

Recommendation Report

Whanganui District Council

Plan Change 53 – Springvale Structure Plan

Notice of Requirement – Springvale Stormwater Network and Roads

14 February 2020

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Appendix 1 Recommendations on Submissions on PC53

Appendix 2: Recommended Appendix J to the District Plan

1 Introduction

- [001] The Whanganui District Council (Council) has prepared Plan Change 53 (PC53) to the Operative Whanganui District Plan (Operative Plan).
- [002] The purpose of PC53 is to change the Operative Plan to facilitate residential development in the Springvale area to meet anticipated demand out to 2065. PC53 introduces a revised Structure Plan to replace Appendix J of the Operative Plan and expands the extent of the Residential, Reserves and Open Space zones within the Structure Plan area.¹ Relatively minor consequential amendments are proposed to the objectives, policies and rules.
- [003] The notified Structure Plan and associated proposed District Plan land use zones are shown overleaf.
- [004] The Council has also submitted a Notice of Requirement (NOR) pursuant to s168A of the RMA to designate land within the Structure Plan area for the purpose of establishing a central stormwater network, road and shared pathway.
- [005] The extent of the notified NOR (denoted as Designations) is also shown overleaf.
- [006] This Recommendation Report addresses both PC53 and the NOR. Separate recommendations on each are made in sections 5 and 7 respectively of this Report and are summarised below.

Summary of recommendations:

That the Whanganui District Council:

1. Approves Plan Change 53; and
2. Confirms the Notice of Requirement subject to the imposition of conditions.

2 Appointments

- [007] The Council, acting under section 34A of the Resource Management Act 1991, appointed independent hearing commissioners Rob van Voorthuysen² and Miria Pomare³ to conduct a hearing and produce a Recommendation Report for the Council.

3 Process Issues

3.1 Notification, submissions and written approvals

- [008] PC53 was publicly notified in August 2019. The NOR was not publicly notified, but was directly served on 24 affected property owners together with the Springvale Whenua Hapu, comprising Te Kaahui o Rauru and Te Runanga O Tupoho.
- [009] There were twelve submissions and five further submissions on PC53. There were nine submissions on the NOR. A summary of the submissions on PC53 was published on the Council webpage.⁴ A summary of submissions on the NOR was contained in the Section 42A Report. We adopt⁵ those summaries but do not repeat them here for the sake of brevity. However, we confirm that we read each original

¹ The majority of the Structure Plan area is currently zoned Rural Lifestyle, with some existing Reserves and Open Space zoned land.

² Commissioner van Voorthuysen is an experienced independent commissioner, having sat on over 285 hearings throughout New Zealand since 1998. He has qualifications in natural resources engineering and public policy and was a full member of the New Zealand Planning Institute (NZPI) from 1998 to 2016.

³ Commissioner Pomare is an experienced iwi hearings commissioner and Deputy Environment Commissioner with affiliations principally to Ngati Toa Rangatira and Ngati Mutunga.

⁴ <https://www.whanganui.govt.nz/our-services/planning-services/district-plan-changes/Documents/Summary%20of%20submissions%20%20Report%20-%20Plan%20Change%2053.pdf>

⁵ As provided for by section 113(3)(b) of the RMA.

submission (and further submission in the case of PC53) in full. We discuss the validity of some of the PC53 submissions later in this Recommendation Report.

[010] No written approvals were obtained for the NOR.



3.2 Officer's recommendations

- [011] The Council prepared a combined Officers Report under s42A of the RMA for both PC53 and the NOR. We have had regard to that report and the advice of the respective PC53 and NOR s42A authors who recommended the approval of PC53 without amendment and the confirmation of the NOR subject to conditions. We discuss particular matters canvassed in the s42A Officers Report in subsequent sections of this Recommendation Report.

3.3 Hearing, appearances and site visit

- [012] We held a hearing at the Council offices in Whanganui on Tuesday 17 December 2019. Of the original nine submitters who wished to be heard on PC53, only five appeared at the hearing.⁶ Of the nine submitters on the NOR six either appeared at the hearing or were represented there.
- [013] Copies of the statements of evidence presented at the hearing are held by the Council. We do not summarise the matters covered here, but we refer to or quote from that material as appropriate in the remainder of this Recommendation Report. We took our own notes of any answers given to verbal questions that we posed to witnesses, submitters and the authors of the s42A Officers Report.
- [014] We received a written Reply from the Council as proposer of the NOR on 13 January 2020 and legal advice on an issue raised by counsel for a submitter on 16 January 2020. Given the inclement weather on the day of the hearing we conducted an unaccompanied site visit⁷ around midday on 13 February 2020. We closed the hearing on 14 February 2020, having concluded that we required no further information from any of the parties.

4 Plan Change 53

- [015] We now address matters relating to PC53.
- [016] Prior to doing that, we note that the Council prepared several documents in support of PC53 that we have read and had regard to, including:
- Whanganui District Council, Springvale Structure Plan, April 2018 [Structure Plan];
 - Whanganui District Council District Plan, Section 32 Report, Proposed Plan Change 53 – Springvale Structure Plan (undated) [Section 32 Report];
 - Section 42A Officers Report Proposed Plan Change 53 and Notice of Requirement – Springvale Residential [s42A Officers Report]
- [017] In the interests of brevity and efficiency we cross-refer to and adopt parts of those documents in this Recommendation Report.
- [018] We note for completeness that the Section 32 Report included technical appendices on archaeology, ecology and traffic. It also included a Cultural Values, Cultural Impacts Assessment (CIA) prepared by Springvale Whenua Combined Hapū. Those hapū are Ngā Hapū o Tūpuna rohe o Tūpoho, Tamareheroto and Ngāti Kauika. The Section 32 Report included a detailed response to the CIA recommendations.
- [019] We now address the issues raised by submitters and consider whether or not in light of those submissions we should recommend any amendments to the notified version of PC53.

⁶ The Combined Hapu; Flintoff; O'Keeffe; Harris and Moffit.

⁷ Amongst other things we viewed the Mosston school road frontage, the O'Keeffe property, the Flintoff property in Lincoln Road (viewed from the road frontage), the Hayman Industries road frontage, the First Gas pipeline general location, the proposed stormwater detention area, Titoki wetland and the Attrill subdivisions undertaken to date.

4.1 Issues raised by submitters

4.1.1 Flintoff Submission

- [020] The Flintoff submission seeks the rezoning of a property at 105 Lincoln Road, Whanganui. The site borders, but is not included as part of, the land area addressed by PC53 (Springvale Structure Plan).
- [021] We recommend rejecting the Flintoff submission and the further submissions in support of it for two reasons. The first is jurisdictional in terms of 'scope' and the second is merits based.
- [022] Firstly, in terms of scope, the right to make a submission is limited to submissions that are "on" PC 53.⁸ If a submission is not "on" PC53, then the Council (and us as its delegates) has no jurisdiction to consider it. We understand that the Courts have established an approach to deciding whether a submission is "on" a plan change.⁹ For that to be the case the submission must reasonably fall within the ambit of a plan change by addressing a change to the pre-existing status quo advanced by that plan change.¹⁰ For example, if the land use zoning in the District Plan for a piece of land is unaltered by a plan change, a submission seeking a new zoning for that piece of land is unlikely to be "on" the plan change, unless the change in zoning sought is merely incidental or consequential.
- [023] In this case of the Flintoff submission and its associated further supporting submissions, the change of zoning sought by the submitters and further submitters is neither incidental to nor consequential to PC53. The section at 105 Lincoln Road is outside the boundary of PC53 and the plan change makes no alteration to the status-quo District Plan provisions relating to it. We therefore have no jurisdiction to consider the Flintoff submission as it is not "on" PC53 and the relief it seeks must be rejected.
- [024] For that same reason, the further submissions 1 - 4 from Jeff Robert Jurgens, David and Myra Mitchell, Brendan Lucas and Davie Davidson must also be rejected.
- [025] We note that the PC53 Section 42A Officers Report author¹¹ advised " ... *the submission in relation to 105 Lincoln Road, and by implication the further submissions, also does not fall within the ambit of PC53*" and recommended that we would "... *need to confirm whether submission 9 from David and Jacque Flintoff and further submissions FS1 – 4 from Jeff Robert Jurgens, David and Myra Mitchell, Brendan Lucas, Davie Davidson are in fact not "on" the Plan change*". That is what we have done.
- [026] Secondly, even if we are wrong about this jurisdictional matter, we find that the Flintoff submission (and the further submissions 1 - 4 from Jeff Robert Jurgens, David and Myra Mitchell, Brendan Lucas and Davie Davidson) should be rejected on its merits for the reasons outlined in Appendix 3 to the Section 42A Officers Report (pages 17 to 23) which we adopt.

4.1.2 Kylie Harris and Marion Rainforth

- [027] These submitters seek roading improvements adjacent to Mosston School and a shared pathway linking Mosston School to PC53's proposed walking and cycling shared pathway. Mosston School is outside the boundary of PC53 and its associated Structure Plan (Appendix J to the District Plan) and for the reasons cited in section 4.1.1 above we conclude that these submissions are also not "on" PC53. We therefore have no jurisdiction to consider the submissions and the relief they seek is recommended to be rejected.

⁸ Clause 6(1) of Schedule 1.

⁹ *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [90].

¹⁰ *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [80] and *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003.

¹¹ By way of email to the Hearings Administrator dated 19 December 2019 responding to a question we posed to her at the hearing. Ms O'Shaughnessy requested time to consider the matter and asked to provide an answer in writing.

[028] However, even if we are wrong about this jurisdictional matter, we consider that the Harris and Rainforth submissions should be rejected on their merits for the reasons outlined in Appendix 3 to the Section 42A Officers Report (pages 3 to 4 and 23 to 24) which we adopt.

[029] Kylie Harris appeared at the hearing and briefly spoke to her submission. She advised that she had recently had positive discussions with Council officers regarding the infrastructural improvements addressed in her submission. We encouraged her to continue those discussions.

4.1.3 Te Kaahui o Rauru & Te Runanga O Tupoho

[030] These submitters are referred to by themselves as the 'Springvale Whenua Combined Hapu' or just as the 'Combined Hapu'. They lodged a one-page submission on PC53. While the original one-page submission sought deeper engagement with the WDC to assist with "*meaningful implementation of the recommendations*" of the CIA that they authored, it unfortunately sought no specific amendments to the provisions of PC53.

[031] We understand that submissions on a plan change must be in the prescribed form. The form requires a submitter to give details of the specific provisions of the plan change that the submission relates to, and to give precise details of the decision which the submitter seeks from the local authority (RMA, Schedule 1, clause 6(5) and Form 5 of the Resource Management (Forms, Fees and Procedure) Regulations 2003). The Combined Hapu's original submission did not comply with those requirements and so it is arguably 'out of scope' in terms of amendments that we might otherwise recommend to PC53.

[032] The Combined Hapu engaged Hester den Ouden to provide expert planning evidence at the hearing. That planning evidence was not pre-circulated in accordance with the timetabling Directions that we set out in Minute 1. The evidence was provided to the Council on 10 December 2019 whereas our Minute required it to be provided by 29 November 2019. We asked the submitter why that timetable had not been adhered to. Ms den Ouden advised that she had only recently been engaged by the Combined Hapu and she had not been provided with a copy of Minute 1 by them and so was unaware of the deadline for expert evidence. Having considered the reasons given by Ms den Ouden we granted a waiver to the Minute 1 deadline for her expert evidence.¹²

[033] In her expert evidence Ms den Ouden sought a range of detailed relief (amendments to PC53 and the wider District Plan including a minimum lot size of 800m² within the PC53 Structure Plan area, an impervious surface coverage of 35% therein, a definition of 'impervious area, a policy on 'cultural monitors', a rule requiring the taking of land for local purpose reserves rather than as a financial contribution, and a policy that encourages developers to set additional land aside for use as an urupa).

[034] Ms den Ouden also raised a number of general issues in relation to tangata whenua, including whether the WDC's obligations under the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 had been taken into account so as to ensure the relationship between Wanganui iwi and Te Awa Tupua (Whanganui River) would not be adversely affected by PC53. We understand that in practical terms this relates primarily to stormwater management issues which we discuss in more detail in the NOR portion of this Recommendation Report. However, we understand that there will be little if any direct impact on Te Awa Tupua from either PC53 or the NOR.

[035] Other than the issue of cultural monitors (a matter that we understand to be relevant at the subdivision consent or earthworks consent stage), none of those requested amendments to PC53 or the District Plan were set out in the Combined Hapu's original submission and we understand that an expert witness cannot seek in evidence detailed and specific relief that is not fairly and reasonably contained in the original submission that they are purportedly appearing in support of. We put that to Ms den Ouden and she responded that her specific requests emanated from the CIA commissioned by the Council and

¹² The granting of a waiver was not opposed by the Council when we asked them about that.

prepared by the Springvale Whenua Combined Hapu. That was not obvious to us and so we asked Ms den Ouden to prepare a table cross-referencing the specific relief in her evidence to the contents of the CIA. She helpfully provided that table on the afternoon of the hearing. Having considered that table we are not persuaded that the CIA actually sought any of the specific relief set out in Ms den Ouden's evidence. We therefore decline to recommend the PC53 and District Plan amendments sought by her.

[036] For completeness, we record that even if we are incorrect about the above procedural matters regarding the Combined Hapu submission being arguably 'out of scope' and our rejection of the specific relief sought by Ms den Ouden, we record that we would not recommend the adoption of her specific relief on its merits for a range of reasons including amongst other things:

- stormwater from residential sections up to a 1% ARI event within the PC53 area will be managed by way of onsite ground soakage (as explained by submitter Mr Attrill and WDC Development Engineer Damien Wood) and so there will be no additional stormwater runoff to the WDC stormwater reticulated system (and thereafter to the Whanganui River) from the residential sections. The stormwater swale indicated by PC53 and enabled by the NOR will only convey runoff from the road reserves. On that basis there is no need to require larger sections or more onerous controls on impervious area;
- the stormwater conveyed by the swale will not enter Titoki Wetland, it will instead enter the proposed large and separate detention area;
- we acknowledge that the presence of 'cultural monitors' to be an important matter where the discovery of koiwi is possible, however it is a matter that we understand will be addressed during the subdivision and earthworks phases of any future residential development;
- the District Plan already contains policy¹³ on archaeological sites of significance to iwi; and
- the uncontested evidence of Damien Wood is that taking 'land for local purpose reserves' (including for an urupa) instead of taking monetary financial contributions would severely jeopardise the ability of Council to fund the necessary infrastructural improvements required in response to the intended residential development of the PC53 area.

[037] Consequently, while we appreciate and value the submissions and evidence of the Springvale Whenua Combined Hapu, for the reasons outlined above we decline to recommend the relief that they now seek.

4.1.4 First Gas

[038] First Gas elected not to attend the hearing to speak to their submission. However, on Tuesday 17 December 2019 First Gas' representative (Wood Beca Limited) emailed a letter to the WDC seeking the insertion of a new restricted discretionary rule in PC53 requiring consent for earthworks within 10m of the centreline of the gas transmission pipeline below a depth and/or fill height of 400mm.

[039] That relief was not sought in the First Gas original submission. The original submission merely sought "clarity" on the management of drainage and stormwater, the design of the low earth bund between Titoki Wetland and the proposed new stormwater detention area, and the design and location of the proposed new shared pathway. There was no mention of a new restricted discretionary activity rule.

[040] We therefore find that the request for a new rule is outside the scope of the original First Gas submission and so we decline to recommend the inclusion of such a rule. However, in response to the issues raised by First Gas we encourage the Council (principally as proposer of the NOR) to separately provide the clarity sought by First Gas if that has not already occurred.

4.1.5 O'Keeffe

[041] Mr and Mrs O'Keeffe were represented at the hearing by counsel Andrew Cameron. The submitters did not call any experts to provide evidence on their behalf.

¹³ Section 15.3.3

- [042] Mr Cameron verbally submitted that we had no jurisdiction to recommend confirmation of the NOR because the Council had not complied with s168A(1)(a) insofar as it did not intend to finance and construct the proposed roading and stormwater infrastructure itself. Instead, he submitted, that infrastructure would be financed and constructed by private sector land developers. Mr Cameron submitted that the works addressed by the NOR were not therefore a “*public work within its [the Council’s] district and for which it has financial responsibility*”. In his Reply Mr Wood noted that to be incorrect because the acquisition of land and infrastructure projects are contained within the Whanganui District Council Development Contributions Policy 2018.
- [043] However, given the importance of this issue, we asked the Council to provide us with a response from the Council’s legal advisors to Mr Cameron’s legal submission. We received that response on 16 January 2020.¹⁴ That Kensington Swan legal advice noted that there is a possibility that a developer (or developers) may be required to construct some or all of the roading and stormwater infrastructure to be authorised by the designation. Once complete the infrastructure would be passed to Council to own, operate and maintain. The developer(s) would be entitled to offset the cost of that infrastructure against the development contributions that would otherwise be payable under Council’s development contributions policy that applies in the Structure Plan area. The arrangements for construction and handover of the works would be recorded by a development agreement.
- [044] The Kensington Swan legal advice concluded that the roading and infrastructure works subject to the NOR and the proposed method of funding and construction of the works by developers under development agreements met the requirements in RMA s168A(1)(a) because:
- a) The works fall within the definition of a “public work” being works that Council is authorised to undertake under the Local Government Act 1974 and the Local Government Act 2002 and are located in the Whanganui District; and
 - b) Council has “financial responsibility” for those public works because although the works may be constructed by a developer (or developers) under a development agreement, Council will retain control of the design and construction of the works through the terms of that agreement and the completed works will be handed to Council to own, operate and maintain.
- [045] We prefer the detailed legal advice of Kensington Swan to the verbal submissions of Mr Cameron on this matter. On that basis we find that we do have jurisdiction to recommend confirmation of the NOR.
- [046] Mr Cameron also submitted that the Council had not adequately considered alternatives as required by RMA s168A(3)(b)(i). However, Damien Wood advised that the Council had specifically considered the ‘*cul de sac*’ option preferred by the submitters but found that option to be deficient because it did not provide north-south connectivity through the Structure Plan area. In Reply, Mr Wood advised:
- “The option of twin cul de sacs was investigated at an early stage of the development of the Springvale Structure Plan (prior to 2012) and was discounted as it did not provide the necessary road connectivity required by the Whanganui District Plan¹⁵ and NZS4404:2010¹⁶. “The Whanganui District Council Urban Transport Strategy 2011 identified the need to provide a parallel road to Mosston Road for residential traffic away from the designated heavy vehicle route of Mosston Road.”
- [047] We accept Mr Wood’s evidence on this matter and discuss that issue further in the NOR part of this Recommendation Report.

¹⁴ Memorandum titled “Springvale NoR advice” addressed to Rob Goldsbury and Hamish Lampp, authored by Christina Sheard and Louise Trevena-Downing, KensingtonSwan, 16 January 2020.

¹⁵ Including in particular sections 4.2.1(f) and (i); 13.3.9; 13.3.5(c); and 13.3.6(b) and (d).

¹⁶ NZS4404:2010 Section 3.3.8 No-exit roads. “No-exit” roads should not be provided where through roads and connected networks can be designed. Where no-exit roads are provided, they should ensure connectivity for pedestrians and cyclists.”

- [048] In terms of the actual 'merits' concerns of the O'Keeffe's (namely the severing of their lifestyle property by the proposed 30m wide roading and stormwater swale designation), we acknowledge that confirming the notified location of the road and stormwater corridor will result in adverse effects on the level of tranquil rural amenity that they currently enjoy. We sympathise with the submitters in that regard. However, while the corridor will be situated close to their house,¹⁷ we understand that will not be dissimilar to the situation of many (if not the majority) other existing residential sections and existing houses in urban Whanganui. In Reply Mr Wood advised that the corridor location had been checked against the WDP provisions for residential setbacks within the Residential Zone and the existing O'Keeffe dwelling would comply with the minimum setback rule. Consequently, we do not find the adverse effect of the proposed corridor (as will occasioned by the proposed designation) to be of sufficient significance to warrant us recommending a change to the corridor's location.
- [049] In making that finding we note the importance of providing north-south roading connectivity within the southern Structure Plan area, a matter that the submitters appear to accept.¹⁸ We also record our understanding that the severance of the O'Keeffe property and the taking of land therein for the road and stormwater swale will result in compensation being payable under the Public Works Act.
- [050] The O'Keeffe's were also concerned about what they understood would be trenching 4.5 to 5.0m deep within the corridor adjacent to their property. In Reply Mr Wood advised that regardless of the final design option for the trenched pipe (which would be located beneath the proposed new road), the maximum batter slope of the excavated corridor¹⁹ would be 1v:5h. Mr Wood considered that this batter slope would be stable and highly unlikely to result in any adverse effects on adjacent properties. We accept Mr Wood's expert engineering evidence on this matter.

4.1.6 Other submitters

- [051] The issues raised by the remaining nine submitters were comprehensively addressed in the Section 42A Officers Report and particularly in Appendix 3 of that Report. We carefully considered the evidence provided by the lay submitters²⁰ at the hearing, but we prefer the assessments undertaken by the Section 42A Officers Report authors and in particular the reasoned and thorough expert technical evidence on roading and traffic, ecology, engineering and noise matters that was appended to that Report (Appendix 5).
- [052] Furthermore, we note the evidence of Mr Attrill (the developer of a very substantial area of residential sections in the PC53 area) that it was physically impossible to construct a solely above ground stormwater swale as it would be up to 120m wide in places. Mr Attrill advised that in an area he was currently developing (south of Fitzherbert Avenue) a two-pipe stormwater system was necessary within the designated stormwater swale and that would only require a 20m wide strip of land. His evidence reinforced our view that a solely above ground stormwater conveyance system as sought by the Combined Hapu is simply not practicable in this case.
- [053] Craig Moffitt provided brief verbal evidence. He advised that he did not oppose residential development and was happy to work with Council on what he thought was 'proper' compensation for the likely loss of his house and sheds should PC53 (and the NOR) be confirmed and the new road constructed. That evidence mirrored his original submission.

¹⁷ Mr Cameron advised the edge of the corridor footprint (or designation) would be 5.7m from the eastern edge of their house.

¹⁸ Section 42A Report, paragraph 19.2.8.

¹⁹ Comprising a 6.0m wide sealed road, a 3.0m wide shared path or footpath and berm, and sloping berms of 4.0 to 9.0m wide.

²⁰ We note that submitter Flintoff called expert evidence from Phillip O'Connor on stormwater matters but we have already found that the Flintoff submission is not "on" PC53 or the NOR. Having said that we accept Mr O'Connor's evidence that a hydraulically neutral solution for stormwater can be developed for 105 Lincoln Road. That might be relevant if we were considering a subdivision proposal for that property but we are not.

- [054] Accordingly, we adopt the assessments of the Section 42A Officers Report author regarding the remaining submitters, but do not repeat them here. Our recommendations on the submissions and the summary reasons for those recommendations set out in Appendix 1 to this Report.

4.2 National policy statements and national planning standards

- [055] Section 74(1)(ea) of the RMA states that a change to a district plan must be done in accordance with a national policy statement, a New Zealand coastal policy statement, and a national planning standard. In addition, ss75(3)(a) to (ba) of the RMA require the District Plan to give effect to those instruments.
- [056] The National Policy Statement on Urban Development Capacity 2016 (NPSUDC) is relevant and it was addressed in the Section 32 Report²¹ which concluded that the purpose of PC53 is to achieve the requirements of the NPSUDC in a sustainable way, by planning for residential development in a comprehensive and integrated manner in Springvale where demand already exists. We agree.
- [057] The New Zealand Coastal Policy Statement 2010 (NZCPS) is not relevant.
- [058] The National Planning Standards released on 5 April 2019 were also addressed in the Section 32 Report²² which noted that their focus is on the format and consistency of plan provisions and that the Council has until 2024 to implement them. We are satisfied that as far as practicable at this time, PC53 is consistent with the National Planning Standards. In saying that, we note that apart from introducing a new Appendix J to the Operative Plan (a map of the Structure Plan area), PC53 makes very few amendments to the text of the operative Plan.

4.3 National environment standards and other regulations

- [059] Section 74(1)(f) of the RMA states that a change to a district plan must be done in accordance with any regulations. The Section 32 Report²³ noted that the requirements of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011) were incorporated into the Operative Plan by PC27 in 2012. It went on to advise that the Council was not aware of any specific hazardous activities within the Structure Plan area and that compliance with the NES would be a matter for detailed consideration as part of any future subdivision or land disturbance application. We heard no evidence to the contrary and so we find that approach to be appropriate.
- [060] No other relevant national environmental standards or regulations were brought to our attention and we ourselves are not aware of any.

4.4 Regional policy statement (RPS) and regional plan

- [061] Section 75(3)(c) of the RMA requires a district plan to give effect to the RPS. In Whanganui the RPS is contained in Part 1 of the Horizons One Plan 2014. This was comprehensively addressed in tabular form in the Section 32 Report²⁴. We are familiar with the contents of the One Plan.²⁵ We are satisfied that the Section 32 Report identified the relevant RPS provisions and that PC53 gives effect to those provisions.
- [062] Section 75(4)(b) of the RMA states that a district plan must not be inconsistent with any matter specified in s30(1) relating to the functions of regional councils. In this area the relevant regional plan is Part 2 of the Horizons One Plan 2014. We note that PC53 addresses stormwater management which is a s30(1) function. We were not made aware of any inconsistencies between the One Plan and PC53 in that regard.

²¹ Section 2.2.1.

²² Section 2.2.2.

²³ Section 2.2.1.

²⁴ Section 2.2.3

²⁵ Commissioner van Voorthuysen was a hearings commissioner for the first instance hearing of submissions on the One Plan.

- [063] In making that finding we note that in terms of stormwater, the Structure Plan has a primary function to provide storage areas for stormwater runoff from proposed new roads following rain events both from within the Springvale development area and from the catchment above.
- [064] We also had the benefit of a submission from Horizons Regional Council, although the Horizons officials did not wish to heard. The Horizons' submission stated (amongst other things):
- *Horizons generally supports the structure plan approach to planning for growth that WDC has taken for the Springvale area;*
 - *It is Horizons' view that the structure plan approach and supporting amended policies 13.3.35 to 13.3.38, which integrate the structure plan into the district plan framework, give effect to Policy 3-4 [of the RPS];*
 - *It is considered that the structure plan and supporting transport rule also give effect to One Plan Policy 3-7;*
 - *Horizons supports the provision for stormwater management in the structure plan through drainage designations and a stormwater detention area;*
 - *We acknowledge WDC's recognition of the Titoki Wetland (a threatened habitat) as an area of indigenous biodiversity of high ecological value through the structure plan, including measures to mitigate adverse effects of development on the wetland;*
- [065] The Horizons submission did not seek any amendments to PC53 as notified. This adds significant weight to our conclusion that PC53 gives effects to the RPS and is not inconsistent with the regional plan.

4.5 Management plans and other strategies

- [066] Section 74(2)(b) of the RMA states that when changing a district plan the Council should have regard to management plans and strategies prepared under other Acts. In this case the Section 32 Report²⁶ identified and addressed the:
- Leading Edge Strategy (2018);
 - 30 Year Infrastructure Strategy (Council's Long-Term Plan); and
 - Whanganui Urban Transportation Strategy (2011).
- [067] The Section 32 Report concluded that PC53 was either consistent with, or had been prepared alongside, those plans and strategies. We note in particular that objectives and key actions relating to parking, loading, vehicle crossings, walking and cycling shared pathways, practical road linkages, public transport and improved safety outcomes are all reflected in PC53.
- [068] We conclude that PC53 has had appropriate regard to the above listed plans and strategies prepared under other Acts.

4.6 Iwi and hapū management plans

- [069] Section 74(2A)(a) of the RMA states that Council must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the District. We understand the Ngaa Rauru Kaitiaki – Puutaiao Management Plan was prepared by Te Kaahui o Rauru to be relevant here. Based on the advice of the s42A author, we understand that PC53 is not inconsistent with that document.

4.7 Other matters

- [070] No other relevant matters were brought to our attention and we are not aware of any.

4.8 Part 2 matters

- [071] Under s74(1)(b) the Council must prepare a district plan in accordance with the provisions of Part 2 of the RMA. Part 2 matters were comprehensively addressed in the Section 32 Report.²⁷ We adopt that

²⁶ Section 2.2.4.

²⁷ Section 2.1.2.

assessment and find that PC53 does not offend any Part 2 provisions to an extent that would lead us to recommend any amendments to the notified provisions.

- [072] We note that counsel for the O’Keeffe submitters raised Part 2 matters. As those matters primarily addressed the effects of the designation for the proposed road, stormwater and shared path, we discuss those Part 2 matters in section 6.5 of this Recommendation Report.

4.9 Amendments to PC53

- [073] We do not recommend any amendments to Plan Change 53.

4.10 Section 32AA

- [074] Section 32AA of the RMA requires a further evaluation of any changes that are made to a proposal after the initial Section 32 Report has been completed. The further evaluation may be the subject of a separate report, or referred to in the decision-making record.²⁸ Clause 10 of Schedule 1 to the RMA directs that the Council’s decision on submissions on a plan is to include such further evaluation, to which it is to have particular regard when making its decision.²⁹ If our recommendations are adopted by the Council, this Report (including its appendices) is intended to form part of the Council’s decision-making record.

- [075] However, because we are not recommending any changes to PC53 as notified there is no need for us to undertake an assessment under section 32AA.

5 Recommendation on PC53

- [076] Pursuant to the powers delegated to us by the Whanganui District Council under section 34A of the Resource Management Act 1991 we recommend that the Council approve PC53 as notified. The amended District Plan text that we recommend be adopted is contained in Appendix 4 of the Section 42A Officers Report dated 15 November 2019.

- [077] The replacement plan that will form Appendix J of the District Plan is attached to this Report as Appendix 2. It differs from earlier versions insofar as the proposed designation corridor is omitted. We understand that the designation corridor will instead be shown on the District Plan maps as is the case with other designations.

- [078] Our specific recommendations on the individual submissions and further submissions on PC53 are set out in Appendix 1 of this Report.

6 Notice of Requirement

- [079] As we noted in the Introduction to this Recommendation Report, the Council has decided under s168A(1)(a) of the RMA to issue a NOR for a designation for a public work within its district and for which it has financial responsibility. Namely, the central stormwater network, road and shared pathway that bisects the Structure Plan area.

- [080] We understand that the area to be designated is a 30m wide strip of land, with a widening on Council owned land. The 30m width allows for a stormwater network (either piped or a swale), the road, a shared pathway and includes a construction corridor. The designated area will eventually contain either a piped stormwater network with a road on top or a swale with a single lane road on either side. The stormwater and road network will convey stormwater and overland flows, but it will not intercept any existing streams.

- [081] The designation will extend to a stormwater detention area to be located adjacent to the Titoki wetland on land owned by Council, which under PC53 will be zoned Reserves and Open Spaces. The detention area is shaded with blue cross-hatching in the figure on page 2 of this Recommendation Report.

²⁸ RMA, s 32AA(1)(d) and (2).

²⁹ RMA, Schedule 1, cl 10(4)(aaa).

[082] Section 168A of the RMA sets out the matters the Council, and by extension us as hearings commissioners, must have particular regard to when considering the NOR and any submissions on it.

6.1 Section 168A(3)(a)

[083] Under As168A(3)(a) we must have particular regard to the provisions of a national policy statement, NZ coastal policy statement, regional policy statement and regional plan. We addressed all of those matters insofar as they related to PC53 in sections 4.2 to 4.4 of this Report. Given that the NOR is to facilitate the central stormwater network, road and shared pathway that bisects the Structure Plan area, we conclude that our earlier assessment and conclusions equally apply to the NOR.

[084] In particular, we note that the stormwater and road network itself is proposed to be a multi-functional transport corridor integrating a vegetated or piped swale to collect, attenuate and distribute stormwater flows. It will also provide a green corridor linking the network of open spaces and promote and enhance the ecology and biodiversity of the wider Springvale area.

[085] We note that “a plan” includes the Whanganui District Plan. The provisions of the operative Plan that were considered relevant by the Council as proposers of the NOR were assessed in the NOR documentation.³⁰ The Plan provisions assessed related to:

- Rural Environment (Section 3 of the Plan);
- Cultural Heritage (Section 9 of the Plan);
- Earthworks (Section 14 of the Plan); and
- Tangata Whenua and Papakainga (Section 15 of the Plan).

[086] We firstly note that the Rural Environment provisions are not particularly relevant in our view as the associated Structure Plan seeks to replace the existing Rural Lifestyle zoning with predominantly Residential zoning. We do note however that the designation envelope does not affect any elite Class 1 or 2 soils.

[087] In terms of Cultural Heritage, the NOR documentation states that adverse effects on archaeological and cultural values can be managed by following the process agreed with the Springvale Whenua Combined Hapū and Heritage NZ, minimising damage to the known archaeological sites, and following agreed protocols should any artefacts be accidentally uncovered. We agree.

[088] In terms of earthworks the NOR documentation states that earthworks in the fragile dune areas can occur in a manner that is sensitive to that landscape. Routine erosion and sediment controls will be designed in compliance with the Horizons One Plan and any regional consents that may be required. Detailed design of the road and stormwater network can ensure that damage to property, network utilities or significant nuisance effects are avoided. We agree, and note that the proposed road, stormwater conduit and shared path are hardly what one would call novel or unprecedented. We are comfortable that sound engineering design and construction can avoid or mitigate adverse effects from earthworks.

[089] The submissions of Ngāa Rauru Kītahi and Te Runanga O Tupoho (the Combined Hapu) opposed the PC53 Structure Plan and NOR. This is important given that Objective 15.2.5 of the Operative Plan is:

Development that avoids or mitigates adverse effect on the cultural values of items and places of significance to Tangata Whenua, hapū or whānau

[090] We dealt with most of the issues raised by the Combined Hapu in section 4.1.3 of this Recommendation Report. Further to that, we note that Ms den Ouden advised that, based on discussions between the

³⁰ Section 9.2.

Combined Hapu and the Council, there was agreement with the recommended NOR conditions addressing accidental discoveries and landscaping treatments.³¹ We discuss other matters below.

6.2 Section 168A(3)(b)

- [091] The Council does not have an interest in the land sufficient for undertaking the work. That is why the NOR was directly notified to the 24 landowners that the designation is intended to traverse. Consequently, under s168A(3)(b) we must have particular regard as to whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work.
- [092] The NOR document set out the alternative options considered.³² These included do nothing; four stormwater management location options;³³ co-location of road and stormwater following overland flow paths; and the proposed road and shared pathway. The 'do nothing' option was understandably discounted as it would make it very difficult for the Council to achieve the coordinated and efficient provision of key infrastructure.
- [093] After assessing these alternatives, the one presented in the NOR was selected because the proposed co-location of stormwater management (either piped or swale) with the road, (following some land re-contouring to ensure that the stormwater flows into the swale), was the only option that allowed for a gravity system to function effectively. A gravity system requires the smallest area of land to be taken. The volume and flow required to be conveyed by the proposed stormwater network (at 8m³/second) is too large to be economically pumped.
- [094] The alignment of the road designation avoids as far as possible existing dwellings or structures, minimises the number of affected landowners, maximises the use of land already owned by the Council and facilitates sensible site development layouts.
- [095] Counsel for the O'Keeffe submitters suggested that a viable alternative to the proposed NOR had not been considered. Namely, a "cul de sac" option that has a short road from Fox Road terminating at the northern side of the O'Keeffe property and another short road from Fitzherbert Avenue terminating at the southern side of the O'Keeffe property. That is not a reasonable alternative option in our view as it does not provide essential north-south connectivity through the proposed new residential area. We discuss this further in section 6.5 of this Recommendation Report.
- [096] We are satisfied that the Council's approach and process to identifying, assessing and evaluating alternative sites, routes or methods of undertaking the work has been robust and that the Council has given adequate consideration to those alternatives.

6.3 Section 168A(3)(c)

- [097] Under s168A(3)(c) we must have particular regard as to whether the work and designation are reasonably necessary for achieving the objectives of the Council for which the designation is sought. The NOR³⁴ set out those multifaceted objectives as follows:
- *To enable the construction, operation and maintenance of an arterial road and stormwater management network across multiple land parcels in a coordinated and timely matter, which will:*
 - *Ensure the stormwater network required to service the Structure Plan area is established early in the timeline for development of the wider area.*

³¹ EIC den Ouden, paragraph 45

³² Section 4.2.

³³ Follow overland flow paths, adjacent to Mosston Road, Partially via Springvale Road and Churton Creek, and co-location with a new central road and direct flow to a swale and pipe networks.

³⁴ Section 3.

-
- *Enable residential development to progressively occur within the Structure Plan area without risks associated with ad hoc development and consideration of the varied development timelines and objectives of landowners.*
 - *Provide certainty for developers that development can proceed in the Structure Plan area as the necessary area wide infrastructure elements will be provided by WDC in a timely manner.*
 - *Facilitate regional growth and meet the future needs of a growing population*
 - *Increase the attractiveness of cycling and walking along shared pathway routes*
 - *Ensure safe, reliable and secure access on the road network for road users.*
 - *To provide network infrastructure for further development of Springvale that meets the requirement of the Local Government Act 2002*

[098] We are satisfied that the designation and the proposed central stormwater network, road and shared pathway that it will accommodate are both reasonably necessary to achieve the above objectives.

6.4 Effects on the environment and submitter issues

[099] Section 168A(3) requires us to consider the effects on the environment of allowing the requirement, having regard to the matters canvassed in sections 6.1 to 6.3 of this Recommendation Report. The NOR³⁵ assessed effects on traffic and connectivity, landscape and visual amenity, cultural, ecology and stormwater. It also assessed construction effects (from building the road and associated stormwater conduit and shared path) and positive effects.

[100] We have carefully read that assessment of effects and have considered it in light of submissions received. The NOR concluded that the proposed stormwater network, road and shared pathway will give rise to a number of positive social and economic effects, whilst having no significant adverse effects on the environment. Those same matters were also addressed by the NOR section 42A Report author.³⁶

[101] Specific matters raised by the submitters³⁷ were also addressed by the NOR section 42A Report author.³⁸ We note from the author's assessment that:

- A NOR condition regarding a post-construction review of the designation width is now recommended. This will require the Council (as requiring authority) to identify any areas of designated land that are no longer necessary for the on-going operation or maintenance of the stormwater and roading network; or for on-going mitigation, offsetting, or compensation measures required to address adverse effects of the Project, and to thereafter give notice to the Council in accordance with section 182 of the RMA that those parts of the designation identified in (ii) above are no longer wanted. We note that to be a fairly routine imposition on a NOR and find it to be appropriate in this case;
- Matters of compensation are beyond the scope of this hearing process;
- The proposed Designation is 30m wide and notified Appendix J to the District Plan shows that;
- North-south transport connectivity between Fox Road and Fitzherbert Avenue is a critical element of the Structure Plan and is the preferred planning outcome and so it is not appropriate to omit the roading designation though the O'Keeffe property.

[102] The Combined Hapu sought³⁹ that the NOR be amended so that the stormwater swale is open for its entire course through Springvale, excluding where it passes underneath roads where it would be piped.

³⁵ Section 8.

³⁶ Section 19 of the combined Section 42A Report, pages 39 to 46.

³⁷ Lance Attrill, Craig Moffitt, Ryan Carter and Nadia Ballantine, Mr and Mrs O'Keeffe.

³⁸ Ibid, section 19.8, pages 46 and 47.

³⁹ EIC den Ouden, paragraph 47.

We understand from the evidence⁴⁰ that relying on a solely above ground stormwater swale is simply not feasible as due to the nature of the topography it would need to be in excess of 100m wide in places.

- [103] The Combined Hapu also sought the treatment of stormwater before it discharges into the Whanganui River.⁴¹ Our understanding is that the Proposed Stormwater Detention Area shown on the PC53 Structure Plan map will enable stormwater contaminants (particularly those attached to sediments) to settle out prior to the stormwater being discharged to the existing WDC reticulated stormwater system. The Proposed Stormwater Detention Area is in essence a massive vegetated stormwater settling pond. As noted by Mr Woods, there is an existing resource consent in place for the Whanganui District Council to discharge Stormwater to the Whanganui River and the Council is complying with the conditions of that consent. While appreciating the concerns of the Combined Hapu, we are not persuaded on the evidence that any further treatment of stormwater is required, particularly as stormwater from the residential sections will be disposed of in on-site soak pits.
- [104] At the hearing it was clear that there was some confusion regarding whether or not the NOR for the stormwater swale and shared pathway south of Fitzherbert Avenue included a road. We were advised by Council officers that it did not and so we recommend that the eventual notation of the designation on the District Plan maps clearly shows that there is no road proposed in that southern part of the designation.

6.4.1 Conclusion on effects

- [105] The NOR Section 42A Officers Report author concluded:⁴²

“The project will provide for improved local access to the Springvale area generally and will provide network infrastructure for the Structure Plan development area that meets the requirement of the Local Government Act 2002. The project has a raft of wider benefits including providing for regional growth, meeting the future needs of a growing population, improved drainage and reduced occurrences of flooding on neighbouring properties and increasing the attractiveness of cycling and walking along shared pathway routes.”

- [106] Having carefully considered the submissions and the evidence of the participants we agree with the author's conclusion. On the evidence we find that the effects on the environment of allowing the requirement are either positive or not sufficiently adverse so as to weigh against recommending confirmation of the NOR. We consider that potential adverse effects can be adequately avoided or mitigated by conditions imposed on the designation.

6.5 Part 2 matters

- [107] The Court of Appeal has released its judgment on *RJ Davidson Family Trust v Marlborough District Council*. The judgment clarifies the application of Part 2 of the RMA when considering resource consent applications. In short, in *Davidson*, the Court of Appeal determined that:
- Notwithstanding *King Salmon*, RMA decision-makers should usually consider Part 2 when making decisions on resource consents (that is the implication of the words “*subject to Part 2*” in section 104);
 - However, where the relevant plan provisions have clearly given effect to Part 2, there may be no need to do so as it “*would not add anything to the evaluative exercise*”. It would be inconsistent with the scheme of the RMA to override those plan provisions through recourse to Part 2. In other words, “*genuine consideration and application of relevant plan considerations may leave little room for Part 2 to influence the outcome*”.
- [108] We understand the above approach to be equally applicable to a NOR., and so particularly in light of the High Court's Basin Bridge decision, given the contemporary nature of the Horizons One Plan 2014 and

⁴⁰ Particularly that of Mr Woods and Mr Attrill.

⁴¹ EIC den Ouden, paragraph 47.

⁴² Ibid, paragraph 19.9.2, page 47.

the Wanganui District Plan 2018, we are satisfied that those plans adequately address Part 2 matters and so we would not normally address them here.

- [109] However, counsel for the O’Keeffe submitters suggested that PC53 “... *does not meet the requirements of [RMA] s5 in that it fails to manage the use and development of the land affected at a rate (my emphasis added) which enables those private property owners affected to provide for their social and economic wellbeing. Nor does it sustain the physical resources (ie the land) to meet the reasonably foreseeable needs of future generations because it may render inaccessible and unusable significant areas of land for residential development otherwise envisaged by PC53 while failing to avoid, remedy or mitigate adverse effects on the environment (as that term is defined in s2. Further, the NOR fails to have particular regard to sections 7(aa), (b), (c) and (d).*”⁴³
- [110] We are not persuaded by counsel’s submissions. As we have noted earlier, the effect of the NOR on the O’Keeffe property is to sever the rear portion of their section from the front part on which their house is located. The severance will be caused by a 30m wide designation for a proposed road and stormwater swale. In terms of the O’Keeffe’s social wellbeing, we have already discussed the effect of the new road and found it to be acceptable in the circumstances.⁴⁴ We did not receive any evidence regarding the effect of the proposed designation on the O’Keeffe’s economic wellbeing. On the other hand, we received evidence from the Council that the provision of a new road from Fox Road to Fitzherbert Avenue is essential to provide north-south connectivity and the social wellbeing of the occupiers of the residential development that will be occasioned by the NOR.
- [111] We understand from plans tabled by the O’Keeffe’s that the severed rear portion of their property will be in excess of 5,500m² and if that is the case it would be readily sub-dividable into a number of residential sections.⁴⁵ That severed rear portion would be accessible from the proposed new road. Accordingly, we fail to see how, in the context of the O’Keeffe property, the NOR “... *may render inaccessible and unusable significant areas of land for residential development otherwise envisaged by PC53.*”
- [112] Counsel also raised ss7(aa), (b), (c) and (d). In that regard we received no evidence on stewardship matters; we find that the NOR will result in the efficient use and development of natural and physical resources by enabling essential roading and stormwater infrastructure in the PC53 Structure Plan area, thereby catering for a demonstrable demand for residential growth in Whanganui in an environmental appropriate manner; we note that the proposed new road will adversely affect the private amenity currently enjoyed by the O’Keeffe’s, but the positive public effects of providing north-south connectivity within the rezoned area outweigh that adverse effect; and while the proposed new road and stormwater swale will require the removal of some existing exotic vegetation on the O’Keeffe property⁴⁶, we do not find that to be an effect of such significance as to weigh against recommending the confirmation of the NOR.

6.6 NOR Conditions

- [113] The NOR⁴⁷ contained a suite of recommended conditions. The Council’s Section 42A Officers Report author recommended that the NOR be confirmed subject to the imposition of conditions.⁴⁸ The eight conditions deal with (amongst other things):
- a requirement for a detailed design report and drawing;
 - a construction management plan;
 - adherence to the NZS6803:1999 Acoustics - Construction Noise limits;

⁴³ Plan Change 53 of the Whanganui District Plan and Proposed Designation, Supplementary Submissions for Robert and Linda O’Keeffe, Brookfields Lawyers, paragraphs 5 and 6.

⁴⁴ See section 4.1.5 of this Report.

⁴⁵ The minimum lot size is 400m².

⁴⁶ From our site visit we understand that to be mature gum trees.

⁴⁷ Section 14.

⁴⁸ The recommended conditions comprised Appendix 9 of the combined Section 42A report.

- an accidental discovery protocol;
- a post-construction review of the designation width and the relinquishment of any designation no longer required; and
- a Landscape Management Plan

[114] At the hearing Ms Verhoek advised that she wished to make no amendments to the original recommendations contained in the combined Section 42A Officers Report. We find the recommended NOR conditions to be appropriate.

7 Recommendation on the Notice of Requirement

[115] Having considered all of the above matters we recommend that pursuant to section 168A(4) of the RMA the Council should confirm the requirement and impose the conditions set out in Appendix 9 of the Section 42A Officers Report dated 17 December 2019.

[116] We also recommend that the Structure Plan map that will form Appendix J of the Whanganui District Plan be amended to omit the designation corridor. As noted earlier, we understand that the designation corridor will instead be shown on the District plan maps as is the case with other designations.

Signed by the commissioners:



Rob van Voorthuysen (Chair)



Miria Pomare

Dated: 14 February 2020

Appendix 1 – Recommendations on Submissions on PC53

In addition to 12 primary submissions the Whanganui District Council received one valid further submission⁴⁹ in support of, or opposition to, a primary submission. We recommend that the Further Submissions are accepted or rejected according to our recommendations for accepting or rejecting the corresponding primary submission points. The Summary Reasons in the Table below should be read in conjunction with the fuller reasons set out in the body of this Report.

No.	Submitter name	Recommendation	Summary Reason
1 9 10	Kylie Harris David and Jacque Flintoff Marion Rainforth	Reject	These are not submissions “on” PC53 and so there is no scope to consider the relief sought. See also Sections 4.1.1 and 4.1.2 of this Report.
2	Ryan Carter and Nadia Ballantine	Reject	Restricting access to Mosston Road is appropriate for the reasons set out in the Section 32 Report, the Section 42A Report, Appendix 3 to the Section 42A Report and the traffic assessment of Matthew Evis (Appendix 5A of the Section 42A Report), particularly sections 2.15 to 2.17 of the Evis Report.
3	Craig Moffit	Accept in part	Providing the park is appropriate in terms of future amenity values. Compensation is a Public Works act matter outside the scope of the Plan Change process.
4 7	Roland Hiri Horizons Regional Council	Accept	Progressing PC53 as notified is appropriate for the reasons set out in the Section 32 Report and the Section 42A Report.
5	Geoff Bonner	Reject	The proposed District Plan provisions should not result in adverse reverse sensitivity effects on Extol engineering, Hayman industries, Todd Augers and equipment, MTS projects or Holland engineering for the reason set out in the Section 42A Report, Appendix 3 to the Section 42A Report and the acoustic assessment of Malcolm Hunt Associates (Appendix 5D to the Section 42A Report).
6	First Gas Limited	Accept	It is appropriate that existing gas pipeline is protected and enabled. See also Section 4.1.4 of this Report.
8	Ministry of Education	Accept in part	This is a neutral submission that does not seek any amendments to PC53 as notified. The Ministry seeks ongoing engagement with the Council which we understand will occur.
11	Robert and Linda O’Keeffe	Reject	For the reasons set in the Section 32 Report and the Section 42A Report it is not feasible to have underground drainage only from Fox Road to a cul de sac at Mosston Road. A shared pathway along Mosston Road is not appropriate for the reasons set out in the Section 42A Report, Appendix 3 to the Section 42A report and the traffic assessment of Matthew Evis (Appendix 5A of the Section 42A Report), particularly Appendix A of the Evis Report discussing safety and attractiveness matters. See also Section 4.1.5 of this Report.

⁴⁹ Craig Moffit who has an interest greater than the general public as the roading designation traverses his property.

No.	Submitter name	Recommendation	Summary Reason
12	Te Kaahui o Rauru & Te Runanga O Tupoho	Accept in part	<p>The original one-page submission sought no specific amendments to PC53. Submissions on a plan change must be in the prescribed form. The form requires a submitter to give details of the specific provisions of the plan change that the submission relates to, and to give precise details of the decision which the submitter seeks from the local authority (RMA, Schedule 1, clause 6(5) and Form 5 of the Resource Management (Forms, Fees and Procedure) Regulations 2003. The original submission did not comply with those requirements and so it is arguably “out of scope” in terms of amendments that we might otherwise recommend to PC53. Nevertheless, we note that in terms of the more tangible ‘concerns’ expressed in the original submission:</p> <ul style="list-style-type: none"> ▪ Regarding the CIA prepared by the Springvale Whenua Development Combined Hapū, Appendix 3A of the Section 42A Report appropriately and comprehensively sets out how PC53 responds to and implements the Recommendations in Section 17 of the CIA. ▪ No stormwater or wastewater will flow into Titoki wetland. ▪ Koiwi discovery protocols are followed by the Council at subdivision and land disturbance phases of a residential development. ▪ PC53 does not establish road names. <p>Regarding the detailed relief sought in the evidence of Hester den Ouden we note that the relief was not sought in the original submission. We conclude that the amendments she sought do not fall fairly and reasonably within the ambit of the original submission and so they are outside the scope of amendments that we can legitimately consider.</p> <p>See also Section 4.1.3 of this Report.</p>

Appendix 2: Recommended Appendix J to the District Plan

