

Second Interim Decision:
SCHEDULE OF SUMMARY OF FINDINGS AND AMENDMENTS
to the Platinum Version of North Shore City District Plan Proposed Plan Change 6 –
Long Bay Structure Plan Stage 2 (Rebuttal Version, 2 November 2009)

Subject	Determination	Paragraph
1. Visibility of houses (LB2 zone) from Grannys Bay and Homestead Spur	<ol style="list-style-type: none"> 1. Viewpoints 1, 3 and 4 are retained subject to the exclusion of buildings on sites north of the Vaughans Road extension as viewed from VP1. 2. Policy 17B.1.4.1(1) is to be amended to more accurately reflect the development pattern resulting from shifting the location of Vaughans Road extension 3. The references to Piripiri Reserve in objective 17B.1.2.3(ii) and in policies 17B.1.3.1(13), 17B.1.4.1(3) and 17B.1.4.1.(5)(d) are retained. 4. Viewpoint 2 is deleted. 5. The Ridgeline Height Control and Spot Heights shown in the platinum version at Appendix 11B are confirmed. The ridgeline does not have to be raised 3.5m in the vicinity of Viewpoint 1. 6. Leave is granted the council in consultation with other parties to prepare and submit for the Court's approval consequential amendments to policy 17B.1.4.1(3) and rules 17B.3.3.4(b)(i) and 17B.3.8.2.3(b), and any other related provisions. 7. Subject to consequential amendments resulting from the preceding findings, confirm the platinum version of: <ol style="list-style-type: none"> a. rule 17B.3.3.1 b. rule 17B.3.3.4(b) c. rule 17B.3.8.2.3(b) d. rule 17B.4.3.1 e. rule 17B.4.4.4(a) f. rules 17B.4.1.1 and 17B.4.4 g. rules 17B.5.1(e)(i) and (ii) h. rule 17B.4.6.3(m) and (p) i. rule 17B.4.5.4(d) 	<p>[59], [63] and [74]</p> <p>[12(1)]</p> <p>[59]</p> <p>[60]</p> <p>[63]</p> <p>[63]</p> <p>[74], [75] and [82]</p>

	<p>j. rule 17B.5.3.2 k. Table 17B.5: LB Structure Plan Activities (4th row): for LB 2 zone</p> <p>8. Confirm the platinum version of rule 17B.4.6.3(m). [76]</p> <p>9. Amend rules 17B.3.3.4(b)(i), 17B4.4.4.4 and 17B4.4.4.5 to accord with the Landco memorandum and with consequential amendments to policies 17B.1.3.1(13) and 17B.1.4.1(5). Leave is granted for further revisions to be submitted. [83]</p> <p>10. Confirm platinum version of rule 17B.4.1 subject to minor amendments to 17B.4.1.1(b). [83] and [84]</p> <p>11. Leave is granted the Council in consultation with the parties to review and submit a revised wording for the first limb of rule 17B.4.4.4.5. [86]</p> <p>12. All relief relating to GPS’s PIVCA provisions is declined. [87] [88]</p> <p>13. Inclusion of a 0.5m tolerance factor in rule 17B.3.3.4(b)(i) is confirmed. [90]</p> <p>14. Leave is granted the council to review and submit a revised wording for rule 17B.4.4.4.4(f).</p>	
2. Subdivision in the HPA (existing dwellings)	<p>1. No provision be made for the subdivision of the two existing dwellings zoned LB7 and subject to the Heritage Protection Area overlay. The platinum version of related provisions is confirmed. [121] and [127]</p>	
3. HPA subdivision for other purposes	<p>1. Policy 17B.1.4.3(7) in the platinum version is confirmed with the last sentence amended to read “<i>Owners of land not adjoining the HPA zoned LB7 in part may also be part owners of the Heritage Protection Area and members of the owners’ association</i>”. [157a]</p> <p>2. Rule 17B.4.4.4.6(c) in the platinum version is to be amended to give effect to the preceding policy amendment. [157b]</p>	

	<p>3. Rule 17B.4.5.9(2) in the platinum version is retained with sub-paragraph (c) deleted.</p> <p>4. The provisions in Table 17.4: Subdivision relevant to this subject are retained.</p> <p>5. Landco’s relief in respect of rule 17B.4.4.4.6 is granted to the limited extent that should the existing dwellings be subdivided for education and/or interpretive purposes their owners may be members of the owners’ association.</p> <p>6. The platinum version is amended to refer consistently to “<i>education and interpretive activities for the public</i>” and to “<i>public access</i>” wherever relevant. For example, in rule 17B.4.5.9(2)(a).</p>	<p>[157c]</p> <p>[157d]</p> <p>[157e]</p> <p>[157f]</p>
<p>4. Heritage Management Plan: Timing/Triggers/Interim Control/Notification.</p>	<p>1. The platinum version of rule 17B.4.4.4.6 is confirmed.</p> <p>2. The platinum version of rule 17B.4.1.2(c) is amended by adding an extra bullet that reads “<i>Information that confirms that no planting or structures of any sort will encroach beyond private lots in the LB7 zone into the HPA</i>”.</p> <p>3. The platinum version of rule 17B.3.3.4(c) is amended to require the Temporary Management Plan to also cover “<i>on-track vehicle use; the removal of native vegetation; and planting for farming purposes, including riparian margins</i>” and by amending the second sentence of the rule to read “<i>This plan shall provide for the fencing of the whole and, if appropriate, discrete parts of the Heritage Protection Area</i>”.</p> <p>4. The platinum version of rule 17B.3.7.4(f) is retained but re-worded to read “<i>In the case of the Temporary Management Plan for the Heritage Protection Area required by Rule 17B.3.3.4(c), an assessment by a suitably experienced and qualified archaeologist approved by the Council</i>”.</p> <p>5. Public notification of the Heritage Management Plan should not be required by a Structure Plan</p>	<p>[175]</p> <p>[176]</p> <p>[166] and [178]</p> <p>[179]</p> <p>[180]</p>

	<p>provision and in this respect the platinum version is confirmed.</p> <p>6. The platinum version of Table 17B.8: Activities should not be amended by providing for “<i>passive recreation</i>” and “<i>planting in accordance with an approved planting plan</i>” as permitted and discretionary activities respectively.</p>	[181]
5. Ongoing Compliance with Obligations for Protection and Management Areas	<p>1. Subject to specific amendments that follow, we confirm the platinum version of the interconnected rules that commence with Table 17.4: Subdivision (activity status) and include the introduction to rule 17B.4.4.4.6 (Awaruku precinct plan/LB7 subdivision), rule 17B.4.4.4.6(a) (HMP) and rule 17B.4.4.4.6(b) (HPA covenant).</p>	[194(a)]
	<p>2. Amend rule 17B.4.4.4.6(b) to have the Council expressly approve the form of the HPA covenant.</p>	[194(b)]
	<p>3. Confirm the platinum version of the last sentence of rule 17B.4.4.4.6(b).</p>	[194(d)]
	<p>4. Confirm the platinum version of rule 17B.4.4.4.6(b) subject to:</p> <p style="padding-left: 40px;">a. The first sentence being amended to read “<i>A covenant in perpetuity shall be created for the protection of the HPA prior to the granting of any application for subdivision or land use consent</i>”.</p>	[194(e)]
	<p>5. Confirm the Landco version of rule 17B.4.4.4.6(e) suitably edited, if necessary, to avoid any duplication and with the last sentence of the corresponding platinum rule added.</p>	[184, 2 nd bullet]
	<p>6. The second sentence of policy 17B.1.4.3(10) is amended to read “<i>Opportunities for public access across the HPA to provide a link between the beach and development in the Awaruku area should not be precluded by any protective covenant unless appropriate for the protection of the heritage resources</i>”.</p>	[194(c)]
	<p>7. Leave is granted the Council in consultation with the parties to prepare and submit revised text for</p>	[194(f)]

	<p>the platinum version of rule 17B.4.4.4.6(b), to include the following or similar <i>“As the covenant in perpetuity is of wider public benefit it is expected that any application to vary it would follow a public notification process”</i>.</p> <p>8. If not dealt with elsewhere in the structure plan, leave is granted the council in consultation with the parties to prepare and submit a revised wording that makes the variation of platinum version rule 17B.4.4.4.6 sub-paragraph (d) covenant/consent notice a discretionary activity. This may possibly be done by amending 17B.5.1(d) to cross reference with rules 17B.4.4.4.6(b) and (d).</p> <p>9. The platinum version of PIPA rule 17B.4.4.4.4 is confirmed subject to the words <i>“or similar mechanism”</i> being deleted from the introduction to sub-paragraph (f).</p> <p>10. The platinum version of HPA rule 17B.4.4.4.6(d) is confirmed subject to deletion of the words <i>“or similar mechanism”</i>.</p> <p>11. The timing for covenants, or like instruments, required by PIPA subdivision rule 17B.4.4.4.4 and PPPA subdivision rule 17B.4.4.4.5(b)(iv) is confirmed unchanged.</p> <p>12. If not dealt with elsewhere in the structure plan, leave is granted the council to prepare and submit in consultation with other parties an amendment to PPPA rule 17B.4.4.4.5 controlling overhead reticulation of utilities to the nominated building platform.</p>	<p>[194(f)]</p> <p>[195]</p> <p>[195]</p> <p>[197] and [200]</p> <p>[201(b)]</p>
<p>6. LB7 Zone development adjacent to the HPA</p>	<p>1. The following platinum version rules are confirmed:</p> <ul style="list-style-type: none"> a. Table 17B.10 and rule 17B.5.3.4(a) LB7 zone (not in HPA) rear yard of 3m. b. Outdoor living space rule 17B.5.4.2.1(a)(ii) for LB7 zone not in HPA. c. Rule 17B.4.1.2(c) subject to the addition of an additional bullet point <i>“Information that confirms that no planting or structures of</i> 	<p>[204]</p>

	<p><i>any sort will encroach beyond private lots in the Long Bay 7 zone into the Heritage Protection Area”.</i></p> <p>d. Rules 17B.5.3.11(b)(ii) and 17B.5.3.11(c). e. Rule 17B.3.8.2.4.</p> <p>2. The platinum version of Rule 17B.4.3.2 is confirmed subject to the following amendments:</p> <p>a. The introduction to sub-paragraph (a)(i) is to read “<i>Where the extent to which proposed subdivision boundaries do not coincide with the zone boundaries is minor, that is</i>”</p> <p>b. Making sub-paragraphs (a)(i) – (iii) conjunctive.</p> <p>Leave is granted the council to delete “clarify” and insert “stating” in the last paragraph of 17B.4.3.2(a).</p> <p>3. The platinum version of rule 17B.4.8.3.5(8)(a) is confirmed with the words “<i>..... such as road reserves terminating at the HPA boundary</i>” deleted.</p> <p>4. The platinum version of rule 17B.5.8.2.1 is to be amended by including the following provisions:</p> <p>“To the north of the Awaruku Ridge, where development is proposed opposite the termination of a public road that is orientated towards (perpendicular to) the Heritage Protection Area, the layout of the buildings should provide for a view shaft from such a road to continue through into the Heritage Protection Area where practicable and grades allow. In this case the landscaping within the relevant part of private lots in the LB7 zone shall be kept low and sympathetic with the landscape character of the Heritage Protection Area. Yards are to be maintained unencumbered by accessory structures that would block a view shaft”.</p> <p>“Continuous expanses of buildings</p>	<p>[205] and [206]</p> <p>[208]</p> <p>[210], [211] and [214]</p>
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	<p>should be limited to a maximum of 80 metres. The minimum separation distance between expanses of buildings should be 8 metres”.</p> <p>Leave is granted the council to include the provisions in the rule at locations it considers most appropriate.</p>	
	5. The platinum version of rule 17B.4.8.3.5.8(c) is confirmed.	[216]
	6. Table 17B.3 is to be amended by adding the words “including retaining walls on the LB7 boundary less than one metre high” at the end of the activity in the first row under the heading Heritage Protection Area.	[216]
	7. The platinum version of Table 17B.5 is confirmed as it applies to rules 17B.5.3.3 – 17B.3.9 and rules 17B.5.3.11 – 17B.5.3.14.	[217]
	8. The platinum version of Map 1 is to be amended by re-zoning the sliver of land north of the proposed new Regional Park access road and (now) outside the HPA from LB 7 to LB 6.	[220]
	9. The relief sought by the ARC and GPS for amended LB7 zone minimum lot sizes, minimum lot widths, a reduction in maximum building height, an increase in the side yard, and amended assessment criteria is not granted.	[221]
	10. The relief sought by the GPS for amended LB 7 zone building height limits south of Awaruku Ridge and controls on building colour and sheds is declined.	[221]
7. Stream Interfaces.	1. Confirm the Riparian Margins on Stream 2 tributaries (2) in the Heritage Protection Area as shown on the platinum version of Appendix 11B.	[226]
	2. Confirm the platinum version of rule 17B.4.1.2(c) which requires that a Heritage Management Plan include, amongst other things, “Details of any	[230]

	<p><i>planting including the planting of the margins of Stream 2”.</i></p> <p>3. The platinum version of policy 17B.1.4.2(5) is confirmed subject to:</p> <ol style="list-style-type: none"> a. Deletion of “space” from the first sentence. b. Deletion of 30% and insertion of 40% in the second sentence. <p>4. The platinum version of rule 17B.4.8.3.7(a)(ii) being amended to read “<i>Not more than 40% of the Glenvar Road extension frontage of the Long Bay 3 zone should be developed</i>”.</p> <p>5. The platinum version of rule 17B.4.8.3.7(a)(iv) is confirmed.</p> <p>6. Leave is granted to the council to illustrate rule 17B.4.8.3.7(a) drawing on Attachments 3 and 4 to Mr. de Graaf’s Supplementary Evidence.</p>	<p>[242]</p> <p>[243]</p> <p>[244]</p> <p>[244]</p>
8. Ashley Avenue Block Stream Protection A/B Line	<p>1. The location of the platinum version Appendix 11B Stream Protection A/B line in the Ashley Block is confirmed.</p>	<p>[259]</p>
9. Miscellaneous	<p>1. Leave is granted the council in consultation with other parties to submit any changes required to deal with the Piripiri Point Ridge nominated building platform being zoned Rural (ii).</p> <p>2. Failure to meet the SP’s development control rules for Information Requirements is confirmed as a discretionary activity.</p> <p>3. Subdivision rule 17B.4.6.3(c) Information Requirements - precinct plans is confirmed.</p> <p>4. Platinum rule 17B.4.6.2(e) (Subdivision Information Requirements: stormwater management) is confirmed.</p> <p>5. The Council is granted leave to submit proposals to the Court should the following directions on control flexibility for General Development controls create unintended inconsistencies.</p>	<p>[264]</p> <p>[270]</p> <p>[271]</p> <p>[272]</p> <p>[276]</p>

	<p>6. Platinum rule 17B.5.3.2 Control Flexibility (maximum height) is amended by adding after “LB 3 zone” the words “...by means of a limited discretionary activity application”.</p> <p>7. Platinum rule 17B.3.4 Control Flexibility (rear yards) is amended by inserting:</p> <p style="padding-left: 40px;"><u>“Rear Yards</u> Within the Long Bay 2 and 3 zones with the length of that part of the building infringing the yard to be no greater than 10 metres”.</p> <p>Leave is granted the council to make consequential amendments to the <i>Explanations and Reasons, Matters for Control and Assessment Criteria</i> if necessary to provide consistency.</p> <p>8. Platinum rule 17B.5.3.4: Table 10 Yards is amended by deleting the “****” identification and subsequent note. A consequential amendment is to be made to <i>Explanations and Reasons</i> to make the text consistent with the table and rule for the LB 3 zone.</p> <p>9. Platinum rule 17B.5.8.2.1(e)(iv) is retained with leave granted the council to make a submission to the Court on the building level and zones to which the Rule applies.</p> <p>10. Platinum rule 17B.5.3.5 (maximum building set back) is confirmed. Leave is granted the council to add an <i>Explanations and Reasons</i> section for the rule and/or a cross reference to rule 17B.5.4.3.3.</p> <p>11. Platinum rule 17B.5.3.8 (maximum building coverage) is confirmed as it applies to integrated housing in the LB2 zone. Control flexibility of up to 5% is to be provided in the LB3 zone for integrated housing.</p> <p>12. Platinum rule 17B.5.3.9 (building length control) is confirmed.</p> <p>13. Platinum policy 17B.1.5(9): Design of</p>	<p>[277]</p> <p>[281]</p> <p>[282]</p> <p>[283]</p> <p>[286] and [287]</p> <p>[290] and [292]</p> <p>[293]</p> <p>[295]</p>
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	<p>Development is amended by inserting the word “relevant” so that it reads:</p> <p><i>“Development proposals that wish to depart from the development standards set out in the Plan should be considered against all of the relevant provisions of the Plan”.</i></p> <p>14. Platinum rule 17B.5.2: Notification is not confirmed for lack of clarity in the relief sought. Leave is granted the parties to either settle the matter by consent.</p> <p>15. Platinum policy 17B.1.3.2(21) (integrated housing in LB 2/Stream protection Area B) is confirmed subject to sub-paragraph (c) being amended by council in consultation with Landco to provide design flexibility for integrated housing development directly fronting a reserve. Leave is granted Council to substitute “fronts” for “surrounds” in policy 17B.1.3.2(21)(a).</p> <p>16. In platinum Table 17B.8 (activity status in Protection Areas) the non-complying activity status of pastoral farming in Landscape Protection Area – Conservation and Riparian Margins is confirmed.</p> <p>17. The activity status of pastoral farming in Landscape Protection Area – Restoration is amended to non-complying, with leave granted for the council to make consequential amendments such as deletion of rule 17B.5.8.1.6.</p> <p>18. Platinum policy 17B.1.4.1(5)(b) is confirmed and leave granted the Council in consultation with Landco to consider whether:</p> <ul style="list-style-type: none"> - The Bulk Earthworks Footprint shown on Appendix 11B might appropriately be moved to the northern boundary of the SPA on Grannys Ridge recognizing that the Policy allows for “..... earthworks associated with the design of reconstructed Grannys Bay ridge”. - Consequential rule changes are required as a 	<p>[297]</p> <p>[299] and [300]</p> <p>[301]</p> <p>[304]</p> <p>[307]</p>
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	<p>result of the 5 October 2009 amendment to the Policy.</p> <ul style="list-style-type: none"> - The latter part of the Policy might better read “.....and <u>not</u> within the Long Bay Regional Park”. <p>19. The CMA boundary notation is removed from Appendix 11B and retained on Map 2.</p> <p>20. Platinum objective 17B.1.2.3(ii) is amended by deleting the words “<i>of the</i>” before Homestead Spur and inserting the words “<i>delineated by</i>”, but with the words “Piripiri Reserve” retained.</p> <p>21. Amend platinum 17B.2.1 Long Bay 1A Zone: Large lot Residential as directed.</p>	<p>[308]</p> <p>[309]</p> <p>[310]</p>
10. Approval of Consent Memoranda	<p>1. Amend platinum version to incorporate the schedules to the three proposed consent orders (Landco’s ‘Arrowhead’, Liu and Singleton).</p>	<p>[317]</p>