda or briefing papers that may have been distributed to the committees.

### Whakarāpopototanga matua

#### Executive summary

2. This is a regular information-only report which aims to provide greater visibility and openness and transparency of information circulated to committee members via memoranda/briefings or other means, where no decisions are required.
3. The following memos were circulated to members of the Planning, Environment and Parks Committee:

Date	Subject
9/9/2022	Response to Petition of Aaron Joynes, Forrest Hill school – addition of Lake Pupuke to the Hauraki Gulf Marine Park
20/9/2022	Response to consultation document on managing wetlands in the coastal marine area
21/10/2022	Feedback to Fisheries New Zealand on their policy for habitats of significance for fisheries management
28/10/2022	Feedback to Department of Conservation on updated marine protection proposals
18/11/2022	Feedback to Ministry for Primary Industries on consultation document on National direction for plantation and on exotic carbon afforestation
22/11/2022	Feedback to Taumata Arowai on the second tranche of proposed drinking water and wastewater network environmental performance measures
14/12/2022	Memorandum – Update on Safeswim programme
20/12/2022	Memorandum - Regional Historic Heritage Grants Programme 2022/2023
21/12/2022	Update on Helicopter Compliance and Monitoring Project
2/12/2022	Memorandum – High Court decision – Gock v Auckland Council [2022] NZHC 3126











4. This document can be found on the Auckland Council website, at the following link: <http://infocouncil.aucklandcouncil.govt.nz/>
5. Note that, unlike an agenda report, **staff will not be present to answer questions about the items referred to in this summary.** Governing Body members should direct any questions to the authors.

## Ngā tūtohunga Recommendation/s

That the Planning, Environment and Parks Committee:

- a) whiwhi / receive the Summary of Planning, Environment and Parks Committee information memoranda and briefings – 2 February 2023.

## Ngā tāpirihanga Attachments

No.	Title	Page
A 	Response to Petition of Aaron Joynes, Forrest Hill school – addition of Lake Pupuke to the Hauraki Gulf Marine Park, 9 September 2022 ( <i>Under Separate Cover</i> )	
B 	Response to consultation document on managing wetlands in the coastal marine area, 20 September 2022 ( <i>Under Separate Cover</i> )	
C 	Feedback to Fisheries New Zealand on their policy for habitats of significance for fisheries management, 21 October 2022 ( <i>Under Separate Cover</i> )	
D 	Feedback to Department of Conservation on updated marine protection proposals, 28 October 2022 ( <i>Under Separate Cover</i> )	
E 	Feedback to Ministry for Primary Industries on consultation document on National direction for plantation and on exotic carbon afforestation, 18 November 2022 ( <i>Under Separate Cover</i> )	
F 	Feedback to Taumata Arowai on the second tranche of proposed drinking water and wastewater network environmental performance measures, 22 November 2022 ( <i>Under Separate Cover</i> )	
G 	Memorandum – Update on Safeswim programme, 14 December 2022 ( <i>Under Separate Cover</i> )	
H 	Memorandum - Regional Historic Heritage Grants Programme 2022/2023, 20 December 2022 ( <i>Under Separate Cover</i> )	
I 	Update on Helicopter Compliance and Monitoring Project, 21 December 2022 ( <i>Under Separate Cover</i> )	
J 	Memorandum – High Court decision – Gock v Auckland Council [2022] NZHC 3126, 22 December 2022 ( <i>Under Separate Cover</i> )	

## Ngā kaihaina Signatories

Author	Sandra Gordon - Kaitohutohu Mana Whakahaere Matua / Senior Governance Advisor
Authoriser	Megan Tyler - Chief of Strategy