

Form 7

Notice of appeal to Environment Court against decision on proposed policy statement or plan or change or variation

Clause 14(1) of Schedule 1, Resource Management Act 1991
ENV-2024-WLG-000019 G Doherty v Wellington City Council

To the Registrar
Environment Court
Wellington

I, *Graeme Keith Doherty*, appeal part of a decision on the Wellington City Council's Proposed District Plan (PDP).

1. I made a further submission on the PDP (submission number 078). My verbal submission is yet to be heard.
2. I am not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
3. I am directly affected by an effect of the subject of the appeal that adversely affects the environment.
4. I received notice of the decision on 5th of April 2024.
5. The decision was made by Wellington City Council (Council).
6. The part of the decision that I am appealing against is:
 - The PDP is in Breach of Section 75(3)(a) of the Resource Management Act (RMA) by not giving effect to the National Policy Statement on Indigenous Biodiversity (NPSIB) to specific areas of land;
 - The PDP is in Breach of Section 75(3)(c) of the RMA by not giving effect to Wellington Regional Policy Statements (RPS) 23 and 24 to specific areas of land;
 - The PDP is in Breach of Section 30(1)(ga) of the RMA by being inconsistent with RPS 23 and 24 to specific areas of land.

SPECIFIC REASONS FOR APPEAL

7. Council's Planning and Environment Committee made a decision (Decision) on 27 June 2022¹ to not show significant natural areas on private property within the PDP.
8. The general area of land to which this appeal is made is shown in Annex I.
9. The specific areas of land (Properties) to which this appeal is made and where the SNAs were not shown in the PDP are:
 - 16 Patna Street;
 - 76 Silverstream Road;
 - 19 Thatcher Crescent;
 - 21 Thatcher Street;
 - 79 Heke Street;

¹[Minutes of Pūroro Āmua | Planning and Environment Committee - Thursday, 23 June 2022 \(wellington.govt.nz\)](#) page 12
Items 10 and 10B

- 83 Heke Street;
 - 11A/B Huntleigh Park Way
10. The Decision by Council's Planning and Environment Committee in June 2022 has effectively made significant natural areas on these properties 'invisible', which means that the significant indigenous vegetation on those properties is not identified.
 11. These properties contain significant natural areas, which have been identified in the Spatial Plan ([Map Builder | Adopted Spatial Plan 2021 \(arcgis.com\)](#)). Refer to Annex I for a screenshot of the SNA identified in the Spatial Plan that shows the presence of indigenous vegetation on said Properties, with a corresponding screenshot of the same Properties as shown in the PDP for comparison purposes. Annex I also provides photographs of the indigenous vegetation on said Properties.
 12. Section 3.9 of the NPSIB requires Territorial Authorities to identify SNAs in district plans.
 13. Identification of SNAs is to be in accordance with S3.8 of the NPSIB and without regard to property boundaries (S3.8.2.f of NPSIB).
 14. RPS 23 requires district and regional plans to identify indigenous ecosystems and habitats with significant indigenous biodiversity values.
 15. Council's Decision to not show SNAs on private property is a Breach of S75(3)(a) and S75(3)(c) of the RMA as Council has not given effect to NPSIB S3.9 and RPS 23 respectively.
 16. Council's Decision is a Breach of S75(4)(b) of the RMA as the PDP is inconsistent with the Regional Plan, which is a Breach of S30(1)(ga) of the RMA as Council has failed to establish and implement objectives, policies, and methods for maintaining indigenous biological diversity on those parts of the aforementioned Properties where indigenous vegetation is present but not shown in the PDP.
 17. Standard MRZ-S5 and HRZ-S5 in the PDP provides for a 50% maximum building net coverage of a site.
 18. Providing for buildings on land that is a SNA is inconsistent with RPS 24, which requires the protection of indigenous ecosystems and habitats and is therefore a Breach of S75(3)(c) of the RMA by not giving effect to a regional policy statement.
 19. Providing for buildings on land that is a SNA is inconsistent with S3.10.2 of the NPSIB, which requires the adverse effects of any new subdivision, use or development to be avoided and is therefore a Breach of S75(3)(a) of the RMA by not giving effect to a national policy statement.

Remedy

20. The remedy sought is for the Court to order Council to identify and establish significant natural areas on the Properties within the PDP in accordance with RPS 23 and S3.8 of the NPSIB.

Relevant Documents

21. The following documents are attached via reference to this Appeal:
 - (a) Wellington City Council's (Council) decision on the Proposed District Plan publicly notified by Council on the 5th of April 2024 [Home - Wellington City 2024 District Plan: Council Decisions Version](#)
 - (b) WCC Planning and Environment Committee Decision June 2022 to remove SNAs on Private land ([Minutes of Pūroro Āmua | Planning and Environment Committee - Thursday](#)).

[23 June 2022 \(wellington.govt.nz\)](https://www.wellington.govt.nz) page 12 Item 10B;

- (c) Spatial Plan for Wellington city [Map Builder | Adopted Spatial Plan 2021 \(arcgis.com\)](#)
- (d) National Policy Statement on Indigenous Biodiversity July 2023 [National Policy Statement for Indigenous Biodiversity | Ministry for the Environment](#).
- (e) Regional Policy Statement for the Wellington Region [RPS-Full-Documnet-Edited-December-2022-Updated.pdf \(gw.govt.nz\)](#)
- (f) Further submission 078 by Graeme Doherty [Further Submission 078 Graeme Doherty \(wellington.govt.nz\)](#)

22. The following persons are to be served a copy of this Notice:

- (a) Submitter 290 – Milcah Xkenjik (milcah@landmatters.nz) on behalf of Kilmarston Developments Limited and Kilmarston Properties Limited

Date: 30th of May 2024



Signature of appellant

Address for service of appellant: 8 Huntleigh Park Way, Ngaio, Wellington 6035

Telephone: 021 923 153

email: graemekdoherty@gmail.com

Contact person: Graeme Doherty

Advice to recipients of copy of notice of appeal

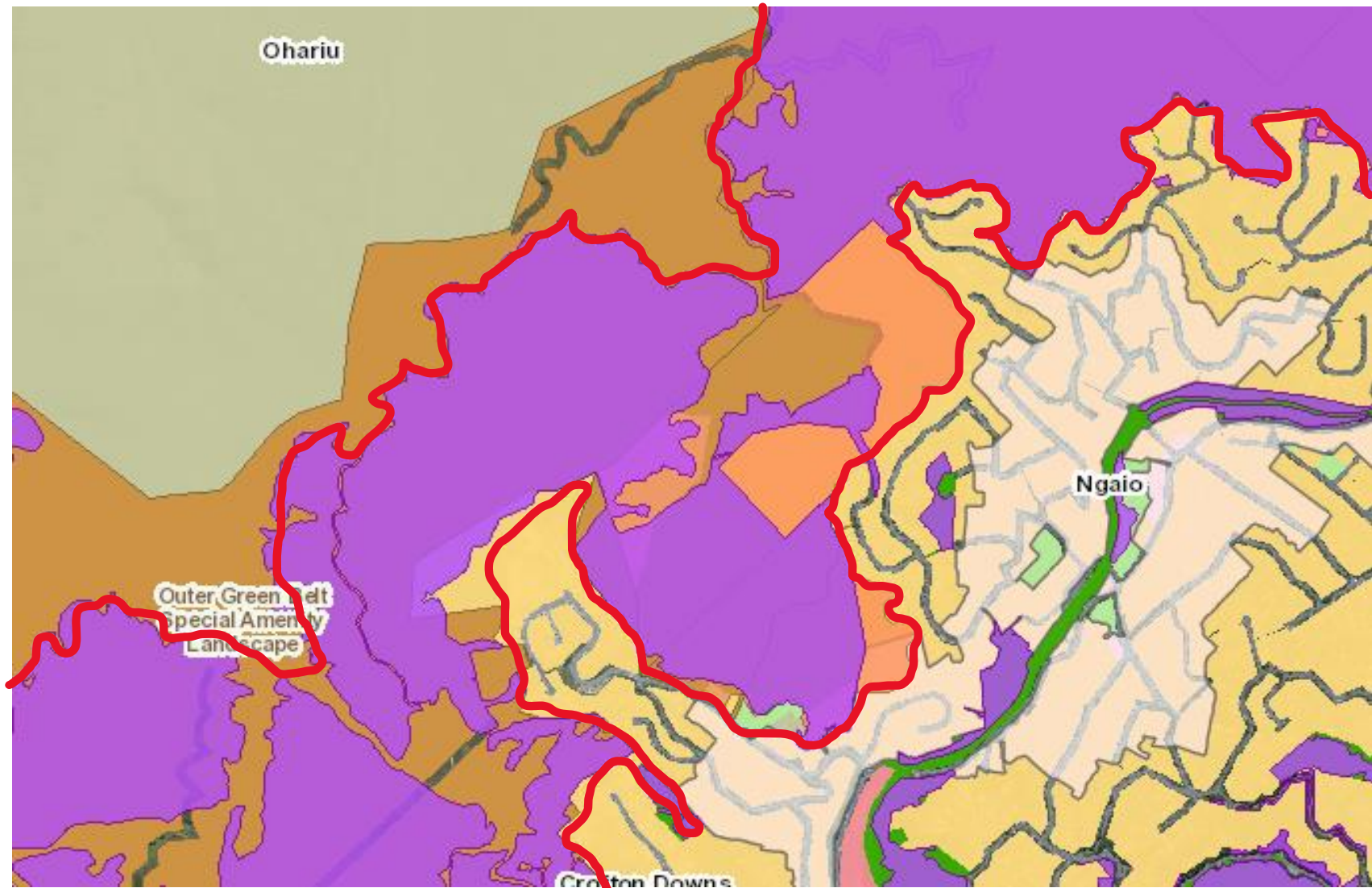
How to become a party to proceedings

1. You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.
2. To become a party to the appeal, you must:
 - (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
 - (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.
3. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.
4. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

ANNEX I



Hand drawn red line represents the general area of indigenous vegetation that qualifies as a SNA (NPSIB Sec 3.8) superimposed on PDP.



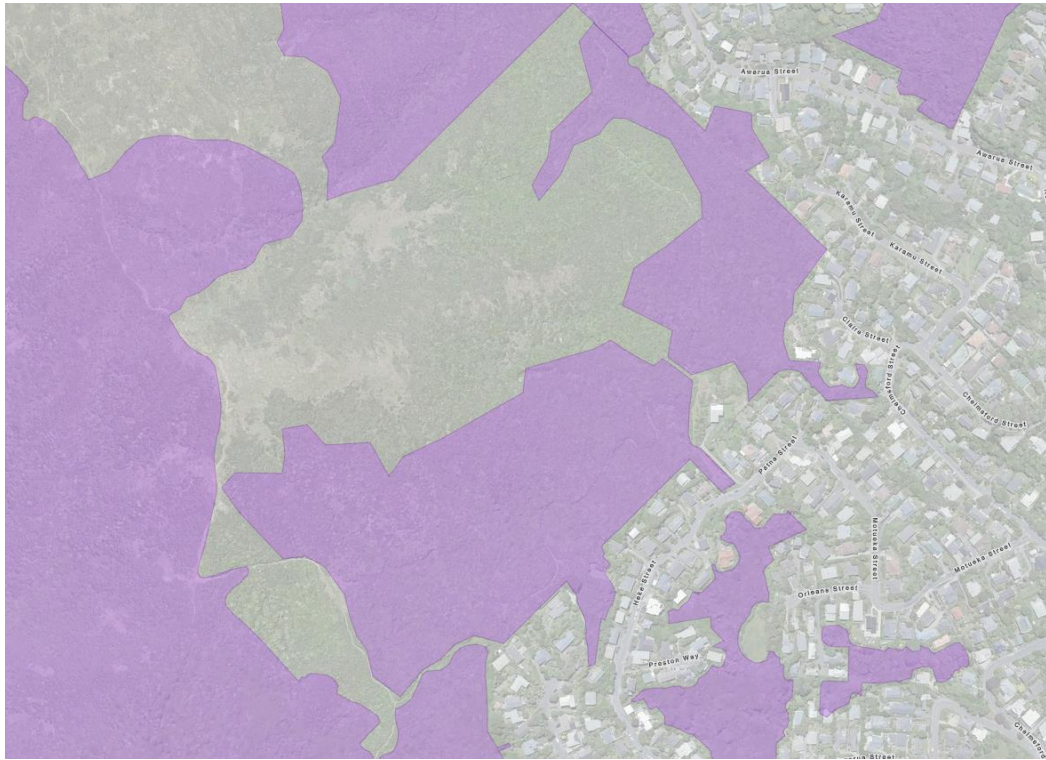
Looking north towards the indigenous forest of Huntleigh Park and covering Properties



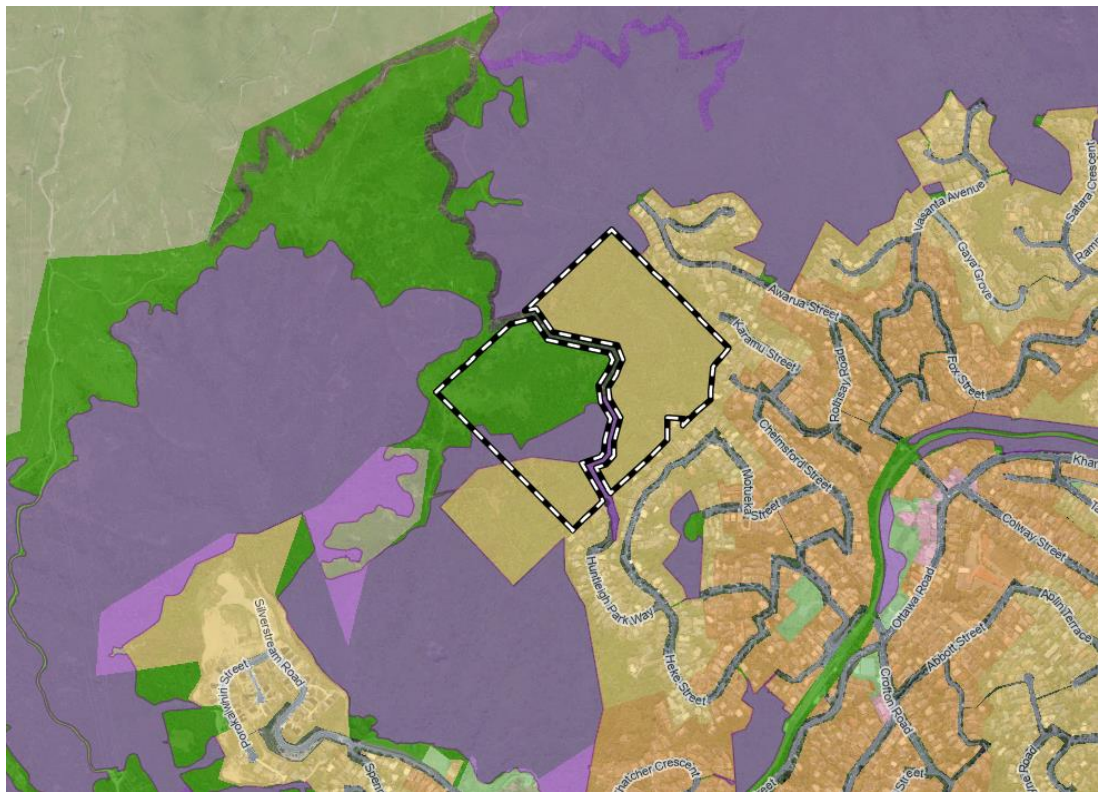
Same location as above but looking further to the west to show upper catchment area of Silverstream, a tributary to Kaiwharawhara Stream



Above Awarua Street looking towards 16 Patna Street



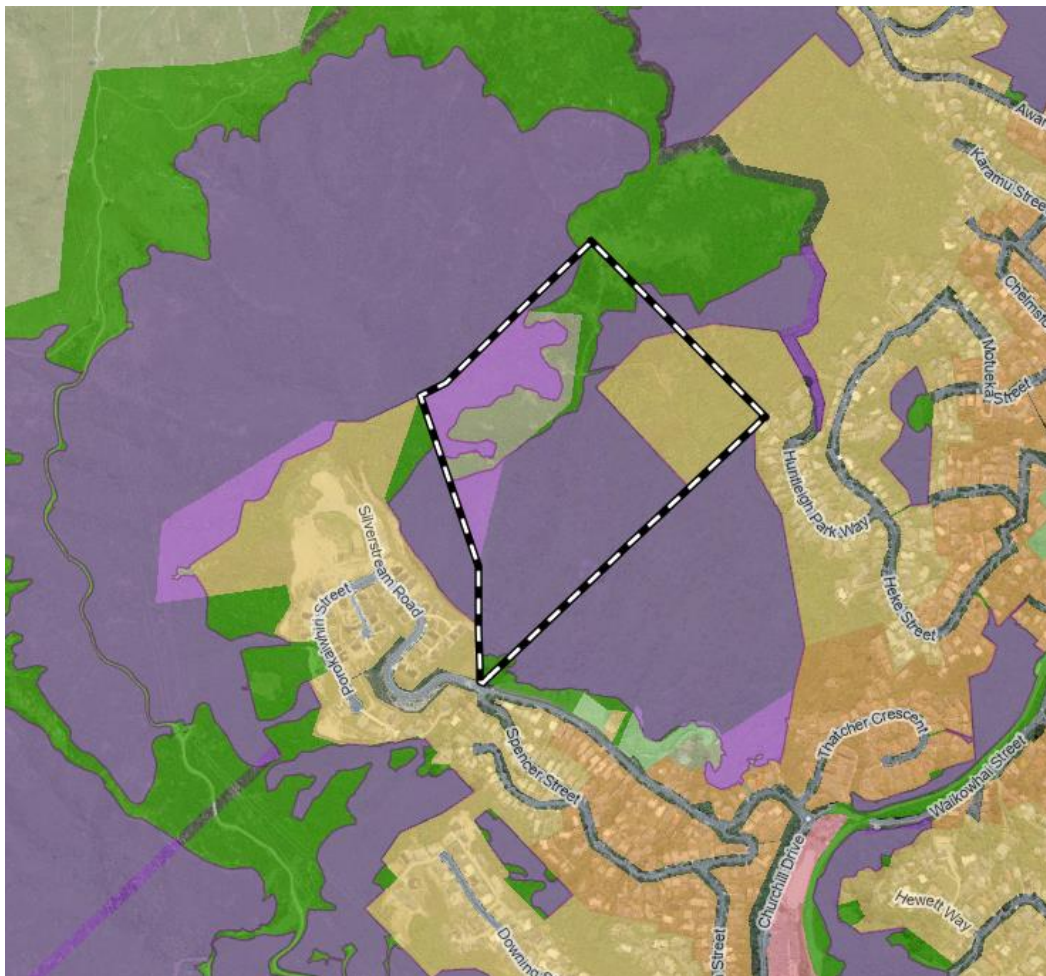
16 Patna Street with SNA overlay from Spatial Plan



16 Patna Street with MRZ overlay from PDP – reduced SNA



76 Silverstream Road with SNA overlay from Spatial Plan



76 Silverstream Road with MRZ overlay from PDP – reduced SNA



19 Thatcher Crescent with SNA overlay from Spatial Plan



19 Thatcher Crescent with HRZ overlay from PDP – no SNA present



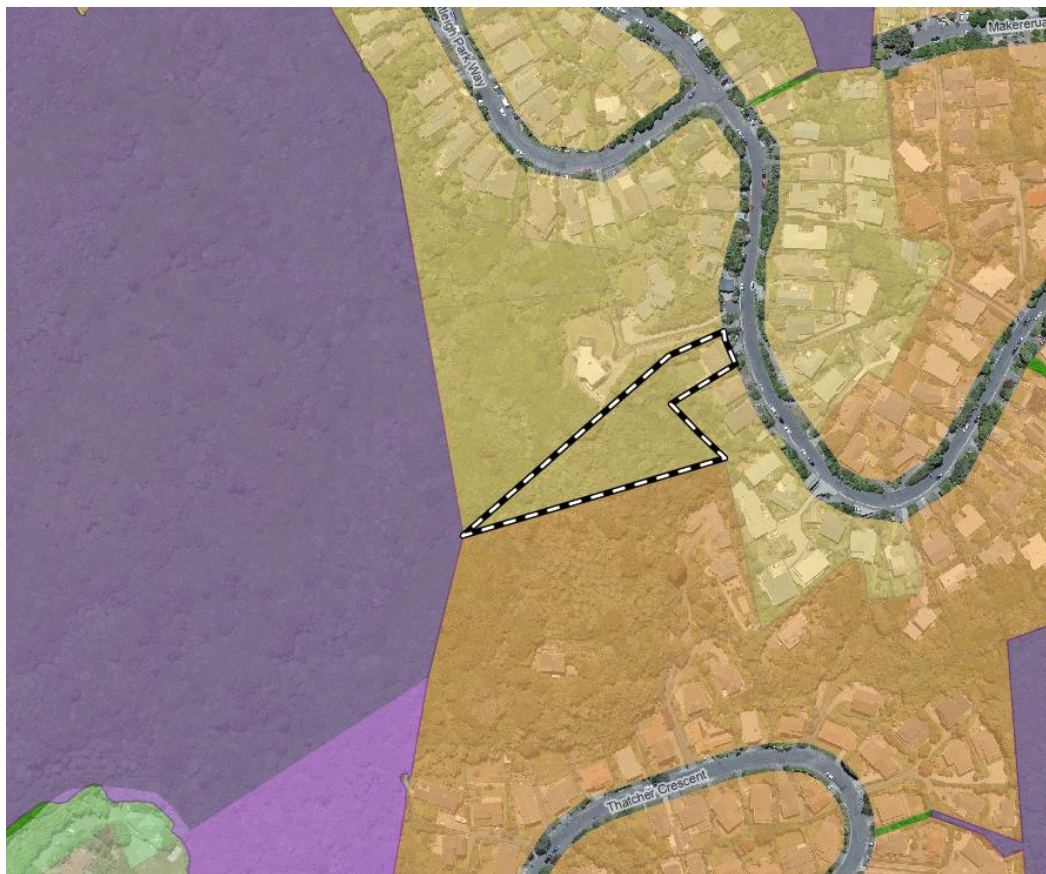
21 Thatcher Street with SNA overlay from Spatial Plan



21 Thatcher Street with HRZ overlay from PDP – no SNA present



79 Heke Street with SNA overlay from Spatial Plan



79 Heke Street with MRZ overlay from PDP – no SNA present



83 Heke Street with SNA overlay from Spatial Plan



83 Heke Street with MRZ overlay from PDP – no SNA present



11B Huntleigh Park Way with SNA overlay from Spatial Plan



11B Huntleigh Park Way with MRZ overlay from PDP – no SNA present