

IN THE ENVIRONMENT COURT
AT AUCKLAND

I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU

Decision [2023] NZEnvC 232

IN THE MATTER

of an appeal under clause 14 of the First
Schedule to the Resource Management
Act 1991

BETWEEN

CORDYLINE HOLDINGS LIMITED
(ENV-2023-AKL-046)

Appellant

AND

HAMILTON CITY COUNCIL

Respondent

Court: Environment Judge SM Tepania
Last case event: 23 August 2023

Date of Order: 31 October 2023

Date of Issue: 31 October 2023

CONSENT ORDER

A: Under s 279(1)(b) of the Resource Management Act 1991 (**RMA**), the
Environment Court, by consent, orders that:

- (1) Appendix 2: Structure Plans and Appendix 15: Transportation of PC5 are
amended in accordance with **Attachment A** to this order to show the true



location of the collector road referred to as Road A and the local road referred to as Road 06; and

- (2) The appeal is otherwise dismissed.

B: Under s 285 of the RMA, there is no order as to costs.

REASONS

Introduction

[1] This consent order concerns an appeal by Cordyline Holdings Limited (**the Appellant**) against the decisions of Hamilton City Council (**the Respondent**) on Proposed Plan Change 5 – Peacocke Structure Plan (**PC5**) to the Operative Hamilton City District Plan.

Background

[2] PC5 is a Council-led plan change pursuant to clause 2 of the First Schedule to the Resource Management Act 1991 (RMA) which proposes to replace the existing Peacocke Structure Plan with a new Peacocke Structure Plan and rezones approximately 690 hectares of land from General Residential Zone and Peacocke Special Character Zone to Medium Density Residential Zone, to enable the urbanisation of the Peacocke Growth Cell.

[3] The Appellant owns 17.3785 hectares of land comprised in Computer Freehold Register Identifier 628002, legally described as Lots 1, 6, 8-9 Deposited Plan 408579 and Lot 3 Deposited Plan South Auckland 45202 which is located in the Peacocke Structure Plan area.

Original submission and Decision

[4] The Appellant made a submission and a further submission on PC5. The submission sought amendments to PC5, including to the maps in Appendix 2:

Structure Plan, in particular, the deletion of collector roads and amendment to the structure plan maps to clarify that the transport network is indicative only, and any consequential or alternative amendments to give effect to the decisions sought.

[5] On 17 February 2023 an Independent Hearing Panel made a decision on PC5 which retained the indicative location of collector roads on the relevant structure plan maps.

Appeal

[6] The Appellant subsequently filed this appeal seeking changes to the maps in Appendix 2: Structure Plans to better reflect the actual location of the relevant roads.

[7] No other person has given notice of an intention to become a party to the appeal under s 274 of the RMA.

Agreement reached between the parties

[8] Since the appeal was filed, the parties have engaged in direct discussions and have reached an agreement on changes that will resolve the appeal and address the relief sought by the Appellant in its entirety.

[9] The agreed amendments to the District Plan are as follows:

- (a) In Appendix 2: Structure Plans, delete the indicative road and insert Road A on Figure 2-1, Figure 2-2 and Figure 2-3a and insert Road 06 on Figure 2-1 and Figure 2-2 as shown in the updated maps in Attachment A; and
- (b) In Appendix 15: Transportation, delete the indicative road and insert Road A on Figure 15-4e as shown in the updated maps in Attachment A, which is a consequential change to ensure consistency across the relevant maps that depict collector roads.

Section 32AA analysis

[10] Section 32AA of the RMA requires a further evaluation for any changes to a proposal since the initial s 32 evaluation report and the decision.

[11] The parties provided a s 32AA evaluation of the appropriateness of the agreed amendments. In summary, the parties consider that these amendments:

- (a) Are the most appropriate option for achieving the relevant objectives of PC5;
- (b) Are the most efficient and effective option as:
 - (i) By reflecting the true location of the roads, they improve the accuracy of the Structure Plan maps and provide greater certainty for Plan users;
 - (ii) They do not give rise to additional costs;
 - (iii) They simplify administration of the District Plan, including by reducing the time and cost of consenting by removing the need to demonstrate the correct location of the roads; and
- (c) Satisfy the concerns raised in the appeal.

Consideration

[12] In making this Order the Court has read and considered:

- (a) The notice of appeal dated 14 April 2023; and
- (b) The joint memorandum of the parties dated 23 August 2023.

[13] The Court is making this Order under s 279(1) of the Act, such Order being by consent, rather than representing a decision or determination on the merits. The Court understands for the present purposes that the parties to the proceedings:

- (a) Have executed the memorandum requesting this order; and
- (b) Are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction and conform to the relevant requirements and objectives of the Act, including, in particular, Part 2.

[14] The Court is satisfied that the changes sought are within the scope of the Appellant's submission and appeal.

Order

[15] The Court orders, by consent, that:

- (a) Appendix 2: Structure Plan and Appendix 15: Transportation of PC5 are amended as set out in **Attachment A** to this Order;
- (b) The appeal is otherwise dismissed; and
- (c) There is no order as to costs.



SM Tepania

Environment Judge



Attachment A

Figure 2-1: Peacocke Structure Plan – Land Use

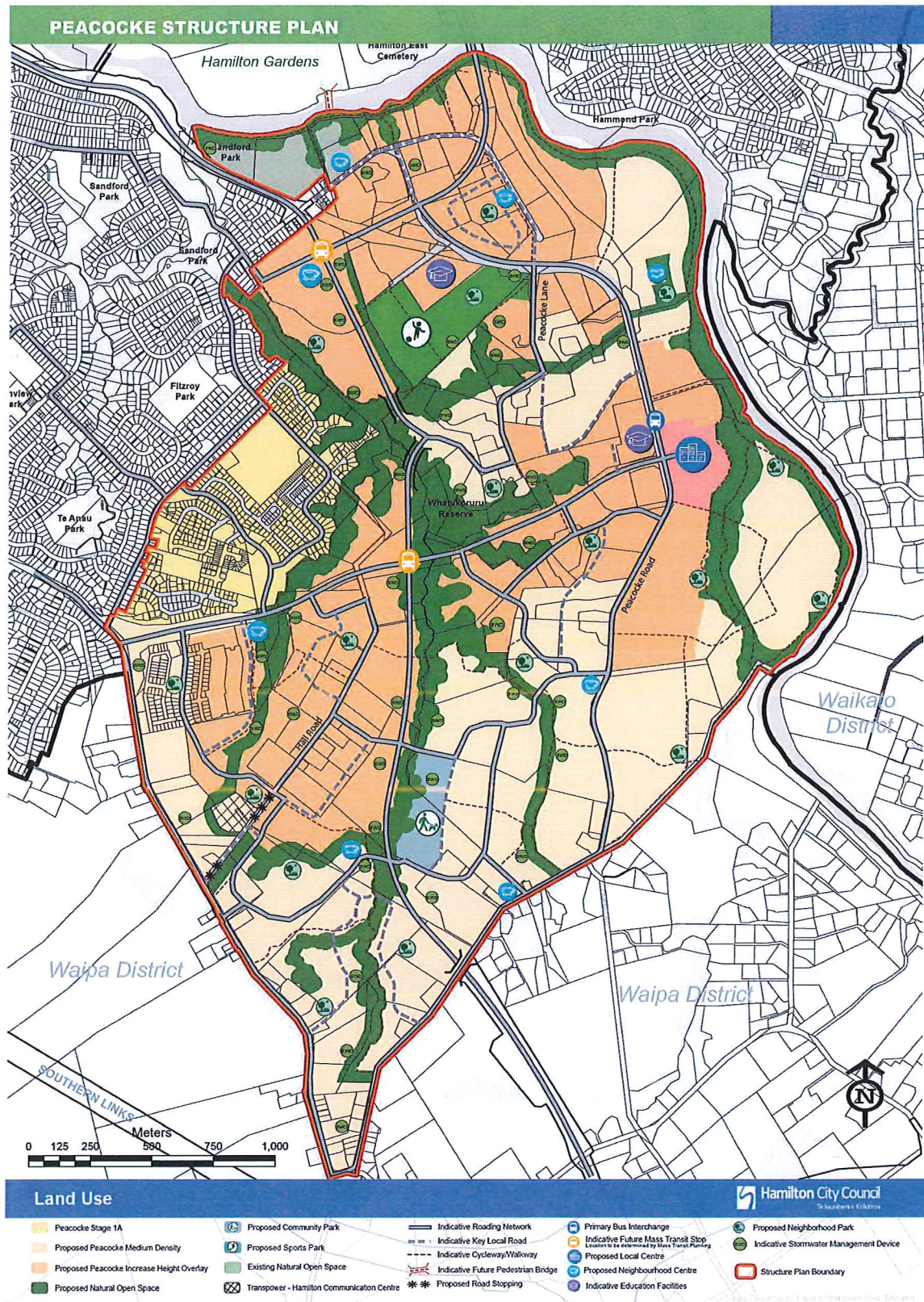


Figure 2-2: Peacocke Structure Plan - Transport Network

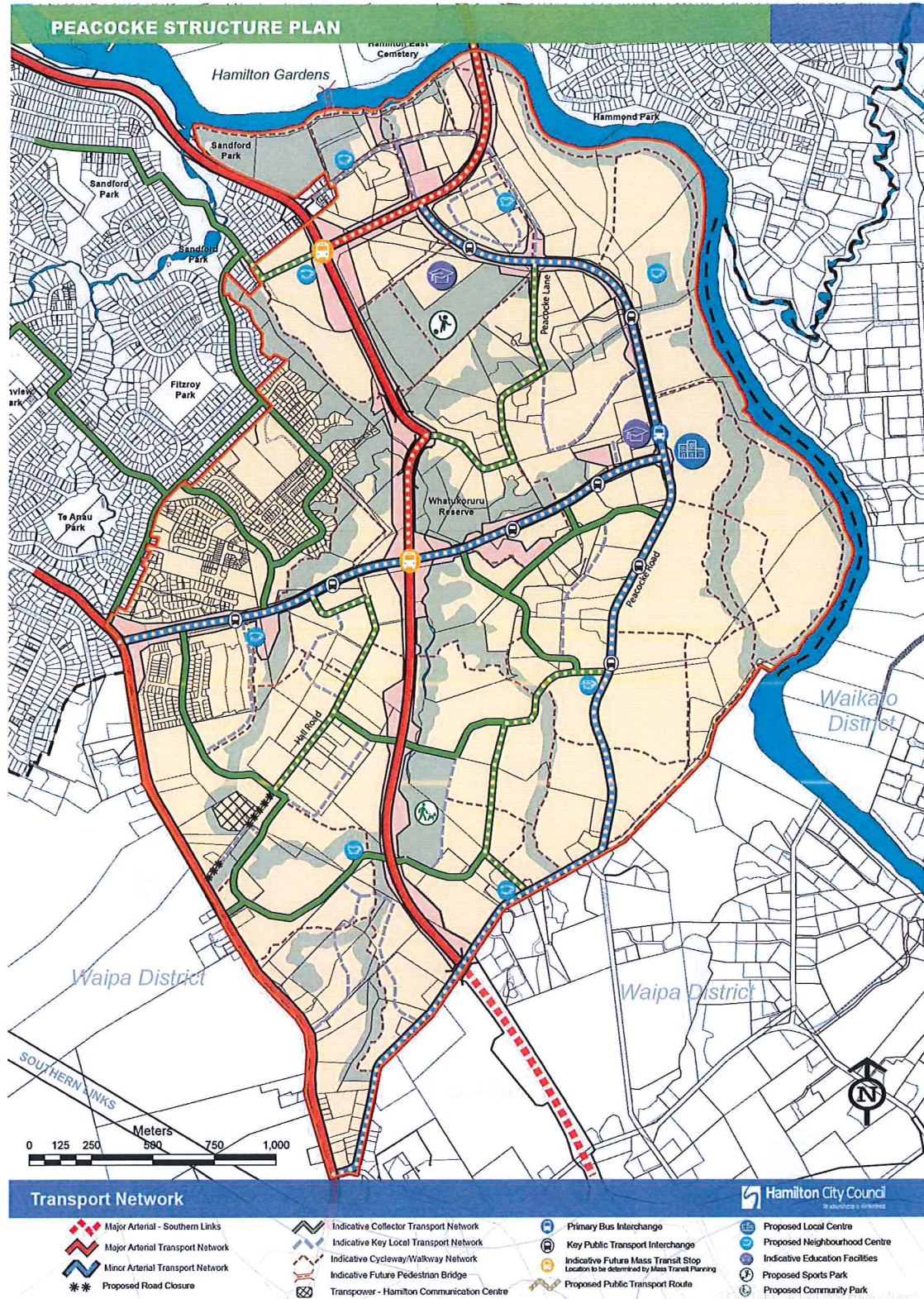


Figure 2-3a: Peacocke Structure Plan – Staging and Infrastructure

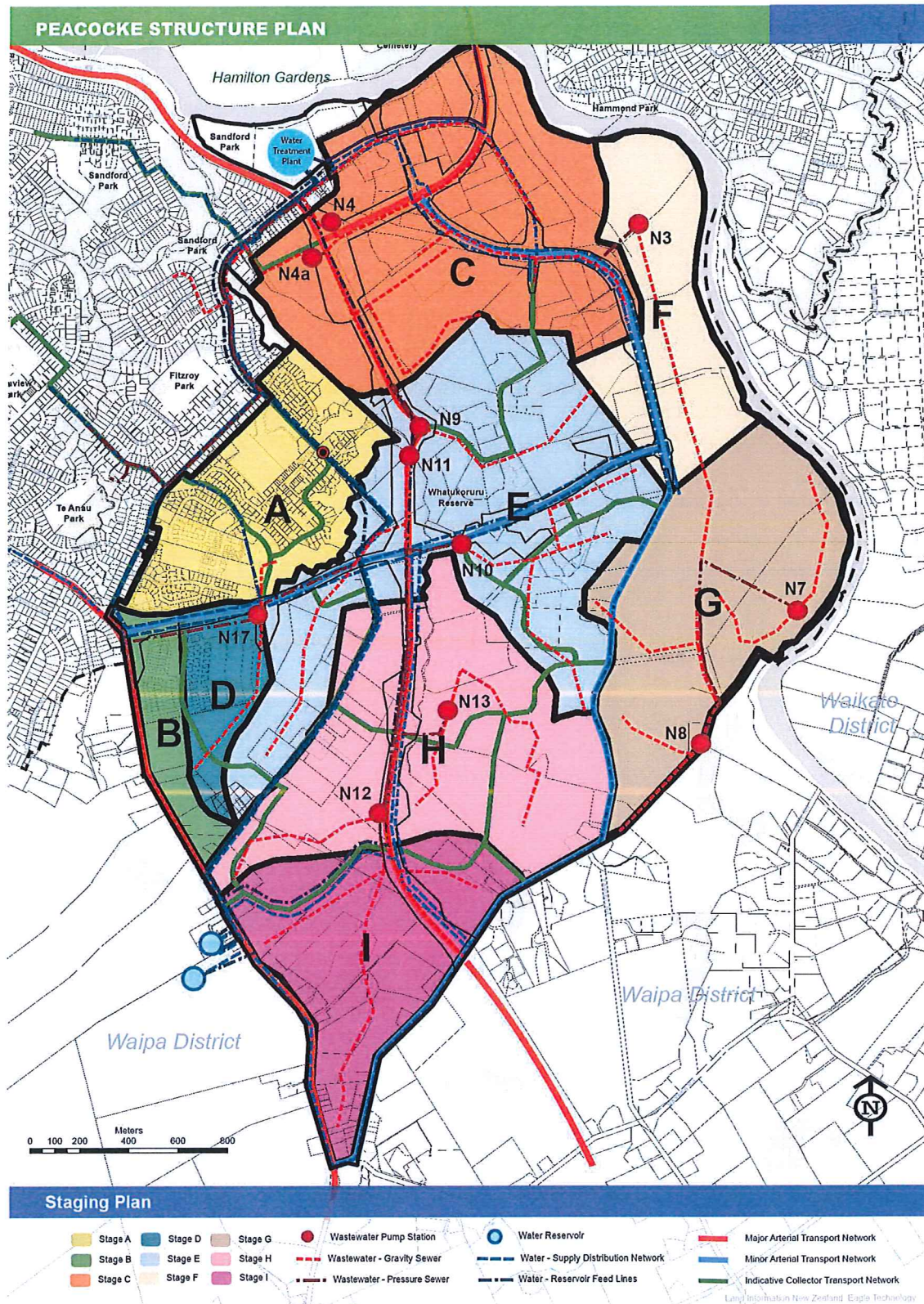


Figure 15-4e: Transport corridor hierarchy plan

