

# Decision following the hearing of a Plan Modification to the Auckland Unitary Plan under the Resource Management Act 1991



This decision is made pursuant to Clause 10 of Schedule 1 of the Resource Management Act 1991.

This Council-initiated Proposed Plan Change 16 – Improving consistency of provisions in Chapter H Zones and Chapter J Definitions of the Auckland Unitary Plan (Operative in part) is approved, other than as set out below.

<b>Plan modification number:</b>	Plan Change 16 ( <b>PC16</b> )
<b>Type of Plan Change:</b>	Council initiated
<b>Hearing dates:</b>	Thursday 20 June, 9.30am Friday 21 June, 9.30am Monday 24 June, 1.00pm, for the purpose of receiving the reporting team’s response
<b>Hearing panel:</b>	Rebecca Macky (Chairperson) David Hill Karyn Sinclair Russell Karu
<b>Appearances:</b>	<p><u>For the Submitters:</u></p> <p>Woolworths NZ Limited – letter tabled</p> <p>Te Arai South Partners, Te Arai South Holding Limited, Te Arai North Limited and Tara Iti Holdings NZ (collectively “the Te Arai Submitters”) – letter tabled</p> <p>Sentinel Planning Limited – letter tabled</p> <p>Z Energy Limited, BP Oil New Zealand Limited and Mobil Oil New Zealand Limited (collectively “the Oil Companies”) – letter tabled</p> <p>Federated Farmers of NZ</p> <ul style="list-style-type: none"> <li>- Alan Cole, President, Auckland Federated Farmers</li> <li>- Richard Gardner, Senior Policy Advisor and in-house Counsel</li> </ul> <p>Better Living Landscapes Limited and Parallax Surveyors Limited</p> <ul style="list-style-type: none"> <li>- Karen Pegrume</li> <li>- Tracy Smith</li> </ul> <p>Viaduct Harbour Holdings Limited and Whai Rawa Railway Lands LP</p> <ul style="list-style-type: none"> <li>- Douglas Allen, legal counsel</li> <li>- Craig McCarr, planning consultant</li> </ul>

	<p>Housing NZ Corporation</p> <ul style="list-style-type: none"> <li>- Alex Divine, legal counsel</li> <li>- Matt Lindenberg, planning</li> <li>- Brendon Liggett, Jackson Munn &amp; Mark Stripp from HNZA</li> </ul> <p>T&amp;G Global and Southern Paprika</p> <ul style="list-style-type: none"> <li>- Burnette O'Connor, planning consultant</li> </ul> <p>Enviro Limited</p> <ul style="list-style-type: none"> <li>- Tracey Morse</li> </ul> <p>Northcote RD 1 Holdings, Scentre (NZ) Limited and W Smale Limited</p> <ul style="list-style-type: none"> <li>- Vaughan Smith</li> </ul> <p><u>For Council:</u></p> <p>Tony Reidy, Reporting Officer  Angela Smith, Principal Planner  Cara Francesco, Planner  Katherine Dorofaeff, Auckland Transport  Waldo Randal, Legal Counsel  Tanisha Hazelwood, Hearings Advisor</p>
<b>Hearing adjourned</b>	24 June 2019
<b>Hearing Closed:</b>	1 July 2019

**Amendments to the Auckland Unitary Plan provisions are attached as Appendix 1**

**INTRODUCTION**

1. This decision is made on behalf of the Auckland Council (**the Council**) by Independent Hearing Commissioners Rebecca Macky (Chair), David Hill, Karyn Sinclair and Russell Karu appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (**the RMA** or **the Act**).
2. The Hearing Commissioners have been delegated full responsibility by Auckland Council's Regulatory Committee to consider all submissions and evidence and to determine the Council's decisions on submissions on Plan Change 16. The Hearing Commissioners will not be making a recommendation to the Council, but will be making a decision directly.
3. PC16 is a Council-initiated plan change.
4. PC16 was publicly notified on 29 November 2018 and at the time submissions closed on 31 January 2019, 36 submissions had been received. The summary of submissions was notified on 28 February 2019, with 10 further submissions received by the closing date of 14 March 2019.

5. In accordance with Clause 8D of the Schedule 1 to the RMA, parts of PC16 were withdrawn on 15 April 2019, and therefore the submissions relating to the following themes were not addressed:
  - Residential Zones Theme 7: Fences within an Outlook Space
  - Business Zones Theme 9: Outlook Space – Business - City Centre and Business - Metropolitan Centre Zones
  - Business Zones Theme 10: Outlook space - Other business zones and Residential Zones.

## **BACKGROUND**

6. PC16 is one of a series of plan changes to address technical issues in the AUP. These plan changes follow on from *Plan Change 4 – Corrections to technical errors and anomalies in the Auckland Unitary Plan (Operative in part) version*.
7. PC16 addresses consistency of provisions in Chapter H Zones and Chapter J Definitions of the Auckland Unitary Plan (Operative in part) (**AUP**). The current policy direction of the AUP is not affected by the proposed amendments which are limited to
  - amending provisions that are ambiguous or unclear;
  - amending the provisions to achieve vertical and horizontal alignment across the AUP where there are current gaps or a misalignment of provisions; and
  - improving the integration of different chapters within the AUP.

### **Existing plan provisions**

8. The decisions version of the proposed Auckland Unitary Plan (**PAUP Decision Version**) was notified in August 2016, with the AUP becoming operative in part on 15 November 2016. The structure of the AUP is complex as it combines the regional policy statement, the regional plan, the regional coastal plan and the district plan into the one document.
9. Since the AUP became operative in part (15 November 2016), Council staff have been registering potential errors and issues that have been identified by both staff and members of the public. Some of these have been resolved through the clause 16 or clause 20A mechanisms; other clear errors and anomalies were the subject of PC4, in respect of which decisions were issued on 14 June 2018. PCs14 -17 address issues which required further investigation or were of broader scope than the technical parameters of PC4 would allow.

### **Proposed plan change provisions**

10. The scope of PC16 is limited to addressing technical issues which have been identified as compromising the ability of plan users to efficiently interpret the AUP, and to ensuring the subject provisions give effect to the objectives and policies of the AUP.
11. The plan change retains the policy direction of the AUP and the proposed amendments are limited to:
  - a. Amending provisions that are ambiguous or unclear;
  - b. Amending provisions to achieve vertical and horizontal alignment across the Plan; and
  - c. Improving the integration of different chapters within the Plan.

### **Immediate legal effect from the date of notification, 29 November 2018**

12. Sections 86B to 86G of the RMA specify when a rule in a proposed plan has legal effect. Section 86B(1) states that "*a rule in a proposed plan has legal effect only once a decision on submissions relating to the rule is made and publicly notified*". Exceptions are provided for in section 86B(3).
13. At the time of notification, under RMA s 86B(3), there were no rules with immediate legal effect.

### **14. PLANNING CONTEXT - STATUTORY AND POLICY FRAMEWORK**

15. The RMA requires that unitary authorities consider a number of statutory and policy matters when developing proposed plan changes:

#### **Resource Management Act 1991 (RMA)**

16. The Section 32 Evaluation Report set out the relevant provisions of the RMA that were considered relevant to PC16 and this material is not repeated here. Section 32AA of the RMA requires a further evaluation for any changes that are proposed to the notified PC16 since the Section 32 Evaluation Report was completed. That further evaluation has been complied with in the section 42A report as the addendum to that report and the evidence presented at the hearing.
17. The Commissioners are satisfied that PC16 has been prepared and submissions considered in accordance with the relevant provisions of the RMA (and in particular Part 2 and section 32), Council's functions under the Act, and any other relevant statutory matters.

## **National and regional planning context**

18. The Section 32 report outlines the relevant national and regional planning documents that are relevant to PC16 and these are not repeated here. The Commissioners agree that PC16 is consistent with the relevant statutory requirements.
19. Having considered the evidence and relevant background documents, we are satisfied that PC16 has been developed in accordance with the relevant statutory and policy matters, and will clearly assist the Council in its effective administration of the Unitary Plan.

## **PC14 – SCOPE AND JURISDICTION TO MAKE AMENDMENTS**

20. As Commissioners, we must satisfy ourselves that the plan change has been prepared by Council “in the manner set out in Schedule 1” to the Act, including that any submission is ‘on point’ in terms of the plan change. If a submitter seeks changes to the proposed plan, then the submission must set out the specific amendments sought.
21. We must also be satisfied as to the Council's jurisdiction to make changes to the plan arising from submissions.
22. Thus two jurisdictional issues arise:
  - a. A submission must be ‘on’ the plan change; and
  - b. Whether a council has the ability to make changes to the plan arising from submissions in terms of scope.
23. **The scope of Plan Change 16**
24. The scope of PC16 is limited to addressing the technical issues outlined in section 6 of the Section 32 report which are compromising the ability of plan users to be able to efficiently and consistently interpret the AUP, and to ensure the plan provisions give effect to its objectives and policies.
25. The amendments proposed in PC16 are limited to those matters identified above, in the context of the listed themes,<sup>1</sup> which were divided into Residential zones (12 themes); Business zones (18 themes); Open Space, Special Purpose and Waitakere Foothills zones (4 themes); and Definitions (7 themes).

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<sup>1</sup> Section 6.0 of the section 32 Evaluation Report

26. The themes which attracted submissions opposed to PC16 were as follows:

<b>Residential Zones</b>
Theme 1: Rural and Coastal Settlement Zone – Building Coverage Standard
Theme 3: Fence Height applying to Lakeside yard, Coastal Protection Yard and Riparian Yard
Theme 4: Height in Relation to Boundary – Pedestrian Access ways
Theme 5: Height in relation to boundary adjoining Open Space zones
Theme 6: Height in relation to boundary standards – Minor consistency amendments
Theme 8: Outdoor Living Space Standard
Theme 9: Matters of Discretion and Assessment Criteria for Parking and Access
Theme 10: Matters of Discretion: Traffic Effects
Theme 11: Matters of Discretion: Residential character and Landscape Qualities
Theme 12: Additional Assessment Criteria: Storage and Collection of Solid Waste within the THAB Zone
<b>Business Zones</b>
Theme 3: Additions to buildings
Theme 5: Form and design of buildings adjoining historic heritage places
Submissions on Business Zones Theme 11: Bonus floor area ratio – light and outlook
Theme 13: Height and Height in relation to boundary in business zones
Theme 14: Average floor area definition
Theme 16: Pedestrian circulation space definition
Theme 18: Business - Heavy Industry and Business - Light Industry Zones – Building Height Purpose
<b>Definitions</b>
Theme 1: Building

Theme 2: Food and beverage
Theme 3: Gross Floor Area
Theme 4: Landscaped area
Theme 7: Workers' accommodation
Definition of Floor Area Ratio (no theme)

### Jurisdiction to make amendments arising from submissions

27. The right to lodge a submission in relation to a plan change using the 'standard process' (as here), is governed by the requirement to make that submission on the plan change.<sup>2</sup>
28. The Courts have developed a two-stage test to see whether a submission is on a plan change or not:<sup>3</sup>
  - a. A submission must address the plan change itself, that is, it must address the alteration of the status quo brought about by that plan change; and
  - b. Whether there is a real risk that persons directly or potential directly affected by the additional changes proposed in the submission have been denied an effective response.<sup>4</sup>
29. In relation to the first test (the "dominant test") the Court in *Motor Machinists* suggested asking the question: does the submission raise matters that should have been addressed in the section 32 RMA evaluation and report? If the answer is "yes" then the submission is unlikely be within scope.
30. Another question to be asked in relation to the first test is whether the management regime for a particular resource is altered by the plan change. If not, then a submission seeking a new management regime for that resource is unlikely to be within scope.<sup>5</sup>
31. In relation to the second test, the Court in the same case suggested that a "*submissional side wind*" which overrode the reasonable interests of people and

<sup>2</sup> Clause 6(1) of Schedule 1 of the RMA

<sup>3</sup> See *Clearwater Resort Ltd v Christchurch City Council* AP34/02, 14 March 2003, at [56] and *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290

<sup>4</sup> Summarising the text of the section 42A report at paragraph 8.7

<sup>5</sup> The two questions posed in relation to the first test are summarized in the section 42A report at paragraph 8.8

communities would not be “*robust sustainable management*”<sup>6</sup> and that given other options, a precautionary approach to the jurisdictional issue would be appropriate.

32. In considering whether a decision-making body has the jurisdiction to make a decision on matters raised in submissions, the Court has held that

*... the paramount test is whether any amendment made to the plan change as notified goes beyond what is reasonably and fairly raised in submissions on the plan change .. this will usually be a question of degree to be judged by the terms of the proposed change and the content of the submissions.*<sup>7</sup>

33. In summary, we must consider the following jurisdictional issues:

- Whether each submission is on PC16; and
- Whether any changes to the Unitary Plan are fairly or reasonably within the general scope of PC16 as notified, an original submission, or somewhere in between, bearing in mind whether affected persons may have been denied the right to be heard.

## HEARING PROCESS

34. The hearing was held contemporaneously with the hearing on Plan Change 14.
35. On 27 February 2019, the Chair issued directions for the timetabling of the section 42A reports, any expert witness evidence from any submitter, and any addendum to the section 42A report with an updated set of plan provisions.
36. The hearing commenced with presentations from Council staff on the background to the plan changes, their purpose, the detail of PC16 and its topics, the themes into which the plan change was divided, and the issues arising. The themes which attracted no or only supporting submissions were noted and staff also confirmed those themes which had subsequently been withdrawn. Council staff recommendations, and outstanding matters concluded the presentation.
37. The hearing then proceeded on the basis that any expert witness could speak to his or her statement of evidence and any other witness could present evidence, along with any legal submissions for any submitter. Questions and matters for clarification for each submitter were raised by Council staff (through the Chair) and by the Commissioners as the hearing progressed.
38. The hearing was closed after the Commissioners had satisfied themselves that they had all the information they required in order to make their decisions on PC14 and PC16.

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<sup>6</sup> The Motor Machinists' case, summarised at paragraph 8.9 of the section 42A report

<sup>7</sup> See Countdown Properties (Northland) Limited v Dunedin City Council [1994] NZRMA 145 (HC) and ensuing cases. Summarised at paragraph 8.17 of the section 42A report.



39. The Commissioners have accepted those plan modifications which attracted no submissions or only submissions in support without further analysis. Plan modifications which attracted submissions in opposition have been considered below, other than where the theme has been withdrawn, as follows:

- Residential Zones Theme 7: Fences within an Outlook Space
- Business Zones Theme 9: Outlook Space – Business – City Centre and Business – Metropolitan Centre Zones
- Business Zones Theme 10: Outlook Space – other Business zones and Residential zones.

### RELEVANT STATUTORY PROVISIONS CONSIDERED

40. The RMA sets out an extensive set of requirements which must be addressed when considering a plan change. These requirements are set out in the section 42A report and the section 32 assessment and we do not need to repeat these again in detail, noting that section 32 clarifies that analysis of efficiency and effectiveness is to be at a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

41. Clause 10 of Schedule 1 requires that this decision must include the reasons for accepting or rejecting submissions. The decision must include a further evaluation of any proposed changes to the plan change arising from submissions; with that evaluation to be undertaken in accordance with section 32AA. With regard to Section 32AA, we note that the evidence presented by submitters and Council effectively represents this assessment.

### SUMMARY OF EVIDENCE

42. Along with the submitters' evidence, the Council planning officer's report was circulated prior to the hearing and taken as read. The hearing opened with the Council presenting a power-point presentation describing the plan change.

43. As each submitter presented his or her evidence at the hearing, Council officers were asked for their response, and the submitter was then given the opportunity for any further comment.

44. The evidence tabled by submitters at the hearing is summarised below:

- a. **Te Arai Submitters** – in a letter from Peter Hall Planning Limited dated 17 June 2019 tabled at the hearing, Mr Hall confirmed that no evidence would be presented at the hearing regarding submissions on proposed changes to the definition of Workers Accommodation. Council had advised that it was not intending to pursue this change and thus would revert to the current Unitary Plan definition. On this basis, Te Arai did not wish to attend the hearing.

- b. **Sentinel Planning Limited** – in a tabled letter, the submitter advised that it agreed with the Council’s position to remove the amendments to the Outdoor Living Space standard to which it had objected. The submitter also accepted the position regarding retaining walls and agreed with Council’s position to provide for non-permeable pathways in exceeding 1.5m as landscaped area. Accordingly, Sentinel did not wish to attend the hearing.
  - c. **The Oil Companies** – in a letter tabled by 4Sight Consulting Limited (dated 11 June 2019), Mr Laurensen advised that the Oil Companies supported the recommendations of the reporting planners and requested that the Commissioners adopt the provisions accordingly.
45. The evidence presented by submitters at the hearing is summarised below:
  46. **Woolworths NZ Limited** – Kathleen Morrissey, a senior Planner, advised that she supported the PC16 proposed amendments relating to building height standards but not those relating to height in relation to boundary. As there was now no area of dispute with the Council, no further evidence was required.
  47. **Federated Farmers of NZ** – in a statement, Mr Cole advised that Federated Farmers accepted the position outlined in the hearing report relating to submissions and further submission points and there were no outstanding points relating to PC16.
  48. **Better Living Landscapes Limited and Parallax Surveyors Limited** – Karen Pegrume and Tracy Smith, registered Surveyor and Planner submitted on proposed amendments to the Height in Relation to Boundary (HIRTB) provisions, opposing the proposed amendment to the standards relating to HIRTB adjoining open space zones, on the basis that numerous paths between properties to reserves or beaches would now have to be considered for HIRTB infringements.
  49. We accept Council’s explanation that the HIRTB controls would apply only in certain circumstances and would not otherwise change the situation.
  50. In relation to the issue with the site coverage rule in the Large Lot Residential Zone, the Commissioners note the summary provided by the planning team on 24 June 2019, and agree with the logic behind the “20% or 400m<sup>2</sup>” provision.
  51. The submitter also objected to the introduction of the term “landscape qualities”, preferring “landscape amenity values”. However, Objective H1.2(1) refers to an area’s “*spacious landscape character, landscape qualities and natural features*” and on that basis, the Commissioners agree with the reporting planner that this term is consistent with other provisions and is appropriate. This submission is rejected.
  52. In relation to the proposed deletion of ‘roof mounted chimneys’ from the listed exclusions in the definition of ‘building’, the Commissioners noted the submitter’s concern which is based on the potential confusion over what constitutes a ‘roof mounted chimney’ versus an ordinary or other type of chimney. We agree that it is

not an issue of height or dimension limitation. The responses provided in the section 42A report to the concerns raised in submissions are accepted by the Commissioners and its removal from the exclusions for the avoidance of doubt is the preferred outcome.

53. The issue relating to baled agricultural produce and silage pits has been resolved by the reporting planner stating that

*“it would be reasonable to interpret hay bales or animal feed haybales and animal fodder as falling under the definition of ‘farming’ which is a permitted activity across all five of the Rural Zones ...”*<sup>8</sup>

54. Finally, in relation to workers’ accommodation, we note that whilst this remains an issue, the reporting planner has recommended that it not be progressed as part of PC16, but that the matter be monitored and, if necessary, it can be re-addressed as part of a future plan change.<sup>9</sup> Given the number of issues which have arisen out of the proposed amendment to the definition, the Commissioners accept this recommendation as sensible.

55. **Viaduct Harbour Holdings Limited and Whai Rawa Railway Lands LP** – represented by Counsel Douglas Allen and Planner Craig McGarr. Commissioner Macky recused herself from deliberations regarding submissions from VHHL due to a personal conflict of interest.

56. In legal submissions, Mr Allen noted that the Council’s reporting planner had changed position and now supported the relief sought, subject to some minor wording issues identified in the Addendum Report and subject to scope.<sup>10</sup> We accept those minor wording issues,<sup>11</sup> and that leads to the question of scope. We accept Mr Allen’s argument that While PC16

*“... recommends specific changes to that definition, [of Floor Area Ratio or FAR] the scope of the plan change is not limited to that changed wording. By proposing a change to the definition, the Council is raising an issue with respect to the appropriate meaning of “FAR”.*<sup>12</sup>

57. We also note that there is no prejudice to any other party.

58. We agree with Council’s reporting planner that the exclusion of “any part of a road” should be left as “there is no downside” to retaining the road exclusion and there could be “unintended consequences” if it is deleted.<sup>13</sup> Thus the amended definition is as set out in paragraph 6.11 of the reporting planner’s Addendum Report.

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<sup>8</sup> Section 42A Report, paragraph 30.69

<sup>9</sup> Section 42A Report, paragraph 34.26

<sup>10</sup> See addendum section 42A report, section 6

<sup>11</sup> Refer paragraph 6.10 of the Addendum report

<sup>12</sup> Submissions of Douglas Allen, paragraph 18(a)

<sup>13</sup> Refer additional material supplied by Council’s planning team on Monday 24 June 2019

59. Whether the wording should be “computing” or “calculating” was resolved in favour of the latter term, and the Commissioners agree.
60. **Housing NZ Corporation** – the submitter supported Council’s recommendation not to proceed with proposed amendments to Outdoor Living Space but to continue to monitor the effectiveness of the relevant provisions.
61. The submitter also sought to amend the term ‘immediate transport network’ to ‘abutting or adjacent to the site’; however, the Commissioners accept the reporting planner’s explanation that the amendment would result in an inconsistency with the existing matter of discretion to which the criteria relates.<sup>14</sup> This submission is rejected.
62. The Commissioners note that all other matters raised in Housing NZ Corporation submissions relating to PC16 have been resolved.
63. **T & G Global and Southern Paprika Limited** – in her statement of evidence, Ms O’Connor referred to submissions on Workers Accommodation and sought the deletion of the PC16 amendments. Council had advised that it was not intending to pursue this change and thus would revert to the current Unitary Plan definition. On this basis, the submission is accepted.
64. **Enviro Limited** – Tracey Morse provided a statement of evidence relating to submissions on ‘Outdoor Living Space’, advising that the submitter supported clarifying or deleting the words “*accessible*” and “*directly accessible*”.

In the Addendum section 42A report, the reporting planner agreed to delete the word “*directly*” in the relevant plan provisions, and confirmed the deletion of the words “*dining room or kitchen and is separated from vehicle access and manoeuvring areas*”. On that basis, the submitter’s grounds of submission were accepted.

We agree with the deletion of the word “*directly*” for reasons set out in the material provided by the Council planning team of 24 June 2019 and accept the word “*accessible*” as meaning “able to be reached”. For the avoidance of doubt, we also agree with the removal of the words “*principal living room*”, “*dining room*” and “*kitchen*”.

65. **Northcote RD 1 Holdings Limited, Scentre (NZ) Limited and W Smale Limited** – Mr Smith’s submissions relating to the proposed definition of ‘Pedestrian circulation space’ and to ‘Food and beverage’ had been accepted in the section 42A report. In particular, in relation to the definition of food and beverage, the submitter was satisfied with the re-inclusion of the words “*the primary business*” so that businesses selling food and beverages would not be inadvertently caught. Accordingly, there was no need for a formal presentation.

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<sup>14</sup> Section 42A Report, paragraph 20.20

## **SUMMARY OF OTHER SUBMISSIONS RECEIVED**

66. We have reviewed all submissions relating to aspects of PC16 where submitters did not appear or present evidence at the hearing. We have accepted the planner's recommendation in the section 42A report for those submissions in support of the plan change.
67. In relation to the remaining submissions opposed to aspects of the plan change, where submitters did not appear or present evidence at the hearing, we have considered the grounds of the original submission or further submission and, in the absence of any material responding to the section 42A recommendations, we have accepted those recommendations.

## **PRINCIPAL ISSUES IN CONTENTION**

68. Having considered the submissions and further submissions received, the hearing report, the evidence presented at the hearing and the Council officers' response to questions, the following principal issues in contention have been identified:
  - a. Natural and Historic Heritage, including the Notable Trees Overlay, the Historic Heritage Overlay, and the maintenance of trees;
  - b. Natural resources, including vegetation alteration or removal and land disturbance involving an archaeological site or feature;
  - c. Infrastructure, including antennae, Viewshaft Overlays, earthworks within the Historic Heritage Overlay, and vegetation management;
  - d. Transport, including parking rates for minor dwellings;
  - e. Built Environment and Temporary activities, including billboards, traffic and pedestrian safety, and noise and vibration;
  - f. Environmental risk.
69. Some of the submissions were found to be out of scope.

## **FINDINGS ON THE PRINCIPAL ISSUES IN CONTENTION**

70. Our findings on the principal issues in contention are found in the decision above where we consider the submissions and the evidence.

## **DECISION**

71. That pursuant to Schedule 1, Clause 10 of the Resource Management Act 1991, Proposed Plan Change 16 to the Auckland Unitary Plan (Operative in Part) be approved, subject to the modifications as set out in this decision.

72. Submissions on the plan change are accepted and rejected in accordance with this decision. In general, these decisions follow the recommendations set out in the Council's section 42A report, response to Commissioners' memo and closing statement, except as identified above in relation to matters in contention.
73. The reasons for the decision are that Plan Change 16:
- a. will assist the Council in achieving the purpose of the RMA;
  - b. is consistent with the Auckland Regional Policy Statement;
  - c. is consistent with the provisions of Part 2 of the RMA;
  - d. is supported by necessary evaluation in accordance with section 32; and
  - e. will help with the effective implementation of the Auckland Unitary Plan.

As noted above, amendments to the Auckland Unitary Plan provisions are attached as Appendix 1.



**Rebecca Macky**

Chair

2 August 2019

## APPENDIX ONE

### AMENDMENTS TO PC16 RESULTING FROM THE DECISION – RESIDENTIAL ZONES



#### **Explanatory note:**

This appendix sets out the content of the proposed plan change.

Amendments proposed by this plan change to the Auckland unitary Plan are shown in underline for new text and ~~striketrough~~ where existing text is proposed to be deleted. The use of '...' indicates that there is more text, but it is not being changed. These are used when the whole provision is too long to be included.

Amendments in the notified plan change are in black text.

Amendments made in the decision report are shown in red underline and ~~striketrough~~.

Text which was proposed to be inserted in the notified plan change and is recommended to be removed in the decision report is shown in red ~~underline and striketrough~~.

In accordance with section 86B(1) of the Resource Management Act 1991 all of the proposed plan change rules have immediate legal effect.

## H2. Residential – Rural and Coastal Settlement Zone

....

### H2.6 Standards

....

#### H2.6.6. Height in relation to boundary

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(2) Standard H2.6.6(1) above does not apply to a boundary, or part of a boundary, adjoining any of the following:

(a) ....

(b) sites within the: Open Space – Conservation Zone; Open Space – Informal Recreation Zone; Open Space – Sports and Active Recreation Zone; Open Space – Civic Spaces Zone; or the Open Space – Community Zone: ~~exceeding 2000m<sup>2</sup>~~.

i) that are greater than 2000m<sup>2</sup>; and

ii) where that part of the site in (i) is greater than 20 metres in width, when measured perpendicular to the shared boundary; and

iii) Where an open space comprises multiple sites but has a common open space zoning, the entire zone will be treated as a single site for the purpose of applying the standards listed below.

(3) Where the boundary forms part of a legal right of way, entrance strip, or access site or pedestrian access way, the control in Standard H2.6.6(1) applies from the farthest boundary of that legal right of way, entrance strip, or access site or pedestrian access way.

....

#### H2.6.9 Building coverage

Purpose: to manage the extent of buildings on a site to maintain and complement the rural and coastal built character of the zone and any landscape qualities and natural features.

(1) The maximum building coverage must not exceed 20 per cent of net site area or ~~200~~ 400m<sup>2</sup>, whichever is the lesser.

#### H2.6.10 Front, Side and rear fences and walls

Purpose: to enable fences and walls to be constructed on a front, side or rear boundary or within a front, side or rear, riparian, coastal protection or lakeside yard to a height sufficient to:

- provide privacy for dwellings while enabling opportunities for passive



- surveillance of the street or adjoining public place; and
  - minimise visual dominance effects to immediate neighbours and the street or adjoining public place.
- (1) Fences or walls or a combination of these structures (whether separate or joined together):
- a) on a side or rear boundary or within a side, ~~or rear~~, coastal protection yard, riparian yard or lakeside yard must not exceed a height of 2m above ground level.
  - b) ~~On or within the front yard, coastal protection yard, riparian yard or lakeside yard,~~ either:
    - (i) 1.4m in height, or
    - (ii) 1.8m in height for no more than 50 per cent of the site frontage and 1.4m for the remainder, or
    - (iii) 1.8m in height if the fence is at least 50 per cent visually open as viewed perpendicular to the boundary.

## H3 Single House Zone

.....

### H3.6.7 Height in Relation to Boundary

.....

- (2) Standard H3.6.7(1) above does not apply to a boundary, or part of a boundary, adjoining any of the following:

....

b) sites within the: Open Space – Conservation Zone; Open Space – Informal Recreation Zone; Open Space – Sports and Active Recreation Zone; Open Space – Civic Spaces Zone; or the Open Space – Community Zone; ~~exceeding 2000m<sup>2</sup>.~~

i) that are greater than 2000m<sup>2</sup>; and

ii) where that part of the site in (i) is greater than 20 metres in width, when measured perpendicular to the shared boundary; and

iii) Where an open space comprises multiple sites but has a common open space zoning, the entire zone will be treated as a single site for the purpose of applying the standards listed below.

.....

- (4) Where the boundary forms part of a legal right of way, entrance strip, ~~or~~ access site or pedestrian access way, ~~the control in~~ Standard H3.6.7(1) applies from the farthest boundary of that legal right of way, entrance strip, ~~or~~ access site or pedestrian access way.

.....

### H3.6.12 Front, side and rear fences and walls

Purpose: to enable fences and walls to be constructed on a front, side or rear boundary or within a front, side ~~or~~, rear, riparian, coastal protection or lakeside yard to a height sufficient to:

- provide privacy or dwellings while enabling opportunities for passive surveillance of the street or adjoining public place
- minimise visual dominance effects to immediate neighbours, ~~and~~ the street or adjoining public place

- (1) Fences or walls or a combination of these structures (whether separate or joined together) must not exceed the height specified below, measured from the ground level at the boundary:

(a) Within the front yard, ~~coastal protection yard, lakeside yard or riparian yard~~, either:

(i) 1.4m in height, or

- (ii) 1.8m in height for no more than 50 per cent of the site frontage and 1.4m for the remainder, or
  - (iii) 1.8m in height if the fence is at least 50 per cent visually open as viewed perpendicular to the front boundary.
- (b) Within ~~the side, and rear,~~ coastal protection, lakeside or riparian yards:  
2m.

## H4 Mixed Housing Suburban Zone

....

### H4.6.5 Height in Relation to Boundary

.....

(2) Standard H4.6.5(1) above does not apply to a boundary, or part of a boundary, adjoining any of the following:

....

b) sites within the: Open Space – Conservation Zone; Open Space – Informal Recreation Zone; Open Space – Sports and Active Recreation Zone; Open Space – Civic Spaces Zone; or the Open Space – Community Zone; ~~exceeding 2000m<sup>2</sup>~~.

i) that are greater than 2000m<sup>2</sup>; and

ii) where that part of the site in (i) is greater than 20 metres in width, when measured perpendicular to the shared boundary; and

iii) Where an open space comprises multiple sites but has a common open space zoning, the entire zone will be treated as a single site for the purpose of applying the standards listed below.

....

(4) Where the boundary forms part of a legal right of way, entrance strip, ~~or~~ access site, or pedestrian access way, the control in ~~s~~Standard H4.6.5(1) applies from the farthest boundary of that legal right of way, entrance strip, ~~or~~ access site or pedestrian access way.

.....

### H4.6.6. Alternative height in relation to boundary

....

(3) Standard H4.6.6(2) above does not apply to a boundary adjoining any of the following:

....

b) sites within the: Open Space – Conservation Zone; Open Space – Informal Recreation Zone; Open Space – Sports and Active Recreation Zone; Open Space – Civic Spaces Zone; or the Open Space – Community Zone; ~~exceeding 2000m<sup>2</sup>~~.

i) that are greater than 2000m<sup>2</sup>; and

ii) where that part of the site in (i) is greater than 20 metres in width, when measured perpendicular to the shared boundary; and

iii) Where an open space comprises multiple sites but has a common open space zoning, the entire zone will be treated as a single site for the purpose of applying the standards listed below.

....

- (5) Where the boundary forms part of a legal right of way, entrance strip, or access site or pedestrian access way, the control in Standard H4.6.6(2) applies from the farthest boundary of that legal right of way, entrance strip, or access site or pedestrian access way.

#### **H4.6.11 Outlook space**

Purpose:

- ~~to ensure a reasonable standard of visual privacy between habitable rooms of different buildings dwellings or units within an integrated residential development, boarding house or supported residential care, on the same or adjacent sites; and~~

....

~~(7) Outlook spaces required from different rooms within the same building dwelling or unit within an integrated residential development, boarding house or supported residential care may overlap.~~

~~(8) .....~~

~~(9) Outlook spaces must:~~

- ~~(a) be clear and unobstructed by buildings;~~
- ~~(b) not extend over adjacent sites, except for where the outlook space is over a public street or public open space as outlined in Standard H4.6.11(6) above; and~~
- ~~(c) not extend over an outlook spaces or outdoor living space required by another dwelling or unit within an integrated residential development, boarding house or supported residential care.~~

~~(10) Fences or walls within an outlook space must:~~

- ~~i. not exceed 1.2m in height, or~~
- ~~ii. be at least 50 per cent visually open as viewed perpendicular from the glazing of the habitable room.~~

....

#### **H4.6.13. Outdoor living space**

Purpose: to provide dwellings, supported residential care and boarding houses with outdoor living space that is of a functional size and dimension, has access to sunlight, and is **directly** accessible from the dwelling, principal living room, dining room or kitchen and is separated from vehicle access and manoeuvring areas.

- (1) A dwelling, supported residential care or boarding house at ground floor level, must have an outdoor living space that is at least 20m<sup>2</sup> that comprises ground floor and/or balcony/roof terrace space that:

....

- (c) is accessible from the ~~principal living room, dining room or kitchen of the~~ dwelling, supported residential care unit or boarding house; ~~and~~

....

- (2) A dwelling, supported residential care or boarding house located above ground floor level must have an outdoor living space in the form of a balcony, patio or roof terrace that:

....

- (c) is accessible from the ~~principal living room, dining room or kitchen of~~ the dwelling, supported residential care unit or boarding house.

.....

#### H4.6.14. Front, side and rear fences and walls

Purpose: to enable fences and walls to be constructed on a front, side or rear boundary or within a front, side or rear, riparian, coastal protection or lakeside yard to a height sufficient to:

- provide privacy for dwellings while enabling opportunities for passive surveillance of the street or adjoining public place.
- minimise visual dominance effects to immediate neighbours, ~~and~~ the street or adjoining public place.

- (1) Fences or walls or a combination of these structures (whether separate or joined together) must not exceed the height specified below, measured from the ground level at the boundary:

- (a) Within the front yard, ~~coastal protection yard, riparian yard or lakeside yard,~~ either:

- (i) 1.4m in height, or
- (ii) 1.8m in height for no more than 50 per cent of the site frontage and 1.4m for the remainder, or
- (iii) 1.8m in height if the fence is at least 50 per cent visually open as viewed perpendicular to the front boundary.

- (d) Within ~~the side, and rear,~~ coastal protection, lakeside or riparian yards: 2m.

## H5 Residential Mixed Housing Urban Zone

.....

### H5.6.5 Height in relation to boundary

- (1) Buildings must not project beyond a 45 degree recession plane measured from a point 3m vertically above ground level alongside and rear boundaries, as shown in Figure H5.6.5.1 Height in relation to boundary below.
- (2) Standard H5.6.5(1) above does not apply to a boundary, or part of a boundary, adjoining any of the following:

(a) ....

(b) sites within the: Open Space – Conservation Zone; Open Space – Informal Recreation Zone; Open Space – Sports and Active Recreation Zone; Open Space – Civic Spaces Zone; or the Open Space – Community Zone: ~~exceeding 2000m<sup>2</sup>~~.

i) that are greater than 2000m<sup>2</sup>; and

ii) where that part of the site in (i) is greater than 20 metres in width, when measured perpendicular to the shared boundary; and

iii) Where an open space comprises multiple sites but has a common open space zoning, the entire zone will be treated as a single site for the purpose of applying the standards listed below.

....

(4) Where the boundary forms part of a legal right of way, entrance strip, access site, or pedestrian access way, the control in ~~Standard H5.6.5(1)~~ applies from the farthest boundary of that legal right of way, entrance strip, ~~or access site~~ or pedestrian access way.

.....

### H5.6.6. Alternative height in relation to boundary

Purpose: to enable the efficient use of the site by providing design flexibility at upper floors of a building close to the street frontage, while maintaining a reasonable level of sunlight access and minimising overlooking and privacy effects to immediate neighbours.

....

- (3) Standard H5.6.6(1) above does not apply to a boundary, or part of a boundary, adjoining any of the following:

....

b) sites within the: Open Space – Conservation Zone; Open Space – Informal Recreation Zone; Open Space – Sports and Active Recreation Zone; Open Space – Civic Spaces Zone; or the Open Space – Community Zone: ~~exceeding 2000m<sup>2</sup>~~.

- i) that are greater than 2000m<sup>2</sup>; and
- ii) where that part of the site in (i) is greater than 20 metres in width, when measured perpendicular to the shared boundary; and
- iii) Where an open space comprises multiple sites but has a common open space zoning, the entire zone will be treated as a single site for the purpose of applying the standards listed below.

.....

(5) Where the boundary forms part of a legal right of way, entrance strip, or access site or pedestrian access way, the control in Standard H5.6.6(2) applies from the farthest boundary of that legal right of way, entrance strip, or access site or pedestrian access way.

.....

### H5.6.7 Height in relation to boundary adjoining lower intensity zones

(1) Where sites.....

- (b) Where the boundary forms part of a legal right of way, entrance strip, access site or pedestrian access way, the control in Standard H5.6.7(1) applies from the farthest boundary of that legal right of way, entrance strip, access site or pedestrian access way.
- (c) A gable end, dormer or roof may project beyond the recession plane where that portion beyond the recession plan is:
  - a) no greater than 1.5m<sup>2</sup> in area and no greater than 1m in height; and
  - b) no greater than 2.5m cumulatively in length measured along the edge of the roof.

### H5.6.12 Outlook Space

Purpose:

- ~~• to ensure a reasonable standard of visual privacy between habitable rooms of different buildings dwelling or units within an integrated residential development, boarding house or supported residential care, on the same or adjacent sites; and...~~

....

~~(7) Outlook spaces required from different rooms within the same building dwelling or unit within an integrated residential development, boarding house or supported residential care, may overlap.~~

....

~~(9) Outlook spaces must:~~



- ~~(a) be clear and unobstructed by buildings; and~~
- ~~(b) not extend over adjacent sites, except for where the outlook space is over a public street or public open space as outlined in 0.6.12(6) above; and~~
- ~~(c) not extend over an outlook spaces or outdoor living space required by another dwelling or unit within an integrated residential development, boarding house or supported residential care.~~
- ~~(d) Fences and walls within an outlook space must:~~

  - ~~i. not exceed 1.2m in height, or~~
  - ~~ii. be at least 50 per cent visually open as viewed perpendicular from the glazing of the habitable room.~~

#### H5.6.14. Outdoor living space

Purpose: to provide dwellings, supported residential care and boarding houses with outdoor living space that is of a functional size and dimension, has access to sunlight, and is ~~directly accessible from the dwelling, principal living room, dining room or kitchen and is separated from vehicle access and manoeuvring areas.~~

- (1) A dwelling, supported residential care or boarding house at ground floor level, must have an outdoor living space that is at least 20m<sup>2</sup> that comprises ground floor and/or balcony/roof terrace space that:

.....

- ~~(c) is accessible from the principal living room, dining room or kitchen of the dwelling, supported residential care unit or boarding house; and~~

.....

- (2) A dwelling, supported residential care or boarding house located above ground floor level must have an outdoor living space in the form of a balcony, patio or roof terrace that:

.....

- ~~(c) is accessible from the principal living room, dining room or kitchen of the dwelling, supported residential care unit or boarding house.~~

.....

#### H5.6.15 Front, side and rear fences and walls

Purpose: to enable fences and walls to be constructed on a front, side or rear boundary or within a front, side, or rear, riparian, coastal protection or lakeside yard to a height sufficient to:

- provide privacy for dwellings while enabling opportunities for passive surveillance of the street or adjoining public place

- minimise visual dominance effects to immediate neighbours and the street or adjoining public place.
- (1) Fences or walls or a combination of these structures (whether separate or joined together) must not exceed the height specified below, measured from the ground level at the boundary:
- (a) Within the front yard, ~~coastal protection yard, riparian yard or lakeside yard~~, either:
    - (iv) 1.4m in height, or
    - (v) 1.8m in height for no more than 50 per cent of the site frontage and 1.4m for the remainder, or
    - (vi) 1.8m in height if the fence is at least 50 per cent visually open as viewed perpendicular to the front boundary.
  - (b) Within ~~the side, and rear~~, coastal protection, lakeside or riparian yards: 2m.

## H6 Residential – Terraced Housing and Apartment Buildings Zone

.....

### H6.6.6 Height in relation to boundary

....

- (1) ~~Where sites in the Residential – Terrace Housing and Apartment Buildings Zone adjoin another site in the same zone, or any other zone not specified in Standard H6.6.8 Height in relation to boundary adjoining lower intensity zones below, b~~

Buildings must not project beyond a 45-degree recession plane measured from a point 3m vertically above ground level along the side and rear boundaries, as shown in Figure H6.6.6.1 Height in relation to boundary below.

- (2) Standard H6.6.6(1) above does not apply to a boundary, or part of a boundary, adjoining any of the following:

(a) ....

(b) sites within the Open Space – Conservation Zone; Open Space – Informal Recreation Zone; Open Space – Sports and Active Recreation Zone; Open Space – Civic Spaces Zone; or the Open Space – Community Zone; exceeding 2000m<sup>2</sup>.

i) that are greater than 2000m<sup>2</sup>; and

ii) where that part of the site in (i) is greater than 20 metres in width, when measured perpendicular to the shared boundary; and

iii) Where an open space comprises multiple sites but has a common open space zoning, the entire zone will be treated as a single site for the purpose of applying the standards listed below.

(3)...

(4) Where the boundary forms part of a legal right of way, entrance strip, or access site or pedestrian access way, the control in Standard H6.6.6(1) applies from the farthest boundary of that legal right of way, entrance strip, or access site or pedestrian access way.

.....

### H6.6.7. Alternative height in relation to boundary within the Residential – Terrace Housing and Apartment Buildings Zone

.....

- (4) Standards H6.6.7 (2) and (3) above does not apply to a boundary, or part of a boundary, adjoining any of the following:

....

(b) sites within the: Open Space – Conservation Zone; Open Space – Informal Recreation Zone; Open Space – Sports and Active

Recreation Zone; Open Space – Civic Spaces Zone; or the Open Space – Community Zone; ~~exceeding 2000m<sup>2</sup>.~~

~~i) that are greater than 2000m<sup>2</sup>; and~~

~~ii) where that part of the site in (i) is greater than 20 metres in width, when measured perpendicular to the shared boundary; and~~

~~iii) Where an open space comprises multiple sites but has a common open space zoning, the entire zone will be treated as a single site for the purpose of applying the standards listed below.~~

.....

(6) Where the boundary forms part of a legal right of way, entrance strip, or access site or pedestrian access way, the control in Standard H6.6.7(2) applies from the farthest boundary of that legal right of way, entrance strip, ~~or access site~~ or pedestrian access way.

#### H6.6.8 Height in relation to boundary adjoining lower intensity zones

(1) Where sites.....

~~(4) Where the boundary forms part of a legal right of way, entrance strip or access site or pedestrian access way, the control in Standard H6.6.8(1) applies from the farthest boundary of that legal right of way, entrance strip, access site or pedestrian access way.~~

(5) A gable end, dormer or roof may project beyond the recession plane where that portion beyond the recession plan is:

a) no greater than 1.5m<sup>2</sup> in area and no greater than 1m in height; and

b) no greater than 2.5m cumulatively in length measured along the edge of the roof.

#### H6.6.13 Outlook Space

Purpose:

- ~~• to ensure a reasonable standard of visual privacy between habitable rooms of different buildings dwelling or units within an integrated residential development, boarding house or supported residential care, on the same or adjacent sites; and~~

.....

~~(7) Outlook spaces required from different rooms within the same building dwelling or unit within an integrated residential development, boarding house or supported residential care may overlap.~~

.....

~~(9) Outlook spaces must:~~

~~(a) be clear and unobstructed by buildings; and~~

- ~~(b) not extend over adjacent sites, except for where the outlook space is over a public street or public open space as outlined in H6.6.13(2) above; and~~
- ~~(c) not extend over an outlook spaces or outdoor living space required by another dwelling or unit within an integrated residential development, boarding house or supported residential care.~~
- ~~(d) Fences or walls within an outlook space must:~~
  - ~~i. not exceed 1.2m in height, or~~
  - ~~ii. be at least 50 per cent visually open as viewed perpendicular from the glazing of the habitable room.~~

### H6.6.15 Outdoor living space

....

- (1) A dwelling, supported residential care or boarding house at ground floor level, must have an outdoor living space that is at least 20m<sup>2</sup> that comprises ground floor and/or balcony/roof terrace space that:

.....

- (c) is directly accessible from the principal living room, dining room or kitchen of the dwelling, supported residential care unit or boarding house; and

.....

- (2) A dwelling, supported residential care or boarding house located above ground floor level must have an outdoor living space in the form of a balcony, patio or roof terrace that:

....

- (c) is directly accessible from the principal living room, dining room or kitchen of the dwelling, supported residential care unit or boarding house; and

....

### H6.6.16 Front, side and rear fences and walls

Purpose: to enable fences and walls to be constructed on a front, side or rear boundary or within a front, side, or rear, riparian, coastal protection or lakeside yard to a height sufficient to:

- provide privacy for dwellings while enabling opportunities for passive surveillance of the street or adjoining public place;
- minimise visual dominance effects to immediate neighbours and the street or adjoining public place.

- (1) Fences or walls or a combination of these structures (whether separate or joined together) must not exceed the height specified below, measured from the ground level at the boundary:

- (a) Within the front yard, ~~coastal protection yard, riparian yard or lakeside yard~~, either:
- (i) 1.4m in height, or
  - (ii) 1.8m in height for no more than 50 per cent of the site frontage and 1.4m for the remainder, or
  - (iii) 1.8m in height if the fence is at least 50 per cent visually open as viewed perpendicular to the front boundary.
- (b) Within ~~the side, and-rear~~, coastal protection, lakeside or riparian yards: 2m.

# Assessment

## H1.8. Assessment – restricted discretionary activities

### H1.8.1. Matters of discretion

The Council will restrict its discretion to all the following matters when assessing a restricted discretionary activity resource consent application:

(1) for supported residential care accommodating up to 10 people ....

.....

(b) the effects on the neighbourhood character, residential amenity and the surrounding residential area from all of the following:

.....

(iii) location and design of parking and access; and

.....

(2) for minor dwellings:

(a) the effects on the landscaped character, landscape qualities and natural features of the zone; and

.....

(3) for buildings that do not comply with Standard H1.6.4 Building height; Standard 1.6.5 Yards; Standard H1.6.6 Maximum impervious areas; and Standard 01.6.7 Building coverage:

.....

(d) the effects on the landscape character, landscape qualities and natural features of the zone;

.....

### H1.8.2. Assessment criteria

The Council will consider the relevant assessment criteria below for restricted discretionary activities:

(1) for supported residential care accommodating up to 10 people ....

.....

(d) location and design of parking and access:

(iv) whether adequate parking and access is provided or required.

.....

## **H2.8. Assessment – restricted discretionary activities**

### **H2.8.1 Matters of discretion**

The Council will restrict its discretion to all of the following matters when assessing a restricted discretionary activity resource consent application:

(1) for supported residential care accommodating up to 10 people ....

...

(b) the effects on the neighbourhood character, residential amenity and the surrounding residential area from all of the following:

....

(iii) location and design of parking and access; and

....

### **H2.8.2 Assessment criteria**

The Council will consider the relevant assessment criteria below for restricted discretionary activities:

(1) for supported residential care accommodating up to 10 people ....

...

(b) location and design of parking and access:

(iii) whether adequate parking and access is provided or required.

.....



### **H3.8. Assessment – restricted discretionary activities**

#### **H3.8.1 Matters of discretion**

The Council will restrict its discretion to all of the following matters when assessing a restricted discretionary activity resource consent application:

(1) for dairies up to 100m<sup>2</sup> gross floor area per site; and healthcare facilities up to 200m<sup>2</sup> gross floor area per site:

(a) the effects on the neighbourhood character, residential amenity and the surrounding residential area from all of the following:

....

(iii) location and design of parking and access; and

.....

(2) for buildings that do not comply with Standard H3.6.6 Building height; ...

....

(d) the effects on the ~~rural and coastal~~ suburban built character of the zone;

.....

#### **H3.8.2. Assessment criteria**

The Council will consider the relevant assessment criteria below for restricted discretionary activities:

(1) for dairies up to 100m<sup>2</sup> gross floor area per site; and healthcare facilities up to 200m<sup>2</sup> gross floor area per site:

.....

(c) location and design of parking and access:

(i) whether adequate parking and access is provided or required.

.....

## H4.8. Assessment – restricted discretionary activities

### H4.8.1 Matters of discretion

The Council will restrict its discretion to all of the following matters when assessing a restricted discretionary activity resource consent application:

- (1) for supported residential care accommodating greater than 10 people...
  - (a) the effects on the neighbourhood character, residential amenity, safety, and the surrounding residential area from all of the following:  
...
    - (iii) location and design of parking and access; and  
....
- (2) for four or more dwellings per site:
  - (a) the effects on the neighbourhood character, residential amenity, safety and the surrounding residential area from all of the following:  
....
    - (iii) location and design of parking and access.  
.....
- (3) for integrated residential development:
  - (a) the effects on the neighbourhood character, residential amenity, safety, and the surrounding residential area from all of the following:  
...
    - (iii) location and design of parking and access; and  
....
  - (b) for buildings that do not comply with Standard H4.6.4 Building height; ...  
....
  - (d) the effects on the ~~rural and coastal~~ suburban built character of the zone;  
....

### H4.8.2. Assessment criteria

The Council will consider the relevant assessment criteria below for restricted discretionary activities:

- (1) for supported residential care accommodating greater than 10 people...  
...
  - (d) location and design of parking and access:

## H5.8. Assessment – restricted discretionary activities

### H5.8.1. Matters of discretion

The Council will restrict its discretion to all of the following matters when assessing a restricted discretionary activity resource consent application:

(1) for supported residential care accommodating greater than 10 people....

...

(b) the effects on the neighbourhood character, residential amenity, safety, and the surrounding residential area from all of the following:

...

(iii) location and design of parking and access; and

.....

(2) for four or more dwellings per site:

(a) the effects on the neighbourhood character, residential amenity, safety, and the surrounding residential area from all of the following:

...

(iii) location and design of parking and access.

...

(3) for integrated residential development:

(a) the effects on the neighbourhood character, residential amenity, safety, and the surrounding residential area from all of the following:

...

(iii) location and design of parking and access; and

.....

(4) for buildings that do not comply with Standard H5.6.4 Building height; .....

....

(d) the effects on the ~~rural and coastal~~ urban built character of the zone;

....

### **H5.8.2. Assessment criteria**

The Council will consider the relevant assessment criteria below for restricted discretionary activities:

(1) for supported residential care accommodating greater than 10 people....

....

(d) location and design of parking and access:

.....

### **H6.8. Assessment – restricted discretionary activities**

#### **H6.8.1. Matters of discretion**

The Council will restrict its discretion to all of the following matters when assessing a restricted discretionary activity resource consent application:

(1) for supported residential care accommodating greater than 10 people...

....

(b) the effects on the neighbourhood character, residential amenity and the surrounding residential area from all of the following:

...

(iii) location and design of parking and access; and

...

(2) for dwellings:

(a) the effects on the neighbourhood character, residential amenity, safety and the surrounding residential area from all of the following:

....

(iii) location and design of parking and access.

.....

(3) for integrated residential development:

(a) the effects on the neighbourhood character, residential amenity, safety, and the surrounding residential area from all of the following:

...

(iii) location and design of parking and access; and

....

(4) for buildings that do not comply with Standard H6.6.5 Building height; ...

.....  
(d) the effects on the ~~rural and coastal~~ urban built character of the zone;  
....

### H6.8.2. Assessment criteria

The Council will consider the relevant assessment criteria below for restricted discretionary activities:

(1) for supported residential care accommodating greater than 10 people.....

...

(d) location and design of parking and access:

(i) whether adequate parking and access is provided or required.

.....

(2) for dwellings:

.....

(j) infrastructure and servicing

.....

(k) The extent to which the necessary storage and waste collection and recycling facilities is provided in locations conveniently accessible and screened from streets and public open spaces.

(l) traffic:

(i) the extent to which the activity avoids or mitigates adverse effects on the safe and efficient operation of the immediate transport network.

(ii) H6.8.2 (2)(l)(i) is not considered where the development is located adjacent to a Business – City Centre Zone, Business – Metropolitan Centre Zone or Business – Town Centre Zone.

(3) for integrated residential development:

1.1 .....

1.2

(k) traffic:

(i) the extent to which the activity avoids or mitigates adverse effects on the safe and efficient operation of the immediate transport network.

(ii) H6.8.2 (3)(k)(i) is not considered where the development is located adjacent to a Business – City Centre Zone, Business – Metropolitan Centre Zone or Business – Town Centre Zone.

.....

## APPENDIX ONE

### AMENDMENTS TO PC16 RESULTING FROM THE DECISION – BUSINESS ZONES



#### Explanatory note:

This appendix sets out the content of the proposed plan change.

Amendments proposed by this plan change to the Auckland unitary Plan are shown in underline for new text and ~~strikethrough~~ where existing text is proposed to be deleted. The use of '...' indicates that there is more text, but it is not being changed. These are used when the whole provision is too long to be included.

Amendments in the notified plan change are in black text.

Amendments made in the decision report are shown in red underline and ~~strikethrough~~.

Text which was proposed to be inserted in the notified plan change and is recommended to be removed in the decision report is shown in red ~~underline and strikethrough~~.

In accordance with section 86B(1) of the Resource Management Act 1991 all of the proposed plan change rules have immediate legal effect.

## H2. H8. Business – City Centre Zone

H2. ...

### 2. H8.6. STANDARDS

H2. ...

#### **H8.6.12. Bonus floor area ratio – light and outlook**

Purpose: provide additional floor area where buildings are setback from site boundaries to encourage:

- slender buildings that are not overly bulky in appearance;
- sunlight access to streets, public open space and nearby sites;
- ~~sunlight~~ and outlook around buildings; and
- views through the city centre.

...

- (4) ~~To qualify for the bonus~~ On sites identified as special height area on Map H8.11.3, the building must comply with Standard H8.6.24 below to qualify for the bonus.

...

#### **H8.6.17. Bonus floor area - public open space**

...

- (4) ~~Where required by Standard H8.6.26~~ located on a site subject to Map H8.11.6 Verandahs, provide a verandah along the street for the full length of the public open space in accordance with Standard H8.6.26(4) – (7).

H2. ...

#### **H8.6.20. Bonus floor area - works of art**

...

- (3) The bonus floor area available is assessed at the following ratio:

...

- (e) (b) for calculating the extra floor area which can be claimed, five per cent will be taken off the total floor area which has resulted from the calculation of the addition of all of the following:

H2. ...

- (iii) areas contained within a building occupied by ~~pedestrian facilities~~ through site links for which consent has been granted; and
- (iv) ~~areas in entrance foyer/lobby or part thereof being a primary means of access to a building which is open to the public, is assessed directly from a public place and has an overhead clearance of not less than 6m.~~ any entrance foyer/lobby or part of it including any void forming an integral part of it. The entrance foyer/lobby must be

publicly accessible, accessed directly from a street or public open space and have an overhead clearance of at least 6m.

...

#### ***H8.6.27. Minimum floor to floor height***

...

- (2) The ground floor of a new building and alterations and additions that change the floor to floor height must have a minimum finished floor to floor height of 4.5m for a minimum depth of 10m where it adjoins a street or public open space.
- (3) The finished floor to floor height of new buildings above ground floor and any alterations and additions that change the floor to floor height above ground floor must be at least 3.6m where those floors will accommodate non-residential activities.

...

#### ***H8.6.28. Wind***

Purpose: mitigate the adverse wind effects generated by high-rise buildings.

- (4) A new building and additions to existing buildings that increase the height of any part of the building must not cause:

H2. ...

#### ***H8.6.31. Street sightlines***

H2. ...

- (5) Buildings or structures must not locate within the sightlines identified in Appendix 9 Business – City Centre Zone sight lines, except as otherwise provided for in Table E26.2.3.1 Activity table in E26 Infrastructure and Standard H8.6.26. Verandahs.

H2.

H2. ...

### **3. H8.8. ASSESSMENT – RESTRICTED DISCRETIONARY ACTIVITIES**

#### ***H8.8.1. Matters of discretion***

The Council will reserve its discretion to all of the following matters when assessing a restricted discretionary resource consent application:

...

- (9) infringement of minimum floor to floor height ~~ground floor activities~~, building frontage alignment and height and verandahs standards:

...



### **H8.8.2 Assessment criteria**

The Council will consider the relevant assessment criteria below for restricted discretionary activities:

(10) new buildings and external alterations and additions to buildings not otherwise provided for:

(f) (a) building design and external appearance:

...

#### *Creating a positive frontage*

(vi) *[deleted]*

~~whether verandahs are designed to be predominantly transparent to enable pedestrians to view the building façade from under the verandah and from across the street;~~

...

#### *Variation in building form/visual interest*

...

(xv) whether blank walls ~~should~~ are avoided on all levels of building frontages to streets and public open spaces;

...

(xixa) the extent to which glazing is provided on street and public open space frontages and the benefits it provides in terms of:

- the attractiveness and pleasantness of the street and public open space and the amenity for people using or passing through that street or space;
- the degree of visibility that it provides between the street and public open space and the building interior; and
- the opportunities for passive surveillance of the street and public open space from the ground floor of buildings.

...

(g) ~~design and scale~~ form and design of buildings adjoining historic heritage places:

(i) buildings adjoining ~~or in close proximity to~~ a scheduled historic heritage place:

(j) ...

(k) (c) design of parking, access and servicing:

(l) ...

(viii) where appropriate, whether a waste management plan is provided and:

- includes details of the vehicles to be used for rubbish collection to ensure any rubbish truck can satisfactorily enter and exit the site; and

- provides clear management policies to cater for different waste management requirements of the commercial tenancy and residential apartments activities.

(m) ...

(n) (d) design and layout of dwellings, visitor accommodation and boarding houses:

(o) ...

(p) (ii) the extent to which visitor accommodation and boarding houses are designed to achieve a reasonable standard of internal amenity. Taking into account:

(q) ...

- the provision of larger indoor or outdoor living spaces whether communal or exclusive to the dwelling visitor accommodation and boarding houses is more important for units that are not self-contained.

(r) ...

(iv) whether a waste management plan:

(s) ...

- provides clear management policies to cater for different waste management requirements of the commercial tenancy and residential apartments activities;

(t) ...

(9) infringement of minimum floor to floor height (~~ground floor~~), building frontage alignment and height and verandahs standards:

...

### ***H8.9.2. Restricted discretionary activities***

#### **H2.1.1.1. H8.9.2.1 Matters of discretion**

The Council will reserve its discretion to all of the following matters when assessing a restricted discretionary resource consent application for development seeking to obtain bonus floor space:

...

(6) residential activities:

(a) internal and on-site amenity;

...

#### **H2.1.1.2. H8.9.2.2. Assessment criteria**

The Council will consider the relevant assessment criteria below for restricted discretionary activities:

...

(6) residential activities:

(a) internal and on-site amenity:

(i) the extent to which the residential development provides a high standard of internal amenity and on-site amenity for occupants of the ~~dwelling~~ residential development.

(ii) To demonstrate this, and in order for the bonus floor space to be awarded for residential activities, ~~dwelling~~, residential developments must comply with all of the relevant standards ~~applying to residential development~~ and be consistent with the assessment criteria for residential developments.

In some circumstances it may be appropriate to award the bonus floor space where the development (or part thereof) does not comply with the relevant standards for ~~dwelling~~. In this instance, the ~~development applicant~~ will need to demonstrate that an equal or better standard of amenity can be achieved when compared with a development that complies with the relevant standards ~~complying development~~.

(7) infringements to bonus floor area standards:

...

## H2. H9. Business – Metropolitan Centre Zone

H2. ...

### 4. H9.6. STANDARDS

All activities listed as permitted, controlled and restricted discretionary in Table H2.4.1 Activity table must comply with the following standards.

(u) ....

#### ***H9.6.1. Building height***

Purpose:

- manage the effects of building height;
- ~~allow reasonable sunlight and daylight access~~ manage shadowing effects of building height on ~~to public open space,~~ excluding streets and nearby sites;
- manage visual dominance effects;

#### ***H9.6.2 Height in relation to boundary***

Purpose:

- manage the effects of building height;
- allow reasonable sunlight and daylight access to public open space excluding streets, and neighbouring zones; and
- manage visual dominance effects on neighbouring zones where lower height limits apply.

...

#### ***H9.6.9. Wind***

Purpose: mitigate the adverse wind effects generated by tall buildings.

(11) A new building exceeding 25m in height and additions to existing buildings that increase the building height above 25m must not cause:

- (v) the mean wind speed around it to exceed the category for the intended use of the area as set out in Table H2.6.9.1 and Figure H2.6.9.1 below;

...

## **H2.**

### **H2. H.10. Business – Town Centre Zone**

...

## **5. H10.6 STANDARDS**

...

#### ***H10.6.1. Building height***

Purpose:

- manage the effects of building height;
- ~~allow reasonable sunlight and daylight access to public open space, excluding streets and nearby sites;~~ manage shadowing effects of building height on
- manage visual dominance effects;

(w) ...

#### ***H10.6.2. Height in relation to boundary***

Purpose:

- manage the effects of building height;
- allow reasonable sunlight and daylight access to public open space excluding streets, and neighbouring zones; and
- manage visual dominance effects on neighbouring zones where lower height limits apply

(x) ...

#### ***H10.6.9 Wind***

Purpose: mitigate the adverse wind effects generated by tall buildings.

(12) A new building exceeding 25m in height and additions to existing buildings that increase the building height above 25m must not cause:

(y) (a) the mean wind speed around it to exceed the category for the intended use of the area as set out in Table H9.6.9.1 and Figure H9.6.9.1 below;

(z) ...

## **H2. H11. Business – Local Centre Zone**

### **6. H11.6. STANDARDS**

All permitted and restricted discretionary activities in Table H11.4.1 Activity table must comply with the following standards.

...

#### ***H11.6.1. Building height***

Purpose:

- manage the effects of building height;
- ~~allow reasonable sunlight and daylight access to public open space, excluding streets and nearby sites;~~ manage shadowing effects of building height on to public open space, excluding streets and nearby sites;
- manage visual dominance effects;

(aa) ...

#### ***H11.6.2 Height in relation to boundary***

Purpose:

- manage the effects of building height;
- allow reasonable sunlight and daylight access to public open space excluding streets, and neighbouring zones; and
- manage visual dominance effects on neighbouring zones where lower height limits apply.

...

#### ***H11.6.7. Wind***

Purpose: mitigate the adverse wind effects generated by tall buildings.

(13) A new building exceeding 25m in height and additions to existing buildings that increase the building height above 25m must not cause:

(bb) (a) the mean wind speed around it to exceed the category for the intended use of the area as set out in Table H11.6.7.1 and Figure H11.6.7.1 below;

H2. ...

## **H2.**

## **H2. H12. Business – Neighbourhood Centre Zone**

...

## 7. H12.6. STANDARDS

All activities listed as permitted or restricted discretionary activities in Table H12.4.1 Activity table must comply with the following standards

...

### ***H12.6.1. Building height***

Purpose:

- manage the effects of building height;
- ~~allow reasonable sunlight and daylight access to public open space, excluding streets and nearby sites;~~ manage shadowing effects of building height on to public open space, excluding streets and nearby sites;
- manage visual dominance effects;

H2. ...

### ***H12.6.2 Height in relation to boundary***

Purpose:

- manage the effects of building height;
- allow reasonable sunlight and daylight access to public open space excluding streets, and neighbouring zones; and
- manage visual dominance effects on neighbouring zones where lower height limits apply

...

### ***H12.6.7. Wind***

Purpose: mitigate the adverse wind effects generated by tall buildings.

(14) A new building exceeding 25m in height and additions to existing buildings that increase the building height above 25m must not cause:

- (cc) (a) the mean wind speed around it to exceed the category for the intended use of the area as set out in Table H12.6.7.1 and Figure H12.6.7.1 below;

...

H2.

## **H2. H13. Business – Mixed Use Zone**

H2.

## 8. H.13.6 STANDARDS

H2. All permitted and restricted discretionary activities in Table H13.4.1 Activity table must comply with the following standards.

H2. ...

### *H13.6.1. Building height*

Purpose:

- (dd) manage the effects of building height;
- (ee) ~~allow reasonable sunlight and daylight access~~ manage shadowing effects of building height on ~~to~~ public open space, ~~excluding streets, and nearby sites;~~
- (ff) manage visual dominance effects;

H2. ...

H2.

### *H13.6.2. Height in relation to boundary*

Purpose:

- manage the effects of building height;
- ~~allow reasonable sunlight and daylight access~~ allow reasonable sunlight and daylight access ~~manage shadowing effects of building height on~~ ~~to~~ to public open space ~~excluding streets, and nearby sites~~ and to nearby sites;
- manage visual dominance effects on neighbouring zones where lower height limits apply.

H2. ...

### *H13.6.8. Wind*

Purpose: mitigate the adverse wind effects generated by tall buildings.

- (1) A new building exceeding 25m in height and additions to existing buildings that increase the building height above 25m must not cause:

(gg) the mean wind speed around it to exceed the category for the intended use of the area as set out in Table H13.6.8.1 and Figure H13.6.8.1 below;

(hh) ...

## **H2. H14 Business – General Business Zone**

H2.

H2. ...

## 9. H14.6. STANDARDS

H2. All permitted and restricted discretionary activities in Table H14.4.1 Activity table must comply with the following standards

H2.  
H2. ...

#### ***H14.6.1. Building height***

Purpose:

- manage the effects of building height;
- ~~allow reasonable sunlight and daylight access to public open space, excluding streets and nearby sites;~~ manage shadowing effects of building height on public open space, excluding streets and nearby sites;
- manage visual dominance effects;

H2.  
H2. ...

#### ***H14.6.2 Height in relation to boundary***

Purpose:

- manage the effects of building height;
- allow reasonable sunlight and daylight access to public open space excluding streets, and neighbouring zones; and
- manage visual dominance effects on neighbouring zones where lower height limits apply.

H2. ...

#### ***H14.6.6. Wind***

Purpose: mitigate the adverse wind effects generated by tall buildings.

(15) A new building exceeding 25m in height and additions to existing buildings that increase the building height above 25m must not cause:

- (ii) (a) the mean wind speed around it to exceed the category for the intended use of the area as set out in Table H14.6.6.1 and Figure H14.6.6.1 below;

H2. ...  
H2.

## **H2. H15. Business – Business Park Zone**

### **10. H15.6 STANDARDS**

All permitted and restricted discretionary activities in Table H15.4.1 Activity table must comply with the following standards.

...

#### ***H15.6.1. Building height***

Purpose:

- manage the effects of building height;
- ~~allow reasonable sunlight and daylight access to public open space, excluding streets and nearby sites;~~ manage shadowing effects of building height on public open space, excluding streets and nearby sites;



- manage visual dominance effects; and

...

#### ***H15.6.2. Height in relation to boundary***

Purpose:

- manage the effects of building height;
- allow reasonable sunlight and daylight access to public open space excluding streets, and neighbouring zones; and
- manage visual dominance effects on neighbouring zones where lower height limits apply.

H2. ...

#### ***H15.6.6. Wind***

Purpose: mitigate the adverse wind effects generated by tall buildings.

(16) A new building exceeding 25m in height and additions to existing buildings that increase the building height above 25m must not cause:

(a) the mean wind speed around it to exceed the category for the intended use of the area as set out in Table H15.6.6.1 and Figure H15.6.6.1 below;

(jj) ...

### **H2. H16. Business – Heavy Industry Zone**

...

## **11. H16.6. STANDARDS**

All activities listed as permitted and restricted discretionary in Table H16.4.1 must comply with the following permitted activity standards.

#### ***H16.6.1. Building height***

Purpose:

- manage the effects of building height including visual dominance; and
- ~~allow reasonable sunlight and daylight access to~~ manage shadowing effects of building height on public open spaces excluding streets, ~~the subject site and nearby sites.~~

H2. ...

H2.

### **H2. H17. Business – Light Industry Zone**

H2. ...

**H2.**

## **12. H17.6 STANDARDS**

H2. ...

### ***H17.6.1. Building height***

Purpose:

- manage the effects of building height including visual dominance; and
- ~~allow reasonable sunlight and daylight access to~~ manage shadowing effects of building height on public open spaces excluding streets, ~~the subject site and nearby sites.~~

...

## APPENDIX ONE

### AMENDMENTS TO PC16 RESULTING FROM THE DECISION – DEFINITIONS



#### **Explanatory note:**

This appendix sets out the content of the proposed plan change.

Amendments proposed by this plan change to the Auckland unitary Plan are shown in underline for new text and ~~striketrough~~ where existing text is proposed to be deleted. The use of '...' indicates that there is more text, but it is not being changed. These are used when the whole provision is too long to be included.

Amendments in the notified plan change are in black text.

Amendments made in the decision report are shown in red underline and ~~striketrough~~.

Text which was proposed to be inserted in the notified plan change and is recommended to be removed in the decision report is shown in red ~~underline and striketrough~~.

In accordance with section 86B(1) of the Resource Management Act 1991 all of the proposed plan change rules have immediate legal effect.

## H2.1. Definitions

...

### A

....

#### **Average floor area**

The average of the horizontal areas measured at 1.5m above all floor levels from the external faces of the building, including all voids and the thickness of external and internal walls, except:

Includes:

- for sites with a gross site area of 2,000m<sup>2</sup> or less, where the horizontal area at any floor level totals less than 20 per cent of the site area, the horizontal area at that level shall be deemed to be 20 per cent of the site area for the purpose of calculating average floor area; or and
- for sites with a gross site area greater than 2,000m<sup>2</sup>, where the horizontal area at any floor level totals less than 400m<sup>2</sup>, the horizontal area at that level shall be deemed to be 400m<sup>2</sup> for the purpose of calculating average floor area.

Excludes:

- basement space;
- approved ~~pedestrian amenities and facilities~~ through site links and works of art; and
- ~~an entrance lobby/foyer which is a primary means of public access to a building, open to the public and accessed directly from a public open space.~~
- any entrance foyer/lobby or part of it including any void forming an integral part of it, provided that entrance foyer/lobby is publicly accessible, accessed directly from a street or public open space and has an overhead clearance of at least 6m.

...

### B

...

#### **Building**

Any permanent or temporary structure.

On land for the purposes of district plan provisions, "building" includes the following types of structures listed in Table J1.4.1, only where they meet the qualifying dimensions or standards:

#### **Table J1.4.1: Buildings**

Type of structure	Qualifying dimension or standard <u>(for height the rolling height method is to be used)</u>
Decks, steps or terraces	Over 1.5m <del>high</del> <u>in height</u>
Fences or walls	Over 2.5m <del>high</del> <u>in height</u>
Flagpoles, masts or lighting poles	Over 7m higher than its point of attachment or base support <u>or</u> <del>Has a Cross-sectional dimension does not</del> <u>width at any point exceeding 1.2m</u>
Grandstands, stadia or other structures that provide seating or standing accommodation (whether or not open or covered or enclosed)	Over 1m <del>high</del> <u>in height</u>
Retaining walls or breastwork	Over 1.5m <del>high</del> <u>in height</u> <u>or</u> <del>is</del> <u>located</u> within 1.5m of the boundary of a road or public place
Satellite dishes	Over 1m diameter
Stacks or heaps of materials	Over 2m <del>high</del> <u>in height and</u> In existence for more than one month
Free-standing signs	Over 1.5m <del>high</del> <u>in height</u>
<del>Swimming pools, or tanks, including retention tanks, spa pools, swirl pools, plunge pools or hot tubs</del>	Over 1m <del>high</del> <u>in height from ground level, inclusive of the height of any supporting structure or</u> <del>More than 25,000l capacity</del> <del>Supported directly by the ground or supported not more than 1m above the ground</del>
<u>Tanks including retention tanks</u>	<u>Over 1m in height from ground level, inclusive of the height of any supporting structure or</u> <u>More than 25,000l capacity, where any part of the tank is <b>more than 1m</b> above ground level</u>
<del>Structures used as a dwelling, place of work, place of assembly or storage, or that are in a reserve or camping ground</del>	Over 1.5m high <del>In use for more than 32 days in any calendar year</del>

Verandahs, <del>and bridges or other constructions</del> over any public open space	Above ground level
<u>In an Open Space Zone:</u> <u>Bicycle stand/parking structures</u> <u>Board walks</u> <u>Boxing or edging</u> <u>Drinking and water fountains</u> <u>Gates, bollards and chains</u> <u>Rubbish and recycling bins</u> <u>Seating and tables</u> <u>Stairs</u>	<u>Over 1.5m in height from ground level, inclusive of the height of any supporting structure</u>
<b>Type of structure</b>	<b><u>Qualifying dimension or standard (for height either the average ground level or rolling height method)</u></b>
<u>Structures used as a dwelling, place of work, place of assembly or storage, or <del>structures</del> that are in a reserve or camping ground</u>	<u>Over 1.5m in height and</u> <u>In use for more than 32 days in any calendar year</u>

and excludes the following types of structures:

- any scaffolding or falsework erected temporarily for construction or maintenance purposes;
- roads, road network structures, manoeuvring areas, parking areas (other than parking buildings) and other paved surfaces;
- any film set, stage or similar structures less than 5m high in height that exist for less than 30 consecutive days; and
- ~~roof mounted chimneys,~~ aerials and water overflow pipes.

In the coastal marine area for the purposes of the regional coastal plan, “building” includes any covered or partially covered permanent or temporary structure, whether or not it is enclosed.

...

## F

...

### Floor area ratio

Floor area ratio (FAR) is the relationship between ~~building~~ gross floor area and the area of a net site area, and is expressed by the formula:

- floor area ratio = gross floor area/~~net~~ site area.

For the purpose of ~~computing~~ calculating FAR, site area excludes:

~~In calculating floor area ratio, the net site area; excludes~~

a) any part of a road and any portion of a site affected by a building line restriction

b) any part of ~~the a~~ site which is made up of an interest in any airspace above or subsoil below a road. ~~and~~

- includes any part of the site which is a vehicle access way.

...

### **Food and beverage**

~~Sites where the primary business is~~ Premises where the primary business is selling food or beverages for immediate consumption on or off site.

Includes:

- restaurants and cafes;
- food halls; and
- take-away food bars.

Excludes:

- retail shops; and
- supermarkets.

This definition is nested within the Commerce nesting table.

...

...

### **Front boundary**

The boundary line on a site which adjoins a road.

Excludes:

- Boundary lines which adjoin motorways or pedestrian access ways, whether or not they are further classed as a road.
- Any boundary on a rear site.

### **G**

...

### **Gross floor area**

(1) For all purposes other than for the calculation of floor area ratio (FAR):

(2) ...

(3) Excludes:

- basement areas used for parking including manoeuvring areas, access aisles and access ramps;
- plant areas within the building, ~~including basement areas;~~
- basement areas for stairs, escalators and elevators essential to the operation of a through site link or servicing a floor used primarily for parking and loading;

...

L

### Landscaped area

In relation to any site, means any part of that site ~~being~~ not less than 5m<sup>2</sup> in area which is grassed and planted in trees, ~~or~~ shrubs, or ground cover plants and may include:

(1) One or more of the features in (a) (b) or (c) where the total land area occupied does not collectively cover more than 25 per cent of the landscaped area:

- (1) (a) ornamental pools; ~~not exceeding 25 per cent coverage of the landscaped area;~~
- (2) (b) areas paved with open jointed slabs, bricks or gobi or similar blocks where the maximum dimension of any one ~~such~~ paver does not exceed 650mm;
- (3) (c) terraces or uncovered timber decks where no part of such terrace or deck exceeds more than 1m in height above the ground immediately below;
- (4) ~~permeable artificial lawn; or [deleted]~~

(5) (d) non-permeable pathways not exceeding 1.5m in width;

~~and where the total land area occupied by one or more of the features in (1), (2), (3) and (5) above does not collectively cover more than 25 per cent of the landscaped area.~~

(2) non-permeable pathways not exceeding 1.5m in width;

(2 3) permeable artificial lawn in the residential zones, except:

(a) that permeable artificial lawn must not cover more than 50 per cent of the landscaped area of the front yard;

~~Permeable artificial lawn in the residential zones is not subject to the 25 per cent limit, except that permeable artificial lawn must not cover more than 50 percent of the landscaped area of the front yard.~~

(b) Permeable artificial lawn must ~~meet the following standards:~~



- be permeable;
- resembles grass in colour including a mix of natural looking green tones;
- have piles that are a minimum 30mm pile height, straight cut (not looped pile), and of a density and form that resembles grass;
- is resistant to ultra violet degradation, weathering and ageing during its normal service life; and
- is recyclable.

(3) Any part of a landscaped area may be situated over an underground structure with adequate soil depth and drainage.

Excludes any area which:

- falls within the definition of building coverage;
- is part of a non-permeable pathway that is greater than 1.5m in width;
- is used for the parking, manoeuvring or loading of motor vehicles.

## M

### Mean street level

...

The following qualifications apply to ~~sites with more than one frontage and corner sites:~~

(a) For a through site ~~with two frontages~~, the mean street level at each frontage applies for half the distance between those frontages.

(b) For a corner site ~~that has one frontage~~, the mean street level is the average of all points measured at the centre lines of the streets parallel to all street boundaries of the site.

(c) A Where a site with has three or more frontages or more it shall be treated will be as a through site in accordance with ~~subject to (a) and (b) above,~~ between the highest and lowest frontages.

## N

...

### Net internal floor area

The floor space between the finished surfaces of internal walls between rooms.

Excludes:

- balconies or decks;
- parking; and
- garages; ~~and~~
- ~~required storage space.~~

...

## P

...

### Pedestrian access way

Has the same meaning as access way in section 315 of the Local Government Act 1974.

### Pedestrian circulation space

Pedestrian circulation space ~~applies to~~ is a covered public area within a building which is accessible to the public during trading hours of business and:

- contains a minimum horizontal measurement of 5m; and
- has a minimum vertical dimension of 2.5m between the finished ceiling and the floor of the pedestrian area, and which is unobstructed and clear of buildings, retail kiosks and retail display cases.

#### Includes:

- escalators, ramps and stairs within the pedestrian circulation space;
- (4) decorative features such as fountains and planting within the pedestrian circulation space; and
- (5) stages or display areas for free public entertainment associated with any integrated retail development.

#### Excludes:

- seating areas for food courts/eating area;
- any space leased for retail display or sales purposes; and
- any space for entertainment which is either leased or subject to a charge.

...

## S

...

### Site

Any area of land which ...

...

See also: entrance strip, rear site, access site, front site, corner site and through site.

...

## T

...

### Through site

A site, other than a corner site, with two or more road frontages.

Refer to Figure J1.4.8 Site.

...

## W

...

### **Workers' accommodation**

A dwelling for people whose duties require them to live onsite ~~-, -and it, and in~~ the rural zones a dwelling for people who work on the site for the activities set out in Nesting Table J1.3.6 or in the surrounding rural area ~~or surrounding rural area~~.

Includes:

- accommodation for rangers;
- artists in residence;
- farm managers and workers; and
- staff.