

Decision following the hearing of a Concurrent Application for Variation to the Proposed Unitary Plan, a Resource Consent under the Housing Accords and Special Housing Areas Act 2013

SUBJECT: An application for a variation to the Proposed Auckland Unitary Plan under section 61 of the Housing Accords and Special Housing Areas Act 2013 and application for a qualifying development under section 25 of the Housing Accords and Special Housing Areas Act 2013 by Arborfield Group Holdings Limited at 105 Orahia Road, Huapai (Lot 1 DP 311880), Lot 2 DP 452240, Burns Lane, Huapai and 59 Burns Lane, Huapai (Lot 16 DP 56200), held on 16 and 17 December 2015, commencing at 9.30am.

CONSENT, PURSUANT TO SECTIONS 61 AND 25 OF THE HOUSING ACCORDS AND SPECIAL HOUSING AREAS ACT 2013, IS GRANTED.

THE FULL DECISION IS SET OUT BELOW

Hearing Panel:	The Applications were heard by Hearings Commissioners consisting of:	
	Barry Kaye Richard Blakey Mark Farnsworth Brenda Brady	(Chairperson)

Council Officers:	Euan Williams (Qualifying Development)	Lead Project Planner, Qualifying Developments
	Jarette Wickham (Plan Variation)	Principal Planner SHA Masterplanning Development Project Office
	Richard Davison	Urban Designer
	Mark Iszard	Stormwater Engineer
	Katja King-Borrero	Stormwater
	Mitra Prasad	Auckland Transport
	Aut Karndacharuk	Auckland Transport
	Stuart Bracey	Auckland Transport
	Brian Waddell	Transport Planner
	Libby McKinnel	Sediment Control
	Rue Statham	Ecology
	Maylene Barrett	Parks
	Paulette Gagamoe	Hearings Advisor – Democracy Services

APPEARANCES:		
For the applicant:	Sue Simons	Legal Counsel
	Adam Reynolds	Applicant
	Rebecca Skidmore	Urban Design and Landscape
	Ida Dowling	Transportation
	Andrew Nell	Civil Engineering
	Owen Burns	Planning
	Graham Ussher	Ecology

Submitters:	
	David and Natalie Curteis – Tabled
	Allan Bridgford
	Peter Sinton on behalf of Rex and Judith Bridgford
	Mary Dowler
	Sandra Condon
	Gavin Wild - Tabled
	Rowan Ashton on behalf of Burns Orahā Residents Group

APPLICATION DESCRIPTION

Application and Property Details

Application Number (s):	PREP2014-157, LUC2014-1323, SUB2014-1324, REG2014-1325
Site Address:	105 Orahā Road and 59 Burns Road, Orahā
Applicant's Name:	Arborfield Group Holdings Limited
Lodgement Date:	PV 24 July 2015 QD 9 September 2015
Hearing Commencement:	16 December 2015
Hearing Panel's Site Visit:	4 December 2015
Hearing Closed:	27 th January 2016

1. INTRODUCTION

The land at Lot 1 DP 311880, Lot 2 DP 452240 and Lot 16 DP 56200 became a Special Housing Area ("SHA") under the Housing Accords and Special Housing Areas Act 2013 ("HASHAA") by Order in Council on 3 July 2014 as part of Tranche 3, on the recommendation of Auckland Council ("the Council").

The extent of the Orahā SHA and the criteria for the Qualifying Development ("QD") are detailed in Schedule 8AH of the HASHAA. Here the QD minimum number of dwellings to be built is 50, the maximum height of any dwelling is 27m and the maximum number of storeys is 6. This order of Council also requires that a percentage of the dwellings within the SHA are affordable dwellings.

The application for the PV and subsequent resource consent (QD) are within the boundaries of the SHA.

A combined public hearing of the following was held under the HASHAA:

1. Plan Variation ("PV") to the Proposed Auckland Unitary Plan (PAUP) to re-zone the subject land from Future Urban to Mixed Housing Suburban. The PV also introduces the Orahā Precinct (now named the Huapai 2 Precinct due to the precinct naming convention) to the PAUP under the HASHAA; within which a number of elements of the precinct provisions are varied from the proposed applicable Mixed Housing Suburban zone. These are described in section 3 below.
2. Application for resource consent for a QD, relying on the above PV as being accepted. The QD comprises the creation of 50 residential lots and balance lots; land use and subdivision consent; the construction of a stormwater network which comprises bio-retention devices (tree pits and swales); construction of low pressure wastewater system extending from the existing pump station located at the bottom of Orahā Road, and the extension of the water supply network to serve the development; a primary piped network and overland flow paths which will discharge into the streams and gullies and ultimately the Kumeu River; bulk earthworks of approximately 45,000m³; the formation of a footpath along the northern side of Orahā Road linking to Huapai Town Centre; formation of a four way intersection with Orahā and Koraha Roads and the proposed collector road including provision for a roundabout, the remediation of contaminated land.

Section 71 of the HASHAA requires that when concurrent plan variation and resource consent applications are being heard together, a decision on the variation must be made first and before a decision on the resource consent. Accordingly, that part of this decision that relates to the PV is provided separately (and ahead of) the consideration of and decision to the QD application. As these applications are interconnected, with the latter being reliant on the former, it was considered appropriate to issue one comprehensive decision. In the same manner in which the Council Planners report (which we refer to as the section 42A report) addressed both applications (with, where appropriate, a combined commentary and assessment), this format has been utilised in this decision in order to avoid unnecessary duplication.

This decision is made on behalf of the Auckland Council by Independent Hearing Commissioners Barry Kaye, Richard Blakey, Mark Farnsworth and Brenda Brady (Local Board Member) acting under delegated authority pursuant to sections 89 and 90 of the HASHAA (and sections 34 and 34A of the RMA). These decisions contain the findings of the Commissioners' deliberations on the PV and QD applications and have been prepared in accordance with section 113 of the Resource Management Act 1991 ("RMA").

The decision covers the matters that were addressed in evidence presented at the hearing as well as technical discussions contained in the application documentation and the section 42A report. There was, inevitably, commonality between the information presented for each application. The decision acknowledges this and has recorded this where applicable. We note that in response to questions by the Commissioners, further explanation, changes and technical advice was presented during the course of the hearing with some clarification being requested and provided after the adjournment and before the hearing was closed. This information, along with some modifications to recommended conditions, is referenced in this decision as is necessary to explain our findings and our overall decision.

At the close of the submission period, a total of 14 submissions were received to the PV. The summary of submissions was included in Attachment C of the section 42A report and is not repeated herein.

Thirteen of the fourteen submissions received opposed the PV and sought that it is declined. One submitter conditionally supports the PV.

At the close of the submission period, a total of fourteen submissions relating to the QD were received. One submission conditionally supported the QD and the other thirteen submissions opposed the application. The summary of submissions was included in Attachment C of the s42A report and is not repeated herein.

The Commissioners visited the site prior to the hearing and walked over the proposed development, on 4th December 2015.

2. BACKGROUND AND SITE DESCRIPTION

The land subject to the PV and QD application is located on sloping west and north facing land located above Huapai.

The SHA is an irregular "F" shape derived from the cadastral pattern of parcels that comprise the area confirmed as an SHA. The PV seeks to rezone the entire SHA area which is 15.95 hectares in area from Future Urban zone to Mixed Housing Suburban zone.

The land is subject to the aircraft approach path for Whenuapai Air Base and transmission lines are located on land adjoining the subject site to the north, south and west but the transmission lines do not traverse the subject site.

The site can be approached from Oraha Road from the east and west and Koraha Road from the south. This provides access to the surrounding road network including Kumeu-

Huapai, and Riverhead and access to State Highway 16 providing access to the western ring route.

The Kumeu River is located to the west of the site and the site is wholly located within the High Use Stream Management Area overlay. To the north of the site (on a neighbouring site) there is a large pond which is identified as a Significant Ecological Area (SEA) SEA_2694 further to the north is a bush clad hills which are identified as SEA_7036. The site is not located within an Outstanding Natural Landscape or Outstanding Natural Feature under the PAUP or contains any identified SEA.

The site and surrounds are rural in character with site sizes being that of a Countryside Living zone and ranging from approximately 0.2ha to 8ha in area. The area is characterised by pasture with a number of dwellings, access tracks and shelterbelts.

On the western boundary of the site a tributary of the Kumeu River is located which creates a gully that extends onto the site on the western side. The margins of this tributary contain a diverse mix of vegetation. To the south east of the site there is a mature stand of bush located to the rear of the existing dwelling. This stand of vegetation is protected by consent notice CONO5939060.2 on the title of Lot 1 DP 311880. A small tributary of the Kumeu River flows through this area.

Kumeu and Huapai Town Centres are located to the south and south west of the site. The Huapai commercial area is located approximately 1.1km from the site. There is an area of Light Industry zone located between the Kumeu and Huapai Town Centre zones. The Kumeu Town Centre zone and surrounds are subject to the Kumeu Precinct Provisions in the PAUP. These precinct provisions are to provide for the development of a town centre including large format retail and some smaller retail premises along with some residential development.

The Huapai North precinct which has largely been developed is a residential subdivision in the vicinity much of which has been zoned single house. The Huapai North precinct originated from the Operative Auckland Council (Rodney Section) and has been carried over in to the PAUP.

The Huapai 1 SHA, known as Huapai Triangle, is located between the Station Road, Nobilo Road and North Island Main Trunk railway line. It was approved as part of the Council's first tranche of SHA's and the hearing was held over 24 and 25 June 2015. The Plan Variation under HASHAA section 61 rezoned 65 hectares of land in the Huapai Triangle SHA from Future Urban zone to a combination of Mixed Housing Suburban zone, Neighbourhood Centre zone and Green Infrastructure Corridor zone. The Precinct provisions limit the total number of dwellings to 1,200. The concurrent application for resource consent for a Qualifying Development under HASHAA section 25 was in respect of 9.3 hectares of land and provides 118 residential lots at the corner of Station Road and Nobilo Road, Huapai.

In terms of future growth for the Huapai Kumeu area, the Council's evidence for the RUB location is now available on the Independent Hearings Panels website and it proposes that the RUB and Future Urban zoning remains as per the notified PAUP, whilst no decision has been made, this signals Councils intent that this Future Urban land is proposed to be urbanised and this could occur within the foreseeable future.

Burns Lane adjoins the east side of the site. Burns Lane is a private road providing access to 9 landowners. Burns Lane falls outside of the SHA area and therefore no change to this lane is proposed as part of this PV and QD.

PROCEDURAL MATTERS

The HASHAA does not provide for full public notification of applications for either PV or QD resource consents. It prescribes limited or non-notification processes for each at s.67 (plan variations) and s.29 (resource consents). The notification letter requested that submitters separate their submissions on the PV and the QD.

It should be noted that one submission was received from Diane Lesley Kenton. This landowner was not limited notified of the concurrent application for the proposed PV and QD because they are not an adjacent landowner and as such have no standing or ability to submit. Section 29(3) of HASHAA describes those people who may be limited notified as being owners of adjacent land subject to the application, local authorities, infrastructure provider/requiring authorities.

The submission from the Dian Lesley Kenton was not considered on the basis that they were not limited notified in accordance with s.29(3) of HASHAA and therefore do not have standing under this process. Section 67(3) of HASHAA expressly provides that a person may only make a submission on a concurrent application if that person has been notified.

As part of the Burns Oraha Road Residents Group two of the landowners included were not limited notified of the concurrent application for the PV and QD as they are not an adjacent landowner, as such they had no standing or ability to submit. These owners were Enrico and Susan Sciarone at 81 Burns Lane, Kumeu and Robert Inwards at 67 Burns Lane.

One submission point was received) from David and Nataline Curteis which sought to extend the PV application to include their land which is located outside of the SHA at 45 Burns Lane. This request was not accepted and a direction was issued by Commissioner Barry Kaye, the Hearings Chair, to strike out this submission point under s.41C(7)(b) on 30 November 2015.

PROPOSED PLAN VARIATION

3. SUMMARY OF PLAN VARIATION PROVISIONS

An application to vary the PAUP by way of a plan variation involves the rezoning of the subject land from 'Future Urban' to 'Mixed Housing Suburban'. This request to vary the PAUP has been made and is to be considered in accordance with the provisions of the HASHAA. The variation is required in order to enable the development of this land as an identified SHA.

The PV seeks to introduce the 'Huapai 2 Precinct' to the PAUP. The precinct varies the underlying Mixed Housing Suburban zone by providing for the following elements:

- A spine road – 'Greenway' that connects Oraha Road with an area identified as open space;
- The future potential for this 'Greenway' road to connect across the Kumeu River to link with the Huapai North area;

- Five internal road connections to the surrounding Future Urban zone;
- Pedestrian linkages to provide a suitable level of connectivity;
- A vehicle access restriction on the western side of the 'Greenway' road;
- The area covered by covenant to protect an area of bush/native vegetation;
- An area of indicative open space;
- An area identified as 'Sub-precinct A' which will have a reduced level of density, and 'Countryside Living Interface' both of which responds to the Countryside Living zone and adjoining Rural Urban Boundary ("RUB");
- Various streams and riparian margins;
- Restaurants and cafes up to 100m² GFA per site are provided for as Discretionary as opposed to Non-Complying in the Mixed Housing Suburban zone where a site has frontage to Oraha Road;
- A number of variations to the underlying development controls of the Mixed Housing Suburban zone are proposed (height in relation to boundary, yards, maximum building coverage, maximum impervious area, landscaping, outlook space, outdoor living space, dwellings fronting the street, garages, minimum dimension of principal living rooms and principal bedrooms, storage and universal access); and
- Amendments to density controls of the Mixed Housing Suburban zone for Sub-precinct A to allow one dwelling per site or two dwellings per site (where one of those dwellings is a minimum of 60m²) where the net site area is greater than 525m² and has a frontage of at least 12m in width.

4. SUBMISSIONS RECEIVED

The HASHAA¹ does not provide for full public notification of applications for either plan variations or qualifying development resource consents. This legislation prescribes limited or non-notification processes for each at section 67 (plan variations) and section 29 (resource consents). The qualifying development application was notified to parties identified by the Council as being adjacent owners on 9th September 2015.

The PV was limited notified on 20th October 2015 to those parties².

As already noted above, the submissions from: Diane Lesley Kenton; Enrico and Susan Sciaron; and Robert Inwards were determined to have no standing. One submission point of David and Nataline Curteis was the subject of a direction issued by the hearings chair

¹ Hearing Agenda at [5]

² The full list is provided in the section 42A report

Commissioner Barry Kaye, to strike out the submission point under section 41C(7)(b) of the RMA on 30 November 2015.

Written Approvals

The applicant has obtained the written approval of the following persons in relation to the proposed plan variation and resource consent applications:

Affected landowner approval details				
No.	Land owner	Address	Lot and DP	Signed
1	Transpower New Zealand	Infrastructure/designating authority for the Electricity transmission corridor overlay which is located to the south of the SHA.		Gemma Kean Transpower
2	New Zealand Defence Force	Infrastructure/designating authority for designation ID 4311 Defence purposes – protection of approach and departure paths (Whenuapai Air Base), Airspace Restriction Designations, Minister of Defence. The SHA is subject to this overlay/designation.		Rob Owen Environmental Manager

Plan Variation

14 submissions were received of which 13 opposed the PV and sought it be declined while one conditionally supported the PV.

The section 42A report details the particular concerns raised in these submissions and identifies the location of these submitter properties.

The key themes or issues raised in submissions were summarised in the section 42A report as follows:

1. *Affordable housing (1)*
One submitter sought that the PV is declined due to the concept of affordable housing being unlikely when the land changes hands and that the site is unsuitable for affordable housing sites.
2. *Amenity and character (11)*
11 submission points raised the issue of a change in amenity and character values. Submissions sought that the PV be declined due to the change in character and amenity of the area from countryside living and future urban to urban.
3. *Consultation and engagement (2)*

Two submission points received to the PV raised issues around the lack of consultation, and that the results of a survey conducted by the Kumeu Residential and Ratepayers Association found that 75.61% of their members sought to be outside the Future Urban zone. Submitters sought that the application be declined due to lack of transparency by the applicant and that no public consultation or input has been undertaken.

4. *Development controls (12)*

12 submission points were included in the PV submissions in relation to development controls. A number of submitters also included a discussion on the development controls in the QD (8 submission points) which have also been looked at as part of the PV where they are considered to be relevant to the PV.

4.1 *Site size and density*

The majority of submission points received on the development controls related to the site size and density proposed. Nearly all the submissions opposed the densities proposed in the PV. One submitter sought to specifically increase the density to a minimum of 600m² (4-19) or 4,000m². One submitter opposed the ability to have two dwellings on a 535m² site.

4.2 *Yards*

One submitter sought that there was more open space retained in the front yards and that the 1m rear yard is increased.

4.3 *Boundary of 45 Burns Lane*

One submitter sought that there was appropriate boundary treatment provided between the site and the submitters site (45 Burns Lane) and that the minimum site size is 500m² adjoining the submitters site (45 Burns Lane).

5. *Infrastructure (2)*

A number of submission points (15) considered that the PV and QD should be declined due to a general lack of infrastructure. One submitter considered that there was a lack of sewerage to the sites and one a lack of onsite stormwater disposal and raingardens in the public road space. This submitter sought that onsite stormwater disposal is provided to avoid downstream flooding.

6. *Landuse controls*

8 submission points were received seeking that cafes and restaurants should not be allowed due to safety and traffic effects and one submission point opposed the proposal to include a childcare facility.

7. *Natural Environment*

Two submission points were received on the natural environment for the PV. The submitters requested that the PV be declined on the basis of it having adverse ecological effects and adverse effects on watercourses and ecological effects.

8. *Other processes (i.e. the SHA and or PAUP process) (3)*

11 submission points were received seeking that the PV was declined due to the RUB and zoning in the PAUP still being decided and on the basis that the SHA should never have been granted by Council.

9. *Precinct description*

7 submitters stated that the precinct description was misleading in that the distance from the site to Huapai is not 600m.

10. *Traffic and Roothing (10)*

General and outside the site

25 submission points were received on traffic and roading issues in the PV (48 submission points in the PV and QD combined). These ranged from seeking that the application was declined due to traffic effects in general and that there will be traffic impacts outside the site on the local road network. These included more accidents and longer commuting times. Many of the submitters considered that the traffic impacts will increase as the site is a distance to amenities.

Private Ways

Submitters raised issues around how Burns Lane is accommodated into the development and if it should be converted to a full public road. One submission point noted that there is another private way similar to Burns Lane which serves 73D Oraha Road, Huapai. The submitter considered that this private way could create difficulties for any future development of the Future Urban zone outside of the site.

Public Transport

Three submitters raised public transport as an issue with there being no bus or rail services to the site.

Within the site

One submitter sought that the road width into the development should be 20m. One submitter opposed the road connection into 73D Oraha Road. One submitter sought that the roading network within the site enables access to 45 Burns Lane.

Pedestrian connections

Five submission points considered that there is a lack of pedestrian connections to commercial areas and were opposed to there being no pedestrian connection down Orah Road.

Parking

Submitters considered that there was inadequate parking within the development and that there should be more off-street parking.

11. *Urban design (1)*

One submission point sought that the PV was declined due to not being in accord with good urban design principles.

12. *Wider structure planning (9)*

Submitters considered that wider structure planning needs to be done for the wider Future Urban zone.

13. *Parks (1)*

One submission point was received which opposed the proposal due to a lack of parks. This was received on the QD form but has been included in the PV assessment for completeness.

14. *Relief Sought (6)*

Thirteen of the fourteen submissions received sought that the PV is declined. One submission conditionally supports the PV.

5. THE HEARING – SUMMARY OF EVIDENCE HEARD

Due to the interrelationship between the PV and the QD applications, there was an inevitable overlap in matters addressed in evidence presented at the hearing. Consequently, we have chosen to record the summary of evidence as it relates to both applications, being mindful of avoiding unnecessary duplication. The matters contained in the evidence presented that were relevant to our determination of the decision outcomes in respect of the plan variation are referenced and discussed in section 8 of this decision headed “The Principal Issues in Contention and Findings”.

The following evidence has been taken into account in making the decision on the PV application:

Prior to the hearing:

- The application;
- The submissions received; and
- The officer’s section 42A report and all of the supporting information contained within it.

At the hearing:

- For the applicant:

Sue Simons - Legal Counsel

Adam Reynolds - Director of Arborfield Group Limited

Rebecca Skidmore - Urban Designer and Landscape Architect

Ida Dowling - Senior Transport Consultant

Andrew Neil - Chartered Engineer

Owen Burn - Planner
- For the submitters

Allison Arthur-Young & Daniel Minhinnick for David and Natalie Curteis –
Tabled

Burns Orahua Residents Group:

Rowan Ashton - Legal Counsel

Bunty Condon

Gavin Wild

Rex & Judith Bridgford:

Peter Sinton - Planner / Chairman of the Kumeu-Huapai Residents &
Ratepayers Association

Lyndsay & Mary Dowler and Gavin & Tuyana Dowler
- For the Council reporting team

Jarette Wickham and Euan Williams - Reporting Planners

Evidence Presented

On behalf of the Applicant

Sue Simons, (Legal Counsel) provided an overview of the application under the provisions of the HASHAA to highlight the areas where AGHL disagreed with the Officers' report and to explain why AGHL's evidence should be preferred. To reinforce the points made Ms Simons provided a summary of:

- The relevant statutory provisions and the legal principles for the PV request³.
- The relevant statutory provisions and the legal principles for the QD application⁴.
- The key issues for determination in relation to the PV⁵ namely:
 - Two dwellings per site;
 - Retaining wall rule;
 - Stormwater management provisions.

The key issues for determination in relation to the QD applications⁶ namely:

- Earth batters around covenanted bush;
- Restricted discretionary consent for retaining walls;
- Requested amendments to the proposed conditions of consent.

Ms Simons also provided a commentary⁷ on each of the submissions made.

Urban design and landscape evidence was provided by **Rebecca Skidmore**. She noted that an iterative masterplanning process had been used to test design outcomes and determine key urban design structuring elements that were desirable to be captured in the precinct provisions. She provided a description of the proposals key elements⁸. Ms Skidmore acknowledged that the rezoning of the land to Mixed Housing Suburban would result in a fundamental change in character from rural lifestyle to urban. She also considered that the zoning of the land for an urban intensity of residential use would result in considerable change when viewed from surrounding properties within the Future Urban Zone.⁹

In terms of the QD, Ms Skidmore noted that indicative house plans had been prepared to demonstrate how the proposed 50 residential lots could accommodate dwellings in accordance with the proposed provisions of the PV.

Ms Skidmore addressed the section 42A report recording that the specialists' reports were generally supportive of the proposed precinct. On the issues of the second dwelling she opined¹⁰ that the provision for the second dwelling as proposed would not change the built outcome that could be achieved. The proposed rule enables greater housing choice.

³ Sue Simons EIC at [4]

⁴ *ibid* at [5] *Ibid* or *ibid*?

⁵ *ibid* at [6]

⁶ *ibid* at [7]

⁷ *Ibid* at [8]

⁸ Rebecca Skidmore EIC at [2.4 – 2.20]

⁹ *Ibid* at [2.21 – 2.25]

¹⁰ *Ibid* at [4.3]

Ms Skidmore was of the viewpoint that the matters raised in the submissions had not resulted in any changes to her analysis or opinions she reached in her original reports relating to the PV and the QD.

Ida Dowling an engineer, with specialist expertise in transportation, addressed **transportation matters**. The proposed transport environment was described noting:

- The internal road network will provide for safe access and movement within the site for pedestrians, cyclists and vehicles.
- In terms of the Orahā / Korahā Road intersections arrangement two solutions were offered¹¹:
 - Short term a simple priority intersection could accommodate traffic likely to be generated by the SHA as well as all development traffic likely to be generated in the local area until at least 2046.
 - Long term the intersection would be upgraded to a roundabout.
- A footpath connecting the site with Kumeu / Huapai is proposed.

Ms Dowling also provided a commentary on the section 42A report and the transports issues raised in submissions.

Specialist **civil engineering** evidence was prepared by **Andrew Neil** a Chartered Professional Engineer. Mr Neil addressed:

- The stormwater management and the mitigation proposed for the PV¹². In terms of clarification it was explained that the Orahā Road SHA has at its core a water sensitive design approach in order to address and mitigate the adverse effects of stormwater runoff on the receiving environment. Specific measures include:
 - Source control options involving the use of rain gardens and tree pits within the road corridors and rain tanks and rain gardens within the private lots.
 - Agreement with the Housing Project Office (“HPO”) for a section 127 variation to incorporate the SHA into Kumeu Huapai Network Discharge consent area.
 - Retention mitigation for 24 hour rainfall event for an impervious surface of 18 mm.

¹¹ Ida Dowling EIC at [3.5 -3.17]

¹² Andrew Neil at [3]

- Flood attenuation is not required for this development.
- An overview¹³ of the infrastructural requirements to support the PV focusing on: stormwater; wastewater; water supply and utility services.
- An overview of the infrastructural requirements of Stage 1 of the QD focusing on: earthworks and retaining walls; roading; stormwater; wastewater; water supply and utility services.

Mr Neil provided a commentary on the section 42A report confining his comments to what he termed the inconsistencies in the report which in his opinion required the attention of the commissioners. Mr Neil offered the opinion that the inclusion of the second dwelling on sites greater than 525m² would not adversely affect the capacity of the infrastructure.

Mr Neil concluded by noting¹⁴ that he considered that that proposal would provide the required level of drainage; servicing infrastructure and stormwater management to support the proposed development.

Planning evidence was given by **Owen Burn**. Mr Burn provided a summary¹⁵ of:

- The proposal; the site and the surrounding environment in terms of the PV and the application for resource consent for a QD.
- The statutory considerations for the PV¹⁶ and the QD¹⁷. With reference to the QD, Mr Burns opined that, based on the analysis in the AEE documents and other evidence presented to the hearing panel, the QD is consistent with the relevant objectives and policies of the PAUP and the PV.
- The effects on the environment.

In addressing the section 42A report, Mr Burn noted that the applicant had accepted the majority of the analysis and consequential recommendations, confining his comments to the inconsistencies in the reports which required clarification and conclusions and/or recommendations which remained of concern to the applicant.

Mr Burn noted:

Plan Variation:

- The proposal is to rezone the SHA to Mixed Housing Suburban Zone.
- Additional yard control for land remaining in the Future Urban Zone is unnecessary.

¹³ Ibid at [4]

¹⁴ Andrew Neil EIC at [8.3]

¹⁵ Owen Burn EIC at [2]

¹⁶ Ibid at [4]

¹⁷ Ibid at [5]

- Did not agree with the removal of the ability to locate two dwellings on sites with a minimum net area of 525m² and provided an analysis to justify his viewpoint.
- Question the need for a further development control for retaining walls.

Qualifying Development

- Confined comments to suggested amendments to certain conditions.

In addressing the planning matters raised in the 14 submissions received, Mr Burn offered the opinion¹⁸ that the residential densities anticipated by the current zone provision in the area are well below those identified as being appropriate to meet the demand for housing in Auckland or to create affordable housing development. The PV and QD proposed will assist in delivering the outcomes that the HASHAA and the Housing Accord are intended to address.

On behalf of the Submitters

Ms Allison Arthur-Young provided a written legal submission on behalf of David and Natalie Curteis who had made a submission requesting that their property be included in the PV. This submission point had been 'struck out'. No further consideration is required.

The **Burns Orahua Residents Group (BORG)** was represented by: **Mr Rowan Ashton** (legal counsel); **Ms Sandra Condon** (resident) and **Lyndsay & Mary Dowler** (property owner) and **Gavin & Tuyana Dowler** (tenants); and **Gavin Wild** (Kumeu resident).

Mr Ashton provided, and spoke to, a written legal submission; in his summary¹⁹ he noted:

- The site is an isolated piece of rural land not contiguous to any urban area.
- Sufficient and appropriate transport and social infrastructure will not be provided to support the development. The infrastructural issues with regards to transport are particularly acute.
- Water and waste water network capacity taken up by the development remove capacity from the existing area where development is more appropriate.
- The proposal is not integrated with any structure planning for Kumeu/Huapai.
- The proposal will have adverse traffic, amenity and ecological effects.
- The proposed development is not in accord with good design principles.
- The proposed development has been secretive.

¹⁸ Ibid at [7.4]

¹⁹ Rowan Ashton Legal Submission at [2.2]

Mr Ashton provided a commentary to support the points made.

The Dolwers, spoke to a written submission, expressing concern over: traffic impacts; the lack of a footpath on Oraha and Koraha Roads and the sharp bend on Oraha Road rating it as a dangerous corner for both pedestrians and motorists.

Ms Condon provided an overview of the environment of Huapai. She expressed concern over the process leading to current proposal which she said²⁰ had been characterised by a lack of engagement with existing residents. BORG is not opposed to some further development of this land but not at the density that is currently proposed. It is an inappropriate location and Ms Condon outlined the reasons why.

Ms Condon expressed the viewpoint that the proposed intensive development is not in keeping with the surrounding environment. This intensive housing development, in a wholly rural setting, would cause significant adverse visual effects for existing residents. Ms Condon also spoke from her knowledge of the river flooding and the effects of stormwater run-off for hers and surrounding properties and the downstream environment including a neighbours wetland area.

Mr Wild told us that he was not against development but only once the infrastructure is in place. Mr Wild expressed concerns over roading issues and noted that lack of schooling in the area.

Mr Rex Bridgford submitted that the developer is – *“recklessly creating a ‘ghetto’”*. He also was of the viewpoint that there would be ownership problems associated with Burns Road.

Mr Peter Sinton provided a representation on behalf of **Rex & Judith Bridgford**. Mr Sinton is a planner and the Chairman of the Kumeu-Huapai Residents and Ratepayers Association. It was his conclusion that the PV, as a ‘spot zone’ is inappropriate and that the details of the application should be considered as part of a broader structure plan process; a process that starts early in 2016 thus he was of the viewpoint that there would be no disadvantages in having a decision delayed.

We note that the way that Mr Sinton’s statement was structured and presented raised a number of issues in our minds as to the standing of the evidence which was being presented, and whether it could be construed as either expert evidence or advocacy. When questioned on this matter Mr Sinton said his brief was a mixture of representation and expert evidence. With a lack of clear differentiation of what was expert evidence and what was representation, Mr Sinton’s brief was treated with caution and was considered to be a representation on behalf of Rex & Judith Bridgeford.

On behalf of Council / SHA office

Jarette Wickham Reporting Planner for the PV and **Euan Williams**, Reporting Planner for the QD,m presented the commissioners with a written reply to matters raised during the hearing.

²⁰ Condon EIC at [3]

Wickham & Williams considered that Arborfield Group Holdings Limited and their agents had worked collaboratively with the HPO over an extended pre-application phase. This has resulted in a narrowing of the matters that are in disagreement between the applicant and the Council.

We have listed those main issues below:

- The change in character with the surrounding environment and the need to consider amenity values as Part 2 of the RMA;
- Two dwellings per site;
- Treatment of the Oraha Road frontage;
- Retaining walls within the development;
- Pedestrian walkway along the riparian margin;
- Ecological Matters including:
 - The covenanted Bush on the site
 - Survey of the covenanted bush
 - Fencing of the covenanted
 - Additional consents needed for stream works and vegetation removal
 - Policy 19 – Eco-sourced plants
 - Management Plan for the covenanted area
 - Ownership of the covenanted area
 - Fauna study and management
- Traffic Matters:
 - Traffic volumes
 - Corner of Burns Road and 165-167 Oraha Road
 - Wider network and servicing constraints
 - Regional Policy Statement Section B 3.1 Transport.
 - Proposed right tuning bays
 - Roads ending at the boundary of the site

- Network Discharge Consent
- QD conditions of consent and their application after HASHAA ceases
- Stormwater Matters:
 - Maintenance of rain gardens and rain tanks
 - Flooding
- Landscape planting conditions

Ms Wickham and Mr Williams addressed these matters in their evidence and concluded the PV should proceed and, subsequently the consent for the QD be granted-albeit with amendments.

6. LEGAL FRAMEWORK

Section 61 HASHAA provides the statutory framework for consideration of an application for a plan variation within a Special Housing Area.

Section 61(4) prescribes the matters the Council must have regard to when considering applications for plan variations (and any submission received from notification). The section dictates an order for weighting from subsection (4)(a) to subsection (4)(e).

In summary the key considerations are as follows, in descending order of priority:

- (a) The purpose of HASHAA;
- (b) Part 2 of the RMA;
- (c) Matters in section 74(2)(a) of the RMA;
- (d) The other matters in sections 74 to 77D of the RMA (with stated exceptions);
- (e) Any relevant provision or any relevant other Act.

In determining this application the HASHAA legislation directs the decision to be made in accordance with Clauses 10(2) and (3) of the First Schedule RMA (section 70 HASHAA), and section 61(4) HASHAA as described above.

The starting point for the statutory assessment of the Huapai 2 Precinct plan variation is the purpose of HASHAA. Section 4 of the HASHAA states:

“The purpose of this Act is to enhance housing affordability by facilitating an increase in land and housing supply in certain regions or districts, listed in Schedule 1, identified as having housing supply and affordability issues.”

The ‘weighting’ exercise under HASHAA appears, to us, to require us to consider the various matters listed in section 61(4) and to apply an overall assessment of any potentially competing outcomes ‘in the round’. It is possible that a proposal may be found to be inconsistent with the relevant provisions, but our eventual decision is able to then apply the appropriate weighting to the dominant consideration of the purpose of the HASHAA. Advice provided to other HAHAAs by Council’s legal counsel has noted that there is no formula for this exercise; but that what is required is an acknowledgement that the relative weighting between the matters set out in clauses (a) – (e) of section 64(4) reduces in a sequential manner. In the absence of advice or evidence to the contrary, and based on well-established RMA practice, a weighting exercise should only be necessary in the event that conflict exists between the various provisions.

7. RELEVANT PLANNING DOCUMENTS

Section 74(2)(a) of the RMA requires regard to be had to any proposed regional policy statement or any proposed regional plan. In addition, by way of a reference to section 75(3) and (4) RMA, consideration must be given to the following:

- A district plan must at all times give effect to any national policy statement including the New Zealand Coastal Policy Statement, or regional policy statement; and
- A district plan must not be inconsistent with any water conservation order or any regional plan for any matter specified in section 30(1) RMA.

In this case, the relevant plans and policy statements are considered to be:

- New Zealand Coastal Policy Statement 2010 (NZCPS)
- National Policy Statement on Freshwater Management 2011 (NPSFM)
- PAUP – Regional level objectives and policies

All these matters were addressed to us in evidence and/or are contained in the PV application and the section 42A report. We are therefore satisfied that “particular regard” has been had to them. We make further comment on this later when we cover the principal issues in contention.

8. PRINCIPAL ISSUES IN CONTENTION AND FINDINGS

The PV, in rezoning the land to Mixed Housing Suburban, relies on a precinct plan and associated provisions which establish and describe the anticipated form of the future development of this land as a residential neighbourhood. This includes key elements such as transport network connections (and road design), pedestrian access; reserves areas (the covenanted bush), infrastructure assets and land uses.

The following discussion relates to matters in this context. We recognise that, in considering the matters in contention, there is some overlap between the PV and the QD. We have sought to confine, as far as possible, our commentary and considerations specific to each application.

Plan Variation Application

The Council's Officers' Report²¹ recorded that during an extended pre-application phase the Aborfield Group (AGHL) and their agents worked collaboratively with the DPO on what they termed as key PV matters which included:

- Infrastructure servicing;
- Covenanted bush;
- Intermittent streams;
- Neighbourhood park;
- Affordable housing;
- Local road connections to the adjacent Future Urban Zone;
- Childcare facilities;
- Interface with the Countryside Living Zone and neighbours;
- Connections to Burns Lane; and
- Neighbour's dam structure.

This process resulted in a narrowing of the matters that were in disagreement between the applicant and DPO.

Identification of Issues

The section 42A report identified the key themes or issues raised in submissions; addressed each matter identified and provided recommendations on each of them. This

²¹ Huapai 2 Precinct Hearings Report page 17 (Agenda Page 21)

comprehensive analysis, with recommendations, can be found on pages 33 – 52 of the Hearing Agenda. It is not the intention of this Decision to provide a summary of the issues and the recommendations but rather to concentrate on the issues that remain in contention.

The DPO's 'Right of Reply'²² listed the matters to be considered relevant and requiring comment:

- The change in character with the surrounding environment and the need to consider amenity values as Part 2 of the RMA.
- Two dwellings per site
- Treatment of the Oraha Road frontage
- Pedestrian walkway along the riparian margin
- Traffic Matters including:
 - Traffic volumes
 - Corner of Burns Land at 165-167 Oraha Road
 - Wider network and servicing constraints
 - Regional Policy Statement Section B 3.1 Transport.
 - Proposed right tuning bays
 - Roads ending at the boundary of the site
 - Network Discharge Consent

Amenity Values

The maintenance and enhancement of amenity values as outlined in RMA Part 2 were raised as issues by submitters; commissioners were reminded of the purpose of HASHAA, which is to *'enhance housing affordability by facilitating an increase in land and housing supply in certain regions or districts, listed in Schedule 1, identified as having housing supply and affordability issues'* and this is given primacy when considering requests for changes to plans or variations to proposed plans. HPO staff, after considering the submissions of Rowan Ashton on behalf of the Burns Oraha Residents Group and Mr Ashton²³, offered the opinion that while it is considered that Part 2 is of relevance, it should be afforded lesser weight than the purpose of HASHAA. We concur with that opinion.

²² Right of Reply From Auckland Council for The Application for a Plan Variation and Resource Consent for a Qualifying Development at 105 Oraha Road, Lot 2 Dp 452240, Burns Lane and 59 Burns Lane, Huapai under the Housing Accords and Special Housing Areas Act 2013. 23 December 2015.

²³ Rowan Ashton Legal Submission at [14]

Future Urban Zoning

Ms Condon, for the Burns Oraha Residents Group offered the cynical observation²⁴ that: *'the area was zoned proposed Future Urban by a political committee without proper planning analysis'* and she was of the viewpoint that the whole basis of the application was flawed and that the approach to the RUB and the zoning of the area should be determined before any development is proposed.

Mr Peter Sinton²⁵, for Rex Allan & Judith Bridgford, was of the viewpoint that it was inappropriate to treat a 'one-off' zone change without considering the zoning changes proposed in adjacent land and wider community.

Staff recorded²⁶ an indication from the PAUP - RUB hearings that the location of the Future Urban zone will retain the RUB in its current location. In keeping with this indication the primary and rebuttal evidence of Ryan Bradley for the Council considered that the areas zoned Future Urban within the Kumeu Huapai RUB are suitable for urbanisation. The evidence of Mr Bradley also considered a range of issues and offered the opinion that on balance the Kumeu Huapai Future Urban zone is a suitable location for urban growth and likely to be ready for wider structure planning within 7 to 10 years and would support a 'hard edge' approach to this development.

We acknowledge the reality that the Minister has made a declaration on the Oraha Road SHA and the committee is proceeding to make a decision on the applications.

Staff agreed that the Mixed Housing Suburban zone is considered to be the most appropriate zone as it is the most widespread PAUP zone in Auckland and it is characterised by one or two storey, mainly stand-alone buildings set back from site boundaries with landscaped gardens. The Mixed Housing Suburban Zone enables intensification, while retaining a relatively spacious quality consistent with a suburban built character, compared with the Mixed Housing Urban and Terrace Housing and Apartment Buildings Zones, which allow for more intensive development. Before arriving at this conclusion for the site a range of options were considered noting that the Single House Zone is unlikely to provide for the wide range of housing options envisaged by the applicant.

We have accepted that a Mixed Housing Suburban Zone is the most appropriate zone.

Two dwellings per site

In the applicant's precinct rules the maximum density control states that there can be two dwellings per site, on any site having a minimum net site area of 525m² that is at least 12m wide. Staff considered that this control, whilst written specifically for Sub-Precinct A, could relate to any site in the precinct. We were of the same mind and questioned the applicant at length on the implications of their approach. The applicant clarified (via their right of reply)

²⁴ Bunty Condon Statement of Evidence at [5.3]

²⁵ Mr Sinton noted that he was both: a town planner and Chairman of the Kumeu-Huapai Residents and Ratepayers Association, when questioned by commissioners he noted that his statement was a mix of professional opinion and representation. (already noted)

²⁶ DPO's Right of Reply at [2.3]

that this land use control is specific to Sub-Precinct A. The applicant also reiterated the rationale behind Sub-Precinct A - the need to buffer the adjoining Country-side Living Zone and to deal with geotechnical constraints; and that this is achieved by offering larger lot sizes. We were persuaded that the buffer would be preserved through development controls and the measures offered by the applicant²⁷.

We have not adopted the two dwelling rule. We had concerns over the 50% maximum building coverage in Sub-Precinct A and initially were not of a mind to grant the AGHL's request in this regard. However, and notwithstanding our understanding that the Council has resiled from this standard for this zone through the PAUP hearings, and in the absence of cogent evidence to make a reduction in maximum building coverage we have agreed with the request of AGHL that the maximum building coverage over Sub-Precinct A be set at 50%.

In the remaining area of the precinct (outside of Sub-Precinct A) provision is made for a range of densities 300m² and above (and some higher densities for affordable housing). Staff considered that this density provides for a range of housing typologies and is consistent with the approach used the PAUP and the Panel agrees.

In terms of future subdivisions for sites where two dwellings have been permitted we accept that a resource consent would need to be applied for and that any subdivision would be assessed on its merits at that stage.

Transport considerations for more than one dwelling per site

Staff expressed concern²⁸ that neither the: Integrated Transport Assessment (ITA); the evidence of Ms Dowling nor the evidence of Mr Burn quantifies the maximum theoretic yield in terms of total assumed households developed within the proposed precinct with the density controls indicated. An understanding of the yield is important for traffic effects assessment and in particular on on-street parking impacts.

Staff also noted²⁹ PAUP Transport Rule H1.2.3.2, Table 4 includes the number of parking and loading spaces required in the Mixed Housing Suburban zone; based on the number of bedrooms it would mean that additional 1 – 2 car parks are required for each additional dwelling. As the design of the Huapai 2 Precinct requires a significant level of stormwater treatment within the road corridor in the form of rain gardens there are limited, on-street car parks, able to be provided. Ms Dowling (for AGHL) evidence stated that only ten on-street parking bays will result from the Stage 1 QD to support the 50 dwellings. This is a ratio of 1:5 which is at the outer limit of acceptability by Auckland Transport, i.e. the minimum that should be provided. Extrapolating this ratio over the full PV suggests that in total the PV may be only able to achieve a total of 48 on street car parks. This may be acceptable for 240 dwellings, but in our opinion may result in a parking deficit if additional dwellings are provided for, as sought by AGHL.

²⁷ AGHL's Right of Reply at [2.8]

²⁸ DPO's Right of Reply at [3.7]

²⁹ *ibid* at [3.9 – 3.11]

Staff pointed out³⁰ that the PV ITA suggests that the local roading network comfortably contains capacity to accommodate the vehicle trips generated by the 240 dwellings. It is likely that it could accommodate additional trips generated by additional households that may result from the proposed density control, however this effect has not yet been quantified or assessed.

The applicant suggested that when considering traffic effects associated with the 'two dwelling rule' that regard should be had to the quantum of lots as opposed to the quantum of dwellings; the rationale advanced was that the two dwelling rule will not necessarily result in increased habitable occupancy as the building controls will restrict the building outcomes to the same habitable capacity. Given the number of occupants is the determining factor for traffic movements the 'two dwelling rule' will have little demonstrable increase of traffic movements within and outside the Orahā SHA. There will be no demonstrable increase for demand of on-street parking.

We found it difficult to accept AGHL's contention that the two dwellings (one being a minor dwelling) per lot approach will have little or no impact on traffic movements (or traffic effects in general). This issue has not been adequately addressed; in the absence of hard data we have opted for a conservative approach and have not provided for second dwellings within the PV generally, nor in Sub-precinct A specifically.

Other Transport Considerations

Proposed right tuning bays

AGHL offered up the right turn bays as part of stage one. Commissioners are in agreement that the following changes be made:

- To the PV as follows:

6.1.3 Roothing upgrades

As part of the first stage of the development No more than 180 dwellings or vacant sites can be created within the precinct before the following upgrades will be required: short right turn bays from Orahā Road into Korahā Road and from Orahā Road into the development must be constructed.

Treatment of the Orahā Road frontage

Treatment of the Orahā Road frontage was discussed, centering on the need to ensure dwellings fronting this road do provide some interaction with the front of the development where it adjoins Orahā Road. We are of the viewpoint that the controls suggested by staff are appropriate and the following note is added to the precinct development controls:

³⁰ Ibid at [3.12]

3.7 Dwellings Fronting the street

Note: Where a site adjoins both Oraha Road and any other road within the precincts then both frontages shall be considered front sites for the purpose of this rule.

Retaining walls

Retaining walls within the development

AGHL's amendment to Development Control 3.9 was supported by the DPO and we have adopted the following amendment:

Any retaining walls on or within 1m of the future urban zone boundary must shall not exceed 1.2m and fencing on the retaining wall must shall not be greater than exceed 1.2m in height and be visually permeable.

AGHL asked for the 1.2m height to be amended to 1.5m. We did not agree with this change as the 1.2m threshold will still make readily apparent which retaining walls require consent.

9. STATUTORY EVALUATION

A full assessment is made in the section 42A report regarding the PV in terms of section 61(4) of the HASHAA.³¹ We agree that the PV will enable the availability of residentially zoned land and, as a concurrent application, and will then provide the opportunity for the qualifying development (with its associated 50 new lots) to proceed. The PV will therefore facilitate “an increase in land and housing supply” within an area, as an identified SHA and within the RUB, where housing supply is considered to be required. As noted previously, the applicant has committed to meeting the qualifying development criteria, which include a percentage of dwellings built to be ‘affordable’ in terms of the HASHAA.

Part 2 RMA matters are summarised in the section 42A report³², with which we agree. Overall, the application for the PV is considered to be consistent with Part 2 of the RMA as the rezoning and the Huapai 2 Precinct Plan will facilitate the provision for housing, parks, and connections to the town centre enabling people and communities to provide for their social, economic and cultural well-being under section 5(2).

While the site does not contain any Significant Ecological Areas identified in the PAUP the area of covenanted bush is considered to be significant along with the stream located within this area of protected bush. It is proposed that a stream on the south western site of the site is protected and enhanced. This will provide benefits in terms of recognising and providing for the protection of areas of significant indigenous vegetation, and thus accord withs.6(c).

³¹ Section 42A report, at [6.4], pg 52 Agenda

³² Section 42A report, at [6.4.2], pg 53 Agenda

The vesting of the esplanade margin along an identified area of stream on the western side of the site will maintain and enhance public access to and along rivers/streams. This esplanade walkway could be a future connection to the Kumeu River, if an esplanade reserve is created along its margins upon subdivision of future sites (outside of the SHA area).

We are satisfied that the PV has had regard to the PAUP and other relevant regional policy statements, the NZCPS and the NPSFM. The PV does not change any regional policies and is consistent with the direction of the PAUP, specifically in that the PV is located within the RUB. Special Housing Areas have been established within the RUB in the Future Urban zone (greenfield) and within other zoned areas (brownfield areas) in order to facilitate an increase in housing supply and affordable housing. It is considered that the proposal will make a contribution to increasing Auckland's supply of housing (consistent with the PAUP RUB boundary) in a timely and planned manner.

In undertaking our analysis we have been guided by the HASHAA legislation which calls for a weighting in the evaluation of plan variation applications under section 61(4) of the HASHAA, along with the specific directive given to affording priority to the purpose of HASHAA. We have been mindful of this assessment framework in reaching our decision.

Finally we consider that the plan variation has been prepared in accordance with sections 74 to 77D of the RMA and is, therefore, found to meet the statutory criteria for a plan variation (with modifications) to the PAUP.

10. ASSESSMENT OF SUBMISSIONS

The submission that conditionally supported acceptance of the Huapai 2 Precinct PV application is accepted, or accepted in part, in accordance with this decision.

The submissions which opposed the plan variation application are rejected in whole or in part in accordance with the findings made.

11. DECISION – PLAN VARIATION

Under section 32AA of the Resource Management Act 1991 (RMA) and under section 61 of the Housing Accords and Special Housing Areas Act 2013 (HASHAA), the application to vary the Proposed Auckland Unitary Plan by Arborfield Group Holdings Ltd is **ACCEPTED WITH MODIFICATIONS**, pursuant to section 71 of the HASHAA.

The key reasons for this decision are:

1. Overall the proposed plan variation supports an efficient use of land within the RUB and the structure plan that has been prepared for this Special Housing Area indicates that if the subject-site is re-zoned it will enable a variety of housing types to be developed, including affordable housing.

2. The proposal fulfils the purpose of HASHAA to enhance housing affordability by facilitating an increase in land and housing supply.
3. The cultural impact assessment does not raise any impediments to development and overall the proposal is considered to be consistent with Part 2 of the RMA.

The Plan Variation (as detailed in Attachment A to this decision) shall be deemed operative on the date of public notice of this decision (section 73 of the HASHAA) for the land identified as follows:

- 105 Orahia Road, Huapai (Lot 1 DP 311880)
- Lot 2 DP 452240, Burns Lane, Huapai
- 59 Burns Lane, Huapai (Lot 16 DP 56200)
- 105 Orahia Road, Huapai (Lot 1 DP 311880)
- Lot 2 DP 452240, Burns Lane, Huapai
- 59 Burns Lane, Huapai (Lot 16 DP 56200)

QUALIFYING DEVELOPMENT

12. INTRODUCTION AND DESCRIPTION

Having considered and determined the PV application, with the decision to approve the PV (with minor modifications) being made (as detailed above), we move to the consideration of the qualifying development application. We acknowledge that in accordance with section 71 of the HASHAA consideration of the QD is now required to be based on the matters in relation to the PV, as an operative part of the PAUP. The zoning to which the QD relates is therefore now 'Mixed Housing Suburban', with the Huapai 2 Precinct provisions applying.

Description

The qualifying development application seeks consent to subdivide land within the Huapai 2 Precinct and to develop for residential purposes. The section 42A provides a summary³³ of the projected outcomes:

- Creation of 50 residential lots and various balance lots, requiring land use and subdivision consent.
- Instruments to recorded on various titles are proposed as follows:
 - an area of bush protected by covenant on Lot 1 DP311880 will be distributed amongst five proposed lots; and
 - vehicle access restrictions are proposed to be secured on titles which adjoin the cycle lane, being lots 6, 17, 22, 23, 33, 34, 43 and 44-48; and
 - the areas for suitable vehicle crossings will be identified on proposed lots 1-3, 7-8, 11-12, 17, 22-23, 33-34 and 43.
- Construction of a stormwater network which comprises bio-retention devices (tree pits and swales), a primary piped network and overland flow paths which will discharge into the streams and gullies and ultimately the Kumeu River.
- Construction of low pressure wastewater system extended from the existing pump station located at the bottom of Oraha Road, and the extension of the water supply network to serve the development.
- Formation and construction of roads in accordance with the precinct plan cross-sections.
- Formation of a four way intersection with Oraha and Koraha Roads and the proposed collector road. The design and land areas provided will enable the establishment of a roundabout should this be required in the future.

³³ Section 42A Report at page 3 Hearing Agenda at page 7

- The formation of a footpath along the northern side of Orahā Road linking to Huapai Town Centre.
- Bulk earthworks of approximately 45,000m³ for the formation of roads and building platforms.
- Undertaking earthworks on the adjoining site described as Lot 2 DP 424027 at 119 Orahā Road, to provide for fill and installation of stormwater infrastructure.
- The remediation of contaminated land occupied by the “Tractor Shed”.
- Implementation of landscape and mitigation planting.

We rely on the ‘background and site description’ provided above as part of the PV consideration, rather than to repeat it in relation to the QD application.

Qualifying Development Criteria

A ‘qualifying development’ is defined in section 14 of the HASHAA and includes a requirement for the development to be ‘predominantly residential’ along with specific criteria. This proposal meets these criteria, being in accordance with the Orahā Special Housing Area, as follows:

- Maximum number of storeys that buildings may have: 6
- Maximum calculated height that buildings must not exceed: 27 metres
- Minimum number of dwellings to be built: 50
- Percentage of dwellings that must be affordable: 10% (criteria A) or 5% (criteria B)

13. REASONS FOR RESOURCE CONSENT APPLICATION

The QD is assessed against the provisions of the PAUP and, as we have acknowledged above, the approved PV which rezones land and introduces a new Huapai 2 Precinct Plan.

Proposed Variation

Based on the applicant's PV request, consent is required for the QD is:

- Subdivision in accordance with the Huapai 2 precinct plan requires consent as a **restricted discretionary activity**.

Based on the modified PV request, consent is required for the QD as follows:

- The proposal requires consent as a **restricted discretionary activity** for retaining walls adjoining the Future Urban zone and the area of covenanted bush that are more than 1.2m in height where the landscaping requirements are not met.

Proposed Auckland Unitary Plan

- The proposal requires consent for the subdivision of land within the 1 percent AEP floodplain. This is a **restricted discretionary activity** pursuant to Part 3, Chapter H, Section 5.1.
- Earthworks of approximately 44,500m³ over an area of 5 hectares are proposed. This requires consent for a **restricted discretionary activity** to exceed the threshold of 2500m³ or 2500m², pursuant to Part 3, Chapter H, Section 4.2.1.1.
- New impervious areas where the development has been subject to structure or framework planning that includes integrated land use and stormwater planning, consent is required as a **controlled activity**, pursuant to Part 3, Chapter H, Section 4.14.1, Activity Table 1.1.

***Comment:** This infringement is not considered necessary and will be managed by the network discharge consent variation (ref. REG-64930).*

- Impervious areas (other than for a public road) greater than 25m² in a SMAF 1 or 2 (other than for a public road) that meet hydrology mitigation requirements, consent is required as a controlled activity, pursuant to Part 3, Chapter H, Section 4.14.2, Activity Table 2.1.
- As the total development of 50 residential lots exceeds the threshold of 30 dwellings, consent is required as a **restricted discretionary activity** pursuant to Part 3, Chapter H, Section 1.2.3.1.
- Retaining walls of greater than 1.5m in height are proposed within the rear and side yards. As these retaining walls are considered buildings, consent is required as a **restricted discretionary activity** to infringe the rear yard development control of the Mixed Housing Suburban zone pursuant to Part 3, Chapter G, Section 2.3. This affects Lot 1, 2, 3, 8, 29, 39, 44, 50 and the height of retaining ranges between 1.5m and 2.4m.

Overall the application is a discretionary activity.

14. LEGAL FRAMEWORK

Sections 34 and 35 of the HASHAA provide the statutory framework for consideration of an application for a qualifying development within a Special Housing Area. Where consent is granted, conditions may be imposed (sections 37 and 38 of the HASHAA).

Section 34(1) details the matters to which we must have regard in considering this application and submissions received. As with section 61 HASHAA, which defines those matters in the consideration of a plan variation application, this section dictates an order for weighting from sub section (1)(a) to sub section (1)(e).

The key considerations are, in descending order of priority:

- (a) The purpose of HASHAA;
- (b) Part 2 of the RMA;
- (c) Any relevant proposed plan;
- (d) Any relevant consideration arising under sections 104 to 104F RMA (were the application being considered under that Act); and
- (e) The key qualities set out in the Ministry for the Environment's "Urban Design Protocol".

15. RELEVANT PLANNING DOCUMENTS

Section 34 (1) requires regard to be had to the following planning documents in the consideration of a qualifying development application:

Proposed Auckland Unitary Plan (PAUP)

- RMA (specifically sections 104 to 104F)
- Ministry for the Environment's "New Zealand Urban Design Protocol (2005)"

Other planning documents, to which regard has been had in considering this application, include:

- National Environmental Standard
- National Policy Statement for Freshwater Management 2011

These documents, along with the remaining matters in section 34 (1) HASHAA for statutory consideration were addressed to us in evidence and/or are contained in the qualifying development application and the section 42A report. We are therefore satisfied that “particular regard” has been had to them. We make further comment, where relevant, in our discussion of the principal issues in contention.

16. SUBMISSIONS RECEIVED

As noted in Section 3 above, HASHAA³⁴ does not provide for full public notification of applications for either plan variations or qualifying development resource consents. This legislation prescribes limited or non-notification processes for each at section 67 (plan variations) and section 29 (resource consents). Accordingly, the consent application was limited notified on 9th September 2015³⁵ to parties identified by the Council as being adjacent owners. The full list is provided in the section 42A report.

A total of fourteen submissions relating to the QD were received. One submission conditionally supported the QD and the other thirteen submissions opposed the application.

Issues Raised (number of submission points)

1. Amenity and character (10)

10 submission points raise issues in respect of the compatibility of the development with the character and amenity values of the countryside living/lifestyle nature of the area.

2. Construction effects (1)

One submission point identifies the need for conditions of consent to manage the effects of development on the submitters land .

3. Consultation and engagement (1)

One submission point identifies issues around the lack of consultation with adjacent landowners and integration of the road network to integrate with the adjoining land.

4. Development controls (8)

Eight submission points identify issues with the development controls with seven being concerned in terms of the density of development proposed by

³⁴ Hearing Agenda at [5]

³⁵ Ibid at page 21

the QD. One submitter also raises concerns in terms of the one metre rear yard control.

5. *Infrastructure (13)*

Thirteen submissions identify infrastructure and the servicing of the development as an issue with eleven raising infrastructure general and specific submission points on wastewater and stormwater.

6. *Natural Environment (7)*

Seven submission points identify that the proposed development will have adverse effects on protected vegetation, watercourse and the ecology of the area.

7. *Other processes (9)*

Nine submission points identify that the process to re-identify the land is yet to be decided or that the land should not have been identified as an SHA.

8. *Parks (1)*

One submission point identifies that there is insufficient open space to serve the development.

9. *Proximity to centres (8)*

Eight submission points identify that the development is not located in sufficient proximity/walking distance to a centre or 'amenities'.

10. *Structure Plan and Precinct Plan (6)*

Six submission points identify issues in terms of the need for structure planning across a wider area of the Future Urban zoned land, the design of roads, provision of affordable housing and not being in accord with 'good urban design principles'..

11. *Traffic and Roading (22)*

22 submission points identify issues associated with transportation and road infrastructure, various matters are raised including the inadequacy of cross

sections, the lack of pedestrian and public transport facilities, and the general increase of traffic associated with the development

As recorded in Section 3, the submissions of Diane Lesley Kenton; Enrico and Susan Sciaron; and Robert Inwards had no standing or ability to submit.

Written Approvals

The applicant has obtained the written approval of the following persons in relation to the proposed plan variation and resource consent applications:

- Transpower New Zealand;
- New Zealand Defence Force.

17. SUMMARY OF EVIDENCE HEARD

As noted above the interrelationship between the PV and the QD applications results in an inevitable overlap in matters addressed in evidence presented at the hearing. Consequently, we have chosen to record the summary of evidence as it relates to both applications, being mindful of avoiding unnecessary duplication; refer to Section 5 above.

The matters contained in the evidence presented that were relevant to the Commissioners' determination of the decision outcomes in respect of the QD are referenced and discussed in the following section of this decision.

18. PRINCIPAL ISSUES IN CONTENTION AND FINDINGS

As recorded above in Section 8 of this decision the section 42A report recorded³⁶ that during an extended pre-application phase the interactions between the Council's officers and applicant had resulted in a narrowing of the matters that were in disagreement between the applicant and the DPO.

The section 42A report identified the key themes or issues raised in submissions; addressed each matter identified and provided recommendations on each of them. This comprehensive analysis, with recommendations, can be found on pages 33 – 52 of the

³⁶ Huapai 2 Precinct Hearings Report page 17 (Agenda Page 21)

Hearing Agenda. It is not the intention of this Decision to provide a summary of the issues and the recommendations but rather to concentrate on the issues that remain in contention.

Transportation

General

Transportation effects were one of the key issues for submitters with **Burns Orahā Residents Group, Rex Bridgford** and the **Dowlers**³⁷ all expressing concerns over potential traffic effects, in particular the ability of the transport infrastructure to adequately cater for the increased traffic. **Ms Sandra Condon**, for the Burns Orahā Residents Group questioned³⁸ the veracity of the transport data and how it was applied.

AGHL suggested³⁹, that with regard to evidence of Ms Condon, that the Committee should be cautious when taking into account untested lay evidence regarding traffic effects. To this end we note that no expert traffic evidence was presented by the submitters; we do, however, accept that considered comment based observational evidence can provide a useful context to an issue.

Council's reply addressed⁴⁰ the transport matters raised in the statement of Ms Condon concluding that a substantial increase in traffic was unlikely. The Reply also outlined Auckland Transport's opinion on traffic volumes and delays, noting that there will be increases both locally on Orahā Road and within the wider network of Kumeu / Huapai. It was projected that a number of intersections along SH16 between Kumeu and Westgate will operate at a Level of Service ("LOS") D or E by 2021. While not ideal, this LOS is acceptable to Auckland Transport and the NZTA.

The ITA demonstrated that key local intersections movements from the Orahā Road SHA will operate at an acceptable level. Commissioners have no reasons or conflicting expert evidence not to accept the summary analysis provided by staff.

Corner of Burns Land at 165-167 Orahā Road

Staff addressed⁴¹ the evidence of: **Lyndsay; Mary; Gavin and Tuyana Dowler**, in particular their concerns with the sharp bend on the corner north-east of Burns Lane at 165-167 Orahā Road, noting that this is an issue which does not necessarily need to be addressed in full as part of this PV or QD application. Whether the corner is retained in its current form in the long term will largely be dependent on the structure planning for the future urban zone.

Proposed right turning bays

AGHL offered up the right turn bays as part of stage one. We are in agreement that the following changes be made to the QD conditions:

³⁷ Lyndsay & Mary Dowler and Gavin & Tuyana Dowler

³⁸ Condon Statement of Evidence at [7]

³⁹ AGHL Right of Reply at [5.1]

⁴⁰ DPO's Right of Reply at [8]

⁴¹ Ibid at [8.6]

All roads (including Orahā Road upgrade and provisions for short right turn bays from Orahā Road into Korahā Road and from Orahā Road into the development) and ancillary facilities such as street lighting, traffic calming device, rain gardens, marking, street signs, and street furniture (if any) to be vested in Council shall be constructed in accordance with the approved Engineering Plans to the satisfaction of the SHA Programme Director Consenting, DPO.

Roads ending at the boundary of the site

We accept that any dead end road should have some form of turning head until it is extended and that ideally any road would be level with the adjoining property, i.e. no retaining wall and level difference between the two properties; if there is a drop off, a heavy vehicle barrier should be provided.

We have added the following a condition to address this matter:

- Roads that terminate at the boundary will include a design for a temporary turning head within the proposed road reserve capable of accommodating the manoeuvring of a standard rubbish truck. These roads shall be designed with the intention of continuing through to connect into future subdivision on the adjacent properties having regard to how the road may be extended into the adjacent property given existing ground levels at the boundary and within neighbouring land.
- Advice note

If a road is to finish higher or lower than the existing ground level, then ending the road with retaining will be reviewed at engineering approval stage by Auckland Transport and Auckland Council. Any such retaining must be constructed in accordance with Auckland Transport and Auckland Council standards. If the terminating road was to end in retaining higher than existing ground level, vehicle runoff protection will need to be provided as necessary.

Ecological Matters

The covenanted bush on the site

The covenanted area of bush on the site has an important amenity value, a point on which there was general agreement. The bush itself was the matter of considerable discussion in the hearing. The Council's position, after reviewing the options, was for the existing bush covenant to remain in private ownership. AGHL expressed the viewpoint that given the cost implications in maintaining and managing the area, the bush will not be vested in the Council and the Committee does not have the ability to compel the Council to accept vesting. We sought clarity on this point – was the panel able to require the Council to vest the land and what would the implications of this be? Staff considered, in addressing our points of clarification that the financial responsibility for the covenanted bush should lie with the landowner. The matter of whether we had the ability, within our delegation, to decide that the bush area should be vested was not addressed.

The covenanted bush presented us with a decision conundrum. Both AGHL and the DPO, through their professional reports supplied to us, have created, and reinforced, the perception that the bush is of considerable amenity importance to the whole proposal. For example, the maps (Figures 1 & 2⁴²) that helped illustrate the Specialist Report on Master-planning highlights this point; the maps provide a clear visual demonstration that the covenanted bush is a key amenity element of the Master-plan. AGHL's Huapai 2 Precinct Plan⁴³ reinforces this point. AGHL's planner Mr Owen Burn notes in his evidence⁴⁴:

*"Retain and where appropriate integrate important ecological and landscape features **such as the stand of remnant indigenous vegetation as amenity areas for the benefit of the wider community**" (our emphasis)."*

During the hearing we received mixed messages from staff on the bush with the DPO indicating that vesting was not supported and parks staff indicating their preferred option was single ownership for the bush. The Council's ecologist raised concerns on the bush being in multiple ownership as it has potential negative implications for on-going maintenance, noting⁴⁵:

"We submit that the intention to subdivide the covenant into multiple ownership could result in a decrease in the level of covenant management, and place an undue burden onto the new owners".

The AGHL on the other hand considered that there would be benefits arising from the multiple ownership of the bush and were of the viewpoint that since the Council had refused ownership, the management of the bush should be as requested by AGHL, explaining that the proposed conditions of consent will adequately address the enhancement of the bush and its on-going management.

The Panel was not of that mind, especially with the knowledge that one of the QD lots (Lot 42) has ownership of the largest percentage of the bush and that the owners would have the responsibility to maintain and protect the bush in perpetuity. AGHL noted that Lot 42 is already under contract for purchase, illustrating acceptance by the market for part ownership of the bush. We have placed little weight on this observation as the full cost implications of the management regime for the bush remain very uncertain until the completion of this hearing. We are unconvinced that the bush management regime offered is the best outcome, one especially given the acknowledged amenity value of the bush – to reiterate a point reinforced by AGHL itself, a number of times:

"....the importance this bush provides in terms of amenity in the area and for the development as a whole"⁴⁶

⁴² Hearing Agenda pages 209 & 211

⁴³ Appendix A – S J Simons & B L Hoare Legal Submission

⁴⁴ C E Burn Evidence in Chief at [2.4(a)(iv)]

⁴⁵ Rue Statham – Specialist Report for Hearing Biodiversity at Agenda page 135

⁴⁶ AGHL's Right of Reply at [4.11]

Our Consideration

(i) Underpinning Criteria:

Given the possible demographics (young families) of the SHA⁴⁷, we accept the stated contention that the bush represents an important amenity feature for the whole SHA community. It is easy to project that young children will find hours of adventure within the bush's boundaries.

We are of the viewpoint to maximise the amenity potential of the bush it should preferably be held as a single title and that this would help: underpin and facilitate general access; and spread maintenance costs over a wider base.

(ii) Commissioners' Preference Analysis

In direct response to information and evidence put before the hearing we identified four clear preferences:

First Preference: The bush is vested in the Council in clear recognition of the amenity value of the bush area to the whole SHA.

The Council would have control of maintenance and protection of the bush. Ability to set up a rating area to pay on-going maintenance.

Second Preference: The bush is held in community ownership for the total development. A Body Corporate set up to oversee the maintenance and protection of the bush. The Council can enforce conditions.

Third Preference: The bush is held in community ownership as part of the QD. A Body Corporate set up to oversee the maintenance and protection of the bush. Other stages potentially obtain an on-going benefit without contributing.

The Council can enforce conditions.

Fourth Preference The AGHL approach.

Following our preference analysis there is a clear recognition on our part that externalities come into play with staff informing us that Council will not accept a vesting of the land. The DPO in their right of reply noted⁴⁸:

⁴⁷ The bush is part of the Qualifying Development.

⁴⁸ DOP Right of Reply at [7.4]

“Council approached the Rodney Local Board to discuss this matter and the outcome was that the bush was to remain in private ownership. This was due to the covenant being created in exchange for the ability to subdivide the site. (a private benefit) and that it should remain a private landowner responsibility to maintain the protected bush in perpetuity.”

While we do accept that the covenant bush is the direct result of a former subdivision, the HASHAA process effectively ‘trumps’ any underlying consent(s) thereby focusing our attention on the place of the bush in the greater scheme of this proposal.

We asked for a direction on our ability to make a decision on vesting and in the absence of appropriate advice we are not prepared to test the Board’s delegation that having the ability to hear and decide the matter on behalf of the Council would include a decision on vesting. We do recommend that some firm direction is given on this matter if it arises at future hearings.

Our second preference is for the bush to be held as a single lot held in community ownership, with every lot in the SHA having an ownership share may not be achievable given the staged way the site is intended to be developed. But how do we achieve this in the first QD, because the bush extends beyond the first stage, and into lots 54-56 of the second QD).

The third preference for the covenanted bush is for it to be held as a single lot held in community ownership, with the 50 lots in the QD having a collective ownership share, is achievable. However, this leaves proposed lots outside this first QD (i.e. second stage lots), and a further body corporate requirement would be necessary.

The fourth preference is the AGHL’s approach, which we do not generally favour.

On balance and looking at the limitation associated with the options and the scope we have via conditions of consent for the QD we find ourselves in the position of having to agree with the applicant’s approach (our 4th preference). Our finding therefore is that the proposed bush covenant area should, as is proposed by the applicant, be held by the owners of the lots as shown on the plan from Yeoman’s Survey Solutions labelled 7506/Stg 1 Drawing 3 dated September 2015.

Survey of the covenanted bush

We agree with Council staff that the covenanted bush should be surveyed.

Fencing of the covenanted bush

Condition 76 should be amended to specify the fence height desired i.e. 1.2m.

Additional consents needed for stream works and vegetation removal

We were informed that a consent (SUB-62690) has been obtained by ADHL to vary the consent notice on the title and remove an area of protected bush to accommodate the Greenway Road. Council staff indicated that the AGHL will:

“need to obtain appropriate land use consents under the Rodney District Plan or the Proposed Auckland Unitary Plan for any bush removal. The bush also adjoins a stream therefore any modifications to this stream will also require consent”⁴⁹.

AGHL were of the viewpoint that no further consents were required and provided us with a justification that viewpoint:

- The reform to RMA section 76 drastically limits the ability for councils to adopt rules in district plans to prohibit the felling, trimming or removal of trees.
- The resource consent for tree clearance within 10m of a stream as the watercourse within this area of the bush is not defined as ‘stream’ under the PAUP. No other rules within the PAUP apply to removal of the area of bush and therefore removal is permitted.
- The same reasoning applies to the culverting of the watercourse in this area of bush.

We have accepted the rationale of AGHL and agree that the Council’s request for an additional condition requiring stream and ecological valuation is unnecessary and inappropriate.

Mitigation Planting

AGHL made a Section 127 to change a consent notice condition that was imposed on the certificate of title of the subject site in 2002. This approved change will allow the applicant to remove approximately 607 m² of bush. The physical location and size of the mitigation area has been changed by AGHL pointing out⁵⁰ that the location of the area of mitigation planting was outside the scope of the decision and a suggestion only. In the DPO’s right of reply there is a recommendation from the Councils ecologist that:

- the mitigation planting area shown in Appendix B of the decision notice would achieve direct mitigation for the loss of the riparian vegetation; and
- that it is considered this should be the area of mitigation planting used as opposed to the 640m² proposed by the applicant in the Yeoman’s Plan (referenced 7506/Stg 1 drawing 3).

⁴⁹ DPO’s Right of Reply at [7.14]

⁵⁰ AHGL’s Right of Reply at [4.31]

AGHL pointed out that they held⁵¹ the opinion that the area of mitigation bush planting has been agreed upon by all parties and at no stage until the right of reply had the DPO suggested an alternative location.

We have adopted the AGHL's 'good faith agreement'⁵² to provide mitigation planting of 700m² with 60m² of planting to southwest of the bush and the remaining the 640m² to be located as originally proposed in the Yeoman's Survey Solutions Plan (referenced 7506/Stg 1 drawing 3).

Policy 19 Eco sourced plants

We agree with the DPO's observation that Policy 19 simply provides guidance and a preference for plants to be eco-sourced where possible. It is considered that this would be mainly applicable to any planting for ecological restoration (i.e. the riparian margin area and mitigation planting proposed) and planting for rain-gardens.

Fauna study and management

To fill an identified gap in the conditions we have adopted the new conditions proposed by staff on wildlife:

85. A suitably qualified and experienced ecologist/herpetologist shall be onsite during the removal of any vegetation to supervise all and any habitat removal in order to search for and rescue any native lizards found and relocate them to the alternative location on the site.
86. Upon completion of works, all findings resulting from the scouting and search and rescue during vegetation removal condition shall be recorded by a suitably qualified and experienced ecologist/herpetologist on an Amphibian and Reptile Distribution Scheme (ARDS) Card and sent to the Department of Conservation. A copy shall also be sent to the SHA Programme Director Consenting, DPO.

Stormwater Matters

Rain gardens and maintenance

Submitters raised stormwater concerns in particular the proposed use of rain tanks and rain gardens as methods of stormwater management. We accept that the residential rain gardens that are proposed are part of a tool box option. They have low contaminant and sediment loading due to the small catchment area and low vehicle movements associated with these individual private devices. Updated rain garden soil specifications will increase the times between maintenance requirements and it would reasonable to expect that, with regular annual maintenance, that these devices would not need a full rehabilitation undertaken for 20-30 years. We are satisfied that the on-going operation of these devices

⁵¹ ibid at [4.33]

⁵² ibid at [4.32]

can be enforced; if necessary; under the Council's stormwater bylaw that came into effect on the 1 November 2015.

Amendments have been made to the conditions to require separate operation and maintenance plans are proposed. One for public devices and one generic operation and management plan for private devices for each site.

Retaining Walls

AGHL have agreed that conditions 74 & 75 should not be deleted and asked for a number of amendments. We did not agree with the 1.5m height but did agree to:

- the insertion of 'visually' before the words 'permeable material';
- reducing the 1.5m landscape strip to 1.0m to minimise the encroachment onto adjoining lots.

Landscaping planting conditions

We concur with the DPO that conditions 80 & 81 should not be deleted. The reasons offered by the DPO are cogent – noting⁵³ that a maintenance period is critical to ensure planting is established and sustainable. Planting is a key mitigation measure and its success is dependent on maintenance. The bond condition is also reasonable.

19. STATUTORY EVALUATION

A full assessment⁵⁴ is made in the section 42A report of the qualifying development application against the relevant provisions, section 34(1) of HASHAA. We agree that the proposed residential development of the site will be in accordance with the purpose of the HASHAA; it will enable the development of this land as anticipated with its Special Housing Area status. As the initial stage in the development of this SHA, 50 residential lots are proposed to be created by way of subdivision which will provide the future potential for a range of housing options.

Part 2 RMA matters are summarised in the section 42A report, with which we agree. Overall, the application is considered to be consistent with Part 2 of the RMA as it will enable the establishment of a new residential community which will contribute to the economic, social and cultural wellbeing of the region.

The development will implement water sensitive design approaches to the retention and detention of stormwater runoff, protect areas of native vegetation and provide for a new residential community.

The proposed development is an efficient use and development of physical resources and associated landscaping will maintain and enhance the amenity values of the sites and quality

⁵³ DPO Right of Reply at [12]

⁵⁴ Section 42A Report pages 67 -81 Hearing Agenda Pages 71-85

of the environment, all matters identified in Section 7 of the RMA. The development will promote the sustainable management of natural resources via on-site treatment, retention and attenuation of stormwater. The proposals are consistent with the efficient use and development of the scarce land resource, and ecosystems will not be adversely affected by the proposed subdivision.

The relationship of Maori with the site and wider area will not be compromised as a result of the development. The proposals are considered to be consistent with Treaty of Waitangi principles and a cultural impact assessment has been provided in support of the proposal, prepared by Iwi who have identified that they hold Mana Whenua status. There are no waahi tapu, sites of significance to Mana Whenua or sites of value to Mana Whenua that will be affected as a result of the residential development.

In terms of the planning documents we have no reasons not to accept the conclusions of the Reporting Officers that the proposal is consistent with the:

- Strategic direction of the Regional Policy Statement⁵⁵.
- Proposed precinct provisions as recommended by Council⁵⁶.
- Outcomes sought by the Plan for the transportation network⁵⁷.
- Conditions consistent with best practice, earthworks across the site can be managed appropriately to ensure that any effects associated with silt and sediment are less than minor, and consistent with the objectives and policies of the Plan⁵⁸.
- The Stormwater Management Plan prepared in support of the PV application and the objectives and policies proposed in the precinct.⁵⁹
- The direction of the Plan and the urban environment it creates is acceptable. Conditions relating to the subdivision of the site are recommended to ensure it occurs in accordance with the subdivision process as anticipated by the Council are provided.⁶⁰

When assessed against section 104 of the RMA, we agree with the assessment of the Reporting Officers⁶¹ and find that the proposed development will not result in adverse effects on the environment that are more than minor. The residential development of the site is in accordance with the Mixed Housing Suburban zoning that applies to the land; having been designed to maximise construction efficiencies while managing effects. The proposal is considered to be in accordance with the design principles of the NZ Urban Design Protocol,

⁵⁵ Section 42A Report pages 69 Hearing Agenda Pages 73

⁵⁶ Section 42A Report pages 70 Hearing Agenda Pages 74

⁵⁷ Section 42A Report pages 71 Hearing Agenda Pages 75

⁵⁸ Section 42A Report pages 71 Hearing Agenda Pages 75

⁵⁹ *ibid*

⁶⁰ Section 42A Report pages 74 Hearing Agenda Pages 78

⁶¹ Section 42A Report pages 77 Hearing Agenda Pages 81

having been developed through a structure plan process; providing for a variety of lots by way of subdivision; creating a new community with associated community facilities; and ensuring both transport and pedestrian connectivity within the development.

20. DECISION – QUALIFYING DEVELOPMENT

Under sections 34 to 38 of the HASHAA and also, as referred to in those sections, sections 104, 104B, 104D, 105, 106, 107, 108 and 220 of the RMA, consent is **granted** to the discretionary activity application by Aborfield Group Holdings Limited to authorise resource consent for 50 residential lots and 2 balance lots and associated works at 105 Orahua Road being (Lot 1 DP 311880 and Lot 2 DP 452240)

The reasons for this decision are as follows:

1. The proposal is consistent with the purpose of the HASHAA and the intent of Part 2 of the RMA;
2. The application is generally consistent with the Plan and Huapai 2 Precinct provisions, and where the application is not consistent, greater weight can be applied to the overall outcome of the proposal, and the acceptable design of the comprehensive residential development;
3. Adequate infrastructure can be provided to support the qualifying development.

Under sections 37 and 38 of the HASHAA and sections 108 and 220 of the RMA, this consent is subject to the following conditions (Attachment B).



Chairperson

Date:

1 March 2016

It is acknowledged that Commissioners Blakey and Farnsworth were the co-authors of this decision. It reflects the unanimous views of the Hearings Commissioners.

Attachment A – Plan Variation Provisions

HUAPAI 2 PRECINCT OBJECTIVES AND POLICIES

Part 2 - REGIONAL AND DISTRICT OBJECTIVES AND POLICIES Chapter F: Precinct Objectives and Policies.

7.X Huapai 2

The objectives and policies of the underlying Mixed Housing Suburban zone apply in the following precinct unless otherwise specified below. Refer to planning maps for the location and extent of the precinct.

Precinct Description

The Huapai 2 Precinct occupies some 16 hectares of land located approximately 1.1km east of the settlement of from Huapai.

The purpose of the Precinct is to provide for the comprehensive and integrated development of the land for residential purposes and thus increase the supply of housing, including affordable housing. The precinct provides for a range of site sizes thus allowing for a variety of housing choices to be established. The Precinct Plan incorporates an internal roading and open space network intended to facilitate multi-modal transport and a high level of internal amenity for residents while enabling future connections to be established to adjacent land zoned Future Urban.

In order to ensure a range of site size and housing typologies a sub-precinct (Sub-precinct A) is identified which requires minimum site sizes greater than that for the underlying zone with limited opportunity to achieve a dwelling density greater than 1 dwelling per 300 m². The size of sites within Sub-Precinct A are required to be no less than 525m² to ensure that that pattern of development within the Precinct reflects the proximity of the adjacent Countryside Living Zone.

The Huapai 2 Precinct is within the SMAF 1 overlay and is also subject to precinct specific development controls for stormwater management.

Objectives

The general residential objectives and the objectives in the underlying Mixed Housing Suburban zone apply in the precinct in addition to those specified below:

1. Subdivision and development is undertaken in accordance with the Orahua Road Huapai 2 Precinct Plan.
2. A pattern of residential development that is commensurate with the overall density of the underlying zone while providing and provides the opportunity for a range of housing typologies and price options.
3. The provision of an open space network and linkages that contribute to the amenity of the precinct and facilitate pedestrian access within and beyond the precinct.
4. A pattern of subdivision and development that responds to the landscape features both within and external to the precinct, including the adjacent Countryside Living Zone.
5. A safe, effective and efficient internal street network that allows for multi-modal forms of transport.
6. An internal roading network that anticipates and allows for safe, effective and efficient future connections to surrounding land and upgrading of the connection to Orahua Road.
7. Stormwater management within the precinct uses natural processes and at source devices where practicable.
8. Subdivision and development promotes the enhancement and protection of cultural, freshwater and terrestrial ecological features (including covenant areas).
9. Development is integrated with transport, open space and ecological networks and provides high quality streetscapes and public spaces which are safe and pedestrian friendly.

Affordable Housing

10. To promote increased housing supply, variety and choice by creating well-designed residential developments comprising a range of housing densities, typologies, and price options (including the provision of affordable housing).
11. To ensure that affordable housing provided in any residential development is distributed throughout the location in which resource consent is sought.
12. To promote availability of affordable housing to first home buyers and/or Community Housing Providers.

Policies

The general residential policies and the policies in the underlying Mixed Housing Suburban zone apply in the precinct in addition to those specified below:

1. The design of any subdivision within the Precinct shall incorporate all elements of the precinct plan including:
 - i. The pattern and hierarchy of roads;
 - ii. Pedestrian linkages;
 - iii. Interface treatment with the Countryside Living Zone;
 - iv. Linkages to adjacent land within the Future Urban Zone.
 - v. Riparian margins
2. The distribution of site sizes across the precinct shall be able to accommodate a variety of dwelling typologies.
3. The size of sites within Sub-Precinct A should be no less than 525 m².
4. Land development within the precinct should retain the underlying pattern of the landform as far as practicable and minimise the use of extensive retaining structures while allowing for localised terracing and batters to create usable sites.
5. Building platforms within sites should create opportunities to maximise views and visual connections to the street.

6. The configuration of sites and dwellings shall creative a positive frontage to any adjacent open spaces.
7. Subdivision and development should incorporate a legible, safe, effective and efficient, accessible network of pedestrian linkages within and beyond the Precinct including specific provision for a pedestrian connection along Oraha Road to the Huapai township.
8. Open space areas within the Precinct shall be accessible by pedestrians and contribute to the character and amenity of the precinct by using existing elements of the natural landscape where practicable.
9. Landscape treatment shall be used to define the interface between the precinct and the adjacent Countryside Living Zone.
10. The internal roading network shall comprise a legible hierarchy which encourages walking and cycling and incorporates suitable roadside planting.
11. Allowance Provision shall be made for a future roundabout upgrade of the connection to Oraha Road to safeguard the future efficiency and safety of Oraha and Koraha Roads.
12. The formation of local roads within the Precinct shall allow for safe, effective and efficient future connections to the east and west of the Precinct.
13. The development of a stormwater management network within the Precinct shall, where practicable, be integrated with existing natural networks and other infrastructure such as roads.
14. Maintain the existing sub-catchment hydrology through management of stormwater on-site and the discharge of treated stormwater to existing gullies and watercourses.
15. Achieve SMAF1 mitigation requirements through the use of a single device or combination of devices.
16. Provide for the recognition and protection of freshwater, ecological and mana whenua cultural heritage values in the Precinct

17. Encourage public access, protect, restore and enhance the natural character of the freshwater streams and terrestrial habitat (including covenant areas).
18. Provide for, and encourage, ecological corridors through the Huapai 2 Precinct to enhance natural linkages throughout the wider landscape.
19. Encourage and employ the use of appropriately eco-sourced plants as part of any landscaping, infrastructure requirements and riparian and terrestrial enhancement opportunities.

Affordable Housing

20. New residential developments containing 15 or more dwellings, or involving the creation of 15 or more vacant sites, require either:
 - a. 10 per cent of new dwellings to be relative affordable, with the purchase price to be set relative to the median house price in the Auckland region and sold to first home buyers and owned for at least three years; or
 - b. 5 per cent to be retained affordable, with the purchase price to be set relative to the median household income in Auckland region and sold to Community Housing providers or Housing New Zealand and owned for long term retention.
21. New residential developments containing 15 or more dwellings/sites provide for affordable housing that is distributed throughout the development.
22. New retirement village developments containing 15 or more dwellings provide for affordable housing.

PROPOSED AUCKLAND UNITARY PLAN HUAPAI 2 PRECINCT RULES AND ASSESSMENT CRITERIA

Part 3 – REGIONAL AND DISTRICT RULES – Chapter K: Precinct Rules

X. Huapai 2 Precinct

The activities, controls and assessment criteria in the underlying Mixed Housing Suburban Zone and Auckland-wide rules apply in the precinct unless otherwise specified below:

1. Activity Table

The activities in the Mixed Housing Suburban Zone apply in the Huapai 2 Precinct unless otherwise specified in the activity table below:

Activity	<u>Activity</u> Status
Dwellings	P
Restaurants and Cafes up to 100 m ² GFA per site located on a site having frontage to Oraha Road	D

2. Land Use Controls

The land use controls for the underlying mixed housing suburban zone apply except where specified below:

2.1 Maximum Density

1. The number of dwellings on a site within the Huapai 2 Precinct must not exceed the limits specified below.
 - a. One dwelling per site; or

2.2 Affordable Housing

Purpose: To ensure that the precinct contains affordable housing to help address Auckland's housing affordability needs.

1. New residential developments containing 15 or more dwellings/vacant sites must provide for affordable dwellings/ vacant sites that are either

relative affordable or retained affordable that will meet the requirements of clauses 2-9 below.

2. All resource consent applications requiring the provision of affordable dwellings/vacant sites must be accompanied by details of the location, number and percentage of relative and/or retained affordable dwellings/vacant sites.
3. Affordable dwellings/vacant sites must be spread throughout the development, with no more than six in any one cluster.
4. For staged developments, a proportionate number of affordable dwellings and/or vacant sites must be provided at each respective stage on a pro rata basis and spread throughout the development in accordance with clause 3 above.
5. For apartments, no more than one-third of the total number of identified affordable dwellings shall be located on a single building level/storey, unless the development is two levels, in which case no more than half of the identified affordable dwellings shall be located on a single building level.
6. If the calculation of the percentage of dwellings (and/or vacant sites) that must be affordable dwellings (and/or vacant sites) results in a fractional dwelling (or vacant site) of one-half or more, that fraction is counted as 1 dwelling (or vacant site), and any lesser fraction may be disregarded.
7. For avoidance of doubt, the land use rules do not apply to resource consent applications processed under the Housing Accords and Special Housing Areas Act 2013 (HASHAA) as the provisions specified within the relevant Order in Council amendment to that Act apply. The above provisions apply to consents that are not processed under HASHAA.
8. Affordable housing that does not comply with clauses 2.2 above is a discretionary activity.

2.3 Relative Affordable

Number of Relative Affordable Dwellings or Sites

Purpose: To ensure that the precinct contains price relative affordable housing available to first home buyers to help address Auckland's housing affordability needs.

1. For new residential developments containing 15 or more dwellings or involving the creation of 15 or more vacant sites, (or a mixture of both with the total cumulative number of dwellings and/or vacant sites being 15 or more), at least 10% of the total number of dwellings/vacant sites must be relative affordable and meet the following criteria:
 - a. The price at which a dwelling may be sold does not exceed 75 per cent of the Auckland region median house price (calculated as an average of 3 calendar months previous to the date the application for resource consent is approved or the date on which all appeals on the resource consent application are finally resolved, whichever is the later) that is published by the Real Estate Institute of New Zealand.
 - b. If the application is for a subdivision consent, the applicant must identify the sites of the subdivision allocated for the building of relative affordable dwellings and must specify the mechanism (consent notice for example) for ensuring that the combined value of the building and the land upon completion will meet that criterion or is a building associated with such a dwelling.
 - c. Dwellings must be sold to first home buyers who intend to reside in the dwelling and retain ownership for three years from the date of first transfer. Any dwellings built on vacant sites identified for affordable housing must be sold to first home buyers who intend to reside in the dwelling and retain ownership for 3 years from the date of transfer.

2.3.1 Eligibility for Relative Affordable Housing

Purpose: To ensure relative affordable housing is purchased by appropriate persons

1. Prior to the first transfer of affordable dwellings (including new dwellings that have never been occupied and are built on vacant sites that are identified for affordable dwellings), the consent holder shall provide to Council a statutory declaration that confirms the sale complies with the following eligibility requirements:
 - a. the purchaser has a gross household income, as at the date of the statutory declaration, that does not exceed 120 per cent of the Auckland median household income as set at the date of signing the unconditional sale and purchase agreement.
 - b. the consent holder has sold the dwelling (and any associated parking that is required by resource consent and storage) at a price which is not more than that defined by the 75 percent median price in accordance with rule 8.1(a) above.
 - c. the purchaser intends to own and occupy the affordable dwelling exclusively as their residence for no less than three years from the date of purchase.
 - d. the purchaser is a first home buyer and has never owned any other real property.
 - e. the purchaser is a natural person purchasing the affordable dwelling in their own name and not in the name of any other person or entity.
2. Prior to the transfer of a vacant site identified for affordable dwellings, the purchaser shall be made aware of the mechanism eg a consent notice required to ensure any building built on the site is a dwelling that will meet the relative affordable criteria in 2.3.1 above or is a building associated with such a dwelling.
3. Prior to the transfer of a vacant site identified for an affordable dwelling to a purchaser that intends to develop, own and occupy the affordable dwelling themselves, the consent holder shall provide to Council a statutory declaration

executed by the intended purchaser that confirms the sale complies with the following eligibility requirements:

- a. the purchaser has a gross household income, as at the date of the statutory declaration, that does not exceed 120 per cent of the Auckland median household income as set at the date of signing the unconditional sale and purchase agreement.
 - b. Any development of the site shall be such that the combined value of the dwelling and the land upon completion, as confirmed by a valuation carried out by a registered valuer, shall be no more than that defined by the 75 percent median price in accordance with rule 2.3.1(a) above.
 - c. the purchaser intends to own and occupy the affordable dwelling exclusively as their residence for no less than three years from the date of purchase.
 - d. the purchaser is a first home buyer and has never owned any other real property.
 - e. the purchaser is a natural person purchasing the affordable dwelling in their own name and not in the name of any other person or entity.
3. A consent notice shall be placed on the computer freehold register for the respective affordable dwellings/vacant sites requiring the above eligibility criteria be met for 3 years from the date of the transfer to the eligible purchaser.
 4. Relative affordable housing that does not comply with clauses 2.3 and 2.3.1 above is a discretionary activity.

2.4 Retained Affordable

Eligibility for Retained Affordable Housing

Purpose: To ensure that the precinct contains income related retained affordable housing to help address Auckland's housing affordability needs and to ensure retained housing is appropriately managed by Community Housing Providers to achieve ongoing provision and availability where required.

1. Purchasers in respect of retained affordable housing must be a registered community housing provider or Housing New Zealand Corporation. This rule does not apply to Retirement villages which are dealt with under rule 2.5 below.

2.4.1 Number of Retained Affordable Dwellings or Sites

1. For new residential developments containing 15 or more dwellings or involving the creation of 15 or more vacant sites, (or a mixture of both with the total cumulative number of dwellings and/or vacant sites being 15 or more), at least 5% of the total number of dwellings, or vacant sites, in any development must be retained affordable and meet the following criteria.
 - (a) The price at which a dwelling may be sold would mean that the monthly mortgage payments for a household receiving the Auckland median household income (as published by Statistics New Zealand for the most recent June quarter before the date the application for resource consent is approved or the date on which all appeals on the resource consent application are finally resolved, whichever is the later) would not exceed 30 per cent of the household's gross monthly income, based on the assumptions that:
 - (i) the dwelling is purchased with a 10 per cent deposit; and
 - (ii) the balance of the purchase price is financed by a 30-year reducing loan, secured by a single mortgage over the property, at a mortgage interest rate equal to the most recent average two-year fixed rate. This interest rate used is that published most recently by the Reserve Bank of New Zealand, in relation to the date application for resource consent is made.
2. As part of the resource consent application evidence shall be provided to demonstrate a community housing provider will purchase the dwellings/sites. Prior to the transfer of the retained affordable dwellings/sites a Council approved statutory declaration must be returned by the consent holder to demonstrate the dwellings/sites are sold at the price point outlined in clause 1 above.
3. Retained Affordable housing that does not comply with clauses 2.4 and 2.4.1 above is a discretionary activity.

2.5 Affordable Housing in Retirement Villages

Purpose: To ensure affordable housing is provided within retirement village complexes

- 1 For retirement village developments (including any redevelopment creating additional units) containing 15 or more units, either:
 - a. at least 10% of the total number of units must be relative affordable for three years from the date of purchase. If a dwelling is sold within this timeframe it must continue to meet the required price point set out below in clause 1(a)(i) below until such time that it does not apply.
 - (i) The units classed as relative affordable will be valued at no more than 65 per cent of the Auckland region median house price that is published by the Real Estate Institute of New Zealand for the most recent full calendar month preceding the date on which the application for resource consent is approved or the date on which all appeals on the resource consent application are finally resolved, whichever is the later.
 - (ii) The price point as required by 1(a) above shall include annual charges for maintenance and refurbishment at the retirement village but exclude entry costs, transfer costs, periodical charges, rates, and insurance.
 - (iii) A disclosure statement as required by the Retirement Villages Act 2003 shall be provided to Council to ensure that the estimated financial return that a resident, former resident, or the estate of a former resident, could expect to receive on the sale or other disposal of a vacant residential unit is consistent with any other unit being sold at market rate within the retirement village complex.

2.5.1 Eligibility for Relative Affordable in a Retirement Village

Purpose: To ensure relative affordable housing is purchased by appropriate persons

1. The purchaser(s)/ resident(s) shall have a gross household income that does not exceed 150% of the NZ superannuation income receivable, current at the date of purchase.
2. Affordable Housing in Retirement Villages that does not comply with clauses 2.5 and 2.5.1 above is a discretionary activity.

3. Development Controls

The Development controls for the Mixed Use Housing Suburban zone apply in the Precinct unless otherwise specified below.

3.1 Yards

1. The yard controls for the underlying zone apply unless otherwise specified below:
 - a. Front Yard: 3m

Note: On a lot with dual road frontage (corner lots), the frontage containing the main entrance to the dwelling (front door) must be the front yard. The other frontage shall be deemed a side yard.

3.2 Maximum Impervious Area (~~Replaces Rule 7.7~~)

1. Maximum impervious area: 70 per cent.
2. Maximum impervious area within a riparian yard: 10 per cent.

3.3 Building coverage

1. Maximum building coverage 50 **per** cent.

3.4 Landscaping

All sites must comprise at least 30 per cent landscaped area.

1. The following must be met:
 - a. at least 10 per cent of the required landscaped area must be planted with shrubs including at least one tree that is pB95 or larger at the time of planting
 - b. at least 40 per cent of the front yard must comprise landscaped area.

3.5 Landscaping adjoining the Countryside living zone

Purpose: To provide a buffer between the development and the adjoining countryside living zone.

1. Any fencing adjoining the countryside living zone, must be limited to black powder coated visually permeable pool fencing not exceeding 1.8m in height.

2. A minimum 3m depth planting strip must be established along any boundary adjoining the countryside living zone, planted with a mix of native shrub and ground cover.
3. Any infringement of this of clause 1 – 2 above is a discretionary activity

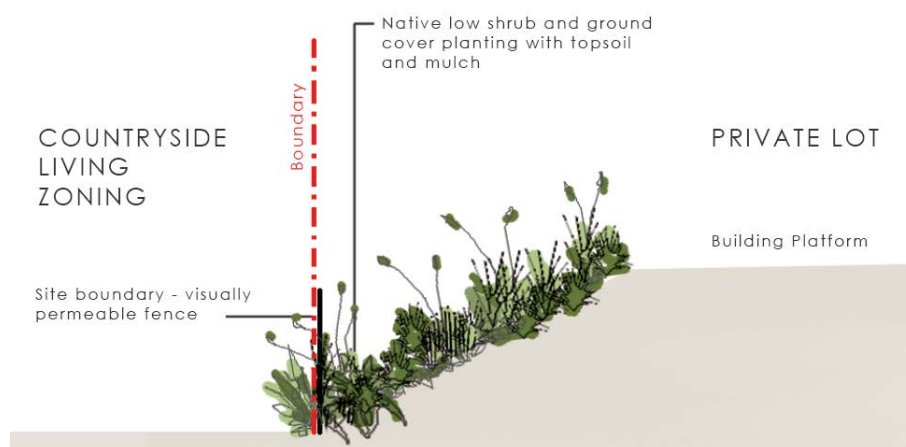


Figure 1: Landscaping controls adjoining the Countryside living zone

3.6 Outlook Space

1. The minimum dimensions for a required outlook space are as follows:
 - a. principal living room: 4m in depth and 4m in width
 - b. principal bedroom: 3m in depth and 3m in width
 - c. all other habitable rooms: 1m in depth and 1m in width

3.7 Dwellings Fronting the street

1. The front facade of a dwelling or dwellings on a front site must contain:
 - a. glazing that is cumulatively at least 20 per cent of the area of the front facade (excluding the garage door)
 - b. a door that is the main entrance to the dwelling.

Note: Where a site adjoins both Oraha Road and any other road within the precincts then both frontages shall be considered front sites for the purpose of this rule.

3.8 Garages

1. A garage door facing a street must be no greater than 50 per cent of the width of the front facade of the dwelling to which the garage relates.
2. Garage doors must not project forward of the front façade of a dwelling.
3. The garage door facing the street must be set back at least 5m from the site's frontage.

3.9 Retaining Walls

Purpose: To avoid visual dominance or overshadowing effects as viewed from the street or the boundary of the precinct.

1. Any retaining walls on or within 31m of the future urban zone boundary must not exceed 1.2m and fencing on the retaining wall must not be greater than 1.2m in height and be visually permeable.

3.10 Sites adjoining Open Space

Purpose:

To provide privacy for dwellings while enabling opportunities for passive surveillance of the open space.

To ensure dwellings are orientated to provide for passive surveillance of the open space contribute to open space amenity.

1. **Where a site or dwelling adjoins open space shown on the precinct plan clause 3.7 above for dwellings fronting the street applies to dwellings fronting the open space and clause 7.15 fences in I1.7 Residential applies to the yard that adjoins the open space.**

3.11 On-site Stormwater management - new impervious areas

1. **New impervious areas (including roads created through subdivision of land) exceeding 50m² must achieve hydrology mitigation on-site by:**
 - a. **Provision of retention and detention of stormwater by implementing one or more of the approved devices illustrated below; or**

- b. Provision of retention (volume reduction) of 5mm runoff depth for the impervious area for which hydrology mitigation is required; and
- c. Provision of detention (temporary storage) and a drain down period of 24 hours for the difference between the pre-development and post-development runoff volumes from the 95th percentile, 24 hour rainfall event minus the 5 mm retention volume, over the impervious area for which hydrology mitigation is required.

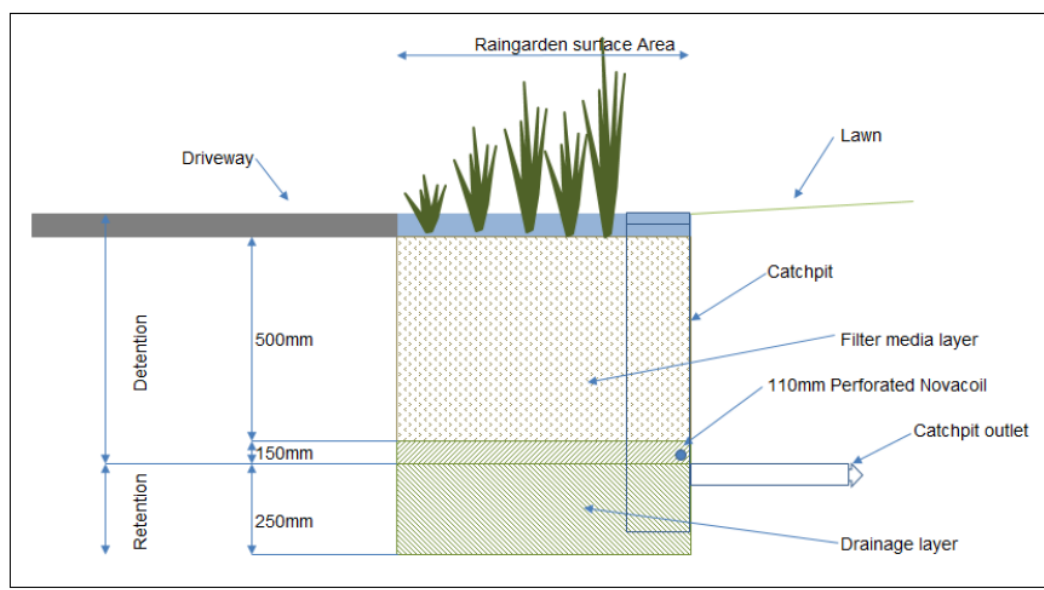


Figure 2: Private raingarden for impervious surface areas

Driveway / Other Impervious Surface Area (m ²)	Retention Volume – 10 mm Retention (m ³)	Detention Volume – 25 mm Detention (m ³)	Total Runoff Volume Requirement (m ³)	Raingarden Area Requirement (m ²)
50	0.25	0.90	1.15	2.50
100	0.50	1.80	2.30	5.0
150	0.75	2.70	3.45	7.50
200	1.00	3.60	4.60	10.00

Table 1: Private raingarden for impervious surface areas

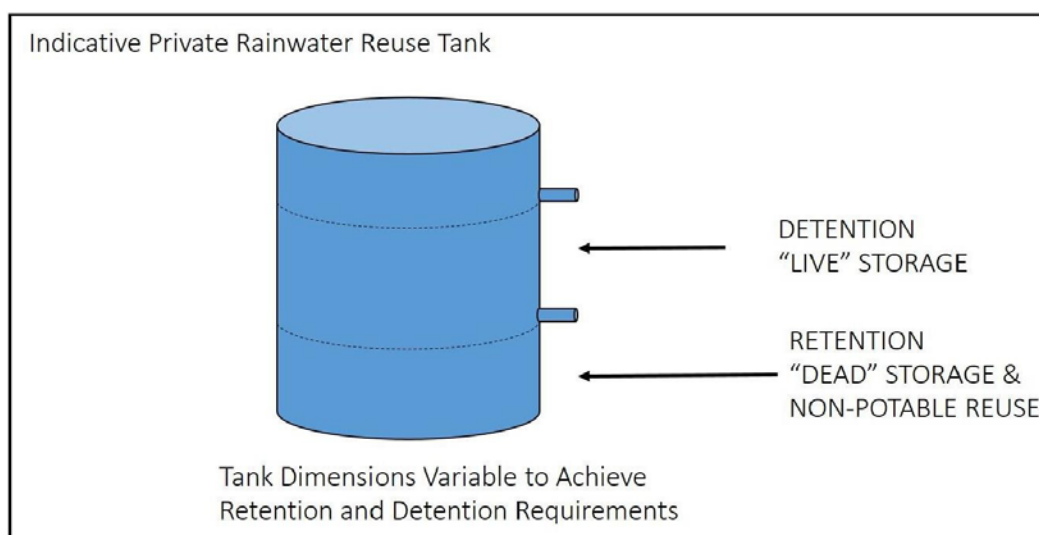


Figure 3: Private rainwater reuse tank for roof areas

Roof Area (m ²)	Rainwater Tank Volume – 5 mm Retention (m ³)	Rainwater Tank Volume – 18 mm Detention (m ³)	Rainwater Tank Total Volume Requirement (m ³)
100	0.50	1.80	2.30
150	0.75	2.70	3.45
200	1.0	3.60	4.60
250	1.25	4.50	5.75
300	1.50	5.40	6.90

Table 2: Private rainwater reuse tank for roof areas

4. Subdivision Controls

The controls in H5 Subdivision shall apply in the Huapai 2 Precinct unless specified in the following provisions

4.1 Activity Table

The Activity Table – General and Activity Table 2 – Residential zones in Section 5 apply to the Huapai 2 Precinct, except as specified in Table 2 below.

Activity Table 2 –<u>Huapai 2</u> Precinct	
Subdivision Activity	Activity Status
Subdivision in accordance with the <u>Huapai 2</u> Precinct Plan	RD
<u>Subdivision not in accordance with the Huapai 2 Precinct Plan</u>	<u>NC</u>
Subdivision of a vacant site in accordance with Rule <u>4.2.1</u>	RD

4.2 Development Controls

The development controls in H5.2 Subdivision apply in this precinct except as specified below.

4.2.1 Site Size

Site sizes for proposed sites must comply with the following minimum net site areas:

- a. Within Sub-Precinct A – 525 m².
- b. Outside Sub-Precinct A – 300 m², or
- c. 200 m², provided that no more than a total of 25 sites are created within the precinct and none are located within Sub-Precinct A.

Subdivision that does not comply with this control is a non-complying activity.

4.2.2 Riparian Margins

1. Riparian margins identified in the Precinct Plan must:

- a. be established either side of the bank of a stream to a minimum width of 10m measured from the top of the bank of the stream, where the location of the bank can be physically identified by ground survey, or the edge of the stream determined by the extent of the 1 year ARI flow level.
- b. be planted with native vegetation either side along the full 10m width in accordance with a landscape plan approved by council at a density of 10,000 plants per hectare, using eco-sourced native vegetation consistent with local biodiversity.

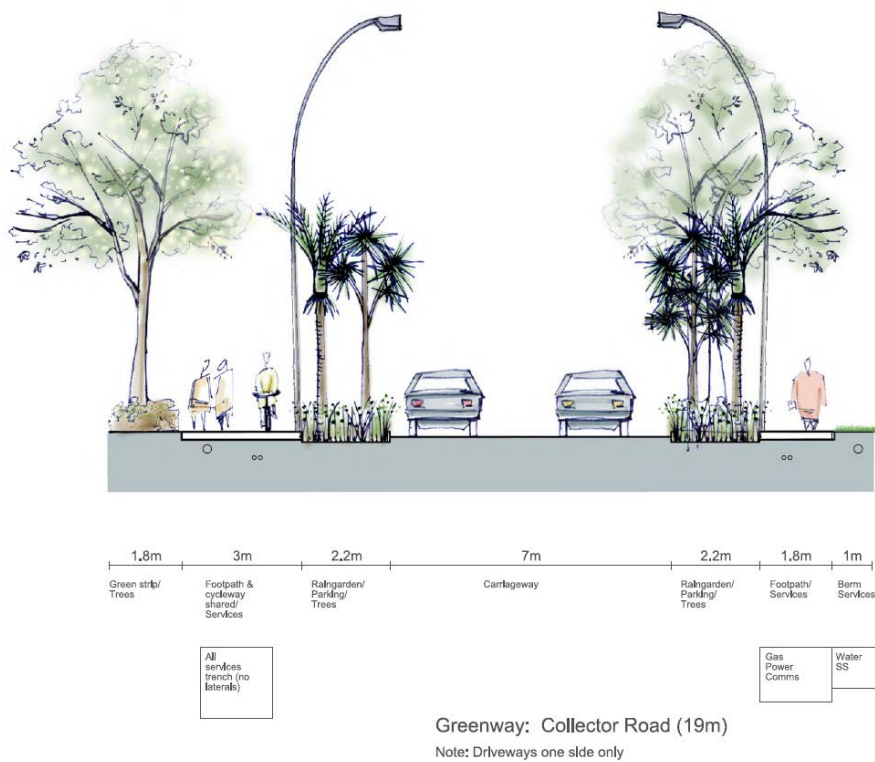
2. The riparian margins created in clause 1 above must be offered to Council for vesting.
3. Subdivision that does not comply with this control is a non-complying activity.

4.2.3 Roading Standards

Purpose: Provide a safe and legible street network within the Huapai 2 Precinct.

1. All roads within the Precinct must be located in general accordance with the Huapai 2 Precinct Plan.
2. All road provided within the Precinct must be constructed to the standards contained within Table 3: Road Construction Standard within the Huapai 2 Precinct Plan Area and cross-section diagrams in Figures 5, 6, 7, 8 and 9 below or, where not contained in Table 3, the relevant Auckland-wide rules shall apply.

Table 3: Road Construction Standards within the <u>Huapai 2</u> Precinct					
Type	Road	Road Width	Carriageway	Footpath Width	Combined Cycle/Footpath
A	Green Link Collector Road	19.0m	7.0m	1.8m (east side)	3.0 m (west side)
B	Local Road	16.0m	6.0m	1.8m	N/A
C	Local Road	15.0m	6.0m	1.8m	N/A
D	Local Road	12.8m	6.0m	1.8m	N/A
E	Local Road	15.5m	6.5m	1.8m	N/A



Note – raised tables along the shared cycleway / footpath to be adopted across intersections.

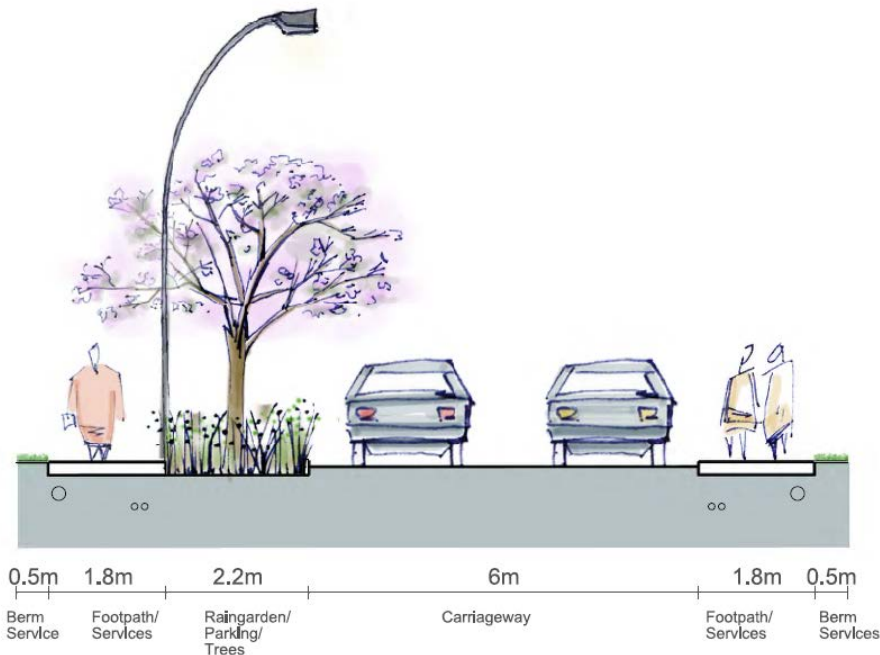
Figure 5: Type A road



Figure 6: Type B road

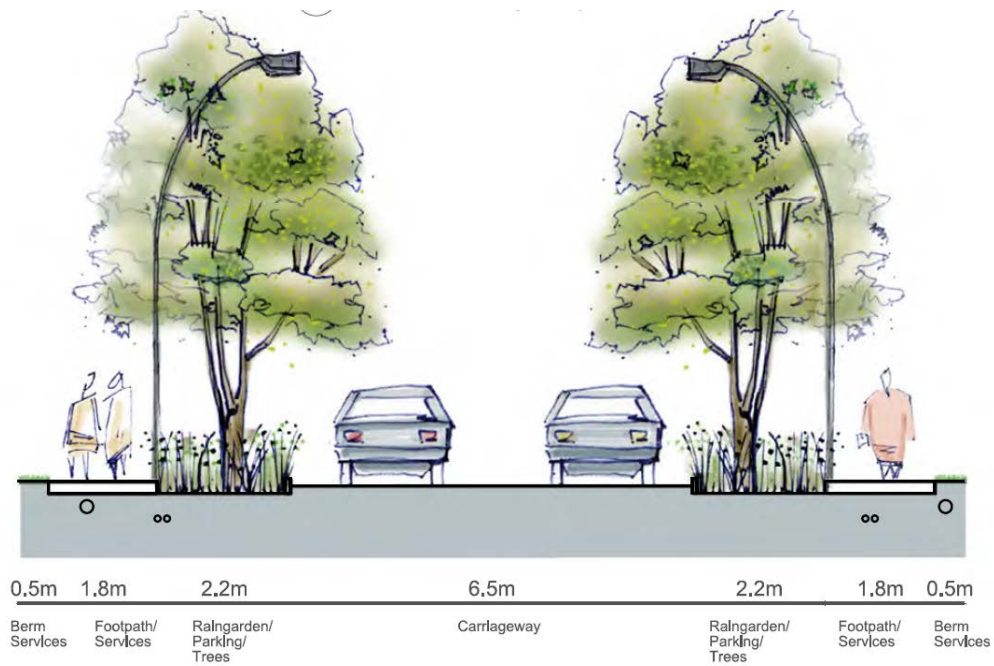


Figure 7: Type C road



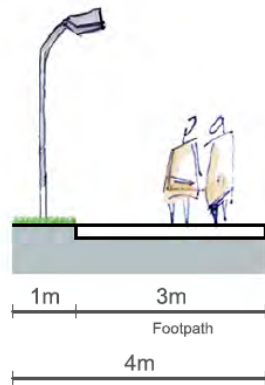
Local Road (12.8m)

Figure 8: Type D road



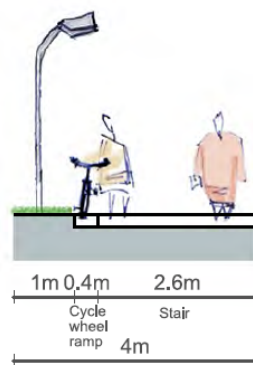
(E) Local Road (15.5m)

Figure 9: Type E road



Pedestrian Connection Type (A)

Figure 10: Pedestrian connection Type A



Pedestrian Connection Type (B)

Figure 11: Pedestrian connection Type B

5. General controls

The following controls apply to all subdivision that is a permitted, controlled, restricted discretionary or discretionary activity.

5.1 Precinct Plan

1. All subdivision in the precinct must be in accordance with the approved precinct plan including the location and layout of:
 - d. roads and access
 - e. public open space

- f. infrastructure
- g. density and site size/design
- h. any environmental protection or restoration areas
- i. any other relevant subdivision component.

- 2, Subdivision that does not comply with the following controls is a discretionary activity unless otherwise specified.

6. Transport

The controls in H1.2 Transport apply in the Huapai 2 Precinct unless otherwise specified below

6.1 Activity Table

Activity <u>Table 3</u>	Activity Status
Construction of a vehicle crossing within the area identified as Vehicle access restriction 1 on the <u>Huapai 2</u> Precinct Plan	NC
<u>Construction of a vehicle crossing within the area identified as Vehicle access restriction 2 on the Huapai 2 Precinct Plan</u>	<u>RD</u>

6.2 Development controls

6.2.1 Access Where access is located within 10m of any intersection, as illustrated in Figure 4 (below) consent shall be required as a restricted discretionary activity provided that;

- 1. any –site having a boundary abutting the road that is wholly or partly within the shaded area may have one independent vehicle crossing within this area; and
- 2. the location of the crossing is the subject of a consent notice attached to the title of the Lot; and
- 3. reverse manoeuvring from each vehicle crossing is permitted.

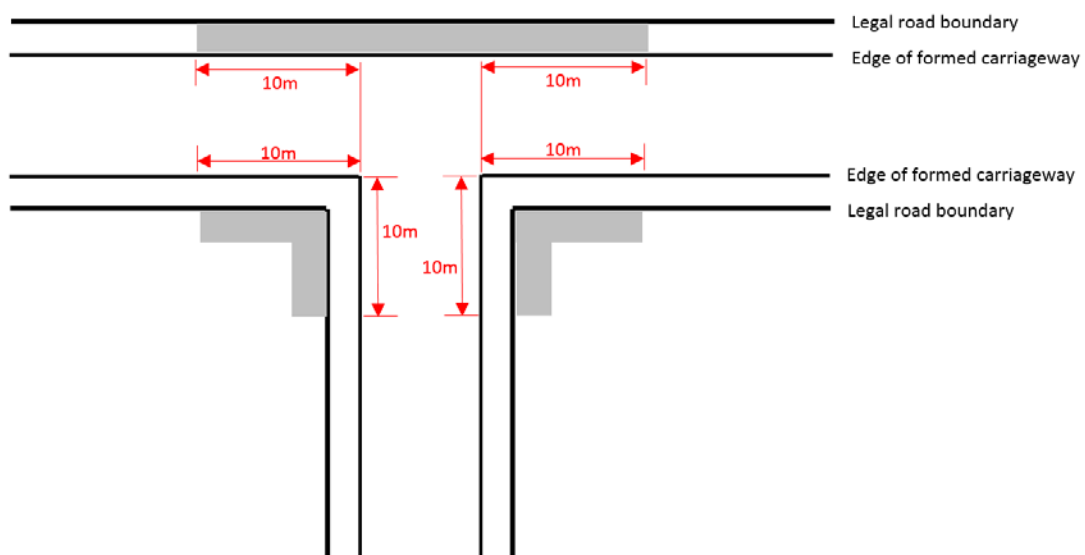


Figure 12: Vehicle crossing restrictions

6.2.2 Footpath

1. As part of first stage of the development a footpath of 1.8 metres in width shall be constructed predominantly along north side of Orah Road to connect into the existing footpath across the bridge west of 30 Orah Road as (partially) shown on the precinct plan.

6.2.3 Roading upgrades

1. As part of stage one of the development short right turn bays from Orah Road into Korah Road and from Orah Road into the development must be constructed.

7. Assessment – Restricted Discretionary Activities

7.1 Matters of discretion

In addition to the general matters set out in G2.3 of the general provisions and the matters of discretion for development control infringements in the underlying mixed housing suburban zone the council will restrict its discretion to the matters listed below for the relevant development control infringement within the Huapai 2 Precinct:

1. Landscaping adjoining the country side living zone
 - a. effects of the development on the countryside living zone
 - b. the purpose of the controls

2. Retaining walls
 - a. The purpose of the control
3. Sites adjoining open space
 - a. effects on open space amenity and safety
 - b. the purpose of the control

7.2 Assessment criteria

In addition to the general assessment criteria for development control infringements in G2.3 of the general provisions and the assessment criteria in the underling mixed housing suburban zone the council will consider the relevant criteria below for the listed development control infringements.

1. Landscaping in adjoining the country side living zone
 - a. Development that infringes the landscaping adjoining the countryside living zone should demonstrate how the development is blended into the adjacent countryside living zone and how a buffer is provided between the development site and the countryside living zone.
2. Retaining walls
 - a. The degree of overshadowing or adverse visual amenity effects from the retaining walls on neighbours
 - b. The degree to which the retaining visible to the neighbours, is attractively designed and incorporates modulation, landscaping and quality materials.
3. Sites adjoining open space
 - a. Development that infringes the fences control will need to demonstrate that the proposed fence will enable direct sightlines to the dwelling from any adjoining open space and vice versa.
 - b. Development that infringes the dwellings fronting the open space control will need to demonstrate how the dwelling actively contributes to the visual amenity and pedestrian safety of the open space.

8. Assessment – Transport

8.1 Matters of Discretion

In addition to the matters set out in G2.3 and H1.2 Transport, the council will restrict its discretion to the matters below for the listed development control infringement:

1. Construction of a vehicle crossing within the area identified as Vehicle access restriction 2 on the Precinct Plan
 - a. Refer to matters of discretion in clause 5.1.5 in H1.2 Transport.

8.2 Assessment Criteria

When considering an application for a restricted discretionary activity for a proposal listed below, the council will consider the whether the proposal meets the criteria listed.

1. Construction of a vehicle crossing within the area identified as Vehicle access restriction 2 on the Precinct Plan
 - a. Refer to the assessment criteria in clause 5.2.6 in H1.2 Transport.

9. Assessment – Subdivision

9.1 Matters of Discretion

In addition to the matters set out in H5 Subdivision, the council will restrict its discretion to the matters below for activities listed as restricted discretionary in the subdivision activity table.

1. **Subdivision in accordance with the Huapai 2 Precinct Plan**
 - a. The Huapai 2 Precinct Plan
 - b. The design and location of the subdivision.
 - c. The matters for discretion outlined in 5.4, Table 13.
 - d. In respect of the location of vehicle crossings subject of clause 3a in G1.2 of the General Provisions matters set out in clause 5.1.5 of Section 1.2.

9.2 Assessment Criteria

The council will consider the relevant assessment criteria below for activities listed as restricted discretionary in the subdivision activity table.

1. **Subdivision in accordance with the ~~Oraha Road~~ Huapai 2 Precinct Plan**
 - a. Subdivision should implement and generally be consistent with the:
 - i. Huapai 2 Precinct Plan,
 - ii. roading and pedestrian connection typologies of the Precinct Plan set out in table 3 and cross sections illustrated in Type A to C above,
 - iii. objectives and policies for the Precinct,
 - iv. rules of the Mixed Housing Suburban zone,
 - v. assessment criteria set out in 5.4, Table 14.

- vi. In respect of the location of vehicle crossings subject of clause 3a in Section G1.2 , the matters set out in clause 5.1.5 of ~~G~~1.2 with the additional consideration of the position of the crossing in relation to proposed street trees, street furniture, raingardens and landscaping.

Definitions

Retained affordable

Housing that is:

- a) built by a registered community housing provider or Housing New Zealand Corporation; or
- b) sold to a registered community housing provider or Housing New Zealand Corporation; and
- c) sold at a price defined by the Auckland median household income as published by Statistics New Zealand for the most recent June quarter before the date the application for resource consent is approved or the date on which all appeals on the resource consent application are finally resolved, whichever is the later.

Relative Affordable

Housing that is:

- a) bought by first home buyers with the intention to remain in the same ownership for three years from the date of first transfer, where the purchaser has a gross household income that does not exceed 120 per cent of the Auckland median household income as set at the date of signing the unconditional sale and purchase agreement.
- b) sold at a price that does not exceed 75 per cent of the Auckland region median house price published by the Real Estate Institute of New Zealand and calculated as an average of 3 calendar months previous to the date the application for resource consent is approved or the date on which all appeals on the resource consent application are finally resolved, whichever is the later

Community Housing Provider

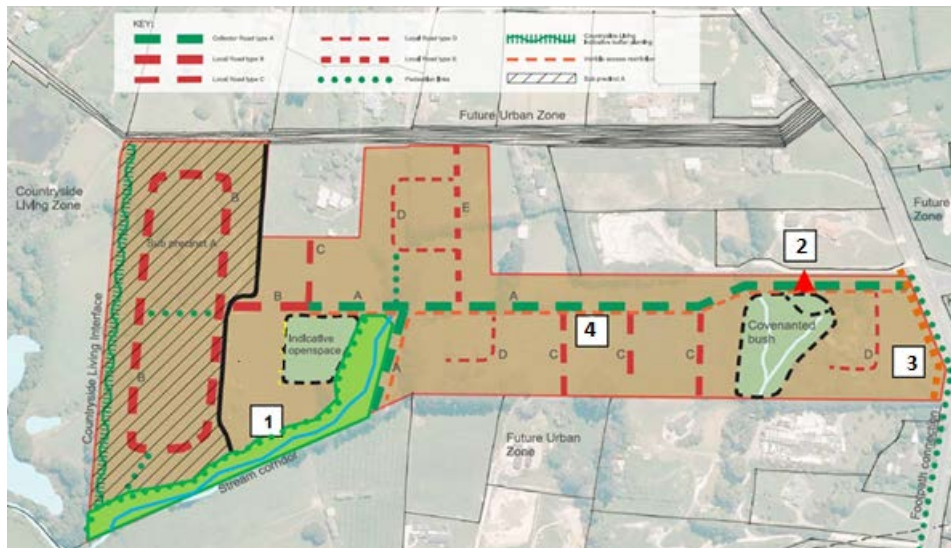
means a housing provider (other than Housing New Zealand Corporation) that has, as one of its objectives, the provision of one or both of the following types of housing:

- a) social rental housing:
- b) affordable rental housing

Household Income

Household income shall include all taxable income as defined by the New Zealand Inland Revenue Department.

Updated Precinct Plan:



Precinct Map:

The following changes are required on the precinct map.

1. Addition of the riparian margin, stream corridor and walkway.
2. Addition of a road connection to the boundary of 119 and 121 Oraha Road.
3. The addition of a Vehicle Access Restriction 2 area along the frontage of the site where it adjoin Oraha Road.
4. Renaming of the current Vehicle access restriction to Vehicle access restriction 1.