

**BEFORE THE ENVIRONMENT COURT  
AT AUCKLAND**

**I MUA I TE KŌTI TAIAO  
TĀMAKI MAKAURAU ROHE**

**ENV-2019-AKL-**

**UNDER** the Resource Management Act 1991 ("RMA")

**IN THE MATTER** of an appeal under clause 29(6) of Schedule 1 of the  
RMA

**BETWEEN** **NORTHCOTE RD 1 HOLDINGS LIMITED**  
Appellant

**A N D** **AUCKLAND COUNCIL**  
Respondent

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**NOTICE OF APPEAL**

**Dated 12 June 2020**

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**ELLIS GOULD  
LAWYERS  
AUCKLAND**

**REF: Douglas Allan / Alex Devine**

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AUCKLAND**

## NOTICE OF APPEAL

**TO: The Registrar  
Environment Court  
Auckland**

**NORTHCOTE RD 1 HOLDINGS LIMITED (“the Appellant”)** appeals against parts of a decision of Auckland Council (“**Council**”) on Private Plan Change 23 (“**PC23**”) to the Auckland Unitary Plan (Operative in Part) (“**Unitary Plan**”).

1. The Appellant has the right to appeal the Council’s decision on PC23 (“**the Decision**”) to the Environment Court as it is the person who made the request to the Council pursuant to clause 21 of Part 2 of the First Schedule to the Resource Management Act 1991 (“**RMA**”) that was subsequently notified as PC23.
2. PC23 changes the Unitary Plan provisions governing development on a 10.8 hectare block of land at 68 – 94 Taharoto Road, Takapuna, known as “*Smales Farm*” (“**the Site**”).
3. The Appellant received notice of the Decision on 30 April 2020. The Decision was made by Independent Commissioners appointed by the Council and delegated the appropriate authority to do so.
4. The Decision upheld PC23 subject to amendments. The Appellant supports the Decision insofar as it upholds PC23 but lodges this appeal to amend or rectify the details of PC23 addressed in the following paragraphs.
5. **The grounds for the appeal are as follows:**
  - 5.1 The Site is zoned Business Park Zone under the Auckland Unitary Plan – Operative in Part (“**Unitary Plan**”) and is subject to the Smales 1 Precinct. Amongst other changes, PC23 modifies the provisions of the existing Smales 1 Precinct to allow for greater building height and scale and to enable residential activities. PC23 will enable the transformation of the Site from an office park to a transport oriented mixed use development.
  - 5.2 The Decision correctly upheld PC23 and in doing so, with the exception of the matters subject to this appeal:

- (a) Promotes the sustainable management of resources;
- (b) Is otherwise consistent with Part 2 RMA; and
- (c) Is appropriate in terms of section 32 RMA.

5.3 The amendments to PC23 sought in this appeal:

- (a) Include relatively minor substantive changes that will:
  - (i) Enhance the quality of the PC23 provisions;
  - (ii) Better promote the purpose and principles of the RMA; and
  - (iii) More appropriately and effectively give effect to higher order planning instruments and provisions.
- (b) Include minor changes to ensure that the PC23 text is consistent with the terminology and formatting adopted elsewhere in the Unitary Plan, without substantively changing the meaning of the plan change.
- (c) Correct minor errors and omissions in the PC23 text.
- (d) Collectively ensure that all aspects of PC23:
  - (i) Promote the sustainable management of resources;
  - (ii) Are otherwise consistent with Part 2 RMA;
  - (iii) Are appropriate in terms of section 32 RMA; and
  - (iv) Are consistent with the balance of the provisions of the Unitary Plan.

5.4 The additional grounds contained in the marginal “*comments*” in the annotated version of the Smales 1 Precinct provisions attached as **Attachment 1**.

6. **The Appellant seeks the following relief:**


- 6.1 That the Smales 1 Precinct provisions as altered by PC23 be amended as shown in the annotated version of the Precinct provisions attached as **Attachment 1**;
- 6.2 Such other orders, relief or other consequential amendments as are considered appropriate or necessary to address the concerns raised in this appeal;
- 6.3 That the Decision and PC23 otherwise be upheld; and
- 6.4 Costs of and incidental to this appeal.

7. **The Appellant attaches the following documents to this Appeal:**

- 7.1 A copy of the Smales 1 Precinct provisions as altered by PC23 incorporating by way of annotation the additions (underlined) and deletions (~~struck through~~) which would address the issues raised in this appeal (**Attachment 1**).
- 7.2 A copy of key parts of the Appellant's request for PC23 (**Attachment 2**).
- 7.3 A copy of the Decision (**Attachment 3**).
- 7.4 A list of names and addresses of persons to be served with a copy of this appeal (**Attachment 4**).

**DATED** at Auckland this 12<sup>th</sup> day of June 2020

**NORTHCOTE RD1 HOLDINGS LIMITED** by  
its solicitors and duly authorised agents Ellis  
Gould



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**D A Allan / A K Devine**

**ADDRESS FOR SERVICE:** Attention: Douglas Allan / Alex Devine, the offices of Ellis Gould, Solicitors, Level 17, Vero Centre, 48 Shortland Street, PO Box 1509, Auckland 1140, DX CP22003, Auckland, Telephone: (09) 307-2172,

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[adevine@ellisgould.co.nz](mailto:adevine@ellisgould.co.nz)

**To: The Registrar, Environment Court, Auckland**

**And to: Auckland Council**

**And to: The submitters listed in Attachment 4.**

## **Advice to recipients of copy of notice of appeal**

### *How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must:

1. within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
2. within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

### *How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not attach a full copy of the appellant's application. This document may be obtained, on request, from the appellant.

## **Advice**

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

**Attachment 1 – Relief Sought**

**A copy of the Smales 1 Precinct provisions as altered by PC23 incorporating by way of annotation the additions (underlined) and deletions (~~struck through~~) which would address the issues raised in this appeal**

## **APPENDIX 1 – FINAL PLAN CHANGE 23 PROVISIONS** **29 April 2020**

### **Plan Change 23 Smales Farm – Appeal Version 11 June 2020**

#### **I538. Smales 1 Precinct**

##### **I538.1. Precinct description**

The zoning of land within the Smales 1 Precinct is the Business - Business Park Zone.

The precinct is located on a 10.8 hectare site at the corner of Taharoto and Northcote roads, and is adjacent to State Highway 1, the Northern Busway, and Smales Farm Station.

Initial development within the precinct was in the nature of a business park, as provided for in the North Shore District Plan and the Auckland Unitary Plan. Most forms of residential development were not explicitly provided for and were non-complying activities. However, the characteristics of the site and its context make it a very suitable location for a high-density, public transport focused, mixed-used node, with an emphasis on both office and residential uses. These characteristics include:

- the large size and remaining development capacity of the precinct;
- the precinct's position beside a high capacity, high frequency public transport corridor in the form of the Northern Busway, and high capacity bus services that link to it by way of Smales Farm Station; and
- that adjacent uses are primarily institutional and otherwise less-sensitive to the adverse effects of the form and scale of development enabled by the precinct provisions.

Accordingly, the precinct provisions provide for a diversity of uses, including residential and employment activities, in addition to supporting non-residential activities, including retail, at a level to address demand from workers, residents, and visitors to the precinct. The provisions also encourage intensive development and the efficient use of land by providing for tall buildings to be developed. A high standard of building design and pedestrian amenity is ensured by the application of appropriate policies, standards and assessment criteria.

An overarching goal of the precinct is to support a reduction in dependence on vehicles in favour of public transport, walking, cycling and other active modes. The use of public transport is specifically encouraged by ensuring high quality primary pedestrian linkages are provided through the precinct to access the bus station, and by imposing limits on the number of car parking spaces for non-residential activities.

Integrated traffic modelling has been carried out to determine the ability of the surrounding road network to accommodate the levels of traffic expected to be generated by both development enabled by the precinct and that which is forecast to be generated by the North Shore Hospital site. This is because extensive development of the North Shore Hospital site (including new access arrangements) is planned to be implemented during the same timeframe as development at the precinct. The modelling has taken account of anticipated



traffic generated from the combined future development. This modelling confirms that the road network can accommodate the levels of traffic expected to be generated, without necessitating an assessment of the transportation effects on the surrounding road network for new development that is otherwise permitted.

The site offers a unique opportunity to promote a quality compact urban form based on characteristics that do not usually occur together in one location. The use of a Business - Business Park zone and the Smales 1 Precinct overlay together recognize that the site has:

- an existing and (foreseeably) future employment role anchored around high-density, office-based employment of the sort enabled in the Business - Business Park zone;
- characteristics that lend it to a variety of compatible uses and activities that are similar to that normally enabled in the Business - Mixed Use zone;
- a capability to accommodate residential development at a scale and of a form that is similar to that normally enabled in the Business - Metropolitan Centre zone; and
- the likely future catchment size and relationship with Milford and Northcote Town Centres, and Takapuna Metropolitan Centre, that justifies the function of a Business - Local Centre zone.

The underlying Business - Business Park zone remains in recognition of the substantial existing Business Park activities occurring on the site, and that these should continue to be maintained. The precinct sits on top of the zone in recognition that the two methods together seek to manage a transition over time away from a Business Park mono-culture to a mixed use environment that provides for both high-density residential and employment activities.

#### **1538.2. Objectives**

- (1) The Smales 1 Precinct is a vibrant, intensively and efficiently developed mixed-use precinct which:
  - (a) is an attractive place to live, work and visit;
  - (b) takes advantage of its close proximity to the adjoining frequent and reliable transit bus station;
  - (c) responds positively to its immediate surrounds and its wider built and landscape setting; and
  - (d) has a strong sense of place.
- (2) The Smales 1 Precinct is a mixed use and passenger-transport based node successfully integrating intensive, high amenity residential developments with business park activities and an appropriate range and scale of accessory uses and developments to support its workers, residents and visitors.
- (3) The Smales 1 Precinct develops and functions in a way which promotes:
  - (a) travel mode shifts to rapid and frequent public transport services, and connecting stations and services, and active modes;

- (b) reduced car trip generation rates and car parking ratios over time particularly compared to the surrounding area;
  - (c) a high quality public realm containing a central plaza gathering place; and
  - (d) a well-connected and legible network of primary and secondary pedestrian linkages connecting the precinct with its immediate surrounds and providing a good standard of amenity and accessibility throughout the precinct.
- (4) The Smales 1 Precinct ~~limits~~ manages significant adverse effects on the:
- (a) safe and efficient operation of the transport network of the locality;
  - (b) amenity of neighbouring zones and sites;
  - (c) function and amenity of Business – Metropolitan or Town Centre zones.

**Commented [EG1]: Appellant's Reasoning:**  
"Limits" is not an RMA term and rather vague. "Manages significant" is preferred because it indicates such effects are to be avoided or mitigated.

The overlay, Auckland-wide and zone objectives apply in this precinct in addition to those specified above.

### 1538.3. Policies

~~The overlay, Auckland-wide and underlying zone policies apply in this precinct in addition to those specified below above, except that:~~

~~(a) clauses (b) and (c) of policy H15.3(18) do not apply; and~~

~~(b) Policy E27.3(2) Integrated transport assessment does not apply to non-residential development up to 162,000 m<sup>2</sup> gross floor area, and residential development up to 1,380 dwellings.~~

**Commented [EG2]: Appellant's Reasoning:**  
Relocated to the end of the Policy section for consistency with AUP drafting conventions.

- (1) Require any development in the precinct which causes the cumulative total gross floor area of business activity to exceed 162,000m<sup>2</sup> or the cumulative total number of dwellings to exceed 1,380 to demonstrate that significant adverse effects on the amenity of neighbouring zones will be avoided and that the function and amenity of the Business – Metropolitan Centre Zone and Business – Town Centre Zone will not be significantly adversely affected.
- (1A) Enable the development of intensive residential activities within the precinct and require these to be designed to provide privacy and outlook, with good access to daylight and sunlight.
- (1B) Require the development of intensive residential activities within the precinct to be designed, constructed and maintained to provide the occupants of noise sensitive spaces with a reasonable level of internal acoustic amenity, thereby managing any potential reverse sensitivity effects.
- (1C) Recognise that the precinct has an on-going role as a location for business park office activities, the need to integrate the range of uses enabled by the precinct with this function, and to manage any adverse amenity effects from the potential for conversion of buildings used for business park office activities to other uses to affect the viability of the precinct as a business park.
- (2) Provide for accessory activities to meet the immediate needs of office workers, residents and visitors to the precinct while limiting the extent of those

**Commented [EG3]: Appellant's Reasoning:**  
The "business park" concept implies individual buildings set in spacious grounds whereas the precinct provisions anticipate Smales Farm will be intensively developed for both office and residential activities. The "viability of the precinct as a business park" would be impossible to assess quantitatively. Referring to "amenity effects" should address the core of the commissioners' concerns (ie: that the site will become a residential development only).

uses and activities to manage potential adverse effects on the function and amenity of the Business – Metropolitan Centre Zone and Business – Town Centre Zone.

- (2A) Enable the establishment of tall buildings within the precinct to maximise the opportunity for intensification and the efficient use of the land that:
- (a) takes maximum advantage of the frequent, high capacity and reliable public transport services available within close proximity to the precinct; and
  - (b) avoids significant adverse effects on adjoining land and on properties outside the precinct, and on the wider built and landscape setting of the city; and
  - (c) contributes positively to a visually interesting skyline, including through the management of building locations and heights, ~~so as to achieve a clustered, singular visual focal point in~~ for the wider built and landscape setting of the city.
- (2B) Require the establishment of a central pedestrian plaza at the heart of the precinct that provides a vibrant people-focused space which supports the evolving mixed-use community.
- (2C) Require high-amenity, safe and convenient primary pedestrian linkages to be provided that connect the central pedestrian plaza with the bus station and the precinct's Northcote Road, Taharoto Road, and Shakespeare Road frontages.
- (2D) Recognise the role of secondary linkages to provide quality walkable connections to integrate all buildings and spaces within the precinct with the primary pedestrian linkages.
- (2E) At each stage of development, require consideration of how primary pedestrian linkages and landscaped open spaces, provided or maintained with each new building, are integrated with adjacent linkages, open space and the bus station to ensure an appropriate level of amenity for residents, workers and visitors to the precinct, whilst preserving flexibility of options for future stages.
- (2F) Require buildings and uses on or near primary pedestrian linkages to contribute positively to the vitality and amenity afforded to users of those linkages, particularly in the vicinity of the rapid transit bus station and the central plaza.
- (2H) Discourage high car trip generating uses - such as service stations, large supermarkets or drive through restaurants – and only allow the activity where it:
- a) is necessary to support a near capacity level of office and residential

**Commented [EG4]: Appellant's Reasoning:**  
The site is not particularly large and any development of multiple tall buildings will appear as a "cluster" from most viewpoints. This concept is no more relevant to Smales Farm than to any of the Metropolitan Centres. The revised wording reflects objective 1(c).

development that already exists in the precinct;

- b) can be well integrated with other retail and commercial uses;
  - c) will not detract from a high quality transit-oriented urban environment;
  - d) will not generate significant adverse traffic effects within or adjacent to the precinct.
- (3) Require development over 162,000m<sup>2</sup> gross floor area of business activity or 1380 dwellings in the precinct to demonstrate that the activity will not significantly adversely affect the safe and efficient operation of the transport network, or that such effects will be mitigated.
- (4) Require any development over 125,000m<sup>2</sup> gross floor area of business activity or 855 dwellings in the precinct to assess the effectiveness of the travel demand management measures and the specific transport management changes required to achieve the precinct mode share targets.
- (5) For any development over 105,000m<sup>2</sup> gross floor area of business activity or 285 dwellings in the precinct, require progress towards the achievement of reduced private car trips and a shift to other travel modes to be monitored and reported at key stages in the development of the precinct.
- (6) Limit the supply of on-site parking serving non-residential activities over time to recognise the accessibility of the precinct to frequent and reliable public transport services and active modes, while supporting the planned growth of non-residential activities with an appropriate supply of parking on the site in the short term to encourage that growth.
- (7A) Enable sufficient retail, commercial service and entertainment activities within the precinct to meet the needs of residents, workers and visitors.
- (7B) ~~Require~~ Encourage the provision of retail, commercial service and entertainment activities to locate at or very close to the central pedestrian plaza so as to contribute to it being a vibrant, well-activated and lively heart within the precinct.
- (7C) ~~Require any retail, commercial service or entertainment activities that do not meet policy (7B) to demonstrate that not locating at or very close to the central pedestrian plaza:~~
- ~~(a) is not physically or spatially possible; and~~
  - ~~(b) will not compromise the ability of a sufficient quantity of other or future retail, commercial service or entertainment activities provided for in the precinct rules to achieve policy (7B).~~

**Commented [EG5]: Appellant's Reasoning:**  
 While it is intended that the majority of retail, commercial services and entertainment activities will be concentrated in the vicinity of the central plaza to support its role as focal point for the precinct, it will be desirable for a proportion of retail and commercial services activities to establish elsewhere on the site, such as adjacent to the bus station, along the Shakespeare Road frontage or within the ground floor of a building adjacent to a primary pedestrian linkage. The use of "encourage" supports the incentive to establish these activities near the plaza provided for in revised standard I538.6.1(3).

**Commented [EG6]: Appellant's Reasoning:**  
 This policy is not appropriate if the development of those activities adjacent to the plaza is incentivised rather than "required" – see revised standard I538.6.1(3).

The overlay, Auckland-wide and underlying zone policies apply in this precinct in addition to those specified above, except that:

- (a) clauses (b) and (c) of policy H15.3(18) do not apply; and

(b) Policy E27.3(2) Integrated transport assessment does not apply to non-residential development up to 162,000 m<sup>2</sup> gross floor area, and residential development up to 1,380 dwellings.]

**Commented [EG7]: Appellant's Reasoning:**  
Relocated for consistency with AUP drafting conventions.

**I538.4. Activity table**

The provisions in any relevant overlays, zone and the Auckland-wide provisions apply in this precinct unless otherwise specified below.

Table I538.4.1 specifies the activity status of land use activities in the Smales 1 Precinct pursuant to section 9(3) of the Resource Management Act 1991.

**Table I538.4.1 Activity table Smales 1 Precinct**

Activity		Activity status
<b>Accommodation</b>		
(A4)	Dwellings	P
(A5)	Conversion of a building or part of a building to dwellings, integrated residential development, visitor accommodation or boarding houses	RD
(A6)	Integrated residential development	P
(A7)	Supported residential care	P
(A8)	Visitor accommodation and boarding houses	P
(A9)	Each residential development where the cumulative number of dwellings in the precinct will be greater than 285.	C
(A10)	Each residential development where the cumulative number of dwellings in the precinct will be greater than 855.	RD
<b>Commerce</b>		
(A11)	Conference facilities	P
(A12)	Entertainment facilities	D
(A13)	Retail	P
(A14)	Department store, trade supplier, motor vehicle sales	D
(A15)	Service stations	NC
(A16)	A single supermarket up to 2,000m <sup>2</sup> gross floor area	P
(A17)	A single supermarket greater than 2,000m <sup>2</sup> gross floor area	D
(A18)	Drive-through restaurants	D
<b>Community</b>		
(A20)	Community facilities	P
(A21)	Education facilities	P
(A22)	Tertiary education facilities	P

Non-residential activities		
(A23)	Infringing any of clauses (1) <del>to or (42) or (3)</del> of Standard I538.6.1	D
(A24)	Exceeding the limits in Standard I538.6.2(1)	RD
(A25)	Each non-residential development where the cumulative floor area in the precinct will be greater than 105,000 m <sup>2</sup> gross floor area.	C
(A26)	Each non-residential development where the cumulative floor area in the precinct will be greater than 125,000 m <sup>2</sup> gross floor area.	RD
Development		
(A27)	New buildings	RD
(A28)	Temporary structures that are in place for less than 21 days.	P
(A29)	Central pedestrian plaza	C
(A30)	New and redeveloped primary pedestrian linkages (as depicted in Precinct Plan 2 Structuring Elements).	C
(A31)	Any new vehicle access or change in the direction of vehicle movements at an existing vehicle access off Shakespeare Road relative to the accesses shown on Precinct Plan 2 Structuring Elements.	D
(A32)	Activities exceeding the standards at I538.6 except where otherwise specified in this table.	RD

**Commented [EG8]: Appellant's Reasoning:**  
Refer to revised standard I538.6.1(2) and (3), reflecting the amended wording of Policy 7B.

**I538.5. Notification**

- (A1) An application for resource consent for a controlled activity listed in Table I538.4.1 above will be considered without public or limited notification or the need to obtain written approval from affected parties unless the Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.
- (1) Any application for resource consent for a restricted discretionary, discretionary or non-complying activity listed in Table I538.4.1 Activity table above will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.
  - (2) When deciding who is an affected person in relation to any activity for the purposes of section 95E of the Resource Management Act 1991 the Council will give specific consideration to those persons listed in Rule C1.13(4).

**I538.6. Standards**

The standards applicable to the underlying zone, overlays and Auckland-wide provisions apply in this precinct, except the following:

- Standard E27.6.1 Trip generation does not apply to non-residential development up to 162,000m<sup>2</sup> gross floor area and does not apply to residential development up to

**Commented [EG9]: Appellant's Reasoning:**  
Amended for consistency with AUP drafting conventions.

1,380 dwellings;

- Standard E27.6.2(5) (Parking);
- Standard H15.6.1 Building height;
- Standard H15.6.3 Yards; and
- Standard H15.6.7 Outlook space.

All activities in the Smales 1 Precinct must comply with the following standards.

#### **I538.6.1. Gross floor area (GFA)**

Purpose: to create thresholds beyond which new evaluations of the scale, uses and effects of development must occur addressing potential negative impacts on the transport network and or on the function and amenity of centres.

- (1) The maximum gross floor area in the precinct for non-residential activities regardless of activity status is 162,000m<sup>2</sup> subject to (2) below:
- (2) The total gross floor area within the precinct that is occupied by the activities listed below, regardless of activity status, must not exceed 2,000m<sup>2</sup> plus a cumulative gross floor area of 500m<sup>2</sup> for every 10,000m<sup>2</sup> of gross floor area of development up to 162,000m<sup>2</sup> and 250m<sup>2</sup> for every 10,000m<sup>2</sup> over 162,000m<sup>2</sup> gross floor area:
  - (a) Retail
  - (b) Commercial services
  - (c) Entertainment.

~~(3) The activities identified in (2) above, shall be located to have their primary pedestrian entrances at or within 50m of the central pedestrian plaza.~~

~~(4) The activities identified in (2) may occur ahead of the identified thresholds up to a maximum of 10,000m<sup>2</sup> retail, commercial services or entertainment GFA, if they are located to have their primary pedestrian entrances at or within 75m of the central pedestrian plaza located in accordance with (3) above.~~

**Commented [EG10]: Appellant's Reasoning:**  
Relocated to the end of (4) but with the distance increased to 75m to align with existing development in the vicinity of the future plaza.

**Commented [EG11]: Appellant's Reasoning:**  
With (3) deleted, this acts as a strong incentive for retail, etc, development to occur adjacent to the plaza, while enabling it to occur elsewhere as well.

#### **I538.6.2. Parking**

Purpose: to

- manage the effects of parking for non-residential development on trip generation as the precinct develops
- encourage a reduction in the ratio of parking spaces to floor area as the precinct develops
- ensure that land and resources are used efficiently within the precinct.

(1) The number of parking spaces accessory to non-residential activities must not exceed:

- (a) 1936 car parking spaces for the first 44,770m<sup>2</sup> gross floor area;

- (b) for any development up to 105,000m<sup>2</sup> gross floor area up to a maximum of 3,639 spaces; and
- (c) for any development in excess of 105,000m<sup>2</sup> gross floor area up to a maximum of 4,585 spaces.

(2) No minimum or maximum parking requirements apply to residential activity.

### **I538.6.3. Trip generation**

Purpose: the trip generation effects of development within the precinct are subject to the following thresholds:

- up to 105,000m<sup>2</sup> gross floor area of non-residential activities or 285 dwellings the effects are considered acceptable.
- up to 125,000m<sup>2</sup> gross floor area of non-residential activities or 855 dwellings the effects are considered manageable.
- up to 162,000m<sup>2</sup> gross floor area of non-residential activities or 1,380 dwellings an assessment of the effects is required against the matters of discretion in I538.8.1(6) and the assessment criteria in I538.8.2(6).
  - (1) For development over 162,000m<sup>2</sup> gross floor area of non-residential activities or 1,380 dwellings, an integrated transportation assessment (ITA) will be required as set out in Chapter E27.
  - (2) Non-residential development up to 162,000 m<sup>2</sup> gross floor area, and residential development up to 1,380 dwellings, will not be subject to the following:
    - (a) Policy E27.3(2) Integrated transport assessment; and
    - (b) Standard E27.6.1 Trip generation.

### **I538.6.4. Building height**

Purpose: to

- manage the effects of building height;
- allow reasonable sunlight and daylight access to publicly accessible open space excluding streets and nearby sites;
- enable efficient use of land by enabling tall buildings in appropriate locations within the precinct; and
- contribute to a visually interesting and varied skyline appearance when viewed from distant viewpoints, including by limiting the number of buildings with heights above RL98.4.
  - (1) Buildings must not exceed the heights in the following table (expressed as an RL - Reduced Level above Mean Sea Level):



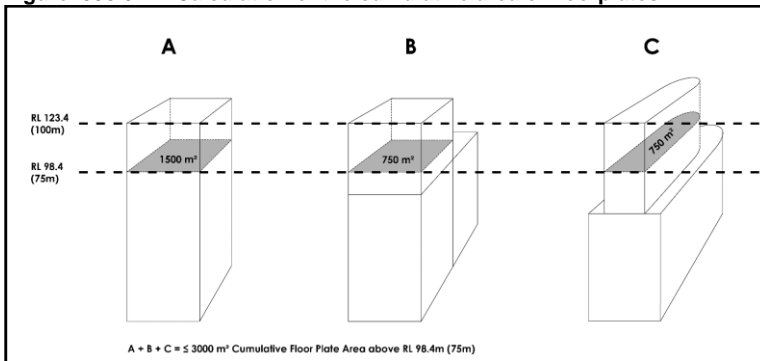
**Table I538.6.4.1 Building height**

Height Area as identified on I538.10.1 Precinct Plan 1 Maximum height Precinct Plan-1	RL	Equivalent height above average ground level at Taharoto Road frontage
1	50.4	27m
2	123.4	100m

Commented [EG12]: Appellant's Reasoning: Amended to correctly reference the Precinct Plan.

- (2) Notwithstanding I538.6.4(1) the cumulative floor area of the largest floor plate in each building in Height Area 2 above a height of RL98.4 (75m above average ground level at the Taharoto Road frontage) must not exceed 3,000m<sup>2</sup>. For clarity, this standard does not constrain the total gross floor area of buildings above RL98.4. Refer to Figure I538.6.4.1 Calculation of the cumulative area of floorplates for an example of the calculation of the cumulative area of floorplates.

**Figure I538.6.4.1 Calculation of the cumulative area of floorplates**



**I538.6.5. Maximum tower dimension and building separation**

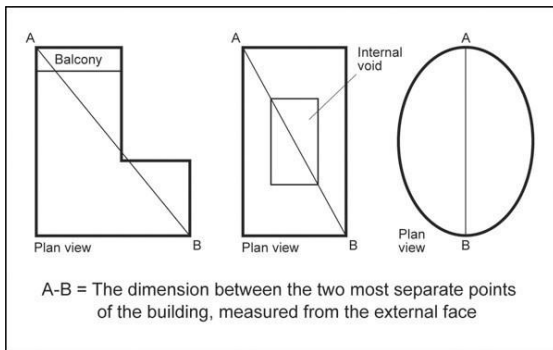
Purpose: to ensure that tall buildings

- are not overly bulky in appearance and manage significant visual dominance effects;
- allow adequate sunlight and daylight access to adjoining buildings and land;
- provide adequate sunlight and outlook around and between buildings; and
- mitigate adverse wind effects; and
- contribute to a visually interesting and varied skyline appearance when viewed from distant viewpoints, including by limiting the dimension and cumulative floor area of buildings above RL98.4.

- (1) The maximum plan view dimension of that part of a building above RL50.4 must not exceed 55m.

- (2) The maximum plan view dimension of that part of a building above RL98.4 must not exceed 35m.
- (3) The maximum plan view dimension is the horizontal dimension between the exterior faces of the two most separate points of the building, depicted as A to B in Figure I538.6.5.1 Maximum tower dimension plan view below.
- (4) Above a height of RL50.4, a minimum distance of 20m must be provided between buildings.

**Figure I538.6.5.1 Maximum tower dimension plan view**



#### I538.6.6. Outlook space

Purpose: to

- ensure a reasonable standard of visual and acoustic privacy between different dwellings, including their outdoor living space, on the same or adjacent building sites;
- encourage the placement of habitable room windows to maximise both passive surveillance of any open space designed to accommodate public use, and privacy, and to manage overlooking of neighbouring building sites.

- (1) ~~Refer to H9 Business – Metropolitan Centre Zone, Standard H9.6.10 applies; and-~~
- (2) The outlook space must be clear and unobstructed by buildings.

**Commented [EG13]: Appellant's Reasoning:**  
Amended for consistency with AUP drafting conventions.

#### I538.6.7. Minimum dwelling size

Purpose: to ensure dwellings are functional and of a sufficient size to provide for the day to day needs of residents, based on the number of occupants the dwelling is designed to accommodate.

- (1) ~~Refer to H9 Business – Metropolitan Centre Zone, Standard H9.6.11 applies-~~

**Commented [EG14]: Appellant's Reasoning:**  
Amended for consistency with AUP drafting conventions.

#### I538.6.7A Residential at ground floor

Purpose: to discourage the location of activities that require privacy and which do not contribute to activation on the ground floor of buildings on primary pedestrian linkages.

- (1) Dwellings, including units within an integrated residential development, must not locate on the ground floor of a building where the dwelling or unit has frontage to the edge of a primary pedestrian linkage.

### **I538.6.8. Central Pedestrian Plaza**

Purpose: to ensure that a high amenity central gathering place is developed at a timely stage to function as the heart of the precinct.

- (1) No later than the completion of 125,000m<sup>2</sup> GFA of development in the precinct, a pedestrian plaza shall be provided approximately at the intersection of the primary pedestrian linkages shown on I538.10.2 Precinct Plan 2 Structuring Elements.
- (2) The central pedestrian plaza shall have a minimum area of 1,000m<sup>2</sup>.
- (3) Notwithstanding the definition of landscaped area in Chapter J Definitions, any part of the central pedestrian plaza that is not part of the internal vehicular network shall be included in the calculation of landscaped area for the precinct.

**Commented [EG15]: Appellant's Reasoning:**  
Amended to correctly identify the Precinct Plan.

### **I538.6.9 Primary pedestrian linkages**

Purpose: to ensure that legible, high quality linkages are in place at a timely stage in development of the precinct.

- (1) No later than the completion of 125,000m<sup>2</sup> GFA of development in the precinct, the primary pedestrian linkages shown on I538.10.2 Precinct Plan 2 Structuring Elements shall be provided.

**Commented [EG16]: Appellant's Reasoning:**  
Amended to correctly identify the Precinct Plan.

### **I538.6.10 Noise levels between residential units and for noise sensitive spaces**

Purpose: to ensure within the precinct an acceptable level of acoustic amenity for activities sensitive to noise.

- (1) Noise levels between units in the precinct shall comply with E25.6.9 (adopting the limits prescribed for the Business Mixed Use Zone).
- (2) Noise sensitive spaces within the precinct shall be designed and / or insulated to comply with E25.6.10, adopting the internal noise levels for the Business Mixed Use Zone. For the purpose of applying E25.6.10(2), the external noise level shall be the maximum noise levels permitted in the Business Park Zone.
- (2A) New buildings or alterations to existing buildings containing noise sensitive activities within 100 metres of the nearest carriageway edge line of State Highway 1 ("State Highway Buffer Area") must be designed, constructed and maintained to achieve an indoor design noise level from road-traffic of 40 dB LAeq(24h).
- (3) The relevant assessment criteria in E25.8 shall apply to any activity that does not comply with I538.6.11. The assessment criteria shall be applied as if the precinct was located in the Business - Mixed Use Zone.

Note: The relevant provisions of E25 for the Business - Business Park zone apply in the precinct unless otherwise specified above.

### **I538.7. Assessment – controlled activities**

#### **I538.7.1. Matters of control**

For activities and development that are controlled activities in the precinct, the council will reserve its control to the following matters in addition to the matters specified for the relevant controlled activities in the Business – Business Park zone and the Auckland-wide provisions:

- (1) The central pedestrian plaza:
  - (a) design.
- (2) New and redeveloped primary pedestrian linkages:
  - (a) design.
- (3) Each development where either the cumulative floor area of non-residential development will be greater than 105,000 m<sup>2</sup> gross floor area (A25) or the cumulative number of dwellings will be greater than 285 (A9):
  - (a) the management of parking;
  - (b) active modes facilities - the nature and location of facilities throughout the precinct that support active modes of travel;
  - (c) precinct-wide travel demand management initiatives and
  - (d) in granting resource consent for any development which results in the cumulative development exceeding 105,000m<sup>2</sup> GFA of non-residential development or 285 dwellings, if the mode share for single occupancy cars is greater than the values set out in I538.8.2(6), the council may impose a condition requiring a travel demand management plan that encourages the use of travel modes other than single occupancy vehicles for accessing the precinct to be prepared in consultation with Auckland Transport and major tenants within the precinct and includes Auckland Transport responses.

#### **I538.7.2. Assessment criteria**

For activities and development that are controlled activities in the precinct, the council will consider the relevant assessment criteria below in addition to the criteria specified for the relevant controlled activities in the Business – Business Park zone and the Auckland-wide rules:

- (1) The central pedestrian plaza:

The extent to which the central pedestrian plaza:

  - (a) provides a central gathering place and public space heart to the precinct;
  - (b) achieves a strong sense of edge definition to the public space through building and other elements (e.g. walls, screens, changes in level, vegetation) acknowledging that temporary design solutions may be used as interim measures where adjacent development has not occurred;
  - (c) creates a positive interface and closely integrates with the adjoining primary pedestrian linkages;
  - (d) receives adequate sun during the winter between the hours of 11am and 2pm;
  - (e) is appropriately sheltered from the prevailing south-westerly wind;

- (f) provides comfortable places to sit and spend time in;
- (g) is primarily hard-surfaced to provide for pedestrian movement, people gathering and events; and
- (h) provides lighting to support a safe night-time environment.

(2) New and redeveloped primary pedestrian linkages:

The extent to which primary pedestrian linkages:

- (a) are consistent with 1538.10.2 Precinct Plan 2 Structuring Elements;
- (b) achieve legible, accessible, safe and high quality walking routes between the street entrances, bus station and central pedestrian plaza that are also supportive of people using other active travel modes - bicycles, scooters and other micro-mobility choices;
- (c) achieve edge definition through building and other elements (e.g. walls, screens, changes in level, vegetation) acknowledging that temporary design solutions may be used as interim measures where adjacent development has not occurred;
- (d) achieve a high-quality interface with adjoining activity, including through weather protection at building entrances, recognising the importance of this interface to the overall quality of the pedestrian environment;
- (e) provide lighting to support a safe night-time environment; and
- (f) create a positive interface and closely integrated with the central pedestrian plaza.

**Commented [EG17]: Appellant's Reasoning:**  
Amended to correctly identify the Precinct Plan.

(3) Each development where either the cumulative floor area of non-residential development in the precinct will be greater than 105,000 m<sup>2</sup> gross floor area (A26) or the cumulative number of dwellings will be greater 285 (A10):

- (a) the management of parking – the extent to which all parking within the precinct is being effectively managed to reduce the demand for single occupancy car trips;
- (b) active modes facilities - the nature and location of facilities throughout the precinct that support active modes of travel – the extent of provision in all existing and proposed buildings for active modes of travel and end of trip facilities; and
- (c) precinct-wide travel demand management initiatives – including biennial travel mode questionnaire surveys of all precinct workers and residents for comparison with the values set out in 1538.8.2(6), as well as travel demand management initiatives that have been established and administered to determine if they are consistent with the objectives and policies of the precinct, connectivity with any new or upgraded public transport and pedestrian/active mode facilities on the adjacent transport networks, and new facilities for active mode travelers that are being established.

## I538.8. Assessment – restricted discretionary activities

### I538.8.1. Matters of discretion

For activities and development that are restricted discretionary activities in the precinct, the council will restrict its discretion to the following matters in addition to the matters specified for the relevant restricted discretionary activities in the Business – Business Park zone and the Auckland-wide provisions:

- (1) Activities exceeding the limits in Standard I538.6.2 (Parking):
  - (a) ~~refer to E27~~ Transport, Rule E27.8.1(5) (a), (b) and (c) applies.
- (2) Activities exceeding the limits in Standard I538.6.4 (Height):
  - (a) the effects of the infringement on the amenity of neighbouring sites;
  - (b) the effects of the infringement on amenity within the precinct;
  - (c) the location of the building site in relation to its suitability for high buildings; and
  - (d) the contextual relationship of the building with adjacent buildings and the wider landscape.
- (3) Activities exceeding the limit in clause (2) of Standard I538.6.5 (Maximum tower dimension and building separation):
  - (a) The effects of the infringement on the amenity of neighbouring sites; and
  - (b) The effects of the infringement on the wider landscape.
- (4) Conversion of a building or part of a building to dwellings, integrated residential development, visitor accommodation or boarding houses:
  - (a) ~~refer to H9~~ Business – Metropolitan Centre zone, Rule H9.8.1(5) applies; and
  - (b) effects ~~on the business park function of~~ the integration of office activities with other activities within the precinct.
- (5) New buildings, and additions and alterations not otherwise provided for:
  - (a) consistency with ~~538.10.2 Precinct Plan 2 Structuring Elements~~ Precinct Plan 2;
  - (b) building design and appearance;
  - (c) the design of ground floor residential activity;
  - (d) the provision and design of landscaped open space;
  - (e) pedestrian amenity, safety and access; and

**Commented [EG18]: Appellant's Reasoning:**  
Amended for consistency with AUP drafting conventions.

**Commented [EG19]: Appellant's Reasoning:**  
Amended for consistency with AUP drafting conventions.

**Commented [EG20]: Appellant's Reasoning:**  
The "business park" concept implies individual buildings set in spacious grounds whereas the precinct provisions anticipate Smales Farm will be intensively developed for both office and residential activities. Effects on the "business park" function of the precinct would be impossible to assess quantitatively. The reference to integration reflects the focus of Policy 1C as revised.

**Commented [EG21]: Appellant's Reasoning:**  
Amended to correctly identify the Precinct Plan.

- (f) the design and appearance of tall buildings.
- (6) Each development where either the cumulative floor area of non-residential development in the precinct will be greater than 125,000m<sup>2</sup> gross floor area (A26) or the cumulative number of dwellings will be greater than 855 (A10):
  - (a) mode share;
  - (b) travel management;
  - (c) transport infrastructure and parking provisions; and
  - (d) in granting resource consent for the first development which results in the cumulative development in the precinct exceeding 125,000m<sup>2</sup> GFA of non-residential development or 855 dwellings, if ~~either the peak hour traffic generation rates or the mode share for single occupancy car travel is greater than the values set out in I538.8.2(6)(a), the council may impose a condition requiring a travel demand management plan that encourages the use of travel modes other than single occupancy vehicles for accessing the precinct to be prepared in consultation with Auckland Transport and major tenants within the precinct.~~

**Commented [EG22]: Appellant's Reasoning:**  
Delete as there are no such rates specified in I538.8.2(6)(a).

#### I538.8.2. Assessment criteria

For activities and development that are restricted discretionary activities in the precinct, the council will consider the relevant assessment criteria below in addition to the criteria specified for the relevant restricted discretionary activities in the Business – Business Park zone and the Auckland-wide rules:

- (1) Activities exceeding the limits in Standard I538.6.2 (Parking):
  - (a) ~~refer to E27~~ Transport, Rule E27.8.2(4)(b) to (h) applies.
- (2) Activities exceeding the limits in Standard I538.6.4 (Height):
  - (a) the extent to which the amenity of neighbouring sites including those outside the precinct is adversely affected;
  - (b) the extent to which the precinct can accommodate higher buildings without generating significant adverse effects on the wider environment;
  - (c) the extent to which the height of a new building is appropriate in the context of the height of buildings on adjacent land and within the wider landscape setting of the city;
  - (d) for buildings in Height Area 1, in addition to (a), (b) and (c) above, those criteria listed in I538.8.2(5)(f).
- (3) Activities exceeding the limit in clause (2) of Standard I538.6.5 (Maximum tower dimension and building separation):

**Commented [EG23]: Appellant's Reasoning:**  
Amended for consistency with AUP drafting conventions.

**Commented [EG24]: Appellant's Reasoning:**  
Amended to align with objective (1)(c) and policy (2A)(c).

- (a) the extent to which the amenity of neighbouring sites including those outside the precinct is adversely affected; and
- (b) the extent to which building footprint, mass and visual scale is managed above RL98.4, including through appearing obviously smaller than below RL98.4, in order to avoid significant adverse effects on the wider environment, in particular, the skyline of the precinct, as seen within the broader urban area.

(4) Conversion of a building or part of a building to dwellings, integrated residential development, visitor accommodation or boarding houses:

(a) ~~refer to H9 Business – Metropolitan Centre zone, Rule H9.8.2(5) applies;~~ and

**Commented [EG25]: Appellant's Reasoning:**  
Amended for consistency with AUP drafting conventions.

(b) ~~effects on the business park function of~~ of the integration of office activities with other activities within the precinct:

**Commented [EG26]: Appellant's Reasoning:**  
Amended for consistency with amended Policy 1C.

the extent to which:

(i) the conversion ensures that existing and proposed activities are well integrated and that avoids ~~adverse effects on the business park function of the precinct~~ amenity are avoided or mitigated; and

**Commented [EG27]: Appellant's Reasons:**  
This amended criterion is more consistent with Policy 1C as revised, and revised matter of discretion 8.1(4)(b).

(5) New buildings, and additions and alterations not otherwise provided for:

(a) consistency with ~~538.10.2 Precinct Plan 2 Structuring Elements~~ Precinct Plan 2:

**Commented [EG28]: Appellant's Reasoning:**  
Amended to correctly identify the Precinct Plan.

the extent to which development is generally consistent with the structuring elements identified on ~~538.10.2 Precinct Plan 2 Structuring Elements~~ Precinct Plan 2. Note: Primary pedestrian linkages need not be linear.

**Commented [EG29]: Appellant's Reasoning:**  
Amended to correctly identify the Precinct Plan.

(b) building design and appearance:

the extent to which:

(i) building design is of high quality, expressing a clear and coherent design concept that responds to its surrounding context and utilises a palette of durable materials to express the building form;

(ii) features such as façade modulation and articulation, and/or the use of materials and finishes, are used to manage visual amenity effects of building bulk and scale, and to create visual interest;

(iii) the roof profile is part of the overall building form and rooftop plant and equipment is integrated into the building design; and

(iv) the ground floor areas of buildings on primary pedestrian linkages are adaptable to a range of uses.

(c) ground floor residential activity:

where ground floor residential activity adjoins a publicly accessible area,



the extent to which the design of the public/private interface:

- (i) addresses the privacy of occupiers of dwellings;
- (ii) provides appropriate levels of passive surveillance of the adjoining area of public access; and
- (iii) maintains the visual and pedestrian amenity of the adjoining area of public access.

(d) landscaped open space:

the extent to which:

- (i) landscaped open space is provided or maintained with each stage of development; and
- (ii) the design of hard and soft landscaping integrates with and appropriately enhances the design and configuration of buildings and the amenity of publicly accessible areas for the various users of the precinct.

(e) pedestrian amenity, safety and access:

the extent to which:

- (i) the design of a building contributes to pedestrian vitality and interest where it fronts an area of significant pedestrian activity, in particular adjoining primary pedestrian linkages and the central pedestrian plaza;
- (ii) building entrances are easily identifiable and accessible, and provide pedestrian shelter;
- (iii) separate pedestrian entrances are provided for residential activity that are clearly located and legible for public access and provide a sense of address for residents and visitors;
- (iv) the design of development has regard to pedestrian amenity and personal safety; and
- (v) parking, loading and service areas are located and screened (as necessary) to maintain pedestrian amenity.

(f) buildings within Height Area 2 extending above RL50.4:

the extent to which:

- (i) the building maintains the visual amenity of the overall development on the site as viewed from residential zones and public places outside the precinct;

- (ii) the building makes a positive contribution to the collective skyline of the precinct, including architectural expression to the rooftops and upper levels of tall buildings;
- (iii) the building responds and relates appropriately to the scale and form of neighbouring buildings within the precinct; and
- (iv) ~~the building, particularly where above RL98.4, positively contributes to achieving a clustered concentration of built form with a singular visual focal point in the precinct, as seen within the broader urban area around the precinct, through building location and height; and~~
- (v) adverse off-site and off-precinct effects of tall buildings, in particular:
  - wind, shadowing, dominance and privacy effects; and
  - significant visual effects, including cumulative effects, on the wider landscape ~~setting of the city environment, including views to the summit of Rangitoto~~

are avoided or suitably mitigated;

- (6) Each development where either the cumulative floor area of non-residential development in the precinct will be greater than 125,000m<sup>2</sup> gross floor area (A26) or the cumulative number of dwellings will be greater than 855 (A10):
- (a) mode share – assessment of the actual mode share of travel associated with non-residential and residential activities at the precinct in the morning and afternoon peak hour, against the following mode shares:
    - (i) non-residential: single occupancy car travel 60%; all other travel 40%;and
    - (ii) residential: single occupancy car travel 45%; all other travel 55%.
  - (b) demonstrate the success or otherwise of Travel Demand Management measures implemented within the precinct, including demonstrating these are consistent with the objectives and policies of the precinct, including:
    - (i) site travel demand management plans corresponding to the scale and significance of the activity;
    - (ii) physical infrastructure to be established or currently established on the site to support alternatives to single occupancy car use, such as covered facilities for cyclists, scooters, showering, lockers and changing facilities, plus carpool, shared vehicles and shared parking areas; and
    - (iii) operational and management measures to be established or currently implemented on the site to encourage reduced vehicle trips including car share schemes, management to incentivise lower vehicle use, public transport incentives, flexi-time, remote working, and staggered working

**Commented [EG30]: Appellant's Reasoning:**

This deletion reflects the amendment to Policy 2A(c). The site is not particularly large and any development of multiple tall buildings will appear as a "cluster" from most viewpoints. This concept is no more relevant to Smales Farm than to any of the Metropolitan Centres.

**Commented [EG31]: Appellant's Reasoning:**

This criterion as drafted is impractical because any tall building within the permitted height limits for the precinct will impact the view to the summit of Rangitoto from at least one location.

hours;

- (c) reporting on any new or upgraded public transport and pedestrian / active modes connections on the transport network adjacent to the precinct; and
- (d) where criterion I538.8.2.(6)(a) is not met, the council shall have regard to whether the overall non-residential activity could meet that criterion where, either:
  - (i) the parking proposed in the application for non-residential activity gross floor area results in a reduction in the overall parking ratio for non-residential activity consistent with achieving the requirements in standard I538.6.2(1); or
  - (ii) information is provided in the application to demonstrate how the parking provision for later intended buildings will be delivered to achieve the requirements in standard I538.6.2(1).

#### **I538.9. Special information requirements**

Special information is required in respect of the following applications, as set out below:

- (1) Each development where either the cumulative floor area of non-residential development in the precinct will be greater than 105,000 m<sup>2</sup> gross floor area (A25) or the cumulative number of dwellings will be greater than 285 (A9):
  - (a) All the information necessary for council to be able to gain a comprehensive understanding of the matters which are listed for assessment.
  - (b) An 'integration' plan indicating the positioning of all existing and intended buildings relative to 'structuring elements' and how the balance of the precinct is to be developed to achieve or promote the objectives and policies of the precinct and thereby how the proposal fits with the developed and consented urban structure and form. To avoid doubt, this plan is not to be the subject of any approval from the council but is to inform any other travel-related conditions that might be appropriate and to understand such things as the developing movement pattern throughout the precinct and the location of noise-emitting and noise-sensitive activities.
  - (c) An assessment including a biennial travel mode questionnaire survey of travel patterns of workers and residents prepared by a suitably qualified and experienced person addressing the following:
    - i. Mode share

Details of the actual mode share of travel associated with non-residential and residential activity in the precinct in the morning and afternoon peak hour.
- (2) The application for resource consent under rules I538.4.1 (A25), (A9), (A26) and (A10) shall provide evidence of consultation on the mode share assessment with Auckland Transport and the New Zealand Transport Agency and their responses to that consultation.

(3) The formation of a new primary pedestrian linkage and or the central pedestrian plaza at any time or stage in the development of the precinct.

a. As for I538.9(1)(a) and (b).

(4) ~~A building extending above RL50.4.~~

a. ~~As for I538.9(1)(a) and (b).~~

(5) Where Standard I538.6.11(2A) applies, a design report prepared by a suitably qualified and experienced acoustics specialist must be submitted to the council demonstrating noise compliance prior to the construction or alteration of any building containing a noise sensitive activity in or partly in the State Highway Buffer Area.

(6) Each application for resource consent under rule I538.6.1(3) for the gross floor area (GFA) of premises occupied by retail, commercial services or entertainment activities ahead of the thresholds in rule I538.6.1(2) shall include a diagram to scale showing:

- a. An indicative concept of the proposed central pedestrian plaza as depicted on I538.10.2 Precinct Plan 2 Structuring Elements, including the identification of any portions of the plaza that may have been formed to date; and
- b. The location, floor areas and primary pedestrian entrances of all existing activities that are enabled by and are subject to standard I538.6.1(2) – total GFA of retail, commercial services and entertainment activities; and
- c. The location, floor areas and primary pedestrian entrances of all proposed new activities that are proposed under standard I538.6.1(3) – GFA of retail, commercial services and entertainment activities ahead of the thresholds of I538.6.1(2); and
- d. A table of floor areas specifying all existing and proposed developments (residential and non-residential) that give rise to the allowances for retail, commercial services and entertainment under standard I538.6.1 Gross floor area (GFA) and specifying also the commensurate retail, commercial services and entertainment floor areas the developments enable (existing and proposed) and identifying also those activities and their floor areas that have primary pedestrian entrances 'at or within 75m of the central pedestrian plaza'.

**Commented [EG32]: Appellant's Reasoning:**  
This requirement would probably apply to every building proposed in Height Area 2. This is inconsistent with I538.9(1) which requires the specified special information only after the establishment of 105,000sqm non-residential development or 285 dwellings within the precinct.

### I538.10. Precinct plans

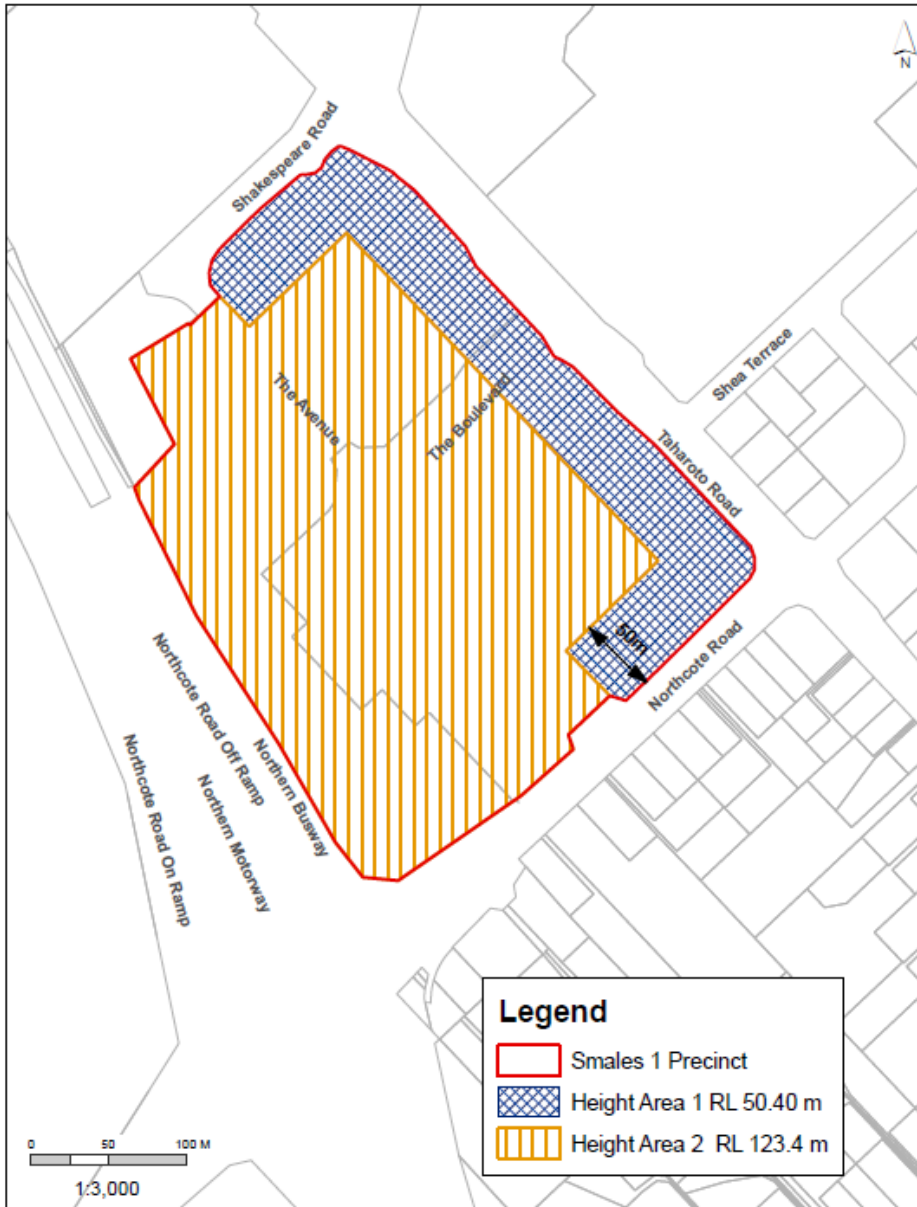
I538.10.1 Smales 1 Precinct: Precinct Plan 1 – Maximum Height

I538.10.2 Smales 1 Precinct: Precinct Plan 2 – Structuring Elements.

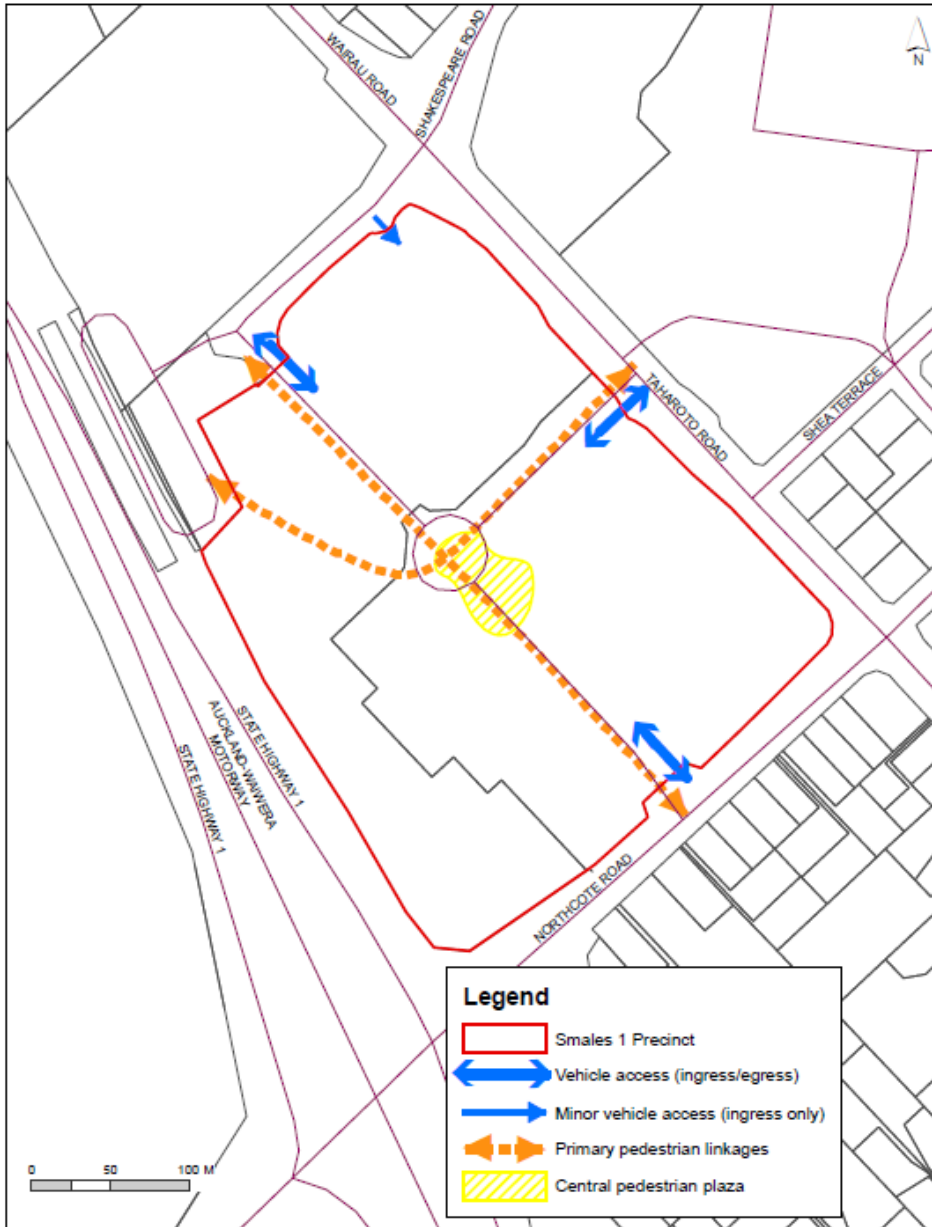
**Commented [EG33]: Appellant's Reasoning:**  
Additional special information requirement to enable the implementation of rule I538.6.1(3).

**Commented [V534]: Appellant's Reasoning:**  
Note: To correct a GIS technical error, the additional linework on I538.10.2 Smales 1 Precinct: Precinct Plan 2 Structuring Elements, including road centrelines and the circle at the intersection of The Avenue and The Boulevard, is to be removed.

I538.10.1 Smales 1 Precinct: Precinct Plan 1 – Maximum Height



I538.10.2 Smales 1 Precinct: Precinct Plan 2 – Structuring Elements



**Attachment 2 – Application (Extracts)**

**A copy of key parts of the Appellant's request for PC23**

# **Auckland Unitary Plan (Operative in Part)** **Application for Private Plan Change**

## **Smales Farm**



**Northcote RD 1 Holdings Limited**

July 2018



## Proposed Private Plan Change – Smales Farm

### Application for Changes to the Auckland Unitary Plan – Operative in Part by Northcote RD 1 Holdings Ltd

Northcote RD 1 Holdings Ltd hereby applies pursuant to clause 21 of Schedule 1 of the Resource Management Act 1991 (RMA) for changes to the provisions of the Auckland Unitary Plan – Operative in Part (“Unitary Plan”) in accordance with the details set out below.

The legal description and ownership of the land subject to this application is set out in **Schedule 1** to which is attached a copy of the relevant Certificates of Title. The land subject to the application is known as “Smales Farm” and is situated at 68 – 94 Taharoto Road, Takapuna.

The Site is marked on the Location Plan attached as **Schedule 2**.

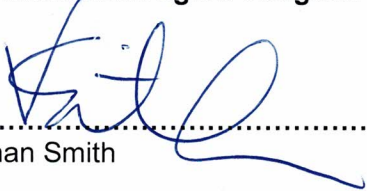
The amendments sought by the applicant to the Unitary Plan provisions are as follows:

- i) The amendment of two policies in H15 Business – Business Park Zone as detailed in **Schedule 3**.
- ii) The introduction of new provisions and precinct plans, and the amendment of some existing provisions, in I538 Smales 1 Precinct as detailed in **Schedule 4**.
- iii) Any other alterations to the Unitary Plan required as a consequence of these changes;
- iv) Such further or other alterations to the Unitary Plan as the Council considers appropriate in order to give effect to enabling the development of a Transit Oriented Development on the Site as described in this application.

**Schedule 5** is a list of the documents attached to this application being the documents required to address the relevant provisions of the Act.

Dated this 25<sup>th</sup> day of July 2018

**NORTHCOTE RD 1 HOLDINGS LTD**  
by its authorised agent **Vaughan Smith Planning Limited**

  
.....  
Vaughan Smith

The address for service of the applicant is:  
Vaughan Smith Planning Limited  
PO Box 3426  
Shortland Street  
Auckland 1140  
Attention: Vaughan Smith  
Phone: 021 378 827

## **SCHEDULE 1**

### **LEGAL DESCRIPTION AND OWNERSHIP**

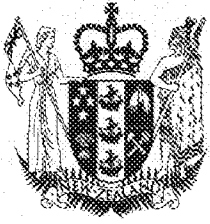
**Legal Description:**

**Lot 1 Deposited Plan 204794**

**Lot 2 Deposited Plan 204794**

**Ownership:**

**Northcote RD 1 Holdings Limited**



# COMPUTER FREEHOLD REGISTER UNDER LAND TRANSFER ACT 1952



  
R. W. Muir  
Registrar-General  
of Land

## Search Copy

**Identifier** NA133B/141  
**Land Registration District** North Auckland  
**Date Issued** 15 March 2001

### Prior References

NA2097/10 NA81A/399

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**Estate** Fee Simple  
**Area** 5.3444 hectares more or less  
**Legal Description** Lot 1 Deposited Plan 204794

### Proprietors

Northcote RD 1 Holdings Limited

### Interests

Subject to an electricity right (in gross) over parts marked C, D and E on DP 204794 in favour of The Waitemata Electric Power Board created by Transfer 663213.1 - 11.5.1978 at 10:55 am

Subject to a right of way and to electricity, water, gas, telecommunications, sewer drainage and stormwater drainage rights over parts marked A and B on DP 204794 specified in Easement Certificate D579852.3 - produced 14.2.2001 at 3:32 pm and entered 15.3.2001 at 9:00 am

6616188.8 Mortgage to (now) Westpac New Zealand Limited - 19.10.2005 at 9:00 am

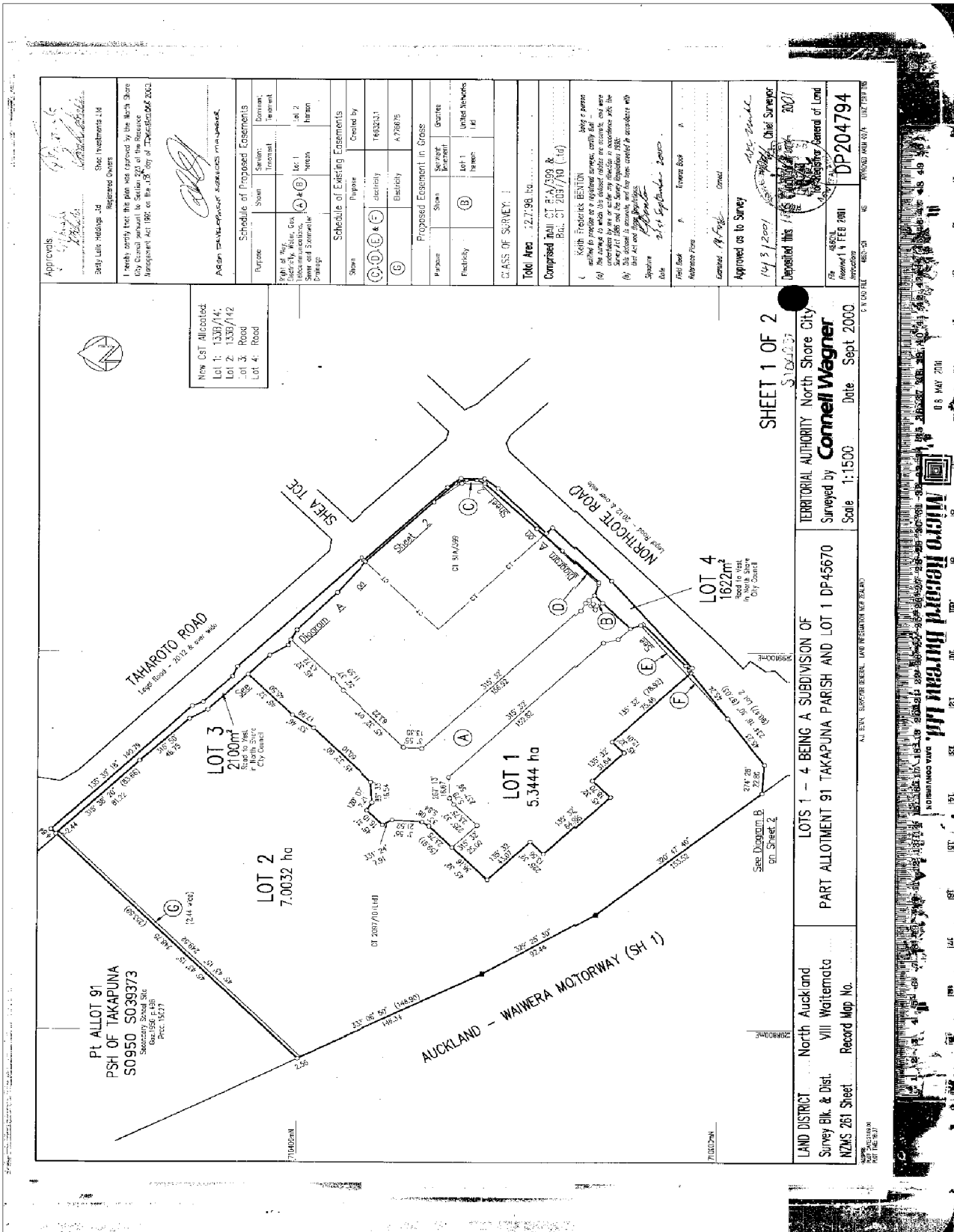
6924736.1 Encumbrance to Transit New Zealand - 28.6.2006 at 9:00 am

9302477.2 Variation of Mortgage 6616188.8 - 23.4.2013 at 8:27 am

10399988.1 Mortgage to Betty Leila Holdings Limited and Shea Investments Limited - 5.5.2016 at 10:02 am

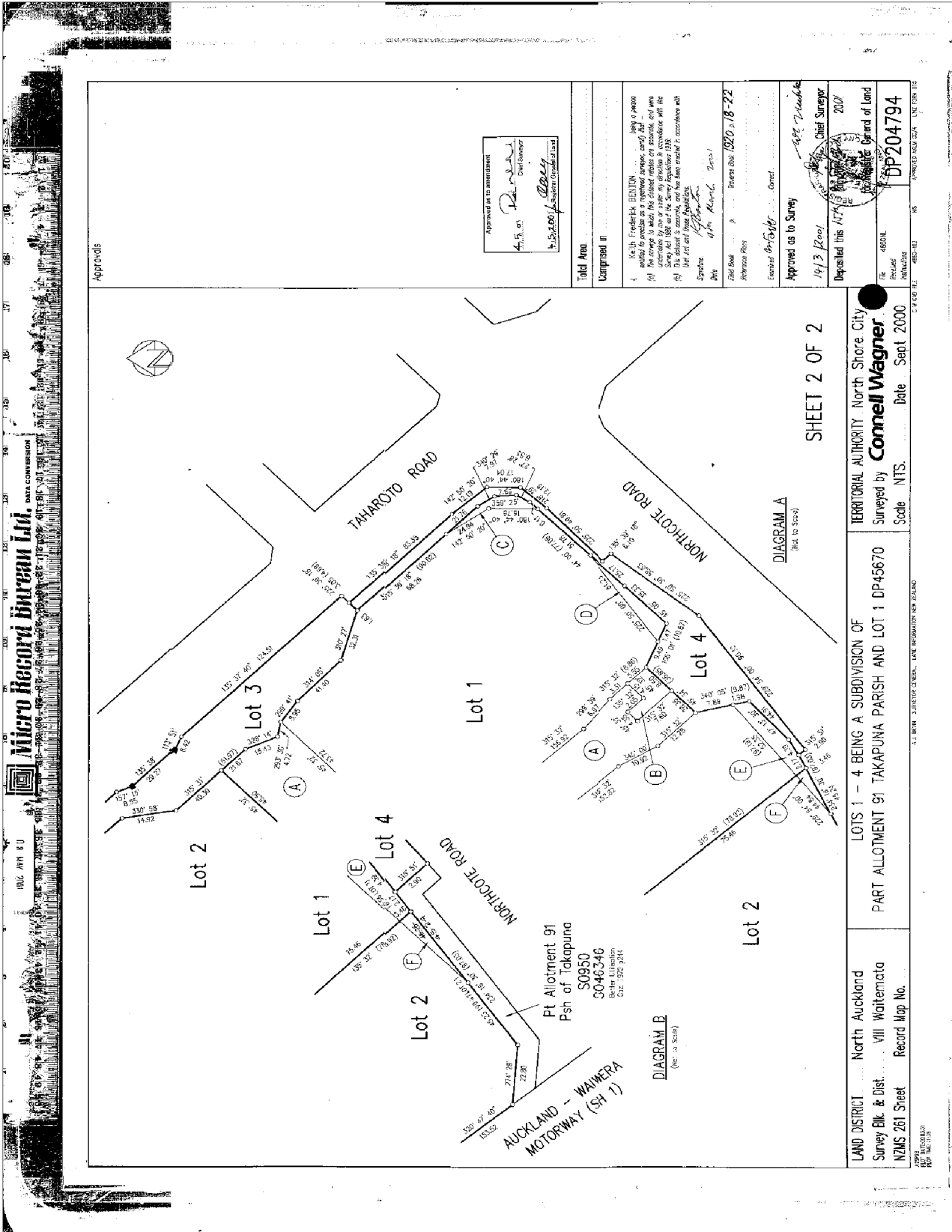
Identifier

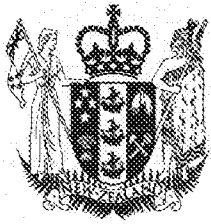
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Identifier

NA133B/141





# COMPUTER FREEHOLD REGISTER UNDER LAND TRANSFER ACT 1952



R. W. Muir  
Registrar-General  
of Land

Search Copy

## Part-Cancelled

**Identifier** NA133B/142  
**Land Registration District** North Auckland  
**Date Issued** 15 March 2001

### Prior References

NA2097/10

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**Estate** Fee Simple  
**Area** 7.0032 hectares more or less  
**Legal Description** Lot 2 Deposited Plan 204794

### Proprietors

Northcote RD 1 Holdings Limited

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### Interests

Subject to an electricity right (in gross) over part marked G on DP 204794 in favour of The Waitemata Electric Power Board created by Transfer A276678 - 11.3.1968 at 9.30 am

Subject to an electricity right (in gross) over part marked F on DP 204794 in favour of The Waitemata Electric Power Board created by Transfer 663213.1 - 11.5.1978 at 10.55 am

Appurtenant hereto is a right of way and electricity, water, gas, telecommunications, sewer drainage and stormwater drainage rights specified in Easement Certificate D579852.3 - produced 14.2.2001 at 3.32 pm and entered 15.3.2001 at 9.00 am

5881309.1 Notice pursuant to Section 18 Public Works Act 1981.- 30.1.2004 at 9:00 am

5881309.2 Notice pursuant to Section 18 Public Works Act 1981.- 30.1.2004 at 9:00 am

6163973.1 Notice pursuant to Section 23 Public Works Act 1981 - 28.9.2004 at 9:00 am

6163973.2 Notice pursuant to Section 23 Public Works Act 1981 - 28.9.2004 at 9:00 am

6362761.1 Gazette Notice (No 52 p 1326) pursuant to Public Works Act 1981, hereby declares part (4572m2) Section 2 SO 336581 to be taken for road purposes and to vest in the Crown on the 14th day from 17/3/2005 subject to an electricity right in gross created by Transfer A276678 - 31.3.2005 at 9:00 am

6362761.1 CT210279 issued - 31.3.2005 at 9:00 am

6362761.2 Gazette Notice (No 52 p 1327) pursuant to Public Works Act 1981, hereby declares part 9821m2) Section 1 SO 336581 to be taken for road purposes and to vest in the North Shore City Council on the 14th day from 17/3/2005 subject to an electricity right in gross created by Transfer A276678 and 663213.1- 31.3.2005 at 9:00 am

6362761.2 CT210280 issued - 31.3.2005 at 9:00 am

6616188.9 Mortgage to (now) Westpac New Zealand Limited - 19.10.2005 at 9:00 am

6924743.1 Encumbrance to Transit New Zealand - 28.6.2006 at 9:00 am

8408656.1 Compensation Certificate pursuant to Section 19 Public Works Act 1981 - 4.2.2010 at 1:36 pm

8716347.1 Gazette Notice 2011 p 777 acquiring part within land (769m<sup>2</sup>) now known as Section 1 SO 428514 for use in connection with road widening and vesting the same in the Auckland Council CT 549955 issued - 14.3.2011 at 11:45 am

9302480.2 Variation of Mortgage 6616188.9 - 23.4.2013 at 8:26 am

10399988.1 Mortgage to Betty Leila Holdings Limited and Shea Investments Limited - 5.5.2016 at 10:02 am







## SCHEDULE 2

### SITE LOCATION PLAN



# Auckland Unitary Plan Operative in Part APPLICATION FOR PRIVATE PLAN CHANGE

## Smales Farm



## Explanation, Assessment of Environmental Effects and Section 32 Analysis

Prepared for Northcote RD 1 Holdings Limited by:  
Vaughan Smith Planning Limited

March 2019

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### APPENDIX A

H15 Business – Business Park Zone - Proposed Amendments to Policies

### APPENDIX B

I538 Smales 1 Precinct - Proposed New and Amended Provisions (Track Change)

### APPENDIX C

I538 Smales 1 Precinct - Proposed New and Amended Provisions (“Clean”)

### APPENDIX D

Section 32 Evaluation Tables

## 1. INTRODUCTION

- 1.1. This application seeks changes to provisions in the Auckland Unitary Plan – Operative in part (the “Unitary Plan”) affecting the Smales Farm Business Park (“Smales Farm” or “the Site”).
- 1.2. The Site is a strategic one on the North Shore of Auckland City, located adjacent to the Northcote interchange of the Northern Motorway, and adjoining the Northern Busway and Smales Farm Station.
- 1.3. Under the Unitary Plan, Smales Farm is zoned Business Park and the Smales 1 Precinct applies to activities and development on the Site. In keeping with the expectations for a business park, offices are permitted in the zone, up to a gross floor area (“GFA”) limit specified in the precinct provisions. However, Residential activity (except visitor accommodation) is a non-complying activity in the Business Park Zone. The Smales 1 Precinct imposes a maximum height on buildings at Smales Farm of RL48.5 (approximately 25m above the average ground level at the Taharoto Road frontage). This allows for the development of 5 – 6 storey buildings on the Site.
- 1.4. The purpose of the plan change application is to facilitate the development of a Transit Oriented Development (“TOD”) on the Site to take advantage of the exceptional transportation links available and the relative lack of sensitive neighbouring activities around the boundaries of the Site. To enable this form of development it is proposed to maintain the amount of office activity currently anticipated, while providing for dwellings (most likely apartments) to be established at Smales Farm as a permitted activity. To make the most efficient use of the land, it is also proposed to significantly increase the height limit over much of the Site.

## 2. THE SITE AND SURROUNDING AREA

- 2.1. Smales Farm is identified in **Figure 1**. The Site is located at 68 – 94 Taharoto Road, comprises two certificates of title under single ownership and has a total area of about 10.8 hectares.
- 2.2. The Site is bordered by major roading infrastructure on all four boundaries. Taharoto Road and Northcote Road form, respectively, the northern and eastern boundaries of the Site, while the Northern Busway and the Northcote Road Off-ramp of the Northern Motorway are located adjacent to the southern boundary. Shakespeare Road provides access along the western boundary of the Site to the Smales Farm bus station.
- 2.3. The high point of the Site is adjacent to the intersection of Taharoto Road and Northcote Road, and from there the land slopes down along Taharoto Road and Northcote Road. The fall across the Site ranges from 2m along the north-western (Shakespeare Road) boundary to 6m along the south-eastern (Northcote Road) boundary. The average ground level along the Taharoto Road boundary (the historic basis for the height limit on the Site) is RL23.4m.
- 2.4. There are two internal private roads within the Site. The Avenue forms the east-west spine of Smales Farm, linking Northcote Road with Shakespeare Road, while The Boulevard links Taharoto Road to The Avenue. The layout formed by this internal road system was established with the approval of the initial development of the Site.

- 2.5. Development to date has been characterised by a small number of standalone buildings, set within the landscaped Site and accompanied by large areas of on-grade parking. Over time the Site will be progressively developed with surface carparks being replaced by new buildings incorporating basement or above-ground parking.
- 2.6. Access to the Site is available via signalised intersections on Northcote Road (adjacent to Takapuna Normal Intermediate School) and Taharoto Road. On Shakespeare Road, there is access at two locations via unsignalised intersections: adjacent to the bus station; and adjacent to the Taharoto Road intersection. All signalised intersections include phases for pedestrians to cross the road.



**Figure 1. The Site and Surrounding Area**

- 2.7. Smales Farm Station on the Northern Busway adjoins the north-western corner of the Site and Westlake Girls High School is located to the north, separated from the Site by Shakespeare Road. To the east of the Site, on the opposite side of Taharoto Road, are North Shore Hospital (operated by Waitemata District Health Board) and The Poynton retirement village. Across Northcote Road to the south is Takapuna Normal Intermediate School which is located within a low density residential area, although many properties fronting roads are occupied by businesses.
- 2.8. The zoning of the area surrounding the Site is shown on **Figure 2** and described in the following paragraph.

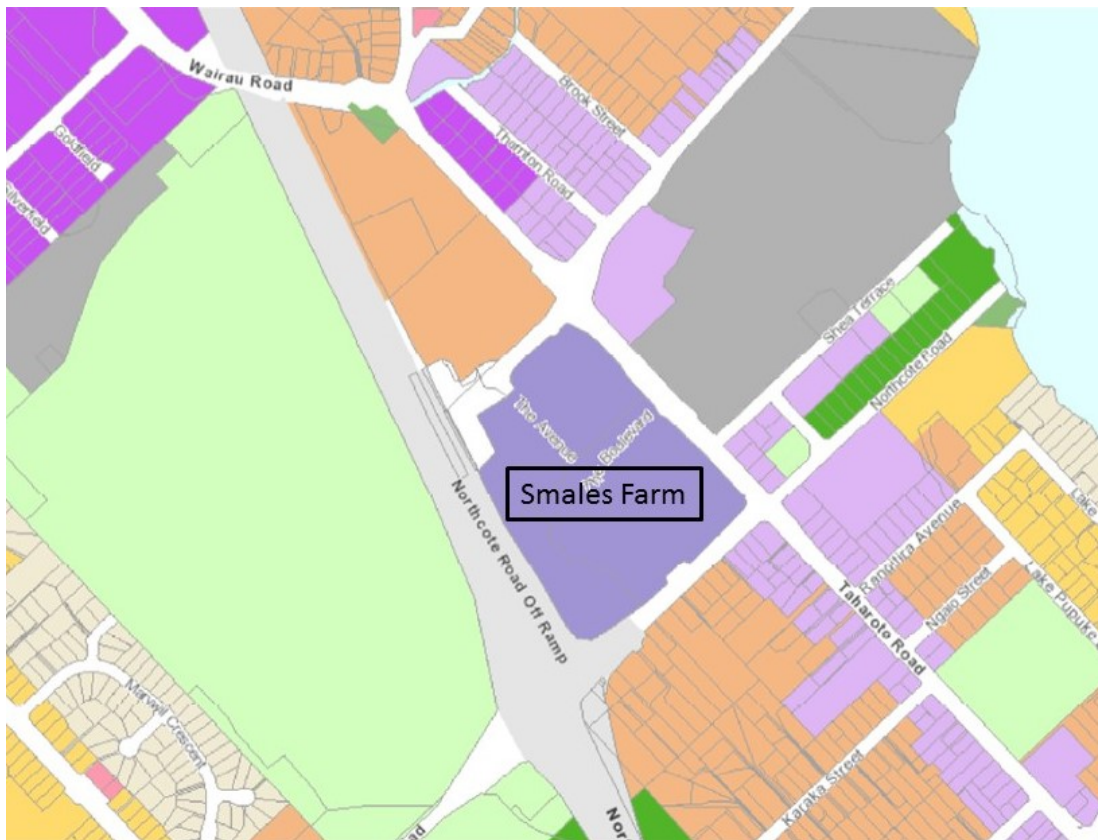


Figure 2. Zoning Map

- 2.9. Both Westlake Girls High School and Takapuna Normal Intermediate School are zoned Mixed Housing Urban and are designated for educational purposes. The Special Purpose – Healthcare Facility and Hospital Zone applies to North Shore Hospital while the site occupied by The Poynton retirement village is zoned Mixed Use. The Mixed Use Zone also applies to other properties fronting Taharoto Road in the vicinity of the Site, and on the eastern side of Northcote Road adjacent to the intersection with Taharoto Road. The balance on the properties along the eastern side of Northcote Road are zoned Mixed Housing Urban. Beyond the immediate vicinity of the Site are A.F Thomas Park (Takapuna Golf Course) opposite the Site on the western side of the Northern Motorway and Onewa Domain further south. The Wairau Valley industrial area lies to the north, and large areas to the east, north and south of the Site are zoned residential.
- 2.10. Geotechnical investigations have been carried out by Tonkin & Taylor Limited and an overview of the geological conditions on the Site and concept level foundation advice is provided in the report in **Annexure 2** to the plan change application. In essence, the ground conditions are suitable for the form of development enabled by the Proposed Plan Change with foundation options including shallow pads or piles for medium-rise buildings, and piles for multi-storey buildings exceeding 6-8 storeys.
- 2.11. The existing utilities infrastructure serving the Site is described in the Civil Engineering Assessment (**Annexure 3**). Stormwater management for the Site is currently provided by directing runoff to three ponds located along the western boundary of the Site. These ponds are used to manage both stormwater flows and water quality, and discharge into public stormwater reticulation flowing to Wairau Creek. The discharge is authorised by a stormwater network discharge

permit. The topography of the Site is such that there are no areas prone to flooding. According to the Auckland Council GIS, overland flowpaths generally follow the internal road network although one flows from east to west across the southern corner of the Site. Wastewater flows from individual buildings are directed by a private drainage network within the Site to a public trunk main at Shakespeare Road. The Site is well served by a public water supply network with the internal site reticulation connecting to it at several locations.

- 2.12. The existing transport environment is described in the Integrated Transportation Assessment prepared by Stantec (formerly Traffic Design Group). This report is provided in **Annexure 4** to the plan change application.
- 2.13. The Smales Farm station on the Northern Busway is identified as a public transport “interchange” on the new public transport network which is scheduled by Auckland Transport to operate from mid-2018. The interchange will act as a key hub for the North Shore public transport network where local and connector services link with higher frequency routes. Eleven separate bus routes will be served, including high frequency routes along the busway between Albany and Britomart, the universities in the City Centre, and Newmarket. Smales Farm is directly connected to the station by footpath. The Site therefore enjoys excellent connectivity to a public transport network with flexibility to reach a wide range of destinations at high frequencies, seven days a week.
- 2.14. The Site contains a well-developed network of walking and cycling routes and is well connected to existing footpath and cycling networks within the local area. Smales Farm is on the Northcote cycleway which will soon include a shared path along the Northcote Road frontage of the Site and, in the medium-term, link with the ShorePath and SkyPath sections of the cycling network linking the North Shore with the Auckland Isthmus.
- 2.15. Taharoto Road and Northcote Road are identified as arterial roads in the Unitary Plan while the western section of Shakespeare Road (adjacent to the Site) is a non-arterial road but provides access to the Smales Farm Bus Station. The Northern Motorway is a strategic road with access available via the interchange on Northcote Road adjacent to the southern corner of the Site.
- 2.16. Surveys of traffic volumes on the roads providing access to Smales Farm were carried out in November 2017. All of the roads surveyed carry high volumes of traffic over a full day and during peak hours. The highest volumes were measured on Northcote Road with 29,500 vehicles per day (weekday) and 2,300 vehicles per hour during the weekday pm peak. The peak hour for the roads surveyed is about 8am for the morning period and 4.30pm for the peak period. Count data from the NZTA database demonstrates that the northern motorway also carries very high traffic volumes over the full day and during the peak hours, with the highest being about 60,000 vehicles per weekday northbound and 5,000 vehicles per hour northbound during the pm peak. During the peak hours the motorway is heavily congested, limiting vehicle flows.
- 2.17. NZTA’s Crash Analysis System was examined to determine whether there are any particular road safety issues affecting the road network surrounding the Site. A mixture of crash types has occurred, including six crashes over five years at the intersection of The Boulevard with Taharoto Road. That particular issue appears to have been addressed with the recent installation of additional road markings. Overall, given the high traffic volumes on these roads, it is not considered that the number and types of crashes indicate any significant road safety issues.

- 2.18. A survey of employees at Smales Farm carried out in 2016 showed that, although private vehicle is the preferred mode of travel, buses are used by a significant number of people (19%). This is similar to the mode share for buses in the Auckland CBD.

### **3. SMALES FARM BUSINESS PARK**

- 3.1. The original Smales Farm was purchased in 1938 by predecessors of the current owners. It was originally much larger than the present area but over time the size has been reduced by a series of acquisitions by both the Crown and Auckland Council (and its antecedents). These acquisitions include land for:
- the Northern Motorway;
  - A.F. Thomas Park (Takapuna Golf Course);
  - Westlake Girls High School;
  - the widening of Northcote Road;
  - the widening of Taharoto Road;
  - Shakespeare Road Extension;
  - the Northern Busway; and
  - Smales Farm Station
- 3.2. In 1991 the Environment Court confirmed the business park zoning then proposed for Smales Farm by the North Shore City Council (Business Park 7A in the North Shore District Plan) and indicated that it envisaged the land becoming "... the major office centre of the North Shore, featuring the headquarters of various major companies, and accommodating other business, administrative and professional firms, and organisations". The Court also stated that it considered "... development of Smales Farm would be a comparatively slow process ..."<sup>1</sup>.
- 3.3. Following confirmation of the zoning, the owners of Smales Farm prepared a master development plan for the Site which envisaged an initial development with a gross floor area totalling 105,000m<sup>2</sup>. The maximum development potential under the provisions of the North Shore District Plan was 162,000m<sup>2</sup>, and that potential is reflected with provisions now applying under the Unitary Plan.
- 3.4. The Environment Court's prediction (made more than 25 years ago) of development of the Smales Farm Business Park being a "comparatively slow process" has subsequently proved to be correct with the 10.8ha site having only reached 36% of its maximum development potential, and only 55% of the size envisaged with the initial master development plan, at the beginning of 2018. Although the headquarters of Sovereign Insurance and Vodafone have been established at Smales Farm, the location is now also proving more attractive for small-to-medium sized businesses with the latest building, The B:HIVE, having been designed specifically with that market as the target.
- 3.5. To date, the internal road framework has been substantially established and five significant buildings have been completed: the Vodafone, Air New Zealand, Sovereign, Q4 and B:HIVE buildings. The Q4 building, completed in 2008 contains offices and a mixture of ancillary uses (such as retail, banking, cafes and

<sup>1</sup> Environment Court Decision No. A93/91



tavern) which have been selected primarily to serve the office employees based on the Site. There are further food and beverage tenancies currently under construction adjacent to the B:HIVE building. Other facilities on the Site include a fitness centre, a medical centre and an early childhood education centre, all of which occupy ground-floor premises in the Sovereign Building. The developed area currently totals approximately 58,000m<sup>2</sup> gross floor area, with the area occupied by commercial services, food and beverage, other retail and care centres totalling 3,142m<sup>2</sup>. When the B:HIVE building is fully occupied, more than 4,000 employees will be accommodated on the Site.

- 3.6. With the completion of a new on-grade parking area currently under construction, a total of 2,044 parking spaces will be provided at Smales Farm. This is well within the maximum number permitted of 2,373 spaces under the Unitary Plan provisions for the current level of development.
- 3.7. The layout of the Site enables full integration with Smales Farm Station, on the Northern Busway, which was opened in February 2008. Convenient vehicle and pedestrian connections are provided and walking routes are provided through Smales Farm for pedestrians accessing various activities in the area from the bus station.

#### **4. THE UNITARY PLAN**

- 4.1. As set out in the introductory section of this report, under the Unitary Plan the Business Park Zone and the Smales 1 Precinct apply to Smales Farm.

##### *Business Park Zone*

- 4.2. The Business Park Zone recognizes existing business parks but it is stated in the Zone Description that the zone has a “limited future” as commercial activities are expected to primarily locate with the city centre, and in metropolitan and town centres in order to reinforce the role of those locations. To this end, limits are placed on the amount of office activity that can establish in each Business Park Zone. In the case of Smales Farm, a gross floor area limit is identified in the Smales 1 Precinct provisions.
- 4.3. With any amendments to the provisions applying to existing business parks, the policies applying to the zone require the office space limit to be set, as well as a means of limiting retail activities to those that meet the day-to-day needs of workers and visitors to the zone. Apart from visitor accommodation, residential activity is also to be limited. Other matters covered by policies relating to plan changes include requirements for a high standard of visual and pedestrian amenity, connections for pedestrian and cyclists through the Site, and minimising adverse effects on neighbouring zones. The potential for adverse effects on the safe and efficient operation of the transport network are also to be assessed.
- 4.4. Offices (up to the specified GFA limit) is a permitted activity, as are commercial services and food and beverage outlets. Most retail is a discretionary activity and dwellings are non-complying. New buildings are restricted discretionary activities.
- 4.5. The standard building height for the zone is 20.5m above ground level and development standards also address height in relation to boundary (“HIRB”), yards, the extent of landscaping, wind effects and outlook space. At least 20% of a site must be landscaped and the maximum impervious area in the zone is 80%. Because of the relatively low maximum height and the roads surrounding the Site, the HIRB and yard standards have no practical effect on the development of the Smales Farm.

### *Smales 1 Precinct*

- 4.6. While the provisions of the Business Park Zone do not encourage the development of new business parks, ongoing development at Smales Farm for business activity up to 162,000m<sup>2</sup> GFA is specifically enabled by the Smales 1 Precinct. Development in excess of this is a discretionary activity with potential effects on the function and amenity of Metropolitan and Town Centres being the primary matter to be addressed. In addition, for business development over 105,000m<sup>2</sup>, significant traffic effects on the safe and efficient operation of the road network are to be avoided or mitigated. A policy also requires that accessory activities be limited to those which meet the immediate needs of those who work at or visit Smales Farm.
- 4.7. In summary, the provisions of the Smales 1 Precinct:
- Limit accessory activities (including commercial services, food and beverage, retail, care centres, and community activities) by a formula that relates the maximum GFA of those activities to the amount of development on the Site;
  - Limit the maximum number of parking spaces on the Site, also by a formula relating the limit to the amount of development on the Site;
  - Provide that an assessment of traffic effects on the safe and efficient operation of the road network is not required until development on the Site exceeds 105,000m<sup>2</sup>; and
  - Increase the maximum building height to RL48.5m (which is approximately 25m above the average ground level along the Taharoto Road frontage).

## **5. REVISED VISION FOR SMALES FARM**

- 5.1. Smales Farm forms part of a node that includes the North Shore Hospital, other medical facilities, and a mixture of commercial activities occupying small premises. The Site has a major public transport interchange on its doorstep and major arterial roads on two boundaries, and is immediately adjacent to the Northcote interchange of the Northern Motorway. In addition, the Site is adjacent to Westlake Girls High School and Takapuna Normal Intermediate School, and there are several other schools in the vicinity<sup>2</sup>. Several cultural, and sports and recreational facilities are also readily accessible from the Site.<sup>3</sup>
- 5.2. During a review of opportunities for future development of the Site it was recognised that the current use of Smales Farm as an office park did not make the most of the attributes of the Site, including its size and location, its proximity to transport infrastructure, and the ease of access to a wide range and number of other activities and facilities.
- 5.3. With clear demand for new housing in Auckland, and an on-going need to increase employment opportunities, the owners of Smales Farm have revised their vision for the Site to take full advantage of those attributes. It has been decided, therefore, that the Site would be best developed as a mixed-use Transit Oriented

<sup>2</sup> Other schools in the vicinity of the site include Carmel College, Milford School, Westlake Boys High School and Rosmini College.

<sup>3</sup> Cultural and sports and recreational facilities readily accessible from the site include the Lake House Arts Centre, North Shore Events Centre, Takapuna Golf Course, North Shore Rowing Club and facilities for other water-related activities, Takapuna Football Club, and facilities for squash, netball, cricket and rugby.

Development (“TOD”), comprising business and residential components, rather than an office park.

- 5.4. The principles of Transit Oriented Development, and its benefits, are addressed in the Urban Design report (**Annexure 5** to the plan change application) and the Integrated Transport Assessment. In addition, the economic benefits of this form of development form are set out in the Economics Assessment (**Annexure 8**).
- 5.5. In essence, a TOD is a high-density, mixed-use development in close proximity to a major public transport station or interchange. The aim is to maximise the amount of urban development that falls within the primary walking catchment of frequent and rapid public transport services. They typically incorporate a mix of land uses, such as residential, employment, leisure and service activities. The integration of public transport services and the physical development has a synergistic effect producing benefits including:
  - Greater efficiency in the use of land;
  - An increased intensity of residential development;
  - Support for public transport services;
  - A reduction in the use of private vehicles;
  - Increased opportunities for walking and cycling;
  - Increased support for local businesses;
  - More cost effective provision of services; and
  - The opportunity to create a high-quality urban environment with activity occurring over an extended period, seven days a week.
- 5.6. The nature of the surrounding uses and the existence of roads on all boundaries, combined with the orientation of the Site, enable a significant scale of development to take place with minimal adverse effects on the owners and occupiers of neighbouring properties. The revised vision for Smales Farm (the “Concept Masterplan”) is depicted graphically in **Figure 3** and comprises a number of buildings of varying scales, with the residential development generally constructed above the office component. In order to make the most efficient use of the land, and retain the proportion of landscaped spaces required under the existing zone provisions, it is proposed to substantially increase the height limit applying to development within the Site.
- 5.7. The Concept Masterplan is indicative of the type of development that is likely to be undertaken and provides an opportunity to consider the issues that might arise from such development. It does not represent a fixed vision for the Site that will necessarily be implemented. Accordingly, the plan change proposes provisions that would address effects that are likely to be generated by development but does not seek to constrain development to ensure implementation of or compliance with the Concept Masterplan.



**Figure 3. Concept Masterplan**

- 5.8. Intensifying the scale and form of development will enable a more concentrated mix and range of activities to coexist on the Site, leading to increased levels of pedestrian activity and vitality over an extended period of time. Increasing the diversity of activities will benefit those working and living at Smales Farm, as well as visitors.
- 5.9. A Transit Oriented Development at Smales Farm will have a different function to the Metropolitan Centres and Town Centres identified in the Unitary Plan because the amount of retail activity is proposed to be limited, as is the case generally in the Business Park zone and reflected in the current Smales 1 Precinct provisions. In contrast, retail activity is considered to be a major component of both of those Centre zones. Smales Farm has long been recognised as a suitable location for a significant amount of office activity and the proposed enablement of residential activity takes advantage of the proximity of the adjacent public transport interchange (and provides support for the services available there) and enables the more efficient utilisation of the large site.
- 5.10. The revised vision for Smales Farm is a long-term one, with development taking place over a period of 20 to 30 years. It is considered that the current GFA allowance for business development on the Site is appropriate over that period of time, and it is anticipated that a similar amount of residential development would be feasible over the same time period.
- 5.11. The assessment of the plan change application, therefore assumes full development of some 300,000m<sup>2</sup> GFA, with 162,000m<sup>2</sup> of that being business activities and the balance residential activities. No GFA limit is proposed in the proposed plan change provisions for residential activities, however, because this

activity will generate minimal adverse effects on the environment and will support the use of public transport services at the Smales Farm station.

5.12. To enable the revised vision to be implemented, while ensuring that potential adverse effects are managed, a number of amendments will be required to the provisions currently applying to Smales Farm under the Unitary Plan. The key changes required are:

- Amend existing, and add new, objectives and policies to support the proposed Transit Oriented Development;
- Enable residential activity as a permitted activity;
- Ensure sufficient retail and commercial services activities can be provided to meet demand from workers, residents and visitors to the Site;
- Rationalise the activity table to provide for other activities that can contribute to the success of a Transit Oriented Development;
- Increase the height limit so that the Site can be efficiently developed, while maintaining a high percentage of landscaping; and
- Add further standards, matters for discretion and assessment criteria to address potential effects related to residential activities and taller buildings.

## 6. THE PROPOSED PLAN CHANGE

6.1. The purpose of the Proposed Plan Change is to enable the revised vision for Smales Farm to be realised. This will entail retaining GFA limits on non-residential activities as is the case at present, but enabling residential activity as a permitted activity and substantially increasing the height limit applying to the Site. As identified in the s32 evaluation (Section 11), none of the existing Unitary Plan zones provides for the combination of activities required to implement the revised vision, while retaining GFA limits on non-residential activities.

### *Underlying Zoning*

6.2. Alternatives to the current Business Park zoning for the Site have been considered in the s32 evaluation. The Mixed Use Zone doesn't anticipate a major office component (which will remain the primary focus of Smales Farm) and retail activity (which is to be limited at Smales Farm) is anticipated to be a strong focus of both the Metropolitan Centre Zone and Town Centre Zone. Although modifications to two Business Park Zone policies are required to support the incorporation of residential activity on the Site, it is considered that this is the most appropriate zone to underly the provisions of the Smales 1 Precinct. The proposed amendments to the Business Park Zone policies are set out in **Appendix A**.

6.3. As noted above, residential activity (except visitor accommodation) is discouraged in the Business Park zone by its activity status (non-complying), and by the policy requiring this activity to be "limited". In order to enable residential development on the Site, the activity status can be adjusted in the provisions applying to the Smales 1 Precinct but it is considered that Business Park Zone Policy H15.3(18)(c) should be amended to identify Smales Farm as an exception to the requirement to limit residential development in the zone.

6.4. The provisions applying to the Smales 1 Precinct have been substantially amended to provide for residential activities on the Site and two precinct plans have been added. The amendments, and the reasons for them, are described in summary form in this section of the report. A track change version of the Smales

1 Precinct provisions, identifying the proposed amendments is in **Appendix B** to the plan change application and a “clean” version is in **Appendix C**.

***Business Park Zone Description***

- 6.5. No amendments are proposed to the Business Park Zone description. It is a generalised description and, although it doesn't reference residential activity, this is not considered necessary because the underlying zone provisions are not being challenged by the Proposed Plan Change. Instead, the plan change is seeking to augment the range of activities that may be undertaken on the Site.

***Business Park Zone Objectives***

- 6.6. Similarly, no amendments are considered necessary to the Business Park Zone objectives.

***Business Park Zone Policies***

- 6.7. It is considered necessary to modify two policies which do not acknowledge the possibility of residential development in the zone or support its enablement. It is proposed, therefore, to amend policy H15.3(18)(b) so that services such as food and beverage and convenience goods are limited to meet not only the needs of workers and visitors, but also residents on the Site. Policy H15.3(18)(c) currently “limits” residential activity in the zone except for visitor accommodation, and it is proposed to identify the Smales 1 Precinct as an exception to that policy.

***Smales 1 Precinct Description***

- 6.8. It is proposed to make minor amendments to the precinct description to include reference to residential activities being permitted by the Precinct provisions.

***Smales 1 Precinct Objectives***

- 6.9. It is proposed to amend the one objective currently applying to the Smales 1 Precinct and to include three additional objectives. The proposed modification to the existing objective is to remove reference to adverse effects on the transport network because the network has been modelled, and effects assessed, with this plan change application.
- 6.10. The additional objectives all relate to the proposed enablement of residential activity on the Site, and the change of Smales Farm from an office park to a mixed-use Transit Oriented Development.

***Smales 1 Precinct Policies***

- 6.11. Currently, three policies apply to the Smales 1 Precinct. It is proposed to retain the policy that places a floor area limit on business activities but to modify the other two. The proposed modification to the policy addressing accessory activities changes the emphasis so that those activities are provided for (rather than being “limited”), but that a limit applies in order to manage potential adverse effects of those activities on the function and amenity of higher order centres. It is proposed to amend the policy addressing effects on the transport network so that it only applies with development over the 162,000m<sup>2</sup> of business development which the Precinct enables as a permitted activity.
- 6.12. Additional policies are proposed to refer to the inclusion of intensive residential development on the Site, and to address the amenity for residents, workers and visitors to the Smales 1 Precinct. A further policy requires the limitation of the parking supply for non-residential activities, consistent with the existing standard addressing this matter.

**Activity Table**

- 6.13. The amendments proposed to the precinct table for the Smales 1 Precinct are described below.
- 6.14. The status of accommodation activities follows that applying in the Metropolitan Centre, Town Centre and Mixed Use zone, recognising that no restrictions are proposed on residential uses in the Smales 1 Precinct.
- 6.15. Under the Commerce heading, however, the activity status is more tailored to the circumstances applying to the Smales 1 Precinct, in particular the limit placed on retail and commercial services activities, and the proposal that Smales Farm be a Transit Oriented Development. Accordingly:
- Retail is a generally a permitted activity (but subject to the proposed cap).
  - Larger supermarkets, however, are discretionary activities because it is intended that retail activities are to be focused on serving the employees and residents of the Site. The 2,000m<sup>2</sup> limit for a supermarket as a permitted activity is consistent with that applying in the Local Centre zone, which is also intended to provide for local convenience needs.
  - Conference facilities is identified as a permitted activity because it is allied to the office use and also benefits from the excellent transport links enjoyed by the Site.
  - A more enabling activity status than applies under the underlying zone is applied to Drive-through restaurants and Entertainment facilities because those activities can be established to serve the resident population.
  - Service stations, however, are identified as a non-complying activity because they not anticipated on the Site. Service stations primarily serve passing traffic and have implications in terms of traffic effects. In addition, they do not represent an efficient use of the land resource.
- 6.16. Allied with the enablement of residential activities, it is considered that Community facilities should be a permitted activity in order to enable a level of community infrastructure to be established on the Site. Education facilities and Tertiary education facilities have been identified as permitted activities because they can be appropriate occupiers of multi-storey buildings (evidenced by the use of many buildings in the City Centre) and because they are very well suited to sites with excellent public transport services.
- 6.17. Temporary structures and activities have been identified as permitted activities (up to a specified duration), reflecting the historic and ongoing programme of community-focused events at Smales Farm. The large size of the Site, and the lack of sensitive uses in the immediate vicinity, will ensure that adverse effects of such activities are unlikely to be of a magnitude to cause concern.
- 6.18. Comprehensive development signage more than 30m from the Site's road frontages are identified as permitted activities because, at that distance, they are unlikely to have an effect on visual amenity or traffic safety, which are the primary matters of concern under the standard provisions relating to signs in the Unitary plan.

### **Standards**

- 6.19. Explanations for the standards proposed to apply under the precinct provisions are given below.

#### *Gross floor area*

- 6.20. The GFA limit for development on the Site is currently 162,000m<sup>2</sup>. Within the GFA limit, a further limit applies to the cumulative GFA of seven categories of activities including commercial services, food and beverage and retail activities. This limit is expressed as a formula, with the limit linked to the development of office activities.
- 6.21. With the Proposed Plan Change it is proposed to maintain the overall limit on non-residential activities at 162,000m<sup>2</sup> but, consistent with the other zones that enable residential development, have no limit on residential activity.
- 6.22. The limit on commercial activities other than offices was originally intended to limit activities that might adversely affect the function and amenity of centres. This provision has been fine-tuned in the Proposed Plan Change so that it focuses only on those non-office activities that are most likely to impact centres in that way, i.e. retail and commercial services activities. The formula has not been amended but applies to all development on the Site (including residential) to ensure that the provision of activities required to service the convenience needs of both workers and residents on the Site can meet demand. An alternative mechanism for limiting retail activities has been considered as part of the s32 evaluation of the Proposed Plan Change but it was concluded that the existing formula is the most appropriate method.

#### *Parking*

- 6.23. It is not proposed to amend the formula in the Smales 1 Precinct provisions which is used to calculate the maximum number of parking spaces on the Site for business activities. However, consistent with the parking rates applying to the Metropolitan Centre, Town Centre and Mixed Use zones, no maximum or minimum parking rate is proposed for residential activities.

#### *Trip generation*

- 6.24. Standard I538.6.3 of the Smales 1 Precinct exempts development up to 105,000m<sup>2</sup> from the requirement in E27.3(2) for an Integrated Transport Assessment to be provided with all resource consent applications where specified trip generation thresholds are exceeded.
- 6.25. An ITA has been prepared for this plan change application and it is considered that an ITA should not be required when resource consent applications are made for future development. This is consistent with the situation applying under Unitary Plan Standard E27.6.1(2) to the Metropolitan Centre, Town Centre and THAB zones, and also when “development is being undertaken in accordance with ... provisions approved on the basis of an Integrated Transport Assessment where the land use and the associated trip generation and transport effects are the same or similar in character, intensity and scale to those identified in the previous assessment”.

#### *Building height*

- 6.26. Under the legacy plan, the maximum height of buildings on the Site was measured from the average ground level along the Taharoto Road frontage. This was carried through to the Unitary Plan, although expressed as a Reduced Level



("RL"). The current height limit for buildings under the Smales 1 Precinct is RL48.5, which is equivalent to approximately 25m above the average ground level along the Taharoto Road frontage (RL23.4).

- 6.27. It is proposed that increased height limits apply to the Smales 1 Precinct in order to enable the efficient development of the Site. The Site is large and deep, with a maximum fall of 6m from Taharoto Road to the rear boundary of the Site. Expressing the height limit as an RL is considered appropriate because the rolling height method would result in smaller buildings at the rear of the Site when, relative to potential effects, taller buildings are more appropriate there.
- 6.28. For a depth of 50m from the road frontages, the maximum building height is proposed to be RL50.4 which is equivalent to 27m above the average ground level of the Taharoto Road frontage. This is consistent with the maximum height in the Unitary Plan applying to many areas zoned Town Centre.
- 6.29. Over the balance of the Site the maximum building height is proposed to be RL123.4 (100m above the average ground level along the Taharoto Road frontage) but buildings extending above RL98.4 are restricted to an area of 3,000m<sup>2</sup> (cumulative building footprints above RL98.4). Effectively, therefore, the maximum height in buildings over much of the Site is 75m above the average ground level along the Taharoto Road frontage. A height of 75m is consistent with the maximum building height on the North Shore Hospital site, and 100m is equivalent to the height of the Sentinel residential building in Takapuna. It should be noted that the height of buildings in part of the Takapuna Metropolitan Centre is unlimited under the Unitary Plan, although height is governed in that case by Floor Area Ratio ("FAR") and HIRB standards.
- 6.30. Alternatives to the proposed maximum height have been considered in the s32 evaluation.

*Maximum tower dimension and tower separation*

- 6.31. The Business Park zone doesn't include standards to control building mass because tower development is not provided for. With the proposal to provide for higher buildings on the Site it is considered that such standards would be appropriate. A Floor Area Ratio control has historically been used to encourage slender floorplates with tall buildings. However, as Smales Farm comprises two large sites, it is not practicable to control building mass by this method. In any case, this standard has limited application in the Unitary Plan. In order to address this aspect of building design, therefore, a combination of standards is proposed - maximum tower dimension and building separation.
- 6.32. The basis for the maximum tower dimension standard is that applying in the Metropolitan Centre zone, i.e. for that part of a building above 32.5m in height the maximum plan dimension must not exceed 55m. However, the maximum height in the Metropolitan Centre zone is generally 72.5m and buildings above that height are not addressed in the standards. For the Smales 1 Precinct, it is proposed that above 75m, the maximum plan dimension should be 35m, which approximates to the plan dimension of the Sentinel tower at Takapuna. The Sentinel is a residential building and the upper levels of the higher buildings at Smales Farm are expected to be occupied by residential activity (apartments).
- 6.33. The only standard applying to building separation in the Metropolitan Centre zone is one requiring the upper levels of buildings to be at least 6m from a side boundary. Metropolitan Centres generally comprise multiple titles and sites separated by roads, and this layout naturally provides a degree of building

separation. The Sylvia Park Metropolitan Centre is an exception as it consists of just one title, and in that precinct parts of buildings between 27m and 50m in height must be separated from each other by a minimum horizontal distance of 20m. This standard has been adopted for the Smales 1 Precinct.

*Outlook space*

- 6.34. In the Business Park zone, the outlook space standard (H15.6.7) applies only to visitor accommodation and boarding houses, both restricted discretionary activities. The standard doesn't apply to other forms of residential activity which are non-complying activities. With the increased height limit and the proposal for dwellings to be a permitted activity, it is considered that the outlook space standard applying to the Metropolitan Centre Zone is a more appropriate basis for a standard to apply to the Smales 1 Precinct. Accordingly, the standard from the Metropolitan Centre zone has been adopted in a modified form. The modification is the deletion of references to outlook over roads or "sites" because those features do not apply to the Smales 1 Precinct.

*Minimum dwelling size*

- 6.35. Another standard required with the change in status for dwellings is that specifying a minimum dwelling size. Again, the standard applying in the Metropolitan Centre zone has been adopted.

*Pedestrian plaza*

- 6.36. As a consequence of the area of impervious surfaces being limited to 80% of the area of a site in the Business Park Zone, there will be a significant amount of open space within the Smales 1 Precinct – more than 2ha of the 10.8ha Site. It is considered, however, that it is appropriate for the proposed mixed use development to have a central public area specifically designed to be an attractive place for people to gather. A rule has therefore been proposed that will require such an area to be provided not later than the completion of 125,000m<sup>2</sup> of development within the Precinct. The GFA trigger has been determined from the indicative development schedule in Section 9 of this report and represents the cumulative gross floor area that is likely to be in place at the time the central part of the Site is under development. A number of amenity related requirements are specified in the standard, including a minimum area of 400m<sup>2</sup> (which is consistent with a similar requirement for the Sylvia Park Precinct).

*Restricted discretionary activities - Matters of discretion and Assessment criteria*

- 6.37. Only three additional restricted discretionary activities are proposed for the Smales 1 Precinct. These relate to activities exceeding the proposed height limits, the conversion of a building or part of a building for residential purposes and drive-through restaurants (both of which are currently non-complying activities in the Business Park zone). Matters of discretion and assessment criteria have been included in the precinct provisions to address those activities, as well as the existing matters and criteria applying to an infringement of the parking standard.
- 6.38. Additionally, in acknowledgement of the greater intensity of development and taller buildings enabled with the Proposed Plan Change, as well as the inclusion of residential activities in the mix provided for, matters of discretion and assessment criteria are proposed which will supplement the criteria applying to new buildings (and additions and alterations) under Business Park Zone provisions.

### *Precinct plans*

- 6.39. It is proposed that the Smales 1 Precinct provisions include two precinct plans: one to identify the areas over which the two height limits apply; and the other to identify structuring elements to be provided as the Precinct is developed over time. These structuring elements include the location of vehicle access points, indicative routes of pedestrian links, and an indicative location for the required pedestrian plaza.

## **7. STATUTORY CONTEXT – RESOURCE MANAGEMENT ACT**

### **7.1. Resource Management Act Provisions**

- 7.1.1. Clause 21(1) of the First Schedule to RMA provides that any person may request a change to a Unitary Plan or a regional plan. Clause 22 of the Schedule 1 requires that the request explain the purpose of and reasons for the Proposed Plan Change, and include an evaluation report prepared in accordance with section 32 of the Act. Where environmental effects are anticipated the request is to describe those effects, taking account of clauses 6 and 7 of Schedule 4, in such detail as corresponds with their scale and significance.
- 7.1.2. As set out in Section 11 of this report, an evaluation report under section 32 of RMA requires consideration of the objectives of the proposal in terms of the purpose of the Act; the policies and rules proposed in the proposal in terms of the relevant objectives; and benefits and costs.
- 7.1.3. This report summarises the circumstances which have led to the plan change application, assesses the environmental impacts which may arise from acceptance of the provisions of the Proposed Plan Change, considers the application in relation to the Auckland Regional Policy Statement, the Unitary Plan and other planning documents, and assesses the proposed provisions in accordance with section 32.

## **8. STRATEGIC FRAMEWORK**

### **8.1. Introduction**

- 8.1.1. The strategic framework for the assessment of the Proposed Plan Change comprises both RMA and non-RMA documents. While the primary document to be considered is the Unitary Plan, The Auckland Plan (given effect to by the Unitary Plan) and the National Policy Statement on Urban Development Capacity (which is also to be given effect to by the Unitary Plan) are also relevant documents.

### **8.2. The Auckland Plan**

- 8.2.1. The Auckland Plan is a 30-year plan that sets a strategic direction for Auckland and its communities, integrating social, economic, environmental and cultural objectives. It identifies policies, priorities, programmes and investments to implement the strategic direction.
- 8.2.2. A major focus of the first Auckland Plan (produced in 2012) was a development strategy to accommodate growth in a compact urban form.
- 8.2.3. The Auckland Plan 2050 is a revised plan based on up-to-date information and reconsidered issues, outcomes, directions and areas of focus. This plan was adopted on 5 June 2018 but is only able to be accessed at present as a Planning Committee agenda item.

- 8.2.4. The Auckland Plan 2050 retains the quality compact development approach to accommodating growth of the first Auckland Plan, with development to be focused mainly within the urban footprint, in areas that are easily accessible and in a form that maximises efficient use of land.
- 8.2.5. The benefits of a quality compact form of development listed in the Plan include:
- Increased economic productivity as a result of businesses, workers and consumers being more closely located;
  - Better use of existing infrastructure;
  - A more efficient transport network; and
  - Greater social and cultural vitality from the concentration of activity into urban centres and neighbourhoods.
- 8.2.6. Better integration of land use and transport decisions is sought with housing and employment growth encouraged to occur in areas with better travel options so that the pressure on the transport system is reduced.
- 8.2.7. Unsurprisingly given the current shortfall in the supply of houses, the Plan has a strong focus on housing.
- 8.2.8. The Northern Busway is recognised as a core component of Auckland’s strategic public transport network, forming the backbone for public transport services on the North Shore. It not only provides an opportunity to avoid congestion on the motorway but also significantly increases the capacity of the motorway corridor. Planning for improvements is underway, including ways to increase the capacity of the Busway services.
- 8.2.9. The existing urban areas which are likely to undergo significant housing and business growth over the next 30 years (either by the private sector or through public sector intervention) are identified as either “nodes” or “development areas”. The nodes are the City Centre, Albany, Westgate and Manukau. The Plan sets out a number of characteristics of development areas, including:
- Substantial capacity for housing and business development.
  - Access to a large number of jobs within a reasonable commuting time.
  - Access to centres and the strategic public transport network within easy walking distance.
  - Current or planned infrastructure capacity that is likely to enable significant additional growth.
  - Market feasibility.
- 8.2.10. Smales Farm is within the Takapuna Development Area.

Comments

- 8.2.11. The Proposed Plan Change is consistent with the Auckland Plan 2050 because it enables development within the Takapuna Development Area on a Site with substantial capacity for both residential and business development, and with the backbone of the North Shore strategic public transport network on its doorstep. Furthermore, it provides for both employment opportunities and housing on the one site, the Site is served by sufficient existing or planned infrastructure to meet demand, and Smales Farm has an established track record of feasible development.

### **8.3. National Policy Statement: Urban Development Capacity**

- 8.3.1. The National Policy Statement: Urban Development Capacity provides direction to local authority decision-makers under the RMA on planning for urban environments. It covers development capacity for both housing and business, and recognises the national significance of urban environments and the need to enable such environments to develop and change. Sufficient development capacity should be provided by local authorities to meet the needs of a growing population, both by intensifying existing urban areas (“going up”) and by releasing land in greenfield areas (“going out”). Development capacity must be supported by infrastructure and the NPS encourages the integration and coordination of land use and infrastructure planning. Increasing feasible development opportunities will increase the competitiveness of the property market and, in relation to housing, will “provide communities with more choice, at lower prices”.
- 8.3.2. The NPS aims to ensure that planning decisions enable the supply of housing needed to meet demand with local authorities required to prepare a “housing and business development capacity assessment”. The assessment is to be regularly monitored and planning decisions made to ensure that plentiful development opportunities are made available, recognising that not all feasible development opportunities will be taken up. Auckland is identified as a “high-growth urban area” and all of the objectives and policies of the NPS apply to the Auckland Council.
- 8.3.3. Auckland Council released its first “Housing and business capacity assessment for Auckland” in December 2017. For housing capacity under the Auckland Unitary Plan, it is concluded in the report that feasible supply is expected to meet forecast demand for the short and medium terms but, in the long-term (between 10 and 30 years), the current feasible supply is less than demand. Although there is no shortfall in business land in the short or medium term, there is a shortfall in some locations in the long term.

#### Comment

- 8.3.4. The Proposed Plan Change will enable the development of a significant number of dwellings (apartments) at Smales Farm and in that way contribute to the supply of housing to meet the demand from a growing population in the medium to longer term. The ongoing role of Smales Farm as a focus for employment opportunities will be unaffected by the proposed amendments to the provisions of the Smales 1 Precinct.

### **8.4. Auckland Unitary Plan**

#### **Regional Policy Statement**

- 8.4.1. Two issues identified in section B1 of the Auckland Unitary Plan (Issues of regional significance) are relevant to the Proposed Plan Change. These are:
- Urban growth and form (addressed in section B2); and
  - Infrastructure, transport and energy (B3)
- 8.4.2. Of the issues identified in section B2, four specifically relate to the matters addressed by the Proposed Plan Change, namely:

*“Growth needs to be provided for in a way that ... :*

*(2) supports integrated planning of land use, infrastructure and development;*

*(3) optimises the efficient use of the existing urban area;*

(5) *enables provision and use of infrastructure in a way that is efficient, effective and timely; and*

(6) *maintains and enhances the quality of the environment, both natural and built;*

8.4.3. Two of the issues in section B3, which lists matters to be addressed to realise Auckland's full economic potential, are also pertinent:

- (1) integrating the provision of infrastructure with urban growth; and
- (4) traffic management

8.4.4. These issues are addressed by a number of objectives and policies.

8.4.5. From the consideration of these issues, and objectives and policies, a number of themes of the Regional Policy Statement, relevant to the Proposed Plan Change, can be identified:

- (a) Urban growth should be primarily accommodated within the RUB;
- (b) Growth should be accommodated in a compact urban form;
- (c) Development should respond to the qualities and characteristics of a site;
- (d) Infrastructure should be used efficiently and its planning and provision should ensure that it is integrated with land use;
- (e) Sufficient development capacity should be provided to accommodate residential and commercial growth;
- (f) Intensification should be enabled with the highest residential intensity in and around centres, along corridors and close to public transport network, social facilities and employment opportunities;
- (g) The rate of growth of private vehicle usage should be reduced by encouraging the use of public transport and active transport nodes; and
- (h) Maintaining the quality of the environment.

#### Comments

8.4.6. The Proposed Plan Change directly and positively addresses these themes because:

- (i) It enables the integration of land use and public transport infrastructure to form a Transit Oriented Development;
- (ii) The increased height of buildings enabled is consistent with a compact urban form and provides for a significantly increased efficiency in the utilisation of the land resource;
- (iii) The co-location of commercial and residential uses at a high intensity makes efficient use of existing and planned infrastructure, particularly transport infrastructure;
- (iv) Intensive development is enabled at a location within a major transport corridor and immediately adjacent to a public transport interchange;
- (v) The characteristics of the Site (location, size and orientation, and the nature of the adjacent uses) enable intensification without generating significant adverse environmental effects;

- (vi) The increased population occupying a site adjacent to a major public transport node will make more efficient use of the existing and proposed public transport services;
- (vii) The adjacency of the public transport node, combined with an existing congested road network (which can only get worse over time), will promote the use of public transport and a corresponding decrease in private motor vehicle usage;
- (viii) It makes more efficient use of the existing and proposed public transport services that are readily accessed from the Site; and
- (ix) It assists with addressing the current shortfall in the supply of housing in Auckland, while maintaining the employment potential of the Site.

### **Business Park Zone**

- 8.4.7. The Business Park zone anticipates moderate to intensive office activity occupying buildings grouped on a site in a campus-like development. Ancillary activities including food and beverage, commercial services, childcare and fitness centres are also provided for. The zone is applied to a limited extent in the Unitary Plan, and limits on the amount of office space are usually specified. These areas are generally located adjacent to the rapid and frequent service public transport network.
- 8.4.8. General objectives and policies (common to the centres, Mixed Use, General Business and Business Park zones) are set out in the zone provisions, as well as objectives and policies applying specifically to the Business Park Zone. The following is a summary of the matters addressed by the objectives and policies of most relevance to the Proposed Plan Change.

#### General objectives and policies

- 8.4.9. The general objectives and policies for the centres, Mixed Use, General Business and Business Park zones emphasise a strong network of centres with those centres being focal points for the community. Business activity is to be distributed in locations, and of a scale and form, that provides for the community's social and economic needs, improves access to goods and services and social and community facilities, and manages adverse effects on the environment.
- 8.4.10. The city centre, metropolitan centres and town centres are identified as the primary location for commercial activity, while increased density, diversity and quality of housing is to be enabled in the centre zones and the Mixed Use zone.
- 8.4.11. Most of the policies relate to the design quality of development, and potential adverse effects. In that regard, the following policies are relevant to consideration of the private plan change:

#### Policy H15.3(3)

*Require development to be of a quality and design that positively contributes to:*

- (a) planning and design outcomes identified in this Plan for the relevant zone;*
- (b) the visual quality and interest of streets and other public open spaces; and*
- (c) pedestrian amenity, movement, safety and convenience for people of all ages and abilities.*

Policy H15.3(5)

*Require large-scale development to be of a design quality that is commensurate with the prominence and visual effects of the development.*

Policy H15.3(7)

*Require at grade parking to be located and designed in such a manner as to avoid or mitigate adverse effects on pedestrian amenity and the streetscape.*

Policy H15.3(8)

*Require development adjacent to residential zones and the Special Purpose – School Zone and Special Purpose – Māori Purpose Zone to maintain the amenity values of those areas, having specific regard to dominance, overlooking and shadowing.*

Policy H15.3(11)

*Require development to avoid, remedy or mitigate adverse wind and glare effects on public open spaces, including streets, and shading effects on open space zoned land.*

- 8.4.12. The potential for an increase in the maximum building height at identified locations is specifically recognised in the general policies:

Policy H15.3(13)

*In identified locations within the centres zones, Business – Mixed Use Zone, Business – General Business Zone and Business – Business Park Zone enable greater building height than the standard zone height, having regard to whether the greater height:*

- (a) is an efficient use of land;*
- (b) supports public transport, community infrastructure and contributes to centre vitality and vibrancy;*
- (c) considering the size and depth of the area, can be accommodated without significant adverse effects on adjacent residential zones; and*
- (d) is supported by the status of the centre in the centres hierarchy, or is adjacent to such a centre.*

Comments on the General objectives and policies

- 8.4.13. The emphasis of the existing and enabled development at Smales Farm on commercial activities is complementary to the enablement of that activity in the centre zones and, with the Proposed Plan Change, it is not proposed to increase the potential for commercial development in the Smales 1 Precinct.
- 8.4.14. The policies regarding design quality and potential adverse effects are addressed with the standards and assessment criteria applying to development in the Business Park Zone, and with the proposed additions to the provisions relating to the Smales 1 Precinct.
- 8.4.15. In relation to the additional height proposed for the Smales 1 Precinct, it is considered that:
- (i) It significantly increases the efficiency of the use of the land;
  - (ii) The increased development enabled will provide significant support for public transport, and the proposed residential component will increase the



vitality and vibrancy of Smales Farm with 24 hour occupancy of the Site by a significant number of people;

- (iii) High buildings can be accommodated without causing significant adverse effects on the amenity of surrounding properties, including residential zones; and
- (iv) The proposed Transit Oriented Development is a specialised form of development and does not challenge the centres hierarchy.

Business Park Zone objectives and policies

8.4.16. The Business Park Zone objectives provide for existing business parks to be efficiently and effectively developed, and for retail activities that support intensive employment activities to be enabled.

8.4.17. The policies seek to implement those objectives and Policy H15.3(18) specifically addresses requirements for a plan change to amend the provisions of existing business parks as follows:

Require a plan change for new business parks and any amendment to the provisions of existing business parks, to:

- (a) limit the permitted amount of office space so as not to adversely affect the function, role and amenity of the Business – City Centre Zone, Business – Metropolitan Centre Zone and Business – Town Centre Zone;
- (b) limit retail to those services such as food and beverage and convenience goods which meet the day to day needs of workers and visitors to the zone;
- (c) limit residential activity except for visitor accommodation;
- (d) demonstrate that the business park will not adversely affect the safe and efficient operation of the transport network;
- (e) demonstrate that a comprehensively planned development and a high standard of visual, landscaped and pedestrian amenity will be achieved
- (f) control the scale of built development so that it remains compatible with a landscaped high quality business space;
- (g) limit development where environmental or servicing constraints exist, unless these can be adequately mitigated; and
- (h) maximise the number and quality of connections through the site where these provide logical links to the local street network, with a priority on pedestrian and cycle routes and avoiding fenced and gated environments.

8.4.18. When development is staged, management of the stages should ensure amenity values and the environment are enhanced, and impacts on the transport network are reduced or maintained (Policy H15.3(19)), and effects are to be managed such that the amenity of neighbouring zones is not degraded (Policy H15.3(20)).

Comments on the Business Park Zone objectives and policies

8.4.19. The Proposed Plan Change is consistent with those parts of Policy H15.3(18) that require the amount of office space and retail activity to be limited. No substantive amendments are proposed to the Smales 1 Precinct provisions that currently address those matters but it is proposed that the limit on retail activities should be aligned to the total development on the Site (including residential), and not just business activities. For this reason, it is proposed to amend Policy H15.3(18(b)) so that it refers to residents, as well as workers and visitors to the zone.

- 8.4.20. The Proposed Plan Change is not consistent with the policy that requires residential activity (except visitor accommodation) to be “limited” and an exemption to this policy is proposed for the Smales 1 Precinct so that residential activity on the Site will not be inconsistent with that policy.
- 8.4.21. Assessments of the effects of the development enabled with the Proposed Plan Change have determined that any effects on the safe and efficient operation of the transport network, and effects on visual, landscape and pedestrian amenity, will be minor. No change is proposed to the current standard that requires landscaped areas in the Business Park Zone to comprise at least 20% of the Site area. In the case of Smales Farm, that standard requires more than 2 hectares to be landscaped which is considered to be consistent with “a landscaped high quality” space.
- 8.4.22. The additional standards and assessment criteria will ensure that the current permeability of the Site, with links through the Site and to the surrounding street network will be maintained.
- 8.4.23. The existing and planned capacity of services infrastructure to the Site is sufficient for the extent and type of development envisaged with the Proposed Plan Change.
- 8.4.24. Overall, with the minor amendments proposed to provide for residential activity at Smales Farm, it is considered that the Proposed Plan Change is consistent with the objectives and policies applying to the Business Park Zone.

### **Transport**

- 8.4.25. E27 is largely a technical section of the Unitary Plan, which deals with the effects of activities on the transport system, parking access and loading. Much of the content is not specifically relevant to the Proposed Plan Change but Objective E27.2(1) addresses the integration of land use with the transport network as follows:

*Land use and all modes of transport are integrated in a manner that enables:*

- (a) the benefits of an integrated transport network to be realised; and*
- (b) the adverse effects of traffic generation on the transport network to be managed.*

### **Comments**

- 8.4.26. The Proposed Plan Change enables a Transit Oriented Development to be established at Smales Farm, integrating the land use activities with the adjacent transport network comprising all modes of transport. The intensive form of development enabled by the Proposed Plan Change, comprising a mix of activities, will support the increased use of public transport to and from the Site. This, together with greater opportunities for walking and cycling, will contribute to the management of adverse effects that would otherwise be generated by increased use of private motor vehicles. It is considered therefore, that the Proposed Plan Change is consistent with the relevant objectives and policies of the transport section of the Unitary Plan.

### **Conclusions regarding the Statutory Framework**

- 8.4.27. The Proposed Plan Change is consistent with the Auckland Plan 2050 which puts a strong emphasis on housing and the integration of land use and transport infrastructure. The enablement of residential activity in the Smales 1 Precinct is consistent with the National Policy Statement on Urban Development Capacity

because it will contribute, over the medium to longer term) to the supply of housing required to meet demand from a growing population.

- 8.4.28. Regarding the Unitary Plan, the Proposed Plan Change directly and positively addresses major themes of the Regional Policy Statement, particularly in relation to the integration of land use and transport infrastructure, and the support increased development at Smales Farm will provide to public transport services.
- 8.4.29. The Proposed Plan Change is consistent with the general objectives and policies applying to the centres, Mixed Use and Business Park zones and, in relation to the proposed increased height limit, readily meets the criteria in Policy H15.3(13).
- 8.4.30. The policies applying to the Business Park Zone do not anticipate residential activity (except visitor accommodation) but, in all other respects, the Proposed Plan Change is consistent with the objectives and policies of the zone. In particular, the strong focus on providing employment opportunities is unaffected by the Proposed Plan Change.
- 8.4.31. The Proposed Plan Change is also consistent with the relevant objectives and policies of the Transport section of the Unitary Plan.

## **8.5. Other Relevant Planning Documents**

- 8.5.1. The Devonport-Takapuna Local Board Plan 2017 and Auckland Council's Long-term Plan (2015-25 and draft 2018-28) have been reviewed. Although transport is identified in these documents as a key issue, there is no specific guidance relevant to the assessment of the Proposed Plan Change.
- 8.5.2. Transport-related policy of relevance to the Proposed Plan Change is addressed in Part 9 of the Integrated Transportation Assessment. The documents reviewed by Stantec include:
  - Government Policy Statement on Land Transport;
  - Auckland Transport Alignment Project;
  - Regional Land Transport Plan;
  - Regional Public Transport Plan; and
  - Integrated Transport Programme.
- 8.5.3. Stantec concludes that the Transit Oriented Development enabled by the Proposed Plan Change will align very well with these transport-related policy documents.

## **9. ASSESSMENT OF EFFECTS ON THE ENVIRONMENT**

### **9.1. Introduction**

- 9.1.1. Having regard to clauses 6 and 7 of Schedule 4 of the RMA, it is considered that the following matters should be addressed by this assessment of environmental effects:
  - The capacity of services infrastructure;
  - Urban design;
  - Landscape and visual effects;

- Economic effects;
- Transportation effects;
- Social effects; and
- Other environmental effects.

9.1.2. The proposed Transit Oriented Development will be implemented over a relatively long period of time – up to 30 years. In order to make a realistic assessment of effects on the environment of development enabled by the Proposed Plan Change, a possible sequence for the development of the buildings illustrated on the Concept Masterplan has been developed. The results of that exercise are set out in **Table 1**.

Year	Commercial (m <sup>2</sup> GFA)	Residential (m <sup>2</sup> GFA)	Apartments (number <sup>4</sup> )
Existing	58,000		
2021	12,000		
2026	22,000	19,000	190
2031	25,000	19,000	190
2036	8,000	19,000	190
2041	17,000	20,000	200
2046	8,000	26,000	260
2051	12,000	35,000	350
<b>Total</b>	<b>162,000</b>	<b>138,000</b>	<b>1,380</b>

**Table 1. Indicative staging of development.**

This staging sequence is assumed for the assessment of potential effects of development in accordance with the Proposed Plan Change.

## **9.2. Services Infrastructure**

9.2.1. The potential effects of development enabled by the Proposed Plan Change on services infrastructure have been considered in the Civil Engineering Assessment (**Annexure 3**).

9.2.2. The existing stormwater ponds on the Site have been designed to manage runoff from an impervious catchment of 6.75ha. However, the maximum impervious area for the Site under the Business Park Zone provisions is 80% of the site area, which equates to about 8.64ha. As the Site is progressively developed, the ponds will need to be enlarged to address the additional impervious area created. The Proposed Plan Change does not seek to amend the impervious area standard and the same requirement applies currently to development enabled by the Unitary Plan provisions applying to Smales Farm. One beneficial effect of future development is that buildings will, over time, replace the existing on-grade parking

<sup>4</sup> Assuming an average size of 100m<sup>2</sup> per apartment.

areas, resulting in an increase in the quality of stormwater discharged to the ponds.

- 9.2.3. The Site is currently well served with wastewater and water supply infrastructure with large mains nearby. There is no reason to expect that sufficient additional capacity cannot be provided to serve future development over the anticipated 30-year time period for development enabled by the Proposed Plan Change.

### **9.3. Urban Design Assessment**

- 9.3.1. A comprehensive urban design assessment has been carried out by Boffa Miskell. This is attached as **Annexure 5** to the plan change application. **Annexure 6** is a drawing package for both the urban design and visual/landscape assessments. The urban design assessment provides a detailed evaluation of the provisions of the Proposed Plan Change, and the likely urban design outcomes for development carried out under those provisions.

- 9.3.2. Boffa Miskell has noted that the combination of development standards and the assessment of proposed development against the suitable criteria proposed with the plan change is consistent with the methodology used to manage the amenity effects of development in the other zones under the Unitary Plan that provide for a comparable scale and intensity of development.

- 9.3.3. In relation to the key urban design matters addressed in the Urban Design Assessment, the appropriateness of the provisions proposed to apply to development within the Smales 1 Precinct can be summarised as follows.

- (a) The Site is well suited to the greater intensity and mix of activities proposed with the plan change because of:

- The highly accessible location in relation to all modes of transport.
- The large separation distance to surrounding small-scale residential uses.
- The size of the Site and its capacity for a considerable amount of additional development.
- The adaptability of the existing development, including existing facilities and amenity (including landscape amenity), to serve an increased population of workers, residents and visitors on the Site.
- The opportunity for expansive coastal and city views from taller buildings.

- (b) Smales Farm is considered to be an ideal location to provide for tall buildings because of the site attributes listed above and the proposed development standards appropriately address the potential for adverse environmental effects from such development including visual amenity, dominance, privacy, wind and shading effects.

- (c) The Proposed Plan Change recognises the need to ensure that the high standard of design of buildings at Smales Farm is maintained. This is achieved by applying restricted discretionary activity status to new buildings and including assessment criteria that enable a wide range of design quality issues to be assessed, as well as the integration of each stage of new development with existing development on the Site.

- (d) The importance of high quality public spaces and priority for pedestrian access, safety and amenity is recognised by the inclusion of specific standards and assessment criteria to be applied with each stage of future development.
- (e) Similarly, standards and assessment criteria recognise and provide for an appropriate level of residential amenity with each stage of development, and the maintenance of that amenity with each subsequent stage.
- (f) In setting the height limits for development at Smales Farm, a clear distinction is made between the height opportunity afforded by the Site's adjacency to the motorway corridor and the desired outcome of smaller scale buildings along the frontages with the surrounding streets.
- (g) At each stage of development, the potential for adverse effects on neighbouring areas and activities will be assessed.
- (h) The provisions appropriately enable the establishment of a distinct node of high buildings, providing legibility to the Transit Oriented Development adjacent to the Smales Farm public transport interchange.

9.3.4. The conclusion of the Urban Design Assessment is that:

*Overall, it is considered that the proposed plan change has appropriately enabled the desired development outcome – the ability to transition towards a denser, more diverse and vibrant transit-oriented development node over time – while providing development standards and assessment criteria that address key urban design matters.*

9.3.5. It is considered, therefore, that any adverse amenity effects associated with the design of buildings at Smales Farm, their configuration on the Site, and the spaces between the buildings, will be appropriately mitigated by the application of the standards and assessment criteria proposed for the Smales 1 Precinct.

#### **9.4. Landscape and Visual Effects**

9.4.1. Boffa Miskell has carried out a landscape and visual effects assessment of development in accordance with the provisions of the Proposed Plan Change – **Annexure 7** to the plan change application.

9.4.2. A landscape assessment determines the effects of a proposal on an environmental resource while an assessment of visual effects considers how a proposal may affect the viewing audience and visual amenity. Boffa Miskell's assessment focuses mainly on visual effects.

9.4.3. A number of potential viewpoints were identified, reflecting both the immediate and wider context of the Site. These were reviewed and thirteen representative viewpoints were selected for the assessment. For each location, a photograph formed the basis of a visual simulation of the Concept Masterplan which was then analysed.

9.4.4. Boffa Miskell concludes that, given the urban context of the Site, the scale of the surrounding land uses, the additional height and density of built form currently provided for in the Unitary Plan, and the "relative distance and existing visual context of the viewing audience", the visual effects of development provided for with the Proposed Plan Change "will generally be neutral".

9.4.5. From some nearby locations and a limited number of residential properties there could be low to moderate visual effects and, from many locations, the higher

buildings enabled by the Proposed Plan Change are likely to result in positive visual effects due to well-designed taller buildings adding to the urban character and sense of place of the Smales Farm transport node.

- 9.4.6. Boffa Miskell has also assessed potential landscape effects associated with the Lake Pupuke Outstanding Natural Feature. In this regard, it is concluded that any such effects would be minor.
- 9.4.7. Overall it is considered that any adverse landscape and visual effects of development enabled by the Proposed Plan Change will be minor, and that there will also be positive visual effects.

## **9.5. Economic Effects**

- 9.5.1. Insight Economics has prepared an assessment of the likely economic effects of development enabled by the Proposed Plan Change - **Annexure 8** to the plan change application.
- 9.5.2. One of the most significant economic benefits identified is the contribution of development enabled by the Proposed Plan Change to the local and regional dwelling supply. The potential addition to the dwelling supply over the 30-year estimated timeframe for development is significant but, in addition, residential development on the Site is particularly beneficial because:
  - Apartment development is anticipated and apartments are generally more affordable than other dwelling types.
  - Apartments offer many benefits to residents, including greater security and less maintenance than other forms of residential development, and more opportunities to socialise.
  - A mix of employment opportunities and dwellings on the one site will enable people to live and work in the same location, eliminating the need for commuting to work.
- 9.5.3. The economic benefits of Transit Oriented Development are summarised in the report, all of which will apply to the development at Smales Farm enabled by the Proposed Plan Change. The most significant factor in this regard is the location of the Smales Farm bus interchange which adjoins the Site.
- 9.5.4. The synergies of the proposed mixture of activities on the Site have been identified, including the availability of jobs for residents and housing for workers, and increased support for retail, services and entertainment activities beyond the typical hours of work each day and over the whole week.
- 9.5.5. The Proposed Plan Change enables an incremental increase in floor area of retail and commercial services activities on the Site, in step with the staged residential and non-residential development. The potential for this aspect of the development on the Site to adversely affect the role, function and amenity of centres such as Milford and Takapuna has been assessed, despite the fact that those centres are well-established and successful, and are likely to be resilient to trading challenges generated by out-of-centre retail development. The analysis carried out for the assessment of economics effects shows that the future demand generated by development on the Site, and the pro-rata development of retail and commercial services enabled by the provisions of the Proposed Plan Change, are well-balanced. It is considered therefore that any adverse effects on centres will be unlikely and minor.

9.5.6. One of the key economic benefits of the Proposed Plan Change is in terms of efficiency – both in terms of land use and infrastructure. The Proposed Plan Change will enable high-density, mixed-use development to occur on scarce, under-developed urban land. This will enable the land to be put to its “highest and best use”, maximising the economic efficiency of land use. In addition, the Proposed Plan Change will maximise infrastructure efficiency because the Site is already connected to key networks, in contrast to development on the periphery of the city.

## **9.6. Transportation Effects**

9.6.1. An Integrated Transportation Assessment (“ITA”) for the Proposed Plan Change has been prepared by Stantec. This report is attached as **Annexure 4** to the plan change application. The report describes the existing transport environment, including accessibility of the Site to the different transport modes, and identifies ongoing and future transport initiatives. The transport benefits of Transit Oriented Development, as enabled by the Proposed Plan Change, are identified. The methodology and results of transport modelling are described and, finally, the proposal is assessed against the relevant transport-related policy and plans.

9.6.2. In relation to the proposed transport oriented development, the most attractive features of the Site are its proximity to supporting land uses and its extremely good connectivity to the full range of transport modes. This form of development capitalises on the availability of readily accessible and frequent public transport services, and reduces reliance on private motor vehicles. The Site is also well connected in relation to active modes of transport, increasing the choices for residents, workers and visitors to the Site. Future transport initiatives will further enhance the Site’s connectivity.

9.6.3. The addition of residential activity to the permitted activities in the Smales 1 Precinct causes the Site to be an origin, as well as a destination, for travel. For some residents, there will be an opportunity to work and live in the one location. As a major origin, the residential component will provide increased support for the bus services serving the Site, in particular the Northern Express route which provides high-frequency services throughout the day in both the northern and southern direction. A mode shift from private vehicles to public transport will be a very attractive option for residents.

9.6.4. Traffic modelling has been carried out to determine the ability of the road network surrounding Smales Farm to accommodate the levels of traffic expected to be generated by development on the Site. It was decided to carry out this collaboratively with the Waitemata District Health Board (“WDHB”) because a masterplan for the extensive development of the North Shore Hospital site is expected to be implemented during the same timeframe as development at Smales Farm. The modelling therefore takes account of traffic anticipated to be generated from the combined development and the results will be utilised with future resource consent applications for development on the hospital site, as well as for the proposed plan change for Smales Farm.

9.6.5. Inputs to the modelling were provided by the Auckland Forecasting Centre, and this group, Auckland Transport and NZTA were consulted regarding modelling assumptions. Traffic surveys to gather data for the existing situation were undertaken under Stantec’s supervision.

9.6.6. Flow Transportation Consultants was engaged by WDHB to undertake the modelling exercise (for both parties) with Stantec carrying out a peer review (also



for both parties). Subsequently, Stantec developed the model further to explore additional future scenarios and to carry out analysis particular to the Smales Farm proposal.

- 9.6.7. The road network was modelled for the years 2026 and 2036 with the amount of development anticipated at Smales Farm being in accordance with the indicative staging set out in Table 1 (above). Conservatively, for the hospital site it was assumed that the whole of the masterplan would be implemented by 2026.
- 9.6.8. The area surrounding Smales Farm is well developed and the road network is already heavily congested during peak periods. There is very little ability to create new roads or add additional lanes to accommodate future traffic demands. Accordingly, the traffic modelling has considered how many trips would have to be removed from the network in order for the network performance to be comparable to the performance in the same year, assuming no additional development.
- 9.6.9. The modelling for the 2026 and 2036 years has demonstrated that a reduction of 250 vehicles per hour turning from Taharoto Road into Northcote Road will appropriately mitigate the effects of traffic generated by development on both the hospital and Smales Farm sites. This equates to 7-9% of the total peak hour traffic volume on Taharoto Road. The residential component of the anticipated development makes a negligible contribution to this requirement.
- 9.6.10. The largest contribution to this relatively modest reduction in traffic movements is expected to be by a mode shift away from private vehicles to public transport. In addition, people may choose a route that avoids the Northcote area, change their time of travel or work from an alternative location (such as from home). Mode share trends applying to the City Centre show that the reduction is achievable when the road network is congested, and when public transport is a viable alternative. The availability of frequent and rapid bus services at the Smales Farm station ensures that the use of public transport is a viable alternative for those working, living or visiting Smales Farm.
- 9.6.11. Stantec considers that the intensity of development enabled by the Proposed Plan Change is much more efficiently located at Smales Farm than in other areas that don't have the level of supporting infrastructure and facilities available adjacent to, or readily accessible from, the Site.
- 9.6.12. Stantec's review of transport related plans and policies has confirmed that transport oriented development at Smales Farm, as enabled by the Proposed Plan Change, aligns very well with those planning documents that promote the integration of land use and transport planning, and increased use of public transport and active transport modes.
- 9.6.13. It is concluded in the ITA that Smales Farm is an excellent location for a Transit Oriented Development with the levels of activities enabled by the Proposed Plan Change, primarily because of its proximity and connectivity to a wide range of transport modes, particularly public transport. Stantec considers that such a development "can be efficiently integrated into the surrounding transport network in a complementary and sustainable manner".

## **9.7. Other Effects**

### *Social effects*

- 9.7.1. Well designed intensive urban development can generate a range of social benefits particularly if, as is the case at Smales Farm, ready access to rapid and frequent public transport services is available.
- 9.7.2. The compact nature of such development encourages walking which is beneficial in terms of fitness and health. There are also more opportunities for interaction with neighbours and other residents of the area than is the case in low-density suburban situations. In addition, the increased diversity and density of activities increases the vitality of the development and incorporating residential activity, in particular, increases the hours of activity on a site.
- 9.7.3. Ready access to safe and convenient public transport services, and to walking and cycling networks, enables residents, workers and visitors to be less car-dependent. The active modes have beneficial effects on health, and there is often more social interaction with walking and public transport. Proximity to well supported public transport services also provides improved mobility options for disabled persons and other non-drivers.
- 9.7.4. Overall, it is considered that the Transit Oriented Development enabled by the Proposed Plan Change will be beneficial in terms of social effects.

### *Other environmental effects*

- 9.7.5. Other environmental effects to be considered include the effects of earthworks and travel efficiencies associated with decreased reliance on the private motor vehicle.
- 9.7.6. Earthworks are required with almost all development projects and the potential for the discharge of sediment-laden stormwater from a site is managed by the implementation of an erosion and sediment control plan. The City-wide provisions of the Unitary Plan will apply to construction works at Smales Farm.
- 9.7.7. One of the acknowledged benefits of Transit Oriented Development is reduced reliance on travel by private motor vehicle. This will have a consequential positive effect on air quality.

## **9.8. Conclusions regarding Effects**

- 9.8.1. Overall, it is considered that any adverse effects generated by development enabled by the Proposed Plan Change will be minor and satisfactorily mitigated, and that there will be significant positive effects from the form of development enabled.

## **10. ASSESSMENT AGAINST PART 2 OF THE RMA**

- 10.1. The Purpose of the Resource Management Act 1991 is set out in section 5 as follows:

*(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.*

*(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—*

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

- 10.2. It is considered that the Proposed Plan Change promotes sustainable management as it encourages the integration of land use and transport infrastructure, supports public transport services, enables residential activity to contribute to the supply of housing needed to meet demand from Auckland's growing population, enables the ongoing provision of employment opportunities, and avoids or mitigates adverse effects on the environment.
- 10.3. Section 6 lists a number of "Matters of National Importance". None of these matters has particular relevance to the Proposed Plan Change.
- 10.4. Of the "Other Matters" listed in section 7, it is considered that Items (b), (ba), (c) and (f) are relevant to this proposal. The Proposed Plan Change enables the more intensive use of the Site, substantially increasing the potential for the land resource to be efficiently used for development. The Transit Oriented Development anticipated by the proposed modifications to the Unitary Plan provisions applying to the Smales 1 Precinct will promote travel efficiency, will encourage the use of public transport, and will provide support for the services available at the bus station adjacent to the Site. This will have benefits in relation to the efficient use of energy and the maintenance and enhancement of the quality of the environment. The new and modified provisions introduced with the Proposed Plan Change, combined with the characteristics of the Site, will ensure that amenity values of the Site and the surrounding area will be maintained.
- 10.5. In relation to section 8, there are no known Treaty issues associated with the Site.
- 10.6. In summary, the application will assist in achieving the Purpose of the RMA, there are no matters of national importance relevant to the proposal, it is consistent with the relevant matters listed in section 7, and there are no known Treaty issues associated with the Site in terms of section 8 of the RMA.
- 10.7. It is considered that the Proposed Plan Change will promote sustainable development, will positively impact on the social and economic wellbeing of the people and communities of Auckland and will have an acceptable effect on the environment. Accordingly, the Proposed Plan Change as a whole will achieve the purpose of the RMA.

## **11. SECTION 32 EVALUATION**

- 11.1.1. The requirements for preparing an evaluation of a proposed plan change are set out in Section 32 of the RMA, the key parts of which for this assessment are as follows:
- (1) An evaluation report required under this Act must -*
    - (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
    - (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by -*



enable a mixed-use Transit Oriented Development (incorporating residential activity). The conclusion is that the latter is more appropriate.

- 11.1.5. In order to apply a zone to the Site (without a precinct) that would facilitate the incorporation of residential activity as a component of a Transit Oriented Development, the provisions of that zone would:
- Enable office development but with a cap;
  - Enable unlimited residential development;
  - Enable a limited amount of retail and commercial services activities to serve workers and residents occupying the Site.
- 11.1.6. None of the existing Unitary Plan zones provides for that combination of activities with the restrictions identified, and it is not considered appropriate to create a new zone for one 10ha site. In order to enable the development concept to be implemented, therefore, a precinct is necessary to modify the provisions of an underlying zone.
- 11.1.7. Since its inception as a location for office development, Smales Farm has been zoned as a business park. Under the Unitary Plan, the Site is zoned Business Park with the Smales 1 Precinct modifying the underlying zone provisions. Other zones could potentially apply to the Site, again modified by precinct provisions, and in **Appendix D, Table D2** four alternative zones have been considered: Business Park Zone, Mixed Use Zone, Metropolitan Centre Zone and Town Centre Zone. Although, the provisions of any of these zones could be modified by precinct provisions in order to enable the proposed Transit Oriented Development to be developed, it is considered that the analysis in Table D2 of Appendix D demonstrates that the Business Park Zone is the most appropriate zone for Smales Farm.

**The extent to which each objective is the most appropriate way to achieve the purpose of the Act**

- 11.1.8. Having established that the most appropriate way of achieving the purpose of the Act is to enable to development of Smales Farm as a Transit Oriented Development, and that the Business Park Zone is the most appropriate zone to apply to the Site, it is necessary to determine whether the proposed new and modified objectives appropriately support that form of development.

*Business Park Zone Objectives*

- 11.1.9. One of the existing Business Park Zone objectives applies only to new business parks while the other two require existing business parks to be efficiently and effectively developed, and for retail activities that support intensive employment activities to be enabled. It is considered that no new objectives or modifications to the existing objectives are required to enable a Transit Oriented Development to be established at Smales Farm because it is not precluded by the existing zone objectives. Residential development on the Site can, therefore, be enabled without offending the objectives applying to the zone. The precinct mechanism can appropriately address the proposed residential development which will be particular to Smales Farm.

*Smales 1 Precinct Objectives*

- 11.1.10. It is considered that the existing objective applying to the Smales 1 Precinct does not give any indication that residential development is anticipated on the Site,

and that new objectives should apply to the precinct to guide the policies and rules to enable that activity to be established there.

- 11.1.11. Three new objectives are proposed, therefore, that refocus the outcome anticipated for the Site to a mixed use Transit Oriented Development, incorporating residential development which will enable the more efficient use of the land, contribute to Auckland's housing supply, and take greater advantage of the proximity of the Smales Farm bus station. With the proposed addition of a residential population it is also considered appropriate for there to be a greater emphasis on the amenity values of the Site and an additional objective is proposed to address that matter.
- 11.1.12. It is proposed to modify the existing Smales 1 Precinct objective by removing the reference to managing significant effects on the operation of the transport network because traffic modelling has shown that the surrounding road network will continue to operate satisfactorily with a relatively modest reduction in the number of vehicles on the roads, achieved by greater use of public transport, walking and cycling, and other realistic changes to travel patterns.
- 11.1.13. Taken as a whole, it is considered that the proposed new and modified precinct objectives will appropriately enable an intensive mixed-use Transit Oriented Development to be established on the Site which, in turn, will better achieve the Purpose of the Act than would the status quo.
- 11.1.14. Accordingly, it is considered that adding the proposed new objectives, and modifying the existing objective applying to the Smales 1 Precinct, as proposed, is the most appropriate way to achieve the purpose of the Act.

**Whether, having regard to efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives**

***Proposed Policies***

- 11.1.15. It is proposed to modify two Business Park Zone policies which do not acknowledge the possibility of residential development in the zone and support a Transit Oriented Development at Smales Farm.
- 11.1.16. The existing policies applying to the Smales 1 Precinct, address effects on centres of office activity over a limit of 162,000m<sup>2</sup> GFA and effects on the transport network of development over 105,000m<sup>2</sup> GFA, and limit accessory activities to those which meet the immediate needs of workers and visitors associated with the office activity. These policies will not fully give effect to the new and modified existing objectives proposed to apply to the precinct.
- 11.1.17. It is proposed, therefore, to modify two of the existing policies to enable accessory activities to address the needs of residents as well as workers and to require an assessment of effects on the transport network for office development above the limit applying to that activity on the Site (162,000m<sup>2</sup>) rather than 105,000m<sup>2</sup> as at present.
- 11.1.18. New policies are proposed to enable the full range of residential activities on the Site, and to ensure that an appropriate level of amenity is provided for residents, as well as workers and visitors. To rectify an omission from the existing policy framework for the precinct, a new policy is also proposed to address the parking standard currently applying to the Site.
- 11.1.19. The existing policies will not give effect to the objectives proposed to apply to the precinct and, having regard to efficiency and effectiveness, it is considered that

the proposed policy framework for the precinct proposed with this plan change application are necessary and appropriate to give effect to the proposed objectives.

### ***Methods***

- 11.1.20. With the changed outcome sought for development at Smales Farm, modifications to the activity table, and new and modified standards and assessment criteria applying to the Smales 1 Precinct, are required to implement the policies and thereby give effect to the proposed objectives. These are assessed below.

### ***Activity Table***

- 11.1.21. It is proposed to amend the activity status of several activities from that applying under the Business Park Zone. Some of these amendments are required to provide for residential activities, while others are proposed to enable activities to establish on the Site that will support the proposed Transit Oriented Development. The latter include temporary activities, the status of which is proposed to be amended so that events can be held without onerous and unnecessary consenting processes being required.
- 11.1.22. It is considered that the proposed changes to the activity status applying under the Business Park zone are appropriate to efficiently and effectively achieve the Smales 1 Precinct objectives.

### ***Standards***

#### ***Exceptions***

- 11.1.23. The proposed exceptions to the application of the standards applying under the underlying zone and the Transport section of the Unitary Plan are necessary to confirm the relevant standards set out below.

#### ***Gross Floor Area***

- 11.1.24. No GFA limit is proposed on residential activity within the precinct, consistent with the centre zones and the Mixed Use Zone in order to enable the efficient and effective development of a mixed-use, Transit Oriented Development.
- 11.1.25. The proposed limit on retail and commercial activities is a simplified version of the standard currently applying to the zone, with the list of activities to which the limit applies reduced to those that could, potentially lead to the establishment of a de facto centre at Smales Farm. The formula provides for retail and commercial services activities to be provided incrementally on the Site, in step with other development (including residential activities). Apart from the fine-tuning of the activities to which the formula applies, and the proposed permitted status of residential activities, the formula is unchanged from that currently applying to the Smales 1 Precinct.
- 11.1.26. An alternative way of limiting retail activities would be to have permitted activity status apply only to tenancies 200m<sup>2</sup> GFA or less, as is the case in the Mixed Use Zone. The alternatives are evaluated in **Appendix D, Table D3**, where it is concluded that the proposed formula is the most appropriate way of achieving the objectives of the Smales 1 Precinct.

*Parking*

11.1.27. It is not proposed to amend the parking provisions that currently apply to development in the Smales 1 Precinct for business activities. No minimum or maximum limit is proposed for parking associated with residential activity. That is the case with the Metropolitan Centre, Town Centre, Local Centre, Mixed Use and THAB zones and it will be consistent for residential activity in the Business Park Zone to be treated in the same way. It is considered that the lack of a maximum or minimum parking requirement will facilitate residential development on the Site and is, therefore, appropriate for achieving the objectives of the precinct.

*Trip generation*

11.1.28. The exemptions provided for with this standard will enable development on the Site without an assessment of the surrounding road network for every new development proposal. This will contribute to the efficient and effective achievement of the precinct objectives.

*Building height*

11.1.29. Three alternatives have been considered for the height limit to apply to the Smales 1 Precinct:

- The status quo – RL48.5 (approximately 25m above the average ground level along the Taharoto Road frontage);
- The height limit generally applying in the Metropolitan Centre Zone – 72.5m measured by the rolling height method; and
- RL123.4 (approximately 100m but with the floorplate area above RL98.4 limited to 3,000m<sup>2</sup>).

11.1.30. These options have been evaluated in **Appendix D, Table D4** where it is concluded that the proposed height limit (RL123.4/98.4) is the most appropriate way of achieving the objectives of the Smales 1 Precinct.

*Maximum tower dimension and tower separation*

11.1.31. Standards have been proposed to limit the dimensions of towers and to specify a minimum separation distance between taller buildings. It is considered that these standards are necessary to ensure an appropriate level of visual amenity with the development of tall buildings.

*Residential amenity*

11.1.32. Similarly, it is considered that the proposed standards that address residential amenity (I538.6.6 and 6.7) are necessary to ensure that Smales Farm is an attractive place to live.

*Pedestrian plaza*

11.1.33. A standard is proposed that requires a pedestrian plaza to be established, approximately in the middle of the Site, designed to meet specified parameters, no later than the completion of 125,000m<sup>2</sup> of development within the precinct. The proposed standard will contribute to the achievement of the objectives requiring the Smales 1 Precinct to be a vibrant and attractive place for residents, workers and visitors.



### ***Matters of discretion and Assessment Criteria***

- 11.1.34. Matters of discretion and criteria are necessary for the assessment of restricted discretionary activities and it is considered that those proposed for the Smales 1 precinct will contribute to the efficient and effective achievement of the precinct objectives.

### **S32 Conclusions**

- 11.1.35. The potential effects associated with the provisions proposed to be introduced to the Unitary Plan through the plan change application for Smales Farm have been assessed throughout this document and in the supporting technical reports. In this section of the planning report, an evaluation of the proposed objectives, policies, activity table, standards and assessment criteria has been undertaken. Having regard to that analysis, and the conclusions of assessment in other sections of this report, it is considered that:
- (a) Enabling a mixed-use Transit Oriented Development, including residential activity, at Smales Farm is more appropriate than limiting development on the Site to office activity.
  - (b) The Business Park Zone is the most appropriate underlying zone for the Site.
  - (c) The proposed new and modified objectives of the Smales 1 Precinct are the most appropriate way to achieve the purpose of the Act and to contribute to the achievement of the objectives in the RPS section of the Unitary Plan;
  - (d) The proposed new and modified policies applying to the Business Park Zone and the Smales 1 Precinct will efficiently and effectively achieve the objectives of the zone and the precinct.
  - (e) The proposed modifications and additions to the activity table, standards and assessment criteria applying to the the Smales 1 Precinct will efficiently and effectively address the zone and precinct policies.
- 11.1.36. Overall, it is considered that the Proposed Plan Change is the most appropriate way of achieving the purpose of the Act.

## **12. CONSULTATION**

- 12.1.1. For the past two years Smales Farm management has consulted extensively with Auckland Council over the Proposed Plan Change, particularly in relation to providing for residential development on the Site within taller buildings than can currently be developed as a permitted activity. Those consulted include the Councillors representing the area within which Smales Farm is located, the Chief Executive Officer, and senior planning officers. The feedback on the principle of providing for intensive development, including residential activity has been positive with no adverse comments received.
- 12.1.2. In addition, consultation has taken place with council planners and external specialist consultants, particularly in relation to the proposed amendments to the provisions applying to the Smales 1 precinct. With this consultation the Council has been provided with drafts of the proposed provisions and feedback has been received. That feedback has been taken into account when developing the set of provisions lodged with the application for the Proposed Plan Change. The draft urban design and landscape/visual assessment reports, and the accompanying

graphics package, have also been provided to the Council for comment prior to those documents being finalised.

- 12.1.3. Consultation has also been carried out with the management of Auckland Transport and the New Zealand Transport Agency on the principle of a Transit Oriented Development, incorporating a mix of residential and commercial activities on the Site. Again, the proposal has been positively received. Consultation has also taken place with officers of those organisations to ensure that the transport modelling and effects assessment carried out for the plan change application were appropriate. These organisations (through the Auckland Forecasting Centre) also provided input to the models used for the assessment.
- 12.1.4. Consultation was also undertaken at a senior level with Watercare in relation to the ability of the development enabled by the Proposed Plan Change to be supplied with the services required.
- 12.1.5. A key party consulted on the Proposed Plan Change is the Waitemata District Health Board. The Board has prepared a masterplan for the long-term development of the North Shore Hospital site, and the traffic modelling to assess the transport effects of contemporaneous development on the hospital site and Smales Farm was carried out jointly by the transportation consultants employed by each party.
- 12.1.6. Discussions have also been held with the principals of the nearby schools, Westlake Girls High School and Takapuna Normal Intermediate, and initial feedback has been positive.

### **13. CONCLUSIONS**

- 13.1. Because of the location, size and orientation of the Site, the proximity of a major public transport interchange, and the relative insensitivity of the surrounding uses to effects of tall buildings and intensive development on the Site, Smales Farm is very suitable for development as a Transit Oriented Development.
- 13.2. The integration of land use and transport infrastructure facilitated with the enablement of residential activity on the Site, and the co-location of commercial and residential uses at a high intensity, makes efficient use of the physical land resource and existing infrastructure, particularly transport infrastructure.
- 13.3. The Site is extremely well located in relation to the transport network with the Smales Farm station on the Northern Busway, and an interchange with the Northern Motorway, which together make up the backbone of the transport system on Auckland's North Shore, immediately adjacent.
- 13.4. The Proposed Plan Change will support and encourage the use of readily accessible public transport services available at the bus station. Although additional travel demand will be generated by the anticipated development on the Site, increased public transport usage and other trends that have the potential to reduce work related travel at peak times, will enable the intensive development of the Site to take place without having significant adverse effects on the operation of the surrounding road network.
- 13.5. The Site is surrounded by uses that are relatively insensitive to the effects on intensification, both because of the nature of the activities on adjacent sites, and due to the separation distance provided by the roads forming the boundaries of the Site. Intensification can therefore occur without generating significant adverse effects on the owners and occupiers of the surrounding properties.

- 13.6. Smales Farm is a large site within which development is unconstrained by a public street network. This enables a high amenity development to be provided within the Site to accompany staged development.
- 13.6.1. A comprehensive assessment of environmental effects potentially generated by development enabled by the Proposed Plan Change has been carried out. It is considered that any adverse effects generated by the proposed development will be minor and satisfactorily mitigated, and that there will be significant positive effects from the form of development enabled.
- 13.7. An evaluation of the Proposed Plan Change has been undertaken in accordance with the requirement of s32 of the Act. Through that evaluation it has been determined that enabling a mixed-use Transit Oriented Development, including residential activity, at Smales Farm is more appropriate than the status quo but that the Business Park Zone remains the most appropriate underlying zone for the Site.
- 13.8. It has also been determined that the proposed new and modified objectives of the Smales 1 Precinct are the most appropriate way to achieve the purpose of the Act and to contribute to the achievement of the objectives in the RPS section of the Unitary Plan, and that the proposed new and modified policies and rules of the Smales 1 Precinct will efficiently and effectively achieve the objectives of the zone and the precinct.
- 13.9. Overall, it is considered that the Proposed Plan Change is the most appropriate way of achieving the purpose of the RMA and it is therefore recommended for favourable consideration pursuant to the procedures set out in the Act.

Vaughan Smith  
**Vaughan Smith Planning Limited**  
March 2019

**Attachment 3 – Decision**

**Decision following the hearing of a Plan Change to the Auckland Unitary Plan under the Resource Management Act 1991**



Proposal

To change the provisions of the Smales 1 Precinct to enable greater development within the Precinct, including residential activities.

Proposed Plan Change 23 to the Auckland Unitary Plan (Operative in Part) is **approved**, subject to the modifications as set out in this decision and in the Plan Change 23 document attached. Submissions are **accepted** and **rejected** in accordance with the decision.

<b>Plan modification number:</b>	PC23
<b>Site address:</b>	Smales 1 Precinct, Smales Farm Takapuna.
<b>Hearing commenced:</b>	Tuesday 19 and Wednesday 20 November 2019, 9.30am
<b>Hearing panel:</b>	Mr. Ian Munro (Chairperson) Ms. Kim Hardy Mr. Matthew Riley
<b>Appearances:</b>	<p><u>For the Council:</u></p> <p>Mr. Christopher Turbott, as a replacement for Mr. Ewen Patience Mr. Pravin Dayaram Ms. Rebecca Skidmore Dr. Douglas Fairgray Ms. Larissa Rew</p> <p><u>For the applicant:</u></p> <p>Northcote RD1 Holdings Ltd, represented by: Mr. Douglas Allan Mr. Paul Gunn Mr. James Whitlock (on behalf of Mr. Siri Wilkening) Mr. John Goodwin Mr. Alistair Brimelow Mr. Brett Harries Mr. John Parlane Mr. Fraser Colegrave Mr. Stuart Houghton Mr. Vaughan Smith</p>

	<p><u>For the Submitters:</u></p> <p>NZTA and Auckland Transport, represented by: Ms. Marija Batistich Mr. Kevin Wong Toi Mr. Evan Keating Ms. Cath Hepplethwaite Mr. Trevor Mackie Mr. Joe Philips Mr. Graham Norman Mr. Stephen Chiles</p> <p>Waitemata District Health Board, represented by: Ms. Bianca Tree Mr. Nigel Ellis Mr. Andrew Mein Ms. Bronwyn Coomer-Smit Mr. Craig McGarr</p> <p>Westlake Girls High School, represented by Ms. Joy Bradfield</p> <p>Watercare Services Ltd, represented by Mr. Andre Stuart</p> <p>Tabled statement received from: Kainga Ora</p>
<b>Hearing adjourned</b>	11 December 2019
<b>Commissioners' site visit</b>	Not Applicable
<b>Hearing Closed:</b>	16 January 2020

## INTRODUCTION

1. This decision is made on behalf of the Auckland Council ("the Council") by Independent Hearing Commissioners Mr. Ian Munro (Chair), Ms. Kim Hardy and Mr. Matthew Riley appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 ("**the RMA**").
2. The Commissioners have been given delegated authority by the Council to make a decision on Plan Change 23 ("**PC23**") to the Auckland Council Unitary Plan Operative in Part ("**AUP: OP**") after considering all the submissions, the section 32 evaluation, the reports prepared by the officers for the hearing and evidence presented during and after the hearing of submissions and the officers' response.
3. PC23 is a privately-initiated plan change that has been prepared following the standard RMA Schedule 1 process (that is, the plan change is not the result of an

alternative, 'streamlined' or 'collaborative' process as enabled under the RMA).

4. We were given no reason not to believe that the correct and proper process had been followed in the preparation, notification and consideration of PC23. We accept that there are no jurisdictional or procedural matters for us to determine.
5. The plan change was publicly notified on 12 April 2019.
6. The submission period closed on 15 May 2019. A summary of submissions was notified for further submissions on 14 June 2019 with the period for receiving further submissions closing on 28 June 2019. A total of 18 submissions and 6 further submissions were made on the plan change. No late submissions or further submissions were received. The submissions were split with a majority seeking that PC23 be declined. We confirm that we have read all submissions and further submissions in full.

### **SUMMARY OF PLAN CHANGE**

7. PC23 as notified was described in detail in the s.42A report prepared by Mr. Patience, and we adopt and refer specifically to his paragraphs 60 – 67.
8. In terms of an overall summary, the proposal is to modify the provisions of the existing Smales 1 Precinct so as to allow for substantially more building height and scale (as restricted discretionary activities), including residential land use activities, to occur. This is premised on the locational attributes of the Precinct, being directly adjacent to a major passenger transport hub (the Smales Farm Northern Busway Station), and well-separated from sensitive land uses on account of the large institutional and infrastructure uses nearby. These include Westlake Girls High School, North Shore Hospital, Takapuna Golf Course, North Shore Events Centre, Takapuna Normal Intermediate School, State Highway 1 and Northcote and Taharoto Roads.
9. A large part of the proposal was the planning concept of a Transit Orientated Development, or “**TOD**”. This is in summary a model of development that is well traversed in planning and urban design practice, and all of the Commissioners are very familiar with it. It is based on the principle of maximising the efficiency of passenger transport networks, and minimising automobile dependence, by enabling high densities of employment and residential activities on or very close to major passenger transport stations. We comment on the relevance of this TOD concept to the proposed plan change further below. In our decision we have used the term “TOD” to discuss the proposal and evidence given to us at the Hearing, but in so doing recognise that it is not a term currently used in the AUP: OP, and is overall simply a shorthand to describe a particular bundle of site and development characteristics.

### **HEARING PROCESS**

10. As the majority of submitters to PC23 wishing to give evidence were represented by expert witnesses, the Commissioners required the pre-circulation of expert evidence and allowed a period of rebuttal evidence from the Applicant.
11. The Hearing proceeded in the conventional manner, with us hearing the Applicant's case, the submitters', the Council staff response to what they had heard, and a brief oral right of reply from the Applicant. We adjourned the Hearing to seek additional

information and commentary from the Applicant's and the Council's design experts, and the Applicant elected not to add anything to its previous oral reply.

12. We record and acknowledge that the completion and issuing of this decision after the Hearing closed was unfortunately delayed, including by the onset of the Coronavirus pandemic that has affected the globe. We wish to thank all participants for their patience and we trust that they have been and remain safe through this time.

### **RELEVANT STATUTORY PROVISIONS CONSIDERED**

13. The RMA sets out an extensive set of requirements for the formulation of plans and changes to them. These requirements are set out in Sections 3 and 4 of the s.42A report, and for completeness we agree with and adopt that analysis, specifically paragraphs 70 – 80 of the s.42A report, and the section 32 assessment that forms part of the application material.
14. Clauses 29 and 10 of Schedule 1 require 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 of the RMA. With regard to Section 32AA, we note that the evidence presented by the Applicant, submitters and the Council's staff, and this decision, represents this additional assessment. That material should be read in conjunction with this decision where we have determined that changes to PC23 should be made.
15. There are a number of provisions of the AUP: OP that are relevant to PC23 and these were presented in the application documents and s.42A report. In summary, they primarily affect the Smales 1 Precinct (Chapter I538), and to a much lesser degree the Business Park zone (Chapter H15). We have considered the content and policy framework of these provisions in detail below.

### **PLANNING CONTEXT – STATUTORY AND POLICY**

16. The RMA requires that Unitary Authorities consider a number of statutory and policy matters when developing proposed plan changes.

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

17. The Section 32 Evaluation Report, the s.42A report, and also very relevantly the legal submissions of the Applicant's counsel Mr. Allan set out the provisions of the RMA that are relevant to PC23. We accept this, which has been read and taken into account by us and it is not necessary to repeat this material here.
18. We are satisfied that PC23 has been prepared and submissions considered in accordance with the relevant provisions of the RMA (and in particular Part 2 and sections 32 & 32AA), the Council's functions under the Act, and all other relevant statutory matters as set out within the Act.

#### **National and regional planning context**

19. The application documents, s.42A report, and evidence also outlined the relevant national and regional planning documents that are relevant to Plan Change 23 and



these are not repeated here. We adopt for this purpose paragraphs 81 – 86 of the s.42A report (relating to national and regional RMA documents), as well as paragraphs 88 – 91 (relating to the strategic “Auckland Plan”). We also record our acceptance of the equivalent analysis presented in the Applicant’s evidence of Mr. Smith.

20. We accept that PC23 is consistent with the relevant statutory requirements. We also accept Mr. Patience’s opinion, at paragraph 87 of the s.42A report, which confirms that there are no other Parliamentary Acts relevant to the proposal.

### **PC23 – SCOPE AND JURISDICTION**

21. As a Commission, we must satisfy ourselves that the plan change has been prepared by the Applicant in the manner set out in Schedule 1 to the Act, including that any submission is properly ‘on’ the plan change. If a submitter seeks changes to the proposed plan, then the submission must set out the specific amendments sought. We must also be satisfied as to the jurisdictional dimension of proposed changes that could flow from the plan change. We are able to approve PC23, decline it, or approve it with changes based on the relief sought in submissions or further submissions. Two jurisdictional issues are particularly relevant:

- a. a submission must be ‘on’ the plan change; and
- b. whether there is the ability to make changes to the plan arising from submissions in terms of scope.

22. The scope of PC23 is, in our opinion, spatially very limited (the footprint of the existing Smales 1 Precinct) and having taken into account the statutory and legal tests in relation to submissions and the actual submissions received we have considered the following issues:

- whether each submission is on PC 23; and
- whether any changes are fairly or reasonably within the general scope of PC23 as notified, an original submission, or somewhere in between, bearing in mind whether affected persons may have been denied the right to be heard.

23. We are satisfied that the submissions and further submissions are of an acceptable scope, and that the relief sought is also within scope. The relief sought is relatively wide, ranging from full approval to full rejection. The Council submission also raises matters relating to the format of PC23 and its administrative setting within the AUP: OP.

### **SUMMARY OF EVIDENCE**

24. The application material, submissions and further submissions, correspondence, the Council’s s.42A report, expert evidence, and the Applicant’s rebuttal evidence were pre-circulated in accordance with directions we issued. That material was read prior to the commencement of the Hearing.
25. The Hearing commenced on 10<sup>th</sup> December 2019. After introductions and preliminaries

were completed, the Applicant commenced its case. What follows is a summary only, and we refer to both the written statements that were received and the audio recording of the Hearing taken by the Council for more detail.

### **The Applicant**

26. Counsel Mr. Douglas Allan introduced the Applicant's team and outlined the evidence that had been provided. He provided legal submissions explaining the process, substance, and reasons why in his view the plan change should be approved on the basis of the Applicant's proposed provisions (which had been modified since notification in response to the views of submitters and the Council).
27. Mr. Allan responded to a number of questions from the Commission relating to the concept of a TOD and how it related to the AUP: OP provisions and in particular the RPS direction for urban form outcomes. He also addressed the matter of the Precinct proposed to enable a substantial extent of residential activities sitting atop those of the Business Park zone, which has a directive policy framework seeking to largely avoid residential activities.
28. Mr. Paul Gunn, a representative of the Applicant, Northcote RD1 Holdings Ltd, spoke briefly to his pre-circulated statement and answered questions from the Commission. In his opinion, the Applicant had undertaken a thorough and best-practice approach to 'land on' its proposal, and disagreed with the further changes proposed by the Council staff.
29. Mr. James Whitlock (acoustician), spoke to the expert noise evidence of Ms. Siri Wilkening. He adopted Ms. Wilkening's conclusions, and was of the view that PC23 should be approved.
30. Mr. John Goodwin (landscape architect) summarised his pre-circulated statement of evidence and the reasons why he felt PC23 could be approved. He discussed with the Commission his views on how to manage buildings as tall as are sought to be enabled through PC23, particularly in terms of having multiple taller buildings within the Precinct, and also (in the wider landscape) with planned taller buildings in (particularly) Milford and Takapuna centres, and potentially additional tower forms on the North Shore Hospital site over time.
31. Mr. Alistair Brimelow (engineering) spoke to his pre-circulated statement of evidence and confirmed that in his opinion PC23 would not present any engineering or infrastructure issues or effects that could not be properly managed.
32. Mr. Brett Harries and Mr. Parlane (traffic engineers) summarised their individual pre-circulated statements of evidence and the reasons why in their opinion PC23 should be approved without the changes sought by the Council.
33. Mr. Parlane considered that there was no need to require a maximum residential car parking rate simply because car parking was expensive to provide and the developer would not over-provide when other and more profitable activities could occur.
34. Mr. Fraser Colegrave (economics) spoke to his pre-circulated statement of evidence and outlined why in his opinion PC23 should be approved. He did not consider there

was any need to further restrict or limit retail development within the Precinct and that it was improbable that it could measurably affect adjacent Town and Metropolitan centres.

35. Mr. Colegrave responded to a question from the Commission that if the proposed retail development was regarded as a centre in the AUP: OP hierarchy, it would correspond to a Local Centre.
36. Mr. Stuart Houghton (urban designer) spoke to his pre-circulated statement of evidence and confirmed his opinion that PC23 should be approved. In Mr. Houghton's opinion the Site was strategically well-located and compatible with a TOD, and as part of that a centre.
37. Mr. Houghton also referred us to, and we received, a summary document outlining TOD principles, entitled "*Transit Orientated Communities: A Primer on Key Concepts*", TransLink, British Columbia (Can), updated 2011. We have read this document but ultimately we have not found it to be a necessary authority in the making of our decision.
38. Mr. Vaughan Smith spoke to his pre-circulated statement of evidence and confirmed his opinion that PC23 should be approved. Mr. Smith explained the changes that had been made to the proposal over time, and why he did not agree with the Council staff recommendations for further changes.
39. The Commission took Mr. Smith through a number of questions testing the proposed provisions and the relationship between the proposed Precinct and the Business Park zone. We record this as it amounted to an important part of our duties under s.32AA of the RMA, in as much as we tested various alternatives including changing the underlying land use zone.

#### **The submitters**

40. NZTA and Auckland Transport made a joint presentation led by Ms. Marija Batistich (counsel). NZTA and AT were both in agreement that PC32 was appropriate and, of note, they were in agreement with the Applicant's proposed car parking provisions.
41. Ms. Batistich presented legal submissions on behalf of the agencies and introduced expert witnesses to be called.
42. Mr. Kevin Wong Toi (traffic planner) spoke briefly to his pre-circulated evidence on behalf of Auckland Transport. He supported PC23, and confirmed that Auckland Transport saw practical land use and transport integration benefits arising from the plan change.
43. Mr. Evan Keating (traffic planner) spoke briefly to his pre-circulated evidence on behalf of NZTA. In his view PC23 was appropriate and could be approved.
44. Ms. Catherine Heppelthwaite (planner) spoke to her pre-circulated statement of evidence on behalf of NZTA. In Ms. Heppelthwaite's opinion the PC23 provisions that were presented in the Applicant's opening submissions by Mr. Allan were the most appropriate and she supported them. Ms. Heppelthwaite agreed with the Applicant that

the term TOD was appropriate within the proposed provisions.

45. Ms. Heppelthwaite explained that historically, high-density development has not been supported by NZTA along its major motorways. The benefits of leveraging transport efficiencies from the Busway station as well as changes in attitudes towards acoustic controls and reverse sensitivity gave her (and NZTA) comfort that PC23 would be acceptable.
46. Mr. Trevor Mackie (urban designer), spoke briefly to his pre-circulated evidence on behalf of Auckland Transport. Mr. Mackie supported PC23. He considered that the proposed Precinct sitting atop the Business Park zone was the most appropriate way of reflecting and managing the transition between what has until now been a Business Park, to a future state where it was more of a mixed-use precinct.
47. On behalf of the Waitemata District Health Board ("**DHB**"), counsel Ms. Bianca Tree provided brief legal submissions and introduced expert witnesses. The DHB outlined that it had been consulting with the Applicant and was supportive of PC23.
48. Mr. Nigel Ellis (project director), spoke briefly to his pre-circulated statement of evidence on behalf of the DHB. Mr. Ellis explained the nature and role of the North Shore Hospital Campus and its plans to meet future needs. He explained the work undertaken between the DHB and the Applicant to plan for the future intersection environment of Taharoto Road between the two sites. This resulted in a Joint Traffic Model between these parties, and on the basis of that and other discussions, the DHB was in support of PC23 as presented by the Applicant in Mr. Allan's legal submissions.
49. Mr. Andrew Mein and Ms. Coomer-Smit (traffic engineers) briefly spoke to their statements of pre-circulated evidence and both confirmed their opinion that they supported PC23 in its current or 'Hearing' version. They were both satisfied that PC23 as proposed most recently by Mr. Allan, and also their predictions of the future needs of the North Shore Hospital, could be accommodated.
50. Mr. Craig McGarr (planner) spoke briefly to his pre-circulated statement of evidence. He was in support of PC23 as per the Hearing version.
51. Mr. McGarr expressed the view that it was not necessary to refer to a TOD in the provisions, but rather explain the characteristics and the outcomes sought. We discussed with him the relationship between the underlying zone and the Precinct, and in his view it was important that the Plan provisions clearly explain how the two work together. We found this opinion to be particularly helpful when we came to later evaluate what provisions would be the most appropriate.
52. Ms. Joy Bradfield spoke to us on behalf of Westlake Girls High School. She was not opposed to PC23 but expressed a number of concerns relating to wind effects (from tall buildings) on the school, and the traffic environment generally. She advised us that approximately 50% of the school's current (approximate) 2,300 student roll travel from outside the local walkable area, and that the maintenance of an efficient road system (especially for buses) was important.
53. On behalf of Watercare Services Ltd, Mr. Andre Stuart spoke briefly to his pre-circulated statement of evidence. He explained Watercare's plans to upgrade the local

network and issues associated with servicing the scale of development on the Site that PC23 could enable. He confirmed that there was no reason from Watercare's perspective that would be fatal to PC23 being accepted.

### **The Council officers**

54. Dr. Douglas Fairgray (economics) outlined his general support for the proposal subject to restrictions on retail development within the Precinct. His overriding concern was that the proposal not be permitted to establish as a centre of inappropriate scale relative to the (extensive, in our view) RPS guidance on urban form and centres. In his opinion, it was appropriate to regard the likely function of the development to be enabled by PC23 as a local centre in the AUP: OP centres hierarchy. This would make it subordinate to Milford and Northcote (town centres) and Takapuna (a Metropolitan Centre). In Dr. Fairgray's view, no more than 13,500m<sup>2</sup> of retail activities in total would be appropriate, over time and subject to staged triggers.
55. Dr. Fairgray discussed with us also his understanding of the concept of a TOD and how it related to the AUP: OP model of 'centres'. In Dr. Fairgray's opinion, a TOD was indistinguishable from a centre inasmuch as all centres had a TOD role (to a greater or lesser extent), based on their inherent role as 'centralisers' or 'concentrators' of people and activity. We found this to be a particularly persuasive point.
56. Dr. Fairgray considered that it was not appropriate to classify a TOD as something other than a form of centre.
57. Ms. Rebecca Skidmore (urban designer and landscape architect) reiterated her support of PC23 and referred to several answers given to Commissioner questions across the Hearing by Mr. Houghton and Mr. Mackie, with which she agreed. In her opinion the application and evidence had included an appropriate quality and standard of built form visualisations and she considered that no further specificity of building placement(s) was required.
58. Mr. Pravin Dayaram (traffic engineer) reiterated his general support of PC23, but confirmed that he felt changes were required in relation to maximum car parking limits on residential activities as well as for non-residential activities. Mr. Dayaram explained a concern that a surplus of residential car parking could be leased-on to non-residential workers within the Precinct, undermining part of the rationale for allowing intensification on the basis that visitors will come by bus.
59. Mr. Christopher Turbott (planner) represented the Council's s.42A report on behalf of its author, Mr. Ewen Patience (who was absent with illness). He offered his views on matters that we had raised across the Hearing and in so doing reiterated his general support for PC23. He expressed a preference that instead of technical terms including "TOD", that plain English language equivalents should be used to set out the AUP: OP's planned outcomes.
60. Overall, the Council staff supported PC23 subject to amendments that we would characterise as focused on 'fine tuning'.

### **Further information**

61. We intervened prior to inviting a right of reply to discuss matters of further information. We expressed a preference that a 'final' set of plan provisions and Council officer comments be received.
62. We also expressed discomfort with the information presented to date in support of the proposed height limit up to 100m. This included visualisations representing a 'possible' development outcome. We were concerned that to properly test the proposed restrictions of discretion that would apply including by demonstrating that they could address any relevant adverse effects that could arise, something representing more of a 'worst case' development would be more robust.
63. This was challenged at length by Mr. Allan, who referenced in his lengthy response the support of PC23 (on the information provided) by a number of independent design experts. He also reminded us that as restricted discretionary activities, it was entirely possible that any development proposal that complied with the height limit could be refused consent. This did not address our principal inquiry, being to understand whether the proposed restrictions accounted for all potential adverse effects that could arise from a 'maximum compliance' scenario.
64. We conferred briefly and confirmed that additional visualisations illustrating something of a maximum or 'worst-case' compliance situation would be highly desirable to help give the Commission proper confidence in the proposed provisions, and that it was for the Applicant to consider further.
65. The Applicant ultimately and helpfully agreed to provide this information, which had the effect of requiring an adjournment of the Hearing.

### **Right of Reply**

66. Although a request for further information had been expressed by us, Mr. Allan confirmed that he wished to provide a brief verbal reply statement at the Hearing. In it, Mr. Allan recapped the key reasons why the plan change should be accepted, including in particular the locational attributes of the Site and the protections that a restricted discretionary activity assessment would provide for any applications for consent resulting from PC23.
67. Mr. Allan advised us that the Applicant had carefully developed its plan change based on the advice from its expert advisors. Where the Council staff differed in their detailed recommendations, Mr. Allan recommended that we prefer the Applicant's version of the Plan provisions.

### **Post-Adjournment**

68. On receipt of additional photo-simulation information and associated commentary from the Applicant's and the Council's design experts, and a 'final' version of the Applicant's proposed plan provisions and a Council staff mark-up, we invited the Applicant to present any further or additional closing reply to us.
69. Mr. Allan confirmed that the Applicant had nothing more to add.
70. We determined that we had sufficient information to make a decision on the matter, and

the Hearing was duly closed on 16 January 2020.

## **PRINCIPAL ISSUES IN CONTENTION**

71. Having considered PC23 and the information, submissions and evidence associated with it, the situation can be summarised as follows:
- a number of local submitters oppose PC23 outright;
  - the Applicant, Council and a number of other submitters support PC23 although the Council and the Applicant are not in agreement on a number of matters of fine detail; and
  - all expert evidence presented to us was in support of PC23, albeit subject to the differences of fine detail identified above.
72. We have identified the following points of contention:
- a. Is the Precinct fundamentally suitable?
  - b. Are the building heights and design requirements suitable?
  - c. Are transportation issues suitably addressed?
  - d. Are retail and commercial requirements suitable?
  - e. What is the most appropriate wording for specific Plan provisions?
73. We record that in all other respects we accept that PC23 would be acceptable and could be properly managed by way of the Plan provisions proposed by the Applicant as per its final reply version, dated 19 December 2019. We find in all of those respects that the proposal has been appropriately formed, assessed, and that the evidence provided in support of them is convincing.

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

*Is the Precinct approach fundamentally suitable?*

74. We find that the proposed Precinct overlay sitting 'on top of' the Business Park zone is the most appropriate approach to integrate PC23 into the AUP: OP.
75. We asked questions of all of the planning witnesses available to us, and all were in agreement that the proposed approach was sound in resource management terms generally, and in line with the structure of the AUP: OP specifically.
76. A key question in our minds was the logic of the Business Park zone, in which residential activity is discouraged by way of policy wording and a non complying activity status, being potentially undermined by a Precinct that simultaneously enabled a substantial density of residential activity. We considered whether or not a more appropriate way of addressing the issues raised by PC23 might be to simply re-zone the Site, such as to a Mixed Use or Town or Metropolitan Centre zone.
77. Our investigation with the planning experts satisfied us that the Site possessed a number of specific attributes which do not usually occur together. Specifically, the Site has:

- a. an existing and (foreseeably) future employment role anchored around high-density office-based employment of the sort enabled in the **Business Park** zone;
  - b. characteristics that lend it to a variety of compatible uses and activities that is similar to that normally enabled in the **Mixed Use** zone;
  - c. a capability to accommodate residential development at a scale and of a form that is similar to that normally enabled in the **Metropolitan Centre** zone; and
  - d. the likely future catchment size and relationship with Milford and Northcote Town Centres, and Takapuna Metropolitan Centre, that justifies the function of a **Local Centre** zone.
78. Because of this, we are satisfied that there is no single land use zone within the framework of the AUP: OP that would adequately cater to all of these attributes. Hence, simply changing the underlying zone would be unlikely to most appropriately address the issues raised by PC23, unless a new unique and site-specific zone was introduced to the AUP: OP (as we discuss below, we understand that this is the very purpose of a precinct – to respond to site-specific characteristics as de facto ‘spot zones’). We also find that it would be unnecessarily complicated and inherently inefficient to try to break up the Site into a series of smaller but separately zoned areas, a pursuit which no expert recommended to us, and which we have not taken further. We have therefore accepted the Council’s planning evidence which supported the precinct approach proposed and which considered that this was acceptable within the framework of the AUP: OP.
79. We lastly accept that based on the historic and substantial existing business park development occurring on the Site, retention of the Business Park zone is appropriate – including by signaling that it remains an important resource management outcome for this particular site and should not be disestablished.
80. Changing the zone outright to a Mixed Use, Town or Metropolitan Centre zone could unintentionally jeopardize the existing business park uses, such as by enabling substantially different internal uses to occur within buildings. This was a point raised by Mr. Allan and also in the submission of Sovereign Insurance Ltd. For completeness and as will be addressed later however, we have accepted that concern and added an appropriate recognition of the existing business park activities on the Site into the PC23 provisions.
81. The result of this is that having considered changing the underlying land use zone, we find that it would be necessary to add a bespoke recognition of the importance of the Site’s existing business park activities, and other characteristics, to the AUP: OP’s ‘standard’ zone provisions in all instances. In something of a full-circle, that would likely lead to a need for some form of additional Precinct method to accommodate such additional Plan content anyway.
82. We consider that the following ‘combinations’ are available:
- a. the proposal (or an outcome very close to that);



- b. a Metropolitan or Town Centre zone, with a Precinct that considerably restricted retail, commercial services and entertainment activity to a level akin to a Local Centre zone, and that additionally recognised the importance of the existing Business Park activities;
- c. a Local Centre zone, with a Precinct that considerably enabled residential and Business Park activities over and above what would normally be acceptable within the zone; or
- d. a Mixed Use zone, with a Precinct enabling considerably greater residential activity, enabling a Local Centre zone scale of retail, commercial and entertainment, and which additionally recognised the importance of the existing Business Park.

83. We find that of these four options, option (c) (Local Centre zone) to be the least appropriate, noting in particular that the existing Business Park itself would not be consistent with what is normally enabled within that zone. Option (d) would be superior but still undesirable given the need for the Precinct to provide residential, business park, retail, commercial services, and entertainment provisions in a way that would likely make the Precinct provisions notably lengthier than is proposed in PC23. Of the remaining two options, we find that the proposed approach is the most practical, efficient and effective. Although we consider that some form of augmented Metropolitan Centre zone would have been able to manage the issues raised by PC23 quite efficiently and effectively, fundamentally the Site is not proposed to be, nor would it be suitable as, a Metropolitan Centre given the planned role in the city and the large catchment areas this zone is purposed to serve; there is no evidence that Takapuna requires any supplementation at all in that function.

84. We therefore agree that option (a) is the superior and most appropriate.

85. Our investigation of land re-zoning was purposed to identify whether it was possible to eliminate the need for a zone and Precinct combination, or which otherwise presented the greatest possible extent of synchronicity between the two methods. We are satisfied that the Site presents characteristics that cannot be so simply managed, and related to that we cannot see an alternative zone to the Business Park zone that would be a better fit.

86. We find that the method of a Precinct sitting across the Business Park zone to recognise the Site's place-based characteristics is desirable and efficient. We refer here specifically to Chapter A of the AUP: OP, where Precincts as a method are described at A1.6.5:

*"Precincts enable local differences to be recognised by providing detailed place-based provisions which can vary the outcomes sought by the zone or Auckland-wide provisions and can be more restrictive or more enabling."*

87. We find that the Precinct proposed is comfortably in line with the explanation provided above from Chapter A, in that it:

- a. provides place-based provisions;

- b. varies the outcomes sought by the Business Park zone; and
- c. achieves (a) and (b) in a way that is more enabling.

88. Overall, we therefore find that the Business Park zone and Smales 1 Precinct generally as proposed represent the most appropriate means of enabling the outcomes proposed in PC23 within the AUP: OP. We have found it necessary to include maintenance of Business Park activities into the Precinct provisions however. The function of the AUP: OP is to prioritise Precinct provisions ahead of zone provisions, and in that respect PC23 as put to us did allow for the Business Park activities to be overridden by the Precinct without such a connection being 'carried across'.
89. Submissions including further submissions related to the zoning of the land and use of a Precinct are either accepted, accepted in part, or rejected in accordance with this decision.

*Are the proposed building heights and design requirements suitable?*

90. When the Commission read the application material and pre-circulated evidence, its members were surprised at the scale of building height proposed. None of us had ever experienced building heights of up to approximately 100m other than in Auckland's Central City zone or largest Metropolitan (formerly known as Sub-Regional) Centre zones. This is not to indicate any inherent concern with or prejudice against PC23, rather it is a confirmation of the atypical nature of the request.
91. Before considering the likely effects of development proposed to be enabled it is necessary to be clear on how the AUP: OP RPS approaches the matter of building heights of the scale proposed other than in the Central City or Metropolitan Centres, if at all. We do not see that there would be a pathway to approve PC23 if there was relevant RPS direction that such heights were simply not appropriate other than in those highest-order centres of activity.
92. We received evidence from and questioned all of the planning and urban design witnesses on behalf of the Council, the Applicant, Auckland Transport, the New Zealand Transport Agency and the Waitemata District Health Board on the full suite of provisions including specifically the proposed height limits of PC23. We also questioned the economic witnesses on the potential impact of the plan change on the existing centres hierarchy as the combination of enabled building height and land use activity could potentially change the function of existing centres – specifically the nearby centres of Milford and Takapuna. In summary all expert evidence given to us was supportive of the proposed PC23 building height limits and design requirements, and this was ultimately a key factor in our acceptance of PC23.
93. Mr. Patience in his s.42A report addressed the submissions on height and considered that *'tall buildings at Smales Farm will provide this large development site with an appropriate legibility in the wider landscape without threatening any prominence that Takapuna might have or aspire to in the wider Auckland context'*. Mr. Turbott advised us that he adopted and supported Mr. Patience's recommendations when questioned by the Commission. In the s.42A report Mr. Patience drew our attention to policy H15.3(13) within the Business Park zone which states that:

*“(13) In identified locations within the centres zones, Business – Mixed Use Zone, Business – General Business Zone and Business - Business Park Zone enable greater building height than the standard zone height, having regard to whether the greater height: (a) is an efficient use of land; (b) supports public transport, community infrastructure and contributes to centre vitality and vibrancy; (c) considering the size and depth of the area, can be accommodated without significant adverse effects on adjacent residential zones and (d) is supported by the status of the centre in the centres hierarchy, or is adjacent to such a centre.*

94. In Mr. Patience’s opinion the proposal for Smales Farm is in line with (a), (b) and (c) and that (d) was not relevant (because the Precinct is not a Centre Zone).

95. Mr. Smith advised us that:

*“The increased height of buildings provided for with Plan Change 23 will enable the efficient development of the site in an intensified form, while maintaining space at ground level that contributes to a ‘walkable urban environment and high level of on-site amenity. Enabling taller buildings would also identify Smales farm as a transit - oriented node and creates a positive presence on the skyline. Potential adverse effects of taller buildings will be avoided or mitigated by a combination of the application of a number of standards, and the testing of development proposals against a comprehensive set of assessment criteria to ensure that building design is of a high standard”*(para10.27 EIC).

96. Ms. Heppelthwaite also advised us under questions from the Commission that she supported the plan change provisions.

97. Mr. Mackie assisted us with our questions on the previous zoning of Smales Farm and the legacy North Shore City Council planning policy framework given his *“involvement in developing the district plan policy for Smales Farm in both its inception as a Business park, and in review of the policy approach.”* Mr. Mackie advised us that he was also a Council planning witness for the Smales Farm 1 Precinct in the Auckland Unitary Plan process. Whilst his evidence was focused on the matters of particular interest to Auckland Transport, Mr. Mackie concluded with his support for PC23 as proposed to be amended by Auckland Transport and The New Zealand Transport Agency (including the proposed height limits).

98. Ms. Skidmore (urban designer for the Council) undertook a comprehensive peer review assessment of the application material and the Applicant’s urban design assessment undertaken by Mr. Stuart Houghton. Ms. Skidmore advised us of her familiarity with the area and that she has visited the Smales Farm site and surrounding environment on numerous occasions. Ms. Skidmore’s recommendation to us on the proposed height limits was that:

*“The plan change will enable considerable change in the scale of buildings in this location, particularly within height Area 2. I agree with the analysis set out in Paragraphs 13.18 – 13.30 of the Urban Design report regarding the suitability of the site to accommodate taller buildings in relation to its surrounding context. I agree that enabling taller buildings (generally up to 75m tall) will mark Smales Farm as an identifiable transit – oriented node in a manner that is complimentary to the scale of buildings enabled in the immediate and wider environment. The provision for a limited*

*number of buildings to extend up to 100m will assist to provide additional height variation and visual interest to the skyline” (para 6.21, page 884 s42A report).*

Ms. Skidmore also advised us on the visual effects of the taller buildings:

*“I agree with the overall conclusion that the adverse visual effects resulting from the additional height enabled by the Plan Change will generally be neutral, with moderate adverse effects experienced from a limited number of local viewpoints including parts of the Onewa Domain and residential properties where taller buildings will be viewed directly in front of a visual change as moderately adverse” (para 6.29, page 885 s42A report).*

99. We tested these recommendations at length with Ms. Skidmore and the other expert witnesses, all of whom supported the proposed PC23 provisions including the proposed height.
100. In his urban design assessment of the proposed plan change provisions Mr. Houghton described the height strategy as one that concentrated the taller building heights of 75-100m in the central and western parts of the Site beside the busway and busway station and motorway corridor, and transitioned down in height to the established scale of approximately 27m around the site perimeter to Northcote, Taharoto and Shakespeare Roads where the precinct adjoins lower height mixed use and residential areas.
101. As part of evaluating the above evidence and in recognition of the submissions in opposition to PC23, we have examined the relevant AUP provisions in detail to understand if there is any explicit direction on building height and the centres hierarchy in particular.
102. The relevant AUP: OP RPS chapter is B2, titled “Urban Growth and Form”. We have read this chapter carefully as part of evaluating the planning evidence we were given and determined that it is ultimately silent on how and where *very tall* buildings should locate as part of an identified “quality compact urban form”. This enables contextual based assessments to be undertaken on a site and/or area specific basis through resource consents and/or proposed plan changes as is the case with PC23.
103. Objective B2.2.1(1) states:
  - “(1) *A quality compact urban form that enables all of the following:*
    - (a) *a higher-quality urban environment;*
    - (b) *greater productivity and economic growth;*
    - (c) *better use of existing infrastructure and efficient provision of new infrastructure;*
    - (d) *improved and more effective public transport;*
    - (e) *greater social and cultural vitality;*

(f) *better maintenance of rural character and rural productivity; and*

(g) *reduced adverse environmental effects.”*

104. We accept the position of the Applicant’s and the Council’s experts that the proposed plan change and enabled building heights could reasonably meet this objective either directly or indirectly. Clauses (b), (c), (d) and (g) are achieved at a policy level as a result of more efficient land use planning. Clause (f) is indirectly supported inasmuch as additional development within the identified urban area reduces pressure for outward development within rural areas. Clause (e) is likely to occur through provisions that require high quality accessible public space within the Precinct. Clause (a) would not in our opinion be compromised, given the detailed provisions (and our proposed amendments to PC23) requiring design outcomes that achieve high-quality buildings.

105. We have also considered Policy B2.2.2 and find that the proposed plan change again could meet these policies either directly or indirectly. Policy B2.2.2(5) refers explicitly to residential intensification. It is relevant to us that residential activities are the principal use within existing tall buildings across Auckland that fall outside of the Central City zone. This includes residential towers in Remuera, Point Chevalier, Orewa, Manukau, Takapuna, and Henderson that in some cases are located outside the immediate boundaries of the centres zoning framework. We are also aware of approved but not yet implemented tall residential buildings in Milford and Hobsonville Point. We have therefore interpreted the term “intensification” as meaning greater land use densities and associated development scale horizontally and vertically. This reading also appears in line with the development standards across the AUP: OP zones – the ‘higher intensity’ zones consistently enable greater horizontal and vertical development potential than the zones ‘below’. The policy states:

*“(5) Enable higher residential intensification:*

*(a) in and around centres;*

*(b) along identified corridors; and*

*(c) close to public transport, social facilities (including open space) and employment opportunities.”*

106. We read these three clauses as describing acceptable alternative locations for intensification and not as characteristics that each location for proposed intensification must simultaneously achieve; it is not workable that residential intensification should be enabled only in those *parts* of centres that are *also* along an identified corridor, and also close to public transport, social facilities and employment opportunities. That would substantially diminish where intensification could occur – specifically to limited areas within the centre zones. That plainly is not how the zones enabling intensification have been applied across Auckland.

107. We accept the Applicant’s and the Council’s experts’ position that PC23 is consistent with this policy on the basis that the area is located close to public transport, social facilities (including open space) and employment opportunities.

108. Objective B2.3.1(1) becomes more directive. It states:
- “(1) A quality built environment where subdivision, use and development do all of the following:*
- (a) respond to the intrinsic qualities and physical characteristics of the site and area, including its setting;*
  - (b) reinforce the hierarchy of centres and corridors;*
  - (c) contribute to a diverse mix of choice and opportunity for people and communities;*
  - (d) maximise resource and infrastructure efficiency;*
  - (e) are capable of adapting to changing needs; and*
  - (f) respond and adapt to the effects of climate change.”*
109. We accept the Applicant’s and the Council’s experts’ position that the proposed plan change can meet this objective either directly or indirectly. We are satisfied that the detailed precinct provisions (including our proposed amendments) will require a high-quality built environment and that this outcome will be evaluated through the resource consent process.
110. A potential limitation on building height and scale does appear to exist in clause (b), however we consider that the policy direction to “reinforce the hierarchy of centres and corridors” likely relates at least as much to the management of land use activities including the combination of commercial and retail activities as it does to the management of building scale. We also note that PC23 includes limits on commercial and retail development specifically so as to remain subordinate to Northcote, Milford and Takapuna centres. In that respect, even with the height limits enabled, PC23 appears to at the least ‘square up’ to clause (b). But out of an abundance of caution, we have identified clause (b) as being one possible reason to limit to development scale in the Smales 1 Precinct, and we will return to this later with further analysis.
111. In terms of related policies, we consider that B2.3.2(1), (2), and (3) are also relevant. These state:
- “(1) Manage the form and design of subdivision, use and development so that it does all of the following:*
- (a) supports the planned future environment, including its shape, landform, outlook, location and relationship to its surroundings, including landscape and heritage;*
  - (b) contributes to the safety of the site, street and neighbourhood;*
  - (c) develops street networks and block patterns that provide good access and enable a range of travel options;*



planned future environment outcomes. This is on the basis of the combination of separation distances, intervening land uses (excluding the Mixed Housing Urban-zoned land immediately south of the Site), and design controls proposed as part of PC23 – although there are relevant issues raised by the RPS policies at B2.4.2 (discussed later). We therefore again accept the Applicant’s and the Council’s experts’ conclusions.

116. In terms of policy (2), we find that clauses (b) and (c) would in particular be better served by enabling more rather than less development and building height within the Precinct compared to the status quo. We also find that clause (a), being more general in purpose, to be well served by PC23.
117. In terms of policy (3), we accept that PC23 could contribute to a varied built form that will help meet the needs of Auckland’s diverse population, noting that almost all residential accommodation in the vicinity of the Site is in the form of detached or semi-detached, 1-to-2 storey multi-bedroom houses.
118. The suitability of locations such as the Smales 1 Precinct to accommodate residential intensification is further reinforced by objective B2.4.1(3) and its supporting policy B2.4.2(2). The policies also helpfully identify those locations that are less suited (and in places not at all suited) to residential intensification, and this also in our view helps crystallise the AUP: OP’s strategy for managing density and, inevitably, the development intensity (bulk and height) that could reasonably follow.
119. Policies B2.4.2(8) to (10) address residential neighbourhood and character. We find policy (8) to be particularly relevant to PC23 and its effects on its wider environment:  
*“Recognise and provide for existing and planned neighbourhood character through the use of place-based planning tools.”*
120. Recognition of the need to provide for both existing “neighbourhood character” as well as planned character, does raise questions of PC23 for residential-zoned land around the Precinct, particularly the immediate south, and west rising up to the Glenfield Road ridge. We will return to this later. But ‘place-based planning tools” would appear to be a relatively direct reference to methods such as Precincts.
121. Objective B2.5.1(2) stood out to us as we worked through what might be meant by earlier objective B2.3.1(1)(b) and how we might “reinforce” the “hierarchy” of centres and corridors specified. This follows through into its supporting policies B2.5.2(1) and (2). This is because similar language is repeated:  
*“Commercial growth and activities are primarily focussed within a hierarchy of centres and identified growth corridors that supports a compact urban form.”*
122. This language does in our opinion tend to reinforce an interpretation that the hierarchy is at least as much (if not more) focused on the land use activities that are occurring as it is on built form height and scale. There is no corresponding RPS policy addressing residential intensification that refers so directly to reinforcing the hierarchy of centres and corridors through building height or controlling the magnitude of intensification enabled on any particular site. We note here that policy B2.5.2(2)(e) refers to the “...*character and form* [of development] *that supports the role of centres*



*as focal points for communities and compact mixed-use environment*". But this direction is specified as only applying to development within centres, not in locations other than centres such as Smales 1 Precinct. We therefore do not see it as being relevant for PC23. For completeness though, we record that policy B2.5.2(2)(e) in this instance refers to "the role of centres" generally, not the specific "hierarchy" of centres described in other policies. This means that even if PC23 was for a centre, we would be reluctant to read this policy as directing the use of building height limits as a means of visually distinguishing different categories of centres within the hierarchy. In other words, we do not consider that this policy would justify a reduction in the maximum height limit within the Precinct simply so that it was lower than the height limit provided in other 'higher order' centres (distinct from a consideration of the practical environmental capacity to accommodate intensification). We are satisfied that PC23 will not detract from the role of any relevant identified centre zone to function as its intended focal point, and because of this we therefore accept the evidence of the Applicant's and the Council's experts.

123. By way of overall summary of the "quality compact urban form" sought for Auckland, B2.9 of the RPS sets out the explanation and principal reasons for the provisions. Of note are the following excerpts:

*"A broad strategy is needed to address the resource management issues arising from the scale of urban growth in Auckland. The objective of a quality compact urban form is supported by a primary policy approach of focusing residential intensification in and around commercial centres and transport nodes and along major transport corridors."*

- ... *"A quality built environment is one which enhances opportunities for people's well-being by ensuring that new buildings respond to the existing built and natural environment in ways that promote the plan's objectives and maintain and enhance the amenity values of an area. In most areas this is regulated by permitted standards and by assessment where those standards are exceeded. In centres and where higher intensity development is enabled, the design and appearance of buildings is generally assessed on a restricted discretionary basis."*

124. Accepting that an explanation has a lesser statutory role than a stated objective or policy, this description is in line with the picture we had arrived at by reading the provisions directly and what was described to us by the planning witnesses. In terms of PC23, it is in line with where the AUP: OP signals higher intensity development is appropriate and it includes provisions to manage commercial and retail development in line with specific requirements that this type of development relate to the identified hierarchy of commercial centres in the locality. It proposes higher intensity development and as part of that relies on assessment of the design and appearance of buildings on a restricted discretionary activity basis.

125. We see nothing within the RPS that would discourage or prevent the enabling of development to the maximum heights of PC23 as restricted discretionary activities subject to the resource consent process.

126. Based on the above, and also in recognition of the expert planning analysis provided to us by Mr. Smith, Mr. Patience and (at the Hearing) Mr. Turbott, we accept that the AUP: OP does not seek to discourage or avoid propositions such as PC23, or the enablement of substantial building heights provided that they meet the various

qualifications identified in the RPS policy framework. With the exception of two specific matters that warrant further consideration, we find that the balance of the RPS outcomes can be met by rezoning the land for development generally along the lines promoted by PC23 (including subject to the refinements we have identified are necessary to that).

127. The two possible governors of development scale relevant to PC23 within the RPS are:
  - a. objective B2.3.1(1)(b) and its direction that development reinforce the hierarchy of centres and corridors; and
  - b. policy B2.4.2(8) and its direction that existing “neighbourhood character” be recognised and provided for.
128. In terms of objective B2.3.1(1)(b) and as summarised earlier, it could be interpreted that development height and scale should be managed so that visually and across the city, viewers could identify each zone, and the category or each type of centre, by the relative heights and scales of buildings therein. We accept that in large part this is a characteristic that generally exists today – the Central City, key Metropolitan Centres and major Town Centres often do ‘stand out’, largely because historically so little of Auckland’s urban area has exceeded 2-to-3 storeys in building height or included stretches of continuous (joined together) building forms. In the absence of any guidance within the AUP: OP to the contrary, we accept that this is one relevant function of the objective, although as noted earlier we have come to the view that reinforcing the hierarchy of centres and corridors is primarily focused on managing the distribution of commercial and retail activities.
129. We have determined that it would be artificial to apply the AUP: OP in so prescriptive a manner that development potential in centres or other locations identified as suitable for intensification would be artificially capped or limited purely so that aesthetically the centre or area would look smaller than other alternatives ‘higher up the ladder’. That flies in the face of the enabling intent that we see as imbued across the RPS policy framework, and would elevate the AUP: OP’s built form development standards to an architecturally prescriptive master plan for Auckland. It would also preclude natural or market forces naturally evolving centres, such that in time a Local Centre might grow into a Town and then Metropolitan Centre, or vice versa. We see the community focal point role that centres are based on as being something that emerges from the context and functioning of those communities, not the applicable height limit.
130. On this basis, we are satisfied that the evidence of Mr. Smith, Mr. Patience and Mr. Turbott has properly and comprehensively evaluated PC23 and we accept their conclusions.
131. We therefore find that the comparative height and scale of development in different centres and locations to be one relevant characteristic of how the AUP: OP hierarchy of centres and corridors should be “reinforced”, but alone it cannot be the determinative one; there will be instances of where a ‘lower’ centre or location can and will accommodate larger-scale development than a ‘higher’ one, and still contribute appropriately to the AUP: OP’s quality compact urban form.

132. We find that plan provisions enabling development at or near the limits of the development standards identified in PC23 in combination with the anticipated land use mix would give the Precinct a built form character (but not necessarily function) of a large centre, something between a Town or a Metropolitan centre. We are satisfied that this would complement rather than detract from or adversely affect, the opportunity for Northcote, Milford and Takapuna centres (and for completeness Glenfield and Sunnynook Town centres) to also intensify and function as planned within the AUP: OP. On that basis, PC23 would not reinforce the hierarchy of Town and Metropolitan centres adjacent to it from the point of view of being aesthetically subordinate to or 'smaller' than them, but we find that this is neither necessary nor disqualifying. PC23 will not seek to replicate or duplicate the community focal point roles of those centres, the services and functions they provide their communities, or prevent them from still attracting the development planned for them. We are satisfied based on the economic evidence of Mr. Fairgary and Mr. Cosgrove that PC23 will not be a competitor to existing centres in any relevant respect, and it is the proposed limits on retail, commercial services and entertainment activities that is primarily relevant here.
133. In terms of policy B2.4.2(8), there is no definition of "neighbourhood character" within the AUP: OP, but we find it materially important that the AUP: OP uses that phrase rather than "residential character" or "residential amenity" – either of which alternatives could be applied at the scale of an individual property. When looked at from the point of view of the key characteristics of overall neighbourhood character around the Precinct, we accept that PC23 would result in visually substantial changes visible from within, but an overall maintenance of that collective character except for the residential land west of the Precinct rising up and to the ridge of Glenfield Road ridge. For that land, the neighbourhood character is indelibly linked to a visual connection east across the valley floor to the Hauraki Gulf, and Rangitoto. This is not in our judgement such a critical character element as to require protection from any development height or bulk within the Precinct, but we consider that PC23 would play a role in conjunction with planned large-scale development in Milford Town and Takapuna Metropolitan centres, and possibly also the North Shore Hospital Site, that if not managed could lead to an unacceptable detractor from that character value – such as if cumulatively a more-or-less cluttered or continuous line of tower forms screened much of Rangitoto, especially its summit, across a wide area. We find that additional assessment provisions need to be added to PC23 to adequately address this risk, and we will discuss this in more detail later.
134. But overall, we have come to the conclusion that at the level of the RPS:
- a. Smales 1 Precinct is very well suited to large-scale residential intensification and it qualifies for such enablement following the AUP: OP's direction for where residential intensification should occur;
  - b. propositions for building height limits of the scale proposed in PC23 are not inherently discouraged or contrary to the AUP: OP; and
  - c. PC23 is generally in alignment with the relevant provisions of the RPS governing built form outcomes and the management of higher intensity development.
135. We discussed with Mr. Allan why the height limits proposed were necessary, and in

particular what benefit a 'complying' building would have compared with one that exceeded the proposed standards; both would after all be restricted discretionary activities.

136. Mr. Allan was very clear in his responses to us that a building complying with the proposed height limits would not be akin to a permitted baseline and could not be said to be 'generally anticipated'. Based on an overall assessment, proposals that complied with the height limit could be refused, we were told. Granting PC23 would therefore not have the effect of signaling that buildings to the limits of the development standards enabled in the plan change were a fait accompli, in his view. We tested this with Mr. Allan extensively from the point of view of the legal requirements of restricted discretionary activities and the practical every-day administration of the AUP: OP. We note that the expert planning and design witnesses each expressed similar opinions to Mr. Allan.
137. We largely accept Mr. Allan's legal opinion on the function of restricted discretionary activities. Simply because discretion has been restricted to certain matters within a Plan, there is no proper basis to presume that the granting of consent will readily follow, if at all. But it would in our view be equally artificial to presume that a restricted discretionary status by itself meant that the planning outcomes broadly envisaged for the land were uncertain and could only be determined by single case-by-case questions of merit.
138. What is ultimately determinative of predicting the probability of an application being granted consent is the extent and scope of the restrictions of discretion that apply in each case. Hypothetically, if discretion was restricted in a Plan only to the matter of ground floor design and layout, then in that instance a building that complied with the applicable bulk, scale and form controls could in all likelihood not be refused consent because of the effects of that bulk, scale and form. In such a scenario, we would take the view that the relevant bulk and location controls, being beyond any restriction of discretion, did form a de facto planning baseline that could be fairly described as at least 'generally anticipated' if not outright permitted. In that scenario, we would expect the promotion of sustainable management generally, and section 31(1)(a) of the RMA specifically, to require decision makers to be satisfied at the plan-making stage that the effects to be enabled within those standards, and which would not be subject to any subsequent restriction of discretion, would be in every reasonably foreseeable instance acceptable.
139. Conversely and hypothetically, where every plausible potential adverse effect associated with building bulk, location and height was accounted for in the restrictions of discretion, then we would agree with Mr. Allan's view of PC23 that no such anticipation or certainty could exist. The decision making test at plan-making would pivot away from the specific outcomes likely, to the sufficiency of the restrictions of discretion themselves at addressing all relevant potential effects at the time of consent.
140. We find, based on the descriptions, assessments and recommendations made on behalf of the Applicant that PC23 has been promoted on the basis that all relevant effects associated with the height, form, scale and appearance of tall buildings complying with the proposed standards would be managed by way of restrictions of

discretion. On that basis, we find that our focus should be on ensuring that the restrictions of discretion that would apply are sufficient to manage all relevant adverse effects that buildings of the heights and scales proposed could give rise to.

141. We consider it critically important that we are clear what target we should aim for, and for that reason the proposed restrictions of discretion for buildings taller than RL50.4, but which comply with PC23's development standards, have been of great significance to us.
142. We have been mindful of the expert evidence we received from Mr. Houghton, Mr. Goodwin and Ms. Skidmore, and to a lesser extent Mr. Mackie. We regard each of these witnesses as very experienced and credible. They were in agreement that the effects of tall buildings enabled by PC23 could be appropriately managed by the combination of development standards proposed and the restrictions of discretion and assessment criteria that would apply to subsequent proposals.
143. We largely accept the evidence of the expert witnesses for the Applicant and the Council, and are of the view that the proposed PC23 policy framework, development standards, restrictions of discretion and assessment matters are largely well-suited and appropriate.
144. However, we have identified two areas that PC23 does not appropriately respond to. They are:
  - a. compliance with the maximum building height standard but non-compliance with the standards specifying the maximum width of towers above RL98.4; and
  - b. potential visual clutter effects from the west (the rise and crest of Glenfield Road ridge) arising from the potential cumulative effects of PC23 buildings visually connecting potential (and planned) taller buildings in Milford Town Centre and Takapuna Metropolitan Centre – and possibly also future buildings on the North Shore Hospital site into one long row of towers screening and possibly blocking iconic views of Rangitoto. As noted earlier, we have identified this concern in part based on our reading of RPS policy B2.4.2(8).
145. In terms of proposed rules I538.6.4(3) (building height) and I538.6.5 (maximum tower dimension and building separation), we agree with PC23's explicit provision of development standards to manage the upper sections of very tall buildings. An identified purpose of the height rule in the Precinct, as per the 19 December 2019 version of the provisions, is:

*“Ensure the terminations of tall buildings are designed to provide a varied skyline.”*
146. Achieving a varied skyline lacks clear reference within the PC23 policies, and no assessment matters or guidance was proposed for the case of non-compliance. The tower dimension standard's purpose itself complicates matters in that the rule does not require each building to reduce its footprint above RL98.4, only in a cumulative way across the Precinct as a whole. We find this situation unacceptable and that achieving a visually smaller footprint for the upper sections of very tall buildings essential within the Precinct. As proposed, an applicant for consent under PC23 could elect to simply not comply with standard I538.6.5, and instead seek to demonstrate an

alternative means of delivering a cumulatively “varied skyline”. Several towers in the Central City with no appreciable reduction in footprint serve as examples of how a cumulatively ‘varied skyline’ could be created. Some, rather than softening the upper termination of buildings into the skyline, draw the eye and exacerbate the building’s height and mass. Because the purpose of the standard is the only part of the Plan that would give any context or expectation for this design requirement, it is plausible that this could be alternatively argued simply as happening naturally as a result of the different building heights within the Precinct.

147. Neither scenario would be appropriate. We have added provisions purposed to ensure relevant adverse effects will be managed and so as to make clear that a varied skyline is to be achieved in part by requiring buildings above RL98.4 that do not comply with standard I538.6.5 to present a visually obvious reduction in footprint compared to the building mass below. This would make it clearer, in our view, that any non compliance with the standards would not result in a loss of this important design attribute.
148. In terms of visual clutter, the material presented at the hearing of an indicative built form outcome, well within the limits of the proposed development standards, tended towards the buildings within the Precinct forming a singular focal point, whereby the taller buildings clustered together into a pinnacle. When we discussed the issue of a focal point or clustering with the experts, each agreed that it was appropriate.
149. The additional information we requested for viewpoints 15, 16, 20 and 21 showed the indicative building footprints extended vertically to the limits of the development standards. We find that this presented a different characteristic of visual effects, being the potential creation of a line of tall buildings across the front of Rangitoto, especially from viewpoint 16 (Glenfield Shopping Centre). We have serious concerns that a line of buildings in front of Rangitoto, including the combination of development enabled in PC23, and the existing planned built form outcomes for Milford and Takapuna centres, and reasonably foreseeable development on the North Shore Hospital site, could create an unacceptable line of stand-alone towers between a large part of central North Shore and the iconic visual connection it has with Rangitoto across the Hauraki Gulf. We do not agree that this matter should be left to the resource consent process without additional guidance within the Plan provisions as to what outcomes are sought. When we questioned the design witnesses on the matter of how tall buildings could or should occur within the Precinct, all agreed that some form of clustering was desirable. This was an important distinction to us.
150. We find that such adverse effects would not be appropriately managed through the PC23 provisions as proposed and as a result we have added provisions so as to require taller buildings (above RL50.4) to be managed to achieve a clustering of buildings and creation of a singular focal point within the Precinct. By doing so we consider that the adverse effects of a potential building wall along the front of Rangitoto can be avoided, with each of the identified centres, North Shore Hospital, and the Smales 1 Precinct each presenting as its own separate and contained node of development. We regard this visual separation of the different development areas also a relevant tool to help visually “reinforce” those centres. It would also achieve the legibility of the Precinct as a singular transit-oriented node that was recorded by Mr. Patience as an important planning outcome.

151. In summary, we have identified additional and otherwise refined policies, restrictions of discretion, and assessment matters to address these issues and we are satisfied we have the scope to add these to PC23 on the basis of those submissions expressing concern with the scale and effects of tall buildings enabled by PC23.
152. For buildings that did not comply with the PC23 height limits (and related built form controls), a restricted discretionary activity would be required. Discretion would be restricted to all of the matters stated in PC23 for the 'complying' part of the building, and for the non-complying part AUP: OP chapter C1.9 would apply. That allows, in addition to the matters set out in PC23, a number of additional requirements. As it relates to the effects of building height and scale, we are satisfied that the effect of C1.9 would be practicably indistinguishable from if consent were simply required for a fully discretionary activity. On that basis, we are satisfied that no further analysis is required and we can record that we see the building height and related development standards having a clear purpose to differentiate between the alternative restrictions of discretion and assessment matters that would apply to applications.
153. Overall, we therefore find that the building height, form and design provisions, as we have modified them, represent the most appropriate means of enabling the outcomes proposed in PC23 within the AUP: OP.
154. Submissions including further submissions related to the height, scale and design of buildings within the Precinct are either accepted, accepted in part, or rejected in accordance with this decision.

*Are transportation issues suitably addressed?*

155. Issues were raised on a broad range of transportation matters by submitters and further submitters in regard to the notified version of the Plan Change. However, by the time of the Hearing, the main transportation matters remaining in contention had narrowed considerably. In fact, agreement had been reached by the Applicant and NZTA, Auckland Transport and the DHB as to how to address the transportation concerns of those parties.
156. We understand that this narrowing of issues is due to a number of meetings being held between the Applicant and the above parties. The Commission acknowledges the benefit this has brought to our deliberations in being able to focus our attention on a more discrete area of contention.
157. The main remaining key area of contention on transportation issues is therefore the question of a parking maximum for residential activity. The Council's traffic engineer, Mr. Dayaram, expressed the view in his report on the Plan Change, which he confirmed at the Hearing, that he considers residential use within the Precinct should be subject to a maximum parking rate. This differs from the view of the Applicant's traffic engineer, Mr. Parlane, supported by Mr. Harries, that a parking maximum for residential use is neither necessary nor appropriate. We note that Auckland Transport and NZTA, which in their submissions had requested a maximum parking rate for residential use, had in their evidence changed their views on this matter to one of no longer considering a maximum necessary.
158. Another outstanding matter is the concern raised by Westlake Girls High School,

spoken to by Board of Trustees Chair Ms. Bradfield, regarding traffic impacts on Shakespeare Road and how these might negatively affect the ability of parents to complete school pick-ups and drop-offs.

159. Below we consider these two areas of contention. However before doing so, given the importance of transportation matters in this Plan Change, we briefly summarise traffic concerns on which agreement between those submitters who attended the hearing has been largely reached.
160. A common theme across submissions and further submissions was a high-level concern about increased congestion from development enabled under the Plan Change adversely affecting the safe and efficient operation of the road network. Other matters, which have now largely fallen away as areas of contention, covered the range from generally thematic to very detailed. These included:
- how to encourage a mode shift away from private car to public transport use over time;
  - the importance of discouraging high vehicle trip generating land uses;
  - effects on strategic transport infrastructure, such as access to Smales Farm station;
  - provision for active modes of transport through the Precinct, such as cycling;
  - the appropriate development threshold or trigger for an integrated transport assessment; and
  - the appropriate maximum level of parking for non-residential developments.
161. On the broad theme of congestion, there was general agreement with the Applicant in the Council's s.42A report and in submissions and evidence of NZTA, Auckland Transport and the DHB that, at a principled level, the site is well positioned for intensification at the scale proposed. Furthermore, while there would be increased levels of congestion on the surrounding road network, this is an inevitable consequence of the compact city model of growth the region has decided to pursue. The concern of NZTA, Auckland Transport and the DHB, in particular, was two-fold:
- whether the traffic assessment that had been undertaken to demonstrate that this congestion was of a level that could be appropriately managed was sufficiently robust; and
  - whether the Plan Change provisions encapsulated the appropriate mechanisms to undertake this management.
162. All these parties confirmed at the Hearing that these matters, namely the modelling that had been undertaken to assess traffic effects and the particular provisions within the Plan Change to manage these effects, had been developed and modified to their satisfaction.
163. Mr. McGarr, on behalf of the DHB, noted how it had worked together with the Applicant, NZTA and AT to develop and assess a traffic model to determine the combined traffic effects generated by development enabled by the Precinct and planned by North Shore Hospital. He confirmed that the DHB's assessment of the traffic model shows, to the satisfaction of its traffic experts, that the combined level of



traffic which would be generated by both development planned by the Hospital and that proposed by the Plan Change could be accommodated on the road network in a manner which would enable the Hospital to continue to perform its critical social infrastructure role. Additionally, that vehicle access to the Hospital could continue to operate in a safe and efficient manner.

164. As it relates to the concerns of Westlake Girls High School, we are satisfied that Auckland Transport will be able to properly manage the road network so that it operates safely and efficiently. We have not been convinced that the School will be subject to inappropriate or unreasonable effects, and we must note in all fairness that the Smales 1 Precinct has no less freedom to allow visitors to drive to its Site than the school does; we cannot as we see it allocate road capacity.
165. The remaining transportation issue we therefore find ourselves needing to determine is the matter of a parking maximum for residential use, as this remains in contention between the Applicant and (in part) Auckland Council.
166. Mr. Dayaram's view, expressed in his report on the Plan Change application, is that while he agrees with the Applicant's experts that the trip generation of residential activity is not significant:
  - the lack of a parking restriction for this use does not seem appropriate to a TOD environment; and
  - as noted earlier, a concern that potential surplus residential parking could be leased-on to non-residential workers in the Precinct, undermining use of public transport.
167. Extensive commentary was provided in the EIC of Mr. Parlane, which focused exclusively on this matter, as to why a residential parking maximum is not appropriate in the Precinct. This was supported by the EIC of Mr. Harries and expanded upon by both at the Hearing. Their reasons include, in summary:
  - Managing private vehicle trips during the morning and evening commuter peak periods is a resource management issue. Office activities generate most of these trips and the most effective means to manage this has been shown to be placing restrictions on parking near office commuter destinations.
  - There are no measurements or evidence that restricting parking associated with housing means people will make fewer trips by car.
  - Providing a parking space at home simply enables a car to be left there when it is not in use. It does not equate to a higher level of car use than if a car parking space were not provided.
  - While a residential parking maximum applies in the City Centre zone, the development enabled by the Plan Change is more like that found in a Metropolitan Centre zone or Town Centre zone. Neither of these zones have standards limiting residential car parking.
  - Mr. Harries also opined that, based on his experience, it was economically infeasible for developers to provide more car parking than they needed to because of its high costs (including spatial opportunity costs).
168. On this matter, we also found the views of Auckland Transport traffic engineer Mr.

Phillips helpful. He stated at the Hearing that enabling people who may own cars to live in the Precinct provides a stronger opportunity for residential development in the short to medium term and that this is of overall benefit for the desired long-term outcome of a high-density mixed use node adjacent to a significant public transport facility.

169. Having considered the views of the various experts and the respective strength of their arguments, we find that no residential parking maximum rate is needed. While we acknowledge Mr. Dayaram's concern regarding potential surplus residential parking be leased-on to non-residential workers within the precinct, we consider the possibility of this is insufficiently proven, and of low likely severity.
170. Overall, we therefore find that the transportation-related provisions, as we have modified them, represent the most appropriate means of enabling the outcomes proposed in PC23 within the AUP: OP.
171. Submissions including further submissions related to transportation associated with the Precinct are either accepted, accepted in part, or rejected in accordance with this decision.

*Are retail and commercial requirements suitable?*

172. A central matter in contention between the Applicant's economic expert Mr. Colegrave and the Council's economic expert Dr. Fairgray in the lead-up to the hearing was on retail distribution effects. Specifically, the question of what level of retail and supporting uses could be appropriately established within the Precinct to serve the needs of residents, workers and visitors while managing potential adverse effects on centres, consistent with the AUP: OP's centres hierarchy? Given the emphasis placed within the RPS on reinforcing that hierarchy (discussed earlier in this decision), it was a matter of central importance to the planning witnesses too.
173. The Plan Change provisions propose to manage this matter through standard I538.6.1 Gross Floor Area which, as notified, set up a maximum threshold of 2,000m<sup>2</sup> plus an additional 500m<sup>2</sup> GFA for retail, commercial services and entertainment activities per 10,000m<sup>2</sup> GFA of other activities, increasing on that basis.
174. Mr. Colegrave considered that there would be no problematic adverse retail distributional effects resulting from retail and supporting activities occurring at the rate and threshold prescribed in the standard. Dr. Fairgray, however, was of the view that Mr. Colegrave's analysis was optimistic and that there could be implications for existing centres at the proposed thresholds. He therefore recommended that the thresholds be halved.
175. At the Hearing, as outlined in Mr. Allan's legal submissions and in response to discussions with NZTA and Auckland Transport, a new version of the Precinct provisions presented a modified form of standard I538.6.1. This retained the ratio of 2,000m<sup>2</sup> plus up to 500m<sup>2</sup> GFA of retail, commercial services and entertainment activities per 10,000m<sup>2</sup> GFA of other activities, but introduced a reduced ratio above 162,000m<sup>2</sup> total GFA, of 250m<sup>2</sup> GFA retail, commercial services and entertainment activities per 10,000m<sup>2</sup> GFA of other activities. In summary this would enable 18,000m<sup>2</sup> of retail, commercial and entertainment GFA when the Precinct had

162,000m<sup>2</sup> of other GFA.

176. These revised provisions met with greater agreement from Dr. Fairgray, but he still considered there was a need for a cap within the Precinct less than sought by the Applicant.
177. Our questions of the two experts identified that both agreed the proposed Precinct would and should have a role as a centre (as used within the AUP: OP hierarchy). They both agreed that in terms of that hierarchy, the Precinct's function would be as a "Local Centre", being subordinate to Town and Metropolitan Centres, but greater in magnitude than a Neighbourhood Centre.
178. While looking at all centre zones together it is obvious that there is a general trend of size and scale from, at one end, a corner-shop Neighbourhood Centre, to the Central City at the other end. But when looking at the specific merits of an individual proposal, we find the lack of an objective or quantifiable means of classifying centres within the AUP: OP most unhelpful. Specifically, how large should a Local Centre zone (and/or its activities) be before it is properly and more appropriately regarded as a Town Centre zone (and vice versa), and why? We imagine that provision for large retail shopping centres and retail more generally can only be one aspect of this difference.
179. We determined to evaluate Mr. Colegrave's and Dr. Fairgray's evidence with the benefit of a real-world glimpse at centres across Auckland to help us grapple with the differences between the different types of centres - notably between Local Centres and Town Centres. What we identified is that 'on the ground' the various centre zone categories are in all manner of sizes, locations, shapes and scales. Some Town Centre zones (such as Parnell or Browns Bay), through the application of a special height overlay, have reduced maximum building height limits at or lower than many Local Centre zones (such as Mission Bay). Some Local Centre zones (such as at Hobsonville Village) are of a much larger area than some Town Centre zones (such as Sunnynook). Some Town Centre zones (such as Onehunga, Mt Albert, and Three Kings) are closely spaced, whereas in some areas (Hillsborough Road Local Centre zone), there are no Town Centre zones within any meaningful proximity.
180. We accept that there are many local differences that all together inform how a centre zone relates to its area, including historic and built form character considerations. But the lack of any obvious logic or consistent and stated principles underpinning how the Council has classified and distributed the different types of centres within the identified hierarchy, or specifically what it is trying to achieve by classifying a centre zone 'one way or the other,' is problematic given how important they are in the scheme of the RPS' urban growth strategy.
181. We ultimately find that we can do no more than satisfy ourselves that the centre function within Smales 1 Precinct will be subordinate in scale (including in terms of horizontal extent) and function to relevant Town Centre and Metropolitan Centre zones, and in that respect the evidence focused on Milford and Takapuna centres. On the evidence we have received, we are satisfied that this will be the case and we accept the Applicant's proposed GFA limits. Although Dr. Fairgray remained concerned that this was excessive, his evidence did not provide us with clear reasons or an explanation of what harm might come to other centres, or that the scale and size proposed by the Applicant was unreasonable or inappropriate for a Local Centre zone

generally. We were left unclear as to how the effects likely at the scale of activity sought by the Applicant, would be avoided (or perhaps mitigated) at the reduced scale preferred by Dr. Fairgray.

182. Related to and as a part of this, however, is the location and character of retail, commercial services and entertainment activities within the Precinct. The economics experts were asked several questions on this matter by the Commissioners.
183. The question was posed as to whether retail, for example a supermarket, might best be placed towards the internal 'centre' of the Precinct, as opposed to on the Precinct's external street frontages, in order to achieve a primary purpose of serving the needs of the Precinct's residents, workers and visitors, rather than a wider catchment. We also asked whether more than one supermarket might occur, such as one relating to Northcote Road, and another relating to Taharoto Road. We record that while we were given assurances from the Applicant that it could not imagine developing its Precinct in this manner, we were given few helpful answers explaining either how this could not occur, or what effects might result if it did. Given that we are obliged to evaluate the proposed Plan provisions put to us, and that they did allow more than one supermarket and no guidance as to how or where it (or they) might be located, we find the Applicant's case was less convincing on this matter.
184. These questions, expanding to a wider discussion about the location within the Precinct of retail generally, and its potential benefits in activation of the central pedestrian plaza and primary pedestrian links, was also put to the urban design experts.
185. Dr. Fairgray expressed the view that a retail mass could be expected to develop around the pedestrian plaza to serve a future residential population and that such a central grouping of retail was desirable in order for it to be accessible to the greatest number of people in the Precinct. Ms. Skidmore agreed that centrally located retail would help activate the primary linkages and plaza. However, she considered that requiring the length of those spaces to be edged by 'active' frontages was not realistic, in the context of the level of retail and supporting uses the Precinct could sustain.
186. The economics and urban design experts were also asked if it would be relevant or appropriate to allow a quantum of retail and supporting activities in line with the Applicant's proposed total thresholds to be delivered earlier than the threshold requirements in I538.6.1(2) being met (i.e. allowing retail and associated entertainment GFA to be delivered 'ahead' of the triggering other activity GFA). Both Dr. Fairgray and Ms. Skidmore agreed that there would be merit in allowing some flexibility in this ratio to enable retail to establish around the central pedestrian plaza at the time it was developed and at an earlier stage than would otherwise be permitted by the thresholds in the standard. This would result, as we see it, in a range of benefits, from supporting increased residential and office activities to securing retail in a highly accessible, central location in the precinct.
187. On the basis of this discussion, we find that the location and coordination of retail, commercial and entertainment activity within the Precinct to be inextricably linked to the achievement of the built form outcomes promoted by the Applicant, including in the TOD guidance we were given by Mr. Houghton and that we were told strongly guided PC23. The expert opinion received in response to our questions consistently

confirmed that a spatial relationship with the central plaza would be most appropriate and we accept that. We also find that management of how and where retail, commercial and entertainment activities locate within the Precinct relevant to our conclusion as to the overall scale and form of development that is most appropriate, and how it will assuredly reinforce the centres hierarchy as required by the RPS.

188. We have made amendments to the Precinct provisions in order to focus the location of retail and supporting activities generally around the centrally accessible pedestrian plaza, without requiring them to establish directly on the plaza, and to enable the establishment of these activities, where they are centrally located, to a maximum threshold in advance of the ratio in I538.6.1. We have also clarified the activity provisions to confirm that one supermarket would be appropriate within the Precinct given that this zone and precinct combination applies to a single area rather than generically across Auckland in multiple locations. These amendments are discussed further in the next section.
189. Overall, we therefore find that the retail, commercial service and entertainment activity provisions, as we have modified them, represent the most appropriate means of enabling the outcomes proposed in PC23 within the AUP: OP.
190. Submissions including further submissions related to the provision of retail, commercial services and entertainment activities within the Precinct are either accepted, accepted in part, or rejected in accordance with this decision.

*What is the most appropriate wording for specific Plan provisions?*

191. We find that some amendments are necessary to the PC23 provisions. These amendments fall into three camps – amendments necessary:
- a. where there remains disagreement between Mr. Turbott and Mr. Smith;
  - b. based on our findings on the issues in contention set out previously; and
  - c. to improve the overall workability and readability of the provisions and enable the consistent administration of the AUP: OP.
192. **Appendix 1** to this decision attaches a full copy of the Smales 1 Precinct provisions incorporating our findings on all necessary changes to the provisions. The version of the provisions we have used for this purpose is that received from the Applicant dated 19 December 2019.
193. Below, we discuss details of all amendments made to the 19 December provisions, as contained in Appendix 1. Where reference is made to specific numbering of a provision, the numbering is that which is used in the appendix, reflecting some necessary reformatting we have undertaken.

*Amendments necessary where there remains disagreement between Mr. Turbott and Mr. Smith*

194. At the adjournment of the Hearing, Mr. Turbott undertook to provide suggested track changes on the version of the PC23 provisions as contained in Mr. Allan's legal submissions. This was at our request, in order that the Council might have the

opportunity to provide further comment on this latest set of provisions. Mr. Turbott subsequently provided to the Commission a marked-up version dated 18 December 2019, with some suggested changes to the wording of the provisions, also with annotated comments giving his reasoning for the changes.

195. Mr. Turbott's mark-up of the provisions was then provided to the Applicant for its response. On 19 December 2019, the Applicant provided to the Council a version of these provisions with track changes and annotated comments from Mr. Smith indicating whether he agreed or disagreed with Mr. Turbott's changes.
196. There remained some areas of disagreement between Mr. Turbott and Mr. Smith in that 19 December 2019 version of the provisions. It therefore falls to the Commission to come to a finding as to the appropriate wording in those areas where there is still disagreement, as we discuss below.

*Precinct description: Transit Oriented Development*

197. A topic of in-depth discussion at the Hearing was the appropriateness of the use of the term 'Transit Oriented Development (TOD)' in PC23 provisions as a short-hand means to describe both the existing attributes of the Site and the outcomes that development within it should aim to achieve. The term is used in the Hearing version of the provisions in the Precinct description, objective 2, and assessment criterion 1538.7.2(3)(c).
198. Mr. Turbott favours deletion of the term throughout the PC23 provisions on the basis that 'TOD' is a technical term not used in the AUP: OP. In the Precinct description he suggests its replacement with a plain English alternative, such as 'high-density mixed-use'. Mr. Smith disagrees and considers there is no need to change the terminology, as Transit Orientated Development is an internationally recognised form of development.
199. As we identified earlier in this decision, the Commission's Members are each very familiar with the theory and principles of TOD-based planning. We also had the benefit of hearing the views of a range of expert witnesses on the TOD attributes of the Site and the use of the term in the PC23 provisions. A unanimous area of agreement amongst all witnesses was that the Site has the attributes that support the future development of a TOD. There was also general agreement amongst all planning witnesses that it is appropriate and desirable for the Precinct provisions to be framed such that they enable high-density development in line with TOD principles.
200. The question in contention may therefore be refined simply as, if the Precinct provisions are robustly drafted to encapsulate the attributes of a site that may contribute to a future TOD and the mechanisms to achieve TOD outcomes, is it then necessary to use the term TOD, or is the phrase somewhat redundant?
201. When this question was put to the various planning witnesses, Ms. Heppelthwaite confirmed her view that the Site displays the attributes of a TOD and that it would therefore be appropriate to use the term within the provisions. Mr. McGarr considered that while the Site has the attributes of a TOD, the use of the term is not necessary, provided the provisions express within them the characteristics and outcomes sought.

202. Several questions were also asked of the expert witnesses in regard to whether the attributes of a TOD are the same as the attributes of a centre and whether there are any definable differences. Our questions on this matter were focused on the 'fit' of a TOD as a discrete category of land use outcomes within the AUP: OP with the existing structure and framework of the AUP: OP, particularly the centres-based approach of the RPS.
203. We found the advice of Dr. Fairgray on this matter to be helpfully succinct. He conveyed his view that the Site has the attributes of a TOD. To that, he added that those attributes are also those of a centre. Furthermore, he considered that a TOD cannot be clearly distinguished from a centre, as all centres have a TOD function as a 'concentrator' of people and activity.
204. Noting this expert opinion that a centre cannot clearly be distinguished from a TOD, we are mindful of the risk of introducing this term into the AUP: OP, where it does not currently exist, via the PC23 provisions. Our focus, however, has been on the framework that the AUP: OP currently uses to frame up areas with TOD-like attributes – namely, centres, where adjacent to public transport corridors, and where there are community facilities and employment opportunities. With this in mind, we find no need or utility to describe the Precinct as a TOD when there is already appropriate terminology within the AUP: OP available. Respectfully to some of the expert witnesses we heard from, the concept of TOD is not only compatible with the approach taken in the AUP: OP, it fundamentally underpins its urban growth strategy. We also consider that whilst the site has the attributes that would support a future TOD it is not currently functioning as a TOD.
205. We consider that ensuring the provisions focus on appropriately describing the characteristics and desired outcomes of a TOD (on which point, there appeared to be general agreement amongst the expert witnesses) is more efficient and effective, in the context of the overall structure of the AUP: OP, than the use of term within the provisions themselves.
206. We therefore find that a term along the lines proposed by Mr. Turbott is most appropriate, being 'high-density, public-transport focused, mixed-used node.' While somewhat lengthy, we find that this term more efficiently imbues the characteristics of the Site that make it suitable for high-density development of the scale proposed than the generic term 'TOD'.

*Objective 2: Transit Oriented Development*

207. Objective 2 uses the term 'TOD' to describe the Precinct. Mr. Turbott questions its use and suggests it is repetitive, in the context of the objective also describing the Precinct as being a 'dynamic transit-oriented employment node. Mr. Smith provides no response to this comment. We agree with Mr. Turbott that the use of the phrase is repetitive. Furthermore, in the context of our discussion on the use of 'TOD' in the Precinct description, above, that its use, and the similar term 'transit oriented employment node' within the Precinct provisions overall is unnecessary. We therefore find that these terms should be deleted from this objective and replaced with the term 'mixed use and passenger-transport based node'.

*Objective 4: 'manages significant adverse effects'*

208. Mr. Turbott is of the view that the use of the phrase 'manages significant adverse effects' should be deleted from objective 4, as it is vague when used in the context of this provision. He considers it should be replaced with 'reduces its adverse effects', in regard to the Precinct's effects on: (a) the safe and efficient operation of the transport network; (b) the amenity of neighbouring zones and sites; and (c) the function and amenity of Metropolitan or Town Centre zones. Mr. Smith does not agree with the replacement of 'manages significant' as he considers this is a commonly used RMA term which means 'avoids, remedies or mitigates.' Mr. Smith is of the view that 'reduces' is a vague term as it begs the question 'reduces from what?' We find that Mr. Smith's preferred wording is equally susceptible to that particular criticism.
209. We agree with both Mr. Turbott and Mr. Smith to the extent that we consider both phrases they favour, for the reasons they specify of each other, to be vague within the context that they are used in this objective. We received substantial amounts of evidence on the gravity of potential effects of development of the Precinct on the safety and efficiency of the transport network surrounding the Precinct, the amenity of the wider area, and the role of nearby centres. It is evident to us that the Precinct's relationship with these elements and features is of a high level of importance. This leaves us with the task of finding an alternative wording that is not vague in its meaning and fits the importance of the outcome the objectives seek to encapsulate.
210. We find that the term 'limits' most appropriately fulfils this function and is consistent with the evidence that was put before us by the Applicant and submitters.

*Exception to policies H15.3(18), clauses (b) and (c)*

211. In the plan change application, the Applicant proposed changes to clause (b) and (c) of policy 18 of the Business Park zone. Policy 18 sets out requirements for plan changes for any new business park or amendment to the provisions of an existing business park. Clause (b) of the policy requires that the plan change limit retail to those services such as food and beverage and convenience goods which meet the day to day needs of workers and visitors to the zone. Clause (c) requires that the plan change limit residential activity except for visitor accommodation.
212. The application requested an amendment to clause (b) so that retail would be limited to meet the needs of residents, in addition to workers and visitors. The requested amendment to clause (c) was to specifically exclude Smales 1 Precinct from the restriction on residential activity.
213. Mr. Patience, in his s.42A report, did not consider amendments to the zone policy necessary or appropriate for reasons including the requested changes having an effect beyond Smales 1 Precinct. He considered a more appropriate alternative was to make the exemptions from the policy specific in the Precinct. This was reflected in his version of the PC23 provisions attached to the Hearing report.
214. Mr. Smith maintained his preference for amending the underlying zone policy in his EIC (paragraph 10.8) so that, in his view, there would be a clear policy basis for the plan change – a view he maintained at the Hearing. We understand this to be a preference, rather than a fundamental concern on Mr. Smith's part, however, noting that the PC23



provisions as amended by him and attached to his EIC do not delete the s.42A report version of the provision's exception to zone policy 18 clauses (b) and (c) within the Precinct itself.

215. In response to questions at the hearing, Mr. Turbott confirmed his support for Mr. Patience's approach, namely that the exclusions to zone policy 18 clauses (b) and (c) are more appropriately contained in the Precinct provisions than in the zone.
216. While this appears to no longer be a significant point of contention between the Applicant and the Council, we consider it appropriate to record our finding on this matter, given its relevance to ensuring a suitable policy basis for the plan change. We prefer the view of Mr. Patience and Mr. Turbott and find that there is no need to change the Business Park zone.

*Policy 1: significant adverse effects 'managed'*

217. In policy 1, Mr. Turbott prefers the use of 'reduced' in the context of demonstrating that 'significant adverse effects on the amenity of neighbouring zones will be reduced', while Mr. Smith prefers the Hearing version of this phrase: 'significant adverse effects on the amenity of neighbouring zones will be managed.' Policy 1 follows on from objective 4, where the same wording preferences were expressed by Mr. Turbott and Mr. Smith in relation to adverse effects on the amenity of neighbouring zones. Neither Mr. Turbott nor Mr. Smith give reasons for their wording preferences in policy 1, however, it can reasonably be assumed that their rationale is the same as for objective 4.
218. As with that objective, we consider that the terms preferred by both gentlemen in the context of this policy to be vague. We note that no evidence was presented to us that the level of development that would be enabled by PC23 would result in significant effects on the amenity of neighbouring zones. Nor, more particularly, was any evidence presented to us where that level of development is exceeded (in terms of the gross floor area or dwelling numbers referred to in policy 1) that a policy framework that contemplates 'significant adverse effects' above and beyond the enabled limit which can only be 'managed' is appropriate. To the contrary, the evidence presented to us by experts was that adverse effects on neighbouring areas resulting from development enabled by the Plan Change would not be significant.
219. With that in mind, we find no reason why policy 1 should refer to 'managing' significant effects on neighbouring zones. We find that the policy and the effects that it contemplates should match the level of effects expressed by the experts to be likely – being less than significant. In that context, we find that the use of the phrase 'significant adverse effects on the amenity of neighbouring zones will be avoided' to be appropriate.

*Policy 2A: 'managing significant adverse effects'*

220. Policy 2A sets a foundation for the establishment of tall buildings. In the Hearing version of the policy, this foundation was subject to 'managing significant adverse effects' on adjoining land and on properties outside the precinct.' Mr. Turbott prefers the use of the phrase 'reduces its adverse effects', with which Mr. Smith disagrees, preferring the original.

221. Again, neither Mr. Turbott nor Mr. Smith provided a reason for their preference. However, again, as with their disagreement on the use of similar phrases in objective 4 and policy 1, it maybe that they find the terms to be vague in meaning. While we can only speculate on this point, we are assisted by the specific evidence of Mr. Goodwin, Mr. Houghton and Ms. Skidmore on tall buildings. None of these experts expressed in their assessments the view that buildings of the heights proposed in the Precinct would result in significant adverse effects (or close to that). With that in mind, as with objective 4 and policy 1, we find no reason why policy 2A should refer to ‘managing’ significant effects and that the policy and the effects that it contemplates should match the level of effects expressed by the experts to be likely – being less than significant. In that context, we find that the use of the words ‘avoids significant adverse effects’ is appropriate.

*Policy 2C: ‘safety’ or ‘CPTED principles’*

222. The Hearing version of this policy uses the term ‘CPTED principles.’ Mr. Turbott prefers ‘safety’ as the term ‘CPTED’ is not used in the AUP: OP. Mr. Smith prefers ‘CPTED principles’, as he considers the principles are well known, and ‘safety’ has a wide meaning.

223. We note that Business Park zone policy 3(c), which like policy 2C also references pedestrians, uses ‘safety.’ Wishing to avoid the introduction of new terms into the AUP: OP where there is already an existing term of comparable meaning, we find that the use of ‘safe’, which we incorporate within a reworked version of policy 2C (discussed later in this decision) to be appropriate.

*Policy 2F: ‘Require’ or ‘Encourage’*

224. Policy 2F describes the importance of buildings and uses on or near primary pedestrian linkages in the Precinct positively contributing to the vitality and amenity of those linkages. Mr. Turbott prefers the use of the phrase ‘Require buildings’ to contribute to these outcomes as, in his view, Mr. Smiths’ preferred term ‘Encourage buildings’ is too passive for something which is important to achieve. Mr. Smith considers that ‘Encourage buildings’ is appropriate because the policy is implemented by an assessment criterion rather than a standard.

225. We find that ‘Require buildings’ is a more appropriate fit to the evidence presented to us by the experts, in particular that of Mr. Houghton and Ms. Skidmore. Their evidence emphasised the importance of the primary pedestrian linkages as a focus of activity and pedestrian movement within the Precinct and between it and Smales Farm Station.

*Policy 6: ‘commerce and community’ or ‘non-residential’*

226. The Hearing version of policy 6, which relates to limiting on-site parking serving non-residential activities over time, while supporting the planned growth of the Precinct, uses the term planned growth of ‘non-residential activities.’ Rather than this phrase, Mr. Turbott prefers the use of planned growth of ‘commerce and community activities.’

We note that the term ‘non-residential activities’ is used extensively elsewhere in the hearing version of the PC23 provisions, including in the activity table, standards, matters of control and discretion, and assessment criteria.

227. Mr. Turbott expresses the view that 'non-residential' is not a term used or defined in the AUP: OP and that its use in policy 6, and elsewhere in the PC23 provisions, could cause consent interpretation issues. Mr. Smith considers that 'non-residential' is not an uncertain term – it simply means activities other than residential. He furthermore states that use of the phrase 'commerce and community activities' would not include industrial activities permitted in the underlying zone, such as laboratories, which the Applicant does not wish to preclude from being enabled.
228. We agree with Mr. Smith's analysis and find that the particular manner in which 'non-residential' is used in policy 6, and also in each other provision, is sufficiently certain within the context of that provision. We therefore prefer the term 'non-residential activities' in this policy and elsewhere as used within the Hearing version of the PC23 provisions.

*Standard I538.6.3 Trip generation*

229. Mr. Turbott's track changes of the Hearing version of the PC23 provisions deletes Standard I538.6.3 Trip generation in its entirety, shifting various parts of the standard to places where he considers it to be more appropriately placed, in terms of the overall AUP: OP approach to the structure and drafting of precincts. This includes repositioning content to within the activity table, and also up-front in the policy and standards section, where needed to outline respective policy and standard exemptions. He considers there is no need for this content to be repeated within a stand-alone standard.
230. Mr. Smith requests that the standard be reinstated as the content, in the form written and presented, has been expressly sought by NZTA and Auckland Transport as part of an agreement with the Applicant regarding all-transport related provisions.
231. We agree with Mr. Turbott that, in terms of our understanding of the overall AUP: OP approach to the drafting of precincts, the content of Standard I538.6.3 is generally best-placed elsewhere in the provisions. We also agree that its placement within a stand-alone standard has instances of repetition, and is therefore somewhat inelegant in terms of technical drafting. However, there is no internal inconsistency in those areas where there is repetition. Most relevantly, it was brought to our attention the substantial investment of time and energy that was put into reaching agreement with the Applicant by NZTA and Auckland Transport, and also the DHB, on outstanding issues between the parties.
232. We are therefore reluctant to tinker with a provision that has been at the core of an agreement between those parties in respect of resolving those issues, simply for the sake of editorial preference. In this instance we find that the most appropriate solution is to retain the standard as preferred by Mr. Smith.

*Standard I538.6.6 Outlook space*

233. The Hearing version of the PC23 provisions referred to, within the purpose statement for Standard I538.6.6 Outlook space, encouraging the passive surveillance of any 'open space' through the placement of habitable room windows. Mr. Turbott, in his 18 December 2019 comments, raised a question of interpretation of the term 'open space', as it is not defined in the AUP: OP. He stated his assumption that, as used in the

standard, the term is intended to include open space in the Precinct, whether or not that space is publicly owned. Mr. Smith confirmed that this is the Applicant's intent, however, suggested no clarifying amendments to the standard to secure this intent.

234. Our understanding of outlook space standards, as they are generally represented across various AUP: OP zones and precincts, is that they seek to avoid overlooking of privately owned open space (as in outdoor living areas associated with individual residential units). We therefore find that, in order to address the broader issue of unclear interpretation of 'open space' raised by Mr. Turbott, it is necessary to include a modification to the wording of the purpose statement of Standard I538.6.6 Outlook space to refer to any open space 'designed to accommodate public use.' While this is a minor departure from the intent expressed by Mr. Smith, in that it excludes privately owned space not designed to accommodate public use (i.e.: residential outdoor living areas), we consider it a refinement of that intent, rather than inherently at odds with it.
235. Mr. Turbott also stated that consideration should be given to the applicability of Metropolitan Centre Zone Standard H9.6.10 Outlook space, which PC23 provision I538.6.6 cross references to, in regard to H9.6.10(5), as the Precinct will not have internal publicly owned streets or parks, being spaces over which H9.6.10 allows the extension of outlook spaces. Furthermore, he stated that there may be potential difficulties in applying the Metropolitan Centre Zone standard to the Precinct because of the AUP: OP definition of 'site.'
236. Mr. Smith stated that there are no interpretation problems regarding the ownership of roads. However, he provided no comment in regard how the AUP: OP definition of 'site' might affect the application of the standard within the Precinct. We acknowledge this is likely to be because Mr. Turbott's comments on this matter, while directly referring to both the Precinct's and Metropolitan Centre Zones' outlook space standard, were attached to the following Precinct standard I538.6.7 Minimum dwelling size.
237. We agree with Mr. Turbott's concerns regarding the AUP: OP definition of 'site' as used within H9.6.10 and how this might undermine the outcomes the standard seeks to manage when applied to the Precinct. In our reading of it, H9.6.10 is best suited to managing development in urban areas with a multitude of sites. It is framed up to focus required outlook spaces within a site, as opposed to extending over adjoining sites. We agree with Mr. Turbott that may lead to uncertain application of the standard given that, effectively, the Precinct is a single large 'site'.
238. To address this matter, with a focus on achieving part of the I538.6.6's stated purpose in regard to visual and acoustic privacy, we find that an effective solution is to simply carry across from the Outlook space standard in the underlying Business Park zone the requirement that the outlook space 'must be clear and unobstructed by buildings.'

*Assessment criterion I538.7.2(2)(d): weather protection at building entrances*

239. Assessment criterion I538.7.2(2)(d) focuses on high-quality interfaces adjoining primary pedestrian linkages, including through weather protection 'at building entrances.' Mr. Turbott comments that consideration might be given to extending this protection along any wall of a building that adjoins a primary pedestrian linkage. Mr. Smith states that the wording 'at building entrances' should be retained, as all urban design expert witnesses were in agreement that this is appropriate. We agree that this was the

expressed view of both Mr. Houghton and Ms. Skidmore. Relying on their expert opinions, we therefore find the use of the phrase 'at building entrances' in this criterion to be the most appropriate.

*Assessment criterion 1538.7.2(3)(c): Transit Oriented Development*

240. The hearing version of the PC23 provisions uses the acronym for Transit Oriented Development 'TOD' in reference to the extent to which travel demand management initiatives are consistent with 'TOD objectives and policies of the precinct'. Mr. Turbott considers that the use of the term creates ambiguity and that either reference to specific objectives and policies should be inserted or, if reference is intended to all objectives and policies, then its use is not necessary. Mr. Smith comments that the term should be retained, as it was expressly sought by NZTA and Auckland Transport. He does not respond directly to the particular points raised by Mr. Turbott.
241. In the absence of a view expressed by Mr. Smith, we find that use of the term is unnecessary. We note that no policy in the Hearing version of the provisions expressly uses the term 'TOD.' This leads us to believe that the reference to TOD principles in 1538.7.2(3)(c) is a generalised reference. We therefore find that there would be no detriment to understanding or interpretation of the criterion by the term's removal. As a corollary point, we note that its removal is consistent with our overall finding that the use of the term 'TOD' is not necessary within the provisions.

*Assessment criterion 1538.8.2(5)(d): Landscaped open space*

242. Mr. Turbott comments that the use of the term 'open space' in the context of 'landscaped open space' being provided with each stage of development is unclear, as it is not defined in the AUP: OP and it is not clear whether it is intended to mean private open space or not. Mr. Smith does not respond to Mr. Turbott's comments in his 19 December 2019 track change version of the provisions.
243. It appears to us the likely intent of the criterion is related to contributing to visual amenity outcomes. Whether private outdoor space, should a developer choose to provide it, be something that contributes to this outcome, would be something able to reasonably form part an assessment under this criterion. We therefore find there is no need to qualify the use of the term 'open space' within the criterion.

*Amendments necessary based on our findings on the remaining issues in contention*

244. We consider that some amendments are necessary to the PC23 provisions to address the matters discussed in our findings above, and on the basis of the evidence before us. This includes lodgement documentation, submissions and further submissions, the Council's s.42A report and supporting assessments from its experts, EIC and rebuttal evidence, and also the discussions with the Applicant, Council, submitters and associated experts at the Hearing. We find that we have scope to make these changes based on the issues and relief sought by submitters opposed to or seeking changes to the notified version of PC23.
245. Issues on which we find that amendments to the provisions are necessary are:
- Is the Precinct fundamentally suitable?;

- Are the building heights and design requirements suitable?; and
- Are retail and commercial requirements suitable?

246. In regard to transportation issues, the sole area of contention was the need, or otherwise, for a maximum rate for residential car parking. Neither the notified nor the Hearing versions of the PC23 provisions proposed such a maximum and our finding on that matter was that it was not necessary to introduce one. We therefore find that, overall, no changes to the provisions are necessary in regard to transportation matters. Below, we turn to necessary changes flowing from our findings on the other areas of contention.

*Is the Precinct fundamentally suitable?*

247. We discussed extensively the matter of ensuring a 'fit' between the Site's underlying Business Park zoning and the Precinct, which 'sits' on top of it. Our findings included that a precinct may modify elements of an underlying zone, and indeed, it is expected to, as the AUP: OP sets up precincts as a tool to respond to area specific characteristics. However, the extent of modification should not be such that the zone and the precinct stand in direct and irreconcilable opposition to each other.

248. With this at the front of our minds, we find that it is necessary to modify elements of the PC23 provisions in order to ensure that the business park function of the underlying zone continues to be appropriately catered for within the Precinct.

249. With reference to the provisions in Appendix 1 to this decision, we have therefore:

- made some modifications to the Precinct description;
- made a minor change to objective 2, through the addition of the words 'with business park activities';
- introduced a new policy 1C; and
- introduced additional clauses to matter of discretion I538.8.1(4) and assessment criterion I538.8.2(4).

250. Changes to the Precinct description introduce additional wording referring to the existing and (foreseeably) future employment role, anchored around high-density office-based employment, of the Precinct. Wording is also introduced referring to the Business Park zone and its retention as the zone underlying the Precinct, in recognition of the substantial existing Business Park activities occurring on the site, and that these should continue to be provided for.

251. The new policy 1C is introduced to build off objective 2.

252. An additional matter of discretion (d) is introduced to I538.8.1(4), covering effects on the business park function of the Precinct where a building or part of a building is converted to dwellings, integrated residential development, visitor accommodation or boarding houses. This is followed through to assessment criterion I538.8.2(4) and the addition of a new matter of assessment on this matter. This will ensure that the Precinct cannot be used to dismantle the Business Park aspect of the Precinct's activities.

*Are the building heights and design requirements suitable?*

253. Earlier in this decision we noted that we largely agree with the evidence of expert witnesses for the Applicant and the Council in regard to building height, however, that we identified two areas where PC23 did not appropriately respond. These two matters (which we summarise) are:
- a lack of assessment matters or guidance in the case of non-compliance with Standard I538.6.5 where it requires buildings above 75m height to have a maximum plan view dimension that must not exceed 35m;
  - potential visual clutter effects, as seen from the west, when seeing development enabled in the Precinct together with potential (and planned) taller buildings in Milford Town Centre, Takapuna Metropolitan Centre and the North Shore Hospital site – possibly blocking views to parts of Rangitoto.
254. With these concerns in mind, and mindful of the RPS basis for height and ‘tall buildings’ as we discussed earlier, we find that modifications are needed to the PC23 provisions to manage the above.
255. With reference to the provisions in Appendix 1 to this decision, we have:
- made some modifications to objective 1;
  - made changes to policy 2A;
  - introduced a new matter of discretion I538.8.1(3) for infringement of clause (2) of Standard I538.6.5 Maximum tower dimension and building separation, with associated new assessment criteria at I538.8.2(3) (noting that rule C1.9(2) already confers a restricted discretionary activity status to any infringement of a relevant development standard);
  - introduced a minor change to matter of discretion: I538.8.1(5)(b);
  - introduced new clauses to assessment criteria I538.8.2(5)(f); and
  - introduced a new clause to I538.9 Special information requirements.
256. Clause (c) of objective 1 is modified to refer to the Precinct responding ‘positively’ to its immediate environment and ‘its wider built and landscape setting.’ There were significant concerns from some submitters regarding the height enabled by the Precinct provisions, partly in regard to how buildings of that height would sit within their wider setting. These modifications aim to address those concerns.
257. Policy 2A, which relates specifically to tall buildings, is modified by, again, introducing a reference to the Precinct’s wider built and landscape setting, and also by a new clause (c), which responds to the advice from the visual and urban design experts at the Hearing that tall buildings forming a focal point or clustering together would be appropriate.
258. Matter of discretion I538.8.1(5)(b) is modified to building design ‘and appearance’ (with the same change made to assessment criterion I538.8.2(5)(b)). This provides certainty that it is the combination of not only a building’s design but that building’s appearance over which the Council has discretion. We find this to be consistent with the visual

analysis put before us as evidence. We also note this terminology is consistent with matters of discretion in other AUP: OP zones, such as the Mixed Use zone.

259. A new matter of discretion I538.8.1(3) for infringement of clause (2) of Standard I538.6.5 Maximum tower dimension and building separation is introduced, with associated new assessment criteria at I538.8.2(3). In their evidence and in responses to questions to Mr. Houghton, Mr. Goodwin and Ms. Skidmore, we were advised of their opinions regarding the appropriateness of a range of PC23 provisions, amongst which is Standard I538.6.5 Maximum tower dimension and building separation, in managing height related issues. As we note earlier in this decision, we largely accept this evidence. However, given that the extent of height which PC23 seeks to enable, we consider it is necessary to ensure that the techniques proposed to manage that height are especially robust. For that reason, we find that this additional matter of discretion and associated assessment criteria to be necessary and appropriate.
260. In the PC23 provisions put before us there are no Precinct specific matters of discretion or assessment criteria for an infringement of I538.6.5. This means, that as a restricted discretionary activity, the parameters for assessing such an infringement would default to AUP: OP General rule C1.9. In regard to clause (2) of I538.6.5, which manages height and bulk related effects of the tallest parts of potential buildings by controlling their horizontal dimension, we find that additional guidance is necessary to explain what outcome is actually sought other than general visual interest. New matter of discretion I538.8.1(3) therefore introduces discretion, for an infringement of this part of the Standard, restricted to effects on the amenity of neighbouring sites and effects on the wider landscape. The associated new assessment criteria at I538.8.2(3) includes a criterion giving specific guidance on the latter – with reference to effects on the skyline of the precinct through management of building footprint, mass and visual scale.
261. New clauses are introduced to assessment criterion I538.8.2(5)(f). This criterion is in regard to all buildings above RL50.4. The new clauses focus on the extent to which buildings form a visual cluster and the extent to which significant visual effects, including cumulative effects, on the wider landscape environment, including views to the summit of Rangitoto are avoided. This addresses the matters we raise at paragraphs 143 to 145.
262. A new clause (4) is introduced to I538.9 Special Information Requirements. For buildings extending above RL50.4, this requires provision with such applications of all the information required for the Council to be able to gain a comprehensive understanding of the matters listed for assessment for these buildings and an 'integration' plan showing the position of all existing and proposed buildings. We find that such information would be useful in the context of the matters for assessment set out for buildings above RL50.4 in I538.8.2(5)(f).

*Are retail and commercial requirements suitable?*

263. We summarised our discussion with expert witnesses at the Hearing earlier as it relates to providing for sufficient retail and commercial activities within the Precinct to meet the needs of residents, workers and visitors, balanced against the potential for the location of retail and related commercial and entertainment activities within the Precinct to adversely affect nearby Centre zones. We also summarised the discussion with the economic and urban design experts on the potential benefits of placing retail towards



the internal 'centre' of the Precinct.

264. Based on that discussion, we introduce three new policies 7A, 7B and 7C. These policies are tied to a modification of Activity A19 (deleted) and A23 (modified to relate to all clauses of standard I538.6.1 in the Activity Table, through the discretionary activity status of that Activity).
265. Earlier in this decision, we summarised our discussion with the experts around the potential benefit of allowing retail, commercial services and entertainment GFA to be delivered earlier than the threshold requirements in Standard I538.6.1(2), if certain locational criteria are met. Additions of two new clauses to that standard give effect to our finding on that matter.
266. Modifications have been made to Activities A16 and A17 in the Activity Table, making reference to a 'single' supermarket. This is in response to our discussions on this matter.

*Improving the overall workability and readability of the provisions*

267. Changes have been lastly made throughout the provisions to improve their overall workability and readability and to achieve greater consistency with the structure and framework of the AUP: OP, consistent with the submission of Auckland Council. We discuss those changes below, but note initially that scope for these changes comes from the Auckland Council submission.
268. The Precinct description has been modified, with the majority of changes being consequential to removal of reference to 'TOD' within the description.
269. Policy 2C has been modified, with associated minor changes to assessment criterion I538.7.2(b), to avoid unnecessary repetition between the policy and assessment criteria sections of the provisions.
270. The purpose statement to Standard I538.6.4 Building height has been modified by introducing two additional bullet points and an amendment to the last bullet point. The two additional bullet points – 'manage the effects of building height' and 'allow reasonable sunlight and daylight access to publicly accessible open space excluding streets and nearby sites' – are in the purpose statement to H15.6.1 Building height in the underlying Business – Business Park zone.
271. Noting that the first clause under I538.6 Standards in the PC23 provisions states that Standard H15.6.1 Building height does not apply in the Precinct, we find the addition of both bullet points to be consistent with and underpin the themes around height related issues raised in submissions and in the evidence put before us by expert witnesses. The addition of the first bullet point is consistent with phrasing in building height standards in zones across the AUP: OP. The second bullet point also sets up a basis for reference to sunlight access in the central pedestrian plaza in assessment criterion I538.7.2(1)(d) and shadowing effects of tall buildings in assessment criterion I538.8.2(5)(f)(v).
272. We furthermore note that elsewhere in the PC23 provisions, where an underlying zone standard or a standard in another zone has been carried across to the Precinct – for

example I538.6.5 Maximum tower dimension and building separation and I538.6.6 Outlook space - so have, in large part, the purpose statements of those standards. The introduction of the two additional bullet points to I538.6.4 addresses this inconsistency.

273. The last bullet point in the Building height standard has been modified to more accurately describe the purpose of clause (2) of the rule: contributing to a visually interesting and varied skyline appearance by limiting the number of buildings with heights above RL98.4.
274. Standard I538.6.5 Maximum tower dimension and building separation has been modified by replacing height in metres to height as a Reduced Level (RL) measure. While the former is measured above existing ground level and the latter is measured from a datum point, we understand the difference in terms of effects which this Standard seeks to manage to be minimal. Noting that elsewhere within the provisions, all references to height use an RL and the 27m and 75m heights referred to in I538.6.5 directly correlate to RL50.4 and RL98.4 used in all other provisions, we find for consistency purposes and certainty of application a use of RL measures in this standard to be most appropriate.
275. Assessment criteria I538.8.2(5)(f) has been modified to remove a reference to buildings in Height Area 1 extending above RL50.4. This is Height Area 1's maximum permitted height. Any building above RL50.4 is therefore infringing the height maximum, with a more logical tie-in to such an infringement being via assessment criteria I538.8.2(2) Activities exceeding the limits in Standard I538.6.4 Height. A new clause (d) is introduced to this criterion to cross-reference infringements of height in Height Area 1 to I538.8.2(5)(f).
276. We find activity rule A32 anomalous to the extent that the default activity status of activities that exceed a stated standard are restricted discretionary activities except where specified in a zone or Precinct activity table. Of the various standards within the Precinct (which are not otherwise addressed in the activity table), all rely on C1.9 to establish that restricted discretionary activity status except for the height standard. This could be confusing to users (as it was to us) wondering why the height limit had been singled out in the activity table as restricted discretionary but the other standards have not. Taking a belts-and-braces approach, we have squared this up by amending A32 to refer to all precinct standards other than those expressly varied in the activity table.

## **DECISION**

277. That pursuant to Schedule 1, Clause 10 of the Resource Management Act 1991, that Proposed Private Plan Change 23 to the Auckland Unitary Plan (Operative in Part) be approved in part and rejected in part, subject to the modifications as set out in this decision and in the Plan Change 23 document attached (Appendix 1).
278. Pursuant to section 32AA of the RMA, we have undertaken a further evaluation of the proposal and all changes we have resolved to make to it since the original s.32 report was prepared by the Applicant. The substance of that further evaluation is intertwined with and is presented in our findings above. We are satisfied that the provisions set out in Appendix 1 are the most appropriate and also give effect to Part 2 of the Act, the NPS on Urban Development Capacity, and the AUP: OP RPS.

279. Submissions on the plan change are accepted and rejected in accordance with this decision.
280. The reasons for the decision are that Plan Change 23 as amended in Appendix 1:
- a. will assist the Council in achieving the purpose of the RMA;
  - b. is in accordance with s31 RMA functions of the Auckland Council;
  - c. is consistent with the provisions of Part 2 of the RMA;
  - d. is supported by necessary evaluations in accordance with sections 32 and 32AA, and meets the various tests and requirements of s32 RMA;
  - e. will help with the effective implementation of the Auckland Unitary Plan: Operative in Part; and
  - f. is consistent with the Auckland Regional Policy Statement.
281. For completeness, it was impractical for us to prepare a 'mark-up' version of the provisions given how many rounds of edits had been undertaken to the close of the hearing. We anticipate that in integrating our finalised provisions into the AUP: OP, the Council may need to undertake inconsequential formatting and re-numbering of our provisions that we have not been able to foresee or accommodate. Provided that any changes are strictly for that purpose, we are satisfied that no further consideration or findings will be required on our part. We however request that the Council keep a record of any such 'operational' corrections necessary.



**Chair – Ian Munro on behalf of Kim Hardy and Matthew Riley – Independent Hearings Commissioners.**

**Date: 29 April 2020**

## **APPENDIX 1 – FINAL PLAN CHANGE 23 PROVISIONS** **29 April 2020**

### **Plan Change 23 Smales Farm – Revised provisions**

#### **I538. Smales 1 Precinct**

##### **I538.1. Precinct description**

The zoning of land within the Smales 1 Precinct is the Business - Business Park Zone.

The precinct is located on a 10.8 hectare site at the corner of Taharoto and Northcote roads, and is adjacent to State Highway 1, the Northern Busway, and Smales Farm Station.

Initial development within the precinct was in the nature of a business park, as provided for in the North Shore District Plan and the Auckland Unitary Plan. Most forms of residential development were not explicitly provided for and were non-complying activities. However, the characteristics of the site and its context make it a very suitable location for a high-density, public transport focused, mixed-used node, with an emphasis on both office and residential uses. These characteristics include:

- the large size and remaining development capacity of the precinct;
- the precinct's position beside a high capacity, high frequency public transport corridor in the form of the Northern Busway, and high capacity bus services that link to it by way of Smales Farm Station; and
- that adjacent uses are primarily institutional and otherwise less-sensitive to the adverse effects of the form and scale of development enabled by the precinct provisions.

Accordingly, the precinct provisions provide for a diversity of uses, including residential and employment activities, in addition to supporting non-residential activities, including retail, at a level to address demand from workers, residents, and visitors to the precinct. The provisions also encourage intensive development and the efficient use of land by providing for tall buildings to be developed. A high standard of building design and pedestrian amenity is ensured by the application of appropriate policies, standards and assessment criteria.

An overarching goal of the precinct is to support a reduction in dependence on vehicles in favour of public transport, walking, cycling and other active modes. The use of public transport is specifically encouraged by ensuring high quality primary pedestrian linkages are provided through the precinct to access the bus station, and by imposing limits on the number of car parking spaces for non-residential activities.

Integrated traffic modelling has been carried out to determine the ability of the surrounding road network to accommodate the levels of traffic expected to be generated by both development enabled by the precinct and that which is forecast to be generated by the North Shore Hospital site. This is because extensive development of the North Shore Hospital site (including new access arrangements) is planned to be implemented during the same timeframe as development at the precinct. The modelling has taken account of anticipated traffic generated from the combined future development. This modelling confirms that the

road network can accommodate the levels of traffic expected to be generated, without necessitating an assessment of the transportation effects on the surrounding road network for new development that is otherwise permitted.

The site offers a unique opportunity to promote a quality compact urban form based on characteristics that do not usually occur together in one location. The use of a Business - Business Park zone and the Smales 1 Precinct overlay together recognize that the site has:

- an existing and (foreseeably) future employment role anchored around high-density, office-based employment of the sort enabled in the Business - Business Park zone;
- characteristics that lend it to a variety of compatible uses and activities that are similar to that normally enabled in the Business - Mixed Use zone;
- a capability to accommodate residential development at a scale and of a form that is similar to that normally enabled in the Business - Metropolitan Centre zone; and
- the likely future catchment size and relationship with Milford and Northcote Town Centres, and Takapuna Metropolitan Centre, that justifies the function of a Business - Local Centre zone.

The underlying Business - Business Park zone remains in recognition of the substantial existing Business Park activities occurring on the site, and that these should continue to be maintained. The precinct sits on top of the zone in recognition that the two methods together seek to manage a transition over time away from a Business Park mono-culture to a mixed use environment that provides for both high-density residential and employment activities.

## **I538.2. Objectives**

- (1) The Smales 1 Precinct is a vibrant, intensively and efficiently developed mixed-use precinct which:
  - (a) is an attractive place to live, work and visit;
  - (b) takes advantage of its close proximity to the adjoining frequent and reliable transit bus station;
  - (c) responds positively to its immediate surrounds and its wider built and landscape setting; and
  - (d) has a strong sense of place.
- (2) The Smales 1 Precinct is a mixed use and passenger-transport based node successfully integrating intensive, high amenity residential developments with business park activities and an appropriate range and scale of accessory uses and developments to support its workers, residents and visitors.
- (3) The Smales 1 Precinct develops and functions in a way which promotes:
  - (a) travel mode shifts to rapid and frequent public transport services, and connecting stations and services, and active modes;
  - (b) reduced car trip generation rates and car parking ratios over time particularly compared to the surrounding area;

- (c) a high quality public realm containing a central plaza gathering place; and
  - (d) a well-connected and legible network of primary and secondary pedestrian linkages connecting the precinct with its immediate surrounds and providing a good standard of amenity and accessibility throughout the precinct.
- (4) The Smales 1 Precinct limits adverse effects on the:
- (a) safe and efficient operation of the transport network of the locality;
  - (b) amenity of neighbouring zones and sites;
  - (c) function and amenity of Business – Metropolitan or Town Centre zones.

The overlay, Auckland-wide and zone objectives apply in this precinct in addition to those specified above.

### **I538.3. Policies**

The overlay, Auckland-wide and underlying zone policies apply in this precinct in addition to those specified below, except that:

- (a) clauses (b) and (c) of policy H15.3(18) do not apply; and
- (b) Policy E27.3(2) Integrated transport assessment does not apply to non-residential development up to 162,000 m<sup>2</sup> gross floor area, and residential development up to 1,380 dwellings.
  - (1) Require any development in the precinct which causes the cumulative total gross floor area of business activity to exceed 162,000m<sup>2</sup> or the cumulative total number of dwellings to exceed 1,380 to demonstrate that significant adverse effects on the amenity of neighbouring zones will be avoided and that the function and amenity of the Business – Metropolitan Centre Zone and Business – Town Centre Zone will not be significantly adversely affected.
  - (1A) Enable the development of intensive residential activities within the precinct and require these to be designed to provide privacy and outlook, with good access to daylight and sunlight.
  - (1B) Require the development of intensive residential activities within the precinct to be designed, constructed and maintained to provide the occupants of noise sensitive spaces with a reasonable level of internal acoustic amenity, thereby managing any potential reverse sensitivity effects.
  - (1C) Recognise that the precinct has an on-going role as a location for business park activities, the need to integrate the range of uses enabled by the precinct with this function, and to manage the potential for conversion of buildings used for business park activities to other uses to affect the viability of the precinct as a business park.
  - (2) Provide for accessory activities to meet the immediate needs of office workers, residents and visitors to the precinct while limiting the extent of those uses and activities to manage potential adverse effects on the function and amenity of the Business – Metropolitan Centre Zone and Business – Town Centre Zone.

- (2A) Enable the establishment of tall buildings within the precinct to maximise the opportunity for intensification and the efficient use of the land that:
- (a) takes maximum advantage of the frequent, high capacity and reliable public transport services available within close proximity to the precinct; and
  - (b) avoids significant adverse effects on adjoining land and on properties outside the precinct, and on the wider built and landscape setting of the city; and
  - (c) contributes positively to a visually interesting skyline including through the management of building locations and heights so as to achieve a clustered, singular visual focal point in the wider built and landscape setting of the city.
- (2B) Require the establishment of a central pedestrian plaza at the heart of the precinct that provides a vibrant people-focused space which supports the evolving mixed-use community.
- (2C) Require high-amenity, safe and convenient primary pedestrian linkages to be provided that connect the central pedestrian plaza with the bus station and the precinct's Northcote Road, Taharoto Road, and Shakespeare Road frontages.
- (2D) Recognise the role of secondary linkages to provide quality walkable connections to integrate all buildings and spaces within the precinct with the primary pedestrian linkages.
- (2E) At each stage of development, require consideration of how primary pedestrian linkages and landscaped open spaces, provided or maintained with each new building, are integrated with adjacent linkages, open space and the bus station to ensure an appropriate level of amenity for residents, workers and visitors to the precinct, whilst preserving flexibility of options for future stages.
- (2F) Require buildings and uses on or near primary pedestrian linkages to contribute positively to the vitality and amenity afforded to users of those linkages, particularly in the vicinity of the rapid transit bus station and the central plaza.
- (2H) Discourage high car trip generating uses - such as service stations, large supermarkets or drive through restaurants – and only allow the activity where it:
- a) is necessary to support a near capacity level of office and residential development that already exists in the precinct;
  - b) can be well integrated with other retail and commercial uses;
  - c) will not detract from a high quality transit-oriented urban environment;

- d) will not generate significant adverse traffic effects within or adjacent to the precinct.
- (3) Require development over 162,000m<sup>2</sup> gross floor area of business activity or 1380 dwellings in the precinct to demonstrate that the activity will not significantly adversely affect the safe and efficient operation of the transport network, or that such effects will be mitigated.
- (4) Require any development over 125,000m<sup>2</sup> gross floor area of business activity or 855 dwellings in the precinct to assess the effectiveness of the travel demand management measures and the specific transport management changes required to achieve the precinct mode share targets.
- (5) For any development over 105,000m<sup>2</sup> gross floor area of business activity or 285 dwellings in the precinct, require progress towards the achievement of reduced private car trips and a shift to other travel modes to be monitored and reported at key stages in the development of the precinct.
- (6) Limit the supply of on-site parking serving non-residential activities over time to recognise the accessibility of the precinct to frequent and reliable public transport services and active modes, while supporting the planned growth of non-residential activities with an appropriate supply of parking on the site in the short term to encourage that growth.
- (7A) Enable sufficient retail, commercial service and entertainment activities within the precinct to meet the needs of residents, workers and visitors.
- (7B) Require the provision of retail, commercial service and entertainment activities to locate at or very close to the central pedestrian plaza so as to contribute to it being a vibrant, well-activated and lively heart within the precinct.
- (7C) Require any retail, commercial service or entertainment activities that do not meet policy (7B) to demonstrate that not locating at or very close to the central pedestrian plaza:
  - (a) is not physically or spatially possible; and
  - (b) will not compromise the ability of a sufficient quantity of other or future retail, commercial service or entertainment activities provided for in the precinct rules to achieve policy (7B).

#### **I538.4. Activity table**

The provisions in any relevant overlays, zone and the Auckland-wide provisions apply in this precinct unless otherwise specified below.

Table I538.4.1 specifies the activity status of land use activities in the Smales 1 Precinct pursuant to section 9(3) of the Resource Management Act 1991.



**Table I538.4.1 Activity table Smales 1 Precinct**

<b>Activity</b>		<b>Activity status</b>
<b>Accommodation</b>		
(A4)	Dwellings	P
(A5)	Conversion of a building or part of a building to dwellings, integrated residential development, visitor accommodation or boarding houses	RD
(A6)	Integrated residential development	P
(A7)	Supported residential care	P
(A8)	Visitor accommodation and boarding houses	P
(A9)	Each residential development where the cumulative number of dwellings in the precinct will be greater than 285.	C
(A10)	Each residential development where the cumulative number of dwellings in the precinct will be greater than 855.	RD
<b>Commerce</b>		
(A11)	Conference facilities	P
(A12)	Entertainment facilities	D
(A13)	Retail	P
(A14)	Department store, trade supplier, motor vehicle sales	D
(A15)	Service stations	NC
(A16)	A single supermarket up to 2,000m <sup>2</sup> gross floor area	P
(A17)	A single supermarket greater than 2,000m <sup>2</sup> gross floor area	D
(A18)	Drive-through restaurants	D
<b>Community</b>		
(A20)	Community facilities	P
(A21)	Education facilities	P
(A22)	Tertiary education facilities	P
<b>Non-residential activities</b>		
(A23)	Infringing any of clauses (1) to (4) of Standard I538.6.1	D
(A24)	Exceeding the limits in Standard I538.6.2(1)	RD
(A25)	Each non-residential development where the cumulative floor area in the precinct will be greater than 105,000 m <sup>2</sup> gross floor area.	C
(A26)	Each non-residential development where the cumulative floor area in the precinct will be greater than 125,000 m <sup>2</sup> gross floor area.	RD
<b>Development</b>		

(A27)	New buildings	RD
(A28)	Temporary structures that are in place for less than 21 days.	P
(A29)	Central pedestrian plaza	C
(A30)	New and redeveloped primary pedestrian linkages (as depicted in Precinct Plan 2 Structuring Elements).	C
(A31)	Any new vehicle access or change in the direction of vehicle movements at an existing vehicle access off Shakespeare Road relative to the accesses shown on Precinct Plan 2 Structuring Elements.	D
(A32)	Activities exceeding the standards at I538.6 except where otherwise specified in this table.	RD

### **I538.5. Notification**

(A1) An application for resource consent for a controlled activity listed in Table I538.4.1 above will be considered without public or limited notification or the need to obtain written approval from affected parties unless the Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.

- (1) Any application for resource consent for a restricted discretionary, discretionary or non-complying activity listed in Table I538.4.1 Activity table above will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.
- (2) When deciding who is an affected person in relation to any activity for the purposes of section 95E of the Resource Management Act 1991 the Council will give specific consideration to those persons listed in Rule C1.13(4).

### **I538.6. Standards**

The standards applicable to the underlying zone and Auckland-wide apply in this precinct, except the following:

- Standard E27.6.1 Trip generation does not apply to non-residential development up to 162,000m<sup>2</sup> gross floor area and does not apply to residential development up to 1,380 dwellings;
- Standard E27.6.2(5) (Parking);
- Standard H15.6.1 Building height;
- Standard H15.6.3 Yards; and
- Standard H15.6.7 Outlook space.

All activities in the Smales 1 Precinct must comply with the following standards.

### **I538.6.1. Gross floor area (GFA)**

**Purpose:** to create thresholds beyond which new evaluations of the scale, uses and effects of development must occur addressing potential negative impacts on the transport network and or on the function and amenity of centres.

- (1) The maximum gross floor area in the precinct for non-residential activities regardless of activity status is 162,000m<sup>2</sup> subject to (2) below:
- (2) The total gross floor area within the precinct that is occupied by the activities listed below, regardless of activity status, must not exceed 2,000m<sup>2</sup> plus a cumulative gross floor area of 500m<sup>2</sup> for every 10,000m<sup>2</sup> of gross floor area of development up to 162,000m<sup>2</sup> and 250m<sup>2</sup> for every 10,000m<sup>2</sup> over 162,000m<sup>2</sup> gross floor area:
  - (a) Retail
  - (b) Commercial services
  - (c) Entertainment.
- (3) The activities identified in (2) above, shall be located to have their primary pedestrian entrances at or within 50m of the central pedestrian plaza.
- (4) The activities identified in (2) may occur ahead of the identified thresholds up to a maximum of 10,000m<sup>2</sup> retail, commercial services or entertainment GFA, if they are located in accordance with (3) above.

### **I538.6.2. Parking**

**Purpose:** to

- manage the effects of parking for non-residential development on trip generation as the precinct develops
  - encourage a reduction in the ratio of parking spaces to floor area as the precinct develops
  - ensure that land and resources are used efficiently within the precinct.
- (1) The number of parking spaces accessory to non-residential activities must not exceed:
    - (a) 1936 car parking spaces for the first 44,770m<sup>2</sup> gross floor area;
    - (b) for any development up to 105,000m<sup>2</sup> gross floor area up to a maximum of 3,639 spaces; and
    - (c) for any development in excess of 105,000m<sup>2</sup> gross floor area up to a maximum of 4,585 spaces.
  - (2) No minimum or maximum parking requirements apply to residential activity.

### **I538.6.3. Trip generation**

Purpose: the trip generation effects of development within the precinct are subject to the following thresholds:

- up to 105,000m<sup>2</sup> gross floor area of non-residential activities or 285 dwellings the effects are considered acceptable.
- up to 125,000m<sup>2</sup> gross floor area of non-residential activities or 855 dwellings the effects are considered manageable.
- up to 162,000m<sup>2</sup> gross floor area of non-residential activities or 1,380 dwellings an assessment of the effects is required against the matters of discretion in I538.8.1(6) and the assessment criteria in I538.8.2(6).
  - (1) For development over 162,000m<sup>2</sup> gross floor area of non-residential activities or 1,380 dwellings, an integrated transportation assessment (ITA) will be required as set out in Chapter E27.
  - (2) Non-residential development up to 162,000 m<sup>2</sup> gross floor area, and residential development up to 1,380 dwellings, will not be subject to the following:
    - (a) Policy E27.3(2) Integrated transport assessment; and
    - (b) Standard E27.6.1 Trip generation.

### **I538.6.4. Building height**

Purpose: to

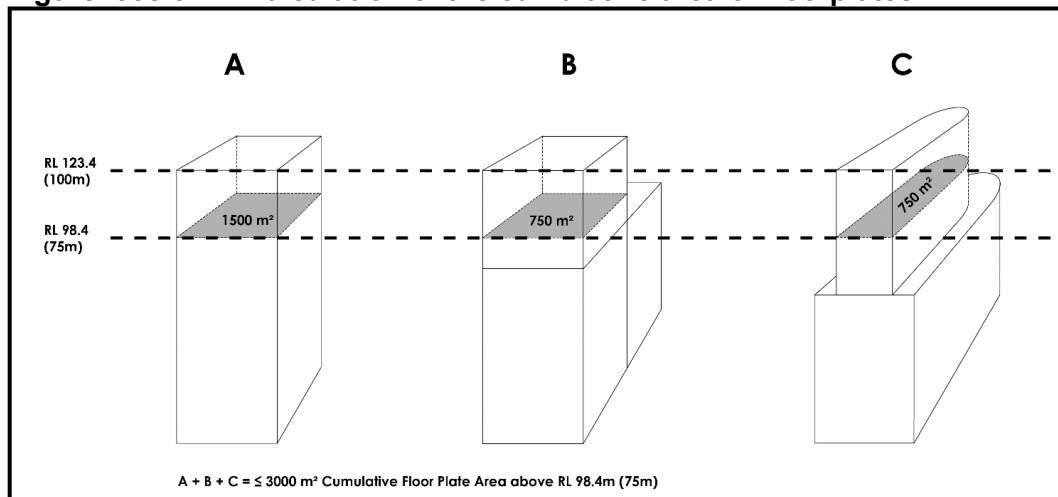
- manage the effects of building height;
- allow reasonable sunlight and daylight access to publicly accessible open space excluding streets and nearby sites;
- enable efficient use of land by enabling tall buildings in appropriate locations within the precinct; and
- contribute to a visually interesting and varied skyline appearance when viewed from distant viewpoints, including by limiting the number of buildings with heights above RL98.4.
  - (1) Buildings must not exceed the heights in the following table (expressed as an RL - Reduced Level above Mean Sea Level):

**Table I538.6.4.1 Building height**

Height Area as identified on Precinct Plan 1	RL	Equivalent height above average ground level at Taharoto Road frontage
1	50.4	27m
2	123.4	100m

- (2) Notwithstanding I538.6.4(1) the cumulative floor area of the largest floor plate in each building in Height Area 2 above a height of RL98.4 (75m above average ground level at the Taharoto Road frontage) must not exceed 3,000m<sup>2</sup>. For clarity, this standard does not constrain the total gross floor area of buildings above RL98.4. Refer to Figure I538.6.4.1 Calculation of the cumulative area of floorplates for an example of the calculation of the cumulative area of floorplates.

**Figure I538.6.4.1 Calculation of the cumulative area of floorplates**



**I538.6.5. Maximum tower dimension and building separation**

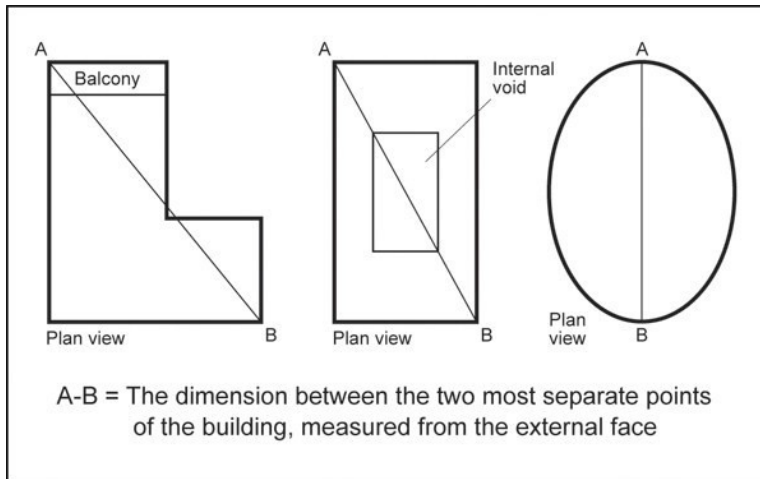
Purpose: to ensure that tall buildings

- are not overly bulky in appearance and manage significant visual dominance effects;
- allow adequate sunlight and daylight access to adjoining buildings and land;
- provide adequate sunlight and outlook around and between buildings; and
- mitigate adverse wind effects; and
- contribute to a visually interesting and varied skyline appearance when viewed from distant viewpoints, including by limiting the dimension and cumulative floor area of buildings above RL98.4.

- (1) The maximum plan view dimension of that part of a building above RL50.4 must not exceed 55m.

- (2) The maximum plan view dimension of that part of a building above RL98.4 must not exceed 35m.
- (3) The maximum plan view dimension is the horizontal dimension between the exterior faces of the two most separate points of the building, depicted as A to B in Figure I538.6.5.1 Maximum tower dimension plan view below.
- (4) Above a height of RL50.4, a minimum distance of 20m must be provided between buildings.

**Figure I538.6.5.1 Maximum tower dimension plan view**



#### **I538.6.6. Outlook space**

Purpose: to

- ensure a reasonable standard of visual and acoustic privacy between different dwellings, including their outdoor living space, on the same or adjacent building sites;
- encourage the placement of habitable room windows to maximise both passive surveillance of any open space designed to accommodate public use, and privacy, and to manage overlooking of neighbouring building sites.

- (1) Refer to H9 Business – Metropolitan Centre Zone, Standard H9.6.10.
- (2) The outlook space must be clear and unobstructed by buildings.

#### **I538.6.7. Minimum dwelling size**

Purpose: to ensure dwellings are functional and of a sufficient size to provide for the day to day needs of residents, based on the number of occupants the dwelling is designed to accommodate.

- (1) Refer to H9 Business – Metropolitan Centre Zone, Standard H9.6.11.

#### **I538.6.7A Residential at ground floor**

Purpose: to discourage the location of activities that require privacy and which do not contribute to activation on the ground floor of buildings on primary

pedestrian linkages.

- (1) Dwellings, including units within an integrated residential development, must not locate on the ground floor of a building where the dwelling or unit has frontage to the edge of a primary pedestrian linkage.

#### **I538.6.8. Central Pedestrian Plaza**

**Purpose:** to ensure that a high amenity central gathering place is developed at a timely stage to function as the heart of the precinct.

- (1) No later than the completion of 125,000m<sup>2</sup> GFA of development in the precinct, a pedestrian plaza shall be provided approximately at the intersection of the primary pedestrian linkages shown on Precinct Plan 2.
- (2) The central pedestrian plaza shall have a minimum area of 1,000m<sup>2</sup>.
- (3) Notwithstanding the definition of landscaped area in Chapter J Definitions, any part of the central pedestrian plaza that is not part of the internal vehicular network shall be included in the calculation of landscaped area for the precinct.

#### **I538.6.9 Primary pedestrian linkages**

**Purpose:** to ensure that legible, high quality linkages are in place at a timely stage in development of the precinct.

- (1) No later than the completion of 125,000m<sup>2</sup> GFA of development in the precinct, the primary pedestrian linkages shown on Precinct Plan 2 shall be provided.

#### **I538.6.10 Noise levels between residential units and for noise sensitive spaces**

**Purpose:** to ensure within the precinct an acceptable level of acoustic amenity for activities sensitive to noise.

- (1) Noise levels between units in the precinct shall comply with E25.6.9 (adopting the limits prescribed for the Business Mixed Use Zone).
- (2) Noise sensitive spaces within the precinct shall be designed and / or insulated to comply with E25.6.10, adopting the internal noise levels for the Business Mixed Use Zone. For the purpose of applying E25.6.10(2), the external noise level shall be the maximum noise levels permitted in the Business Park Zone.
- (2A) New buildings or alterations to existing buildings containing noise sensitive activities within 100 metres of the nearest carriageway edge line of State Highway 1 ("State Highway Buffer Area") must be designed, constructed and maintained to achieve an indoor design noise level from road-traffic of 40 dB LAeq(24h).
- (3) The relevant assessment criteria in E25.8 shall apply to any activity that does not comply with I538.6.11. The assessment criteria shall be applied as if the precinct was located in the Business - Mixed Use Zone.

**Note:** The relevant provisions of E25 for the Business - Business Park zone apply in the precinct unless otherwise specified above.

## **I538.7. Assessment – controlled activities**

### **I538.7.1. Matters of control**

For activities and development that are controlled activities in the precinct, the council will reserve its control to the following matters in addition to the matters specified for the relevant controlled activities in the Business – Business Park zone and the Auckland-wide provisions:

- (1) The central pedestrian plaza:
  - (a) design.
- (2) New and redeveloped primary pedestrian linkages:
  - (a) design.
- (3) Each development where either the cumulative floor area of non-residential development will be greater than 105,000 m<sup>2</sup> gross floor area (A25) or the cumulative number of dwellings will be greater than 285 (A9):
  - (a) the management of parking;
  - (b) active modes facilities - the nature and location of facilities throughout the precinct that support active modes of travel;
  - (c) precinct-wide travel demand management initiatives and
  - (d) in granting resource consent for any development which results in the cumulative development exceeding 105,000m<sup>2</sup> GFA of non-residential development or 285 dwellings, if the mode share for single occupancy cars is greater than the values set out in I538.8.2(6), the council may impose a condition requiring a travel demand management plan that encourages the use of travel modes other than single occupancy vehicles for accessing the precinct to be prepared in consultation with Auckland Transport and major tenants within the precinct and includes Auckland Transport responses.

### **I538.7.2. Assessment criteria**

For activities and development that are controlled activities in the precinct, the council will consider the relevant assessment criteria below in addition to the criteria specified for the relevant controlled activities in the Business – Business Park zone and the Auckland-wide rules:

- (1) The central pedestrian plaza:

The extent to which the central pedestrian plaza:

  - (a) provides a central gathering place and public space heart to the precinct;
  - (b) achieves a strong sense of edge definition to the public space through building and other elements (e.g. walls, screens, changes in level, vegetation) acknowledging that temporary design solutions may be used as interim measures



where adjacent development has not occurred;

- (c) creates a positive interface and closely integrates with the adjoining primary pedestrian linkages;
- (d) receives adequate sun during the winter between the hours of 11am and 2pm;
- (e) is appropriately sheltered from the prevailing south-westerly wind;
- (f) provides comfortable places to sit and spend time in;
- (g) is primarily hard-surfaced to provide for pedestrian movement, people gathering and events; and
- (h) provides lighting to support a safe night-time environment.

(2) New and redeveloped primary pedestrian linkages:

The extent to which primary pedestrian linkages:

- (a) are consistent with Precinct Plan 2;
- (b) achieve legible, accessible, safe and high quality walking routes between the street entrances, bus station and central pedestrian plaza that are also supportive of people using other active travel modes - bicycles, scooters and other micro-mobility choices;
- (c) achieve edge definition through building and other elements (e.g. walls, screens, changes in level, vegetation) acknowledging that temporary design solutions may be used as interim measures where adjacent development has not occurred;
- (d) achieve a high-quality interface with adjoining activity, including through weather protection at building entrances, recognising the importance of this interface to the overall quality of the pedestrian environment;
- (e) provide lighting to support a safe night-time environment; and
- (f) create a positive interface and closely integrated with the central pedestrian plaza.

(3) Each development where either the cumulative floor area of non-residential development in the precinct will be greater than 105,000 m<sup>2</sup> gross floor area (A26) or the cumulative number of dwellings will be greater 285 (A10):

- (a) the management of parking – the extent to which all parking within the precinct is being effectively managed to reduce the demand for single occupancy car trips;
- (b) active modes facilities - the nature and location of facilities throughout the precinct that support active modes of travel – the extent of provision in all existing and proposed buildings for active modes of travel and end of trip facilities; and
- (c) precinct-wide travel demand management initiatives – including biennial travel

mode questionnaire surveys of all precinct workers and residents for comparison with the values set out in I538.8.2(6), as well as travel demand management initiatives that have been established and administered to determine if they are consistent with the objectives and policies of the precinct, connectivity with any new or upgraded public transport and pedestrian/active mode facilities on the adjacent transport networks, and new facilities for active mode travelers that are being established.

## **I538.8. Assessment – restricted discretionary activities**

### **I538.8.1. Matters of discretion**

For activities and development that are restricted discretionary activities in the precinct, the council will restrict its discretion to the following matters in addition to the matters specified for the relevant restricted discretionary activities in the Business – Business Park zone and the Auckland-wide provisions:

- (1) Activities exceeding the limits in Standard I538.6.2 (Parking):
  - (a) refer to E27 Transport, Rule E27.8.1(5) (a), (b) and (c).
- (2) Activities exceeding the limits in Standard I538.6.4 (Height):
  - (a) the effects of the infringement on the amenity of neighbouring sites;
  - (b) the effects of the infringement on amenity within the precinct;
  - (c) the location of the building site in relation to its suitability for high buildings; and
  - (d) the contextual relationship of the building with adjacent buildings and the wider landscape.
- (3) Activities exceeding the limit in clause (2) of Standard I538.6.5 (Maximum tower dimension and building separation):
  - (a) The effects of the infringement on the amenity of neighbouring sites; and
  - (b) The effects of the infringement on the wider landscape.
- (4) Conversion of a building or part of a building to dwellings, integrated residential development, visitor accommodation or boarding houses:
  - (a) refer to H9 Business – Metropolitan Centre zone, Rule H9.8.1(5); and
  - (b) effects on the business park function of the precinct.
- (5) New buildings, and additions and alterations not otherwise provided for:
  - (a) consistency with Precinct Plan 2;

- (b) building design and appearance;
  - (c) the design of ground floor residential activity;
  - (d) the provision and design of landscaped open space;
  - (e) pedestrian amenity, safety and access; and
  - (f) the design and appearance of tall buildings.
- (6) Each development where either the cumulative floor area of non-residential development in the precinct will be greater than 125,000m<sup>2</sup> gross floor area (A26) or the cumulative number of dwellings will be greater than 855 (A10):
- (a) mode share;
  - (b) travel management;
  - (c) transport infrastructure and parking provisions; and
  - (d) in granting resource consent for the first development which results in the cumulative development in the precinct exceeding 125,000m<sup>2</sup> GFA of non-residential development or 855 dwellings, if either the peak hour traffic generation rates or the mode share for single occupancy car travel is greater than the values set out in I538.8.2(6)(a), the council may impose a condition requiring a travel demand management plan that encourages the use of travel modes other than single occupancy vehicles for accessing the precinct to be prepared in consultation with Auckland Transport and major tenants within the precinct.

### **I538.8.2. Assessment criteria**

For activities and development that are restricted discretionary activities in the precinct, the council will consider the relevant assessment criteria below in addition to the criteria specified for the relevant restricted discretionary activities in the Business – Business Park zone and the Auckland-wide rules:

- (1) Activities exceeding the limits in Standard I538.6.2 (Parking):
  - (a) refer to E27 Transport, Rule E27.8.2(4)(b) to (h).
- (2) Activities exceeding the limits in Standard I538.6.4 (Height):
  - (a) the extent to which the amenity of neighbouring sites including those outside the precinct is adversely affected;
  - (b) the extent to which the precinct can accommodate higher buildings without generating significant adverse effects on the wider environment;
  - (c) the extent to which the height of a new building is appropriate in the context of the height of buildings on adjacent land and within the wider landscape;
  - (d) for buildings in Height Area 1, in addition to (a), (b) and (c) above, those criteria listed in I538.8.2(5)(f).

- (3) Activities exceeding the limit in clause (2) of Standard I538.6.5 (Maximum tower dimension and building separation):
- (a) the extent to which the amenity of neighbouring sites including those outside the precinct is adversely affected; and
  - (b) the extent to which building footprint, mass and visual scale is managed above RL98.4, including through appearing obviously smaller than below RL98.4, in order to avoid significant adverse effects on the wider environment, in particular, the skyline of the precinct, as seen within the broader urban area.
- (4) Conversion of a building or part of a building to dwellings, integrated residential development, visitor accommodation or boarding houses:
- (a) refer to H9 Business – Metropolitan Centre zone, Rule H9.8.2(5); and
  - (b) effects on the business park function of the precinct:  
the extent to which:
    - (i) the conversion avoids adverse effects on the business park function of the precinct; and
- (5) New buildings, and additions and alterations not otherwise provided for:
- (a) consistency with Precinct Plan 2:  
the extent to which development is generally consistent with the structuring elements identified on Precinct Plan 2. Note: Primary pedestrian linkages need not be linear.
  - (b) building design and appearance:  
the extent to which:
    - (i) building design is of high quality, expressing a clear and coherent design concept that responds to its surrounding context and utilises a palette of durable materials to express the building form;
    - (ii) features such as façade modulation and articulation, and/or the use of materials and finishes, are used to manage visual amenity effects of building bulk and scale, and to create visual interest;
    - (iii) the roof profile is part of the overall building form and rooftop plant and equipment is integrated into the building design; and
    - (iv) the ground floor areas of buildings on primary pedestrian linkages are adaptable to a range of uses.
  - (c) ground floor residential activity:  
where ground floor residential activity adjoins a publicly accessible area,

the extent to which the design of the public/private interface:

- (i) addresses the privacy of occupiers of dwellings;
- (ii) provides appropriate levels of passive surveillance of the adjoining area of public access; and
- (iii) maintains the visual and pedestrian amenity of the adjoining area of public access.

(d) landscaped open space:

the extent to which:

- (i) landscaped open space is provided or maintained with each stage of development; and
- (ii) the design of hard and soft landscaping integrates with and appropriately enhances the design and configuration of buildings and the amenity of publicly accessible areas for the various users of the precinct.

(e) pedestrian amenity, safety and access:

the extent to which:

- (i) the design of a building contributes to pedestrian vitality and interest where it fronts an area of significant pedestrian activity, in particular adjoining primary pedestrian linkages and the central pedestrian plaza;
- (ii) building entrances are easily identifiable and accessible, and provide pedestrian shelter;
- (iii) separate pedestrian entrances are provided for residential activity that are clearly located and legible for public access and provide a sense of address for residents and visitors;
- (iv) the design of development has regard to pedestrian amenity and personal safety; and
- (v) parking, loading and service areas are located and screened (as necessary) to maintain pedestrian amenity.

(f) buildings within Height Area 2 extending above RL50.4:

the extent to which:

- (i) the building maintains the visual amenity of the overall development on the site as viewed from residential zones and public places outside the precinct;

- (ii) the building makes a positive contribution to the collective skyline of the precinct, including architectural expression to the rooftops and upper levels of tall buildings;
- (iii) the building responds and relates appropriately to the scale and form of neighbouring buildings within the precinct;
- (iv) the building, particularly where above RL98.4, positively contributes to achieving a clustered concentration of built form with a singular visual focal point in the precinct, as seen within the broader urban area around the precinct, through building location and height; and
- (v) adverse off-site and off-precinct effects of tall buildings, in particular:
  - wind, shadowing, dominance and privacy effects; and
  - significant visual effects, including cumulative effects, on the wider landscape environment, including views to the summit of Rangitoto

are avoided or suitably mitigated;

- (6) Each development where either the cumulative floor area of non-residential development in the precinct will be greater than 125,000m<sup>2</sup> gross floor area (A26) or the cumulative number of dwellings will be greater than 855 (A10):
- (a) mode share – assessment of the actual mode share of travel associated with non-residential and residential activities at the precinct in the morning and afternoon peak hour, against the following mode shares:
    - (i) non-residential: single occupancy car travel 60%; all other travel 40%;and
    - (ii) residential: single occupancy car travel 45%; all other travel 55%.
  - (b) demonstrate the success or otherwise of Travel Demand Management measures implemented within the precinct, including demonstrating these are consistent with the objectives and policies of the precinct, including:
    - (i) site travel demand management plans corresponding to the scale and significance of the activity;
    - (ii) physical infrastructure to be established or currently established on the site to support alternatives to single occupancy car use, such as covered facilities for cyclists, scooters, showering, lockers and changing facilities, plus carpool, shared vehicles and shared parking areas; and
    - (iii) operational and management measures to be established or currently implemented on the site to encourage reduced vehicle trips including car share schemes, management to incentivise lower vehicle use, public transport incentives, flexi-time, remote working, and staggered working hours;

- (c) reporting on any new or upgraded public transport and pedestrian / active modes connections on the transport network adjacent to the precinct; and
- (d) where criterion I538.8.2.(6)(a) is not met, the council shall have regard to whether the overall non-residential activity could meet that criterion where, either:
  - (i) the parking proposed in the application for non-residential activity gross floor area results in a reduction in the overall parking ratio for non-residential activity consistent with achieving the requirements in standard I538.6.2(1); or
  - (ii) information is provided in the application to demonstrate how the parking provision for later intended buildings will be delivered to achieve the requirements in standard I538.6.2(1).

### **I538.9. Special information requirements**

Special information is required in respect of the following applications, as set out below:

- (1) Each development where either the cumulative floor area of non-residential development in the precinct will be greater than 105,000 m<sup>2</sup> gross floor area (A25) or the cumulative number of dwellings will be greater than 285 (A9):
  - (a) All the information necessary for council to be able to gain a comprehensive understanding of the matters which are listed for assessment.
  - (b) An 'integration' plan indicating the positioning of all existing and intended buildings relative to 'structuring elements' and how the balance of the precinct is to be developed to achieve or promote the objectives and policies of the precinct and thereby how the proposal fits with the developed and consented urban structure and form. To avoid doubt, this plan is not to be the subject of any approval from the council but is to inform any other travel-related conditions that might be appropriate and to understand such things as the developing movement pattern throughout the precinct and the location of noise-emitting and noise-sensitive activities.
  - (c) An assessment including a biennial travel mode questionnaire survey of travel patterns of workers and residents prepared by a suitably qualified and experienced person addressing the following:
    - i. Mode share

Details of the actual mode share of travel associated with non-residential and residential activity in the precinct in the morning and afternoon peak hour.
- (2) The application for resource consent under rules I538.4.1 (A25), (A9), (A26) and (A10) shall provide evidence of consultation on the mode share assessment with Auckland Transport and the New Zealand Transport Agency and their responses to that consultation.
- (3) The formation of a new primary pedestrian linkage and or the central pedestrian plaza at any time or stage in the development of the precinct.

- a. As for I538.9(1)(a) and (b).
- (4) A building extending above RL50.4.
  - a. As for I538.9(1)(a) and (b).
- (5) Where Standard I538.6.11(2A) applies, a design report prepared by a suitably qualified and experienced acoustics specialist must be submitted to the council demonstrating noise compliance prior to the construction or alteration of any building containing a noise sensitive activity in or partly in the State Highway Buffer Area.

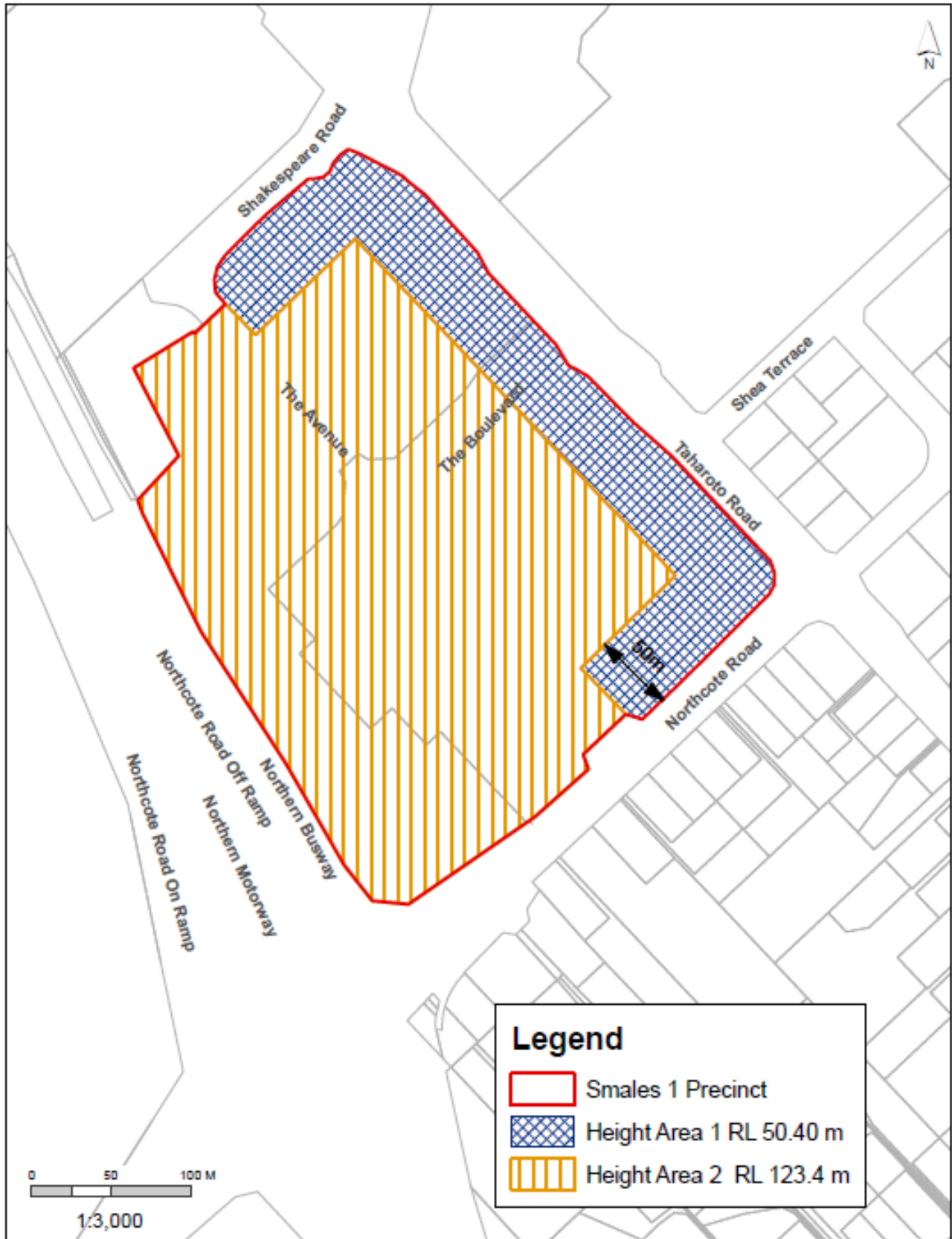
## **I538.10. Precinct plans**

I538.10.1 Smales 1 Precinct: Precinct Plan 1 – Maximum Height

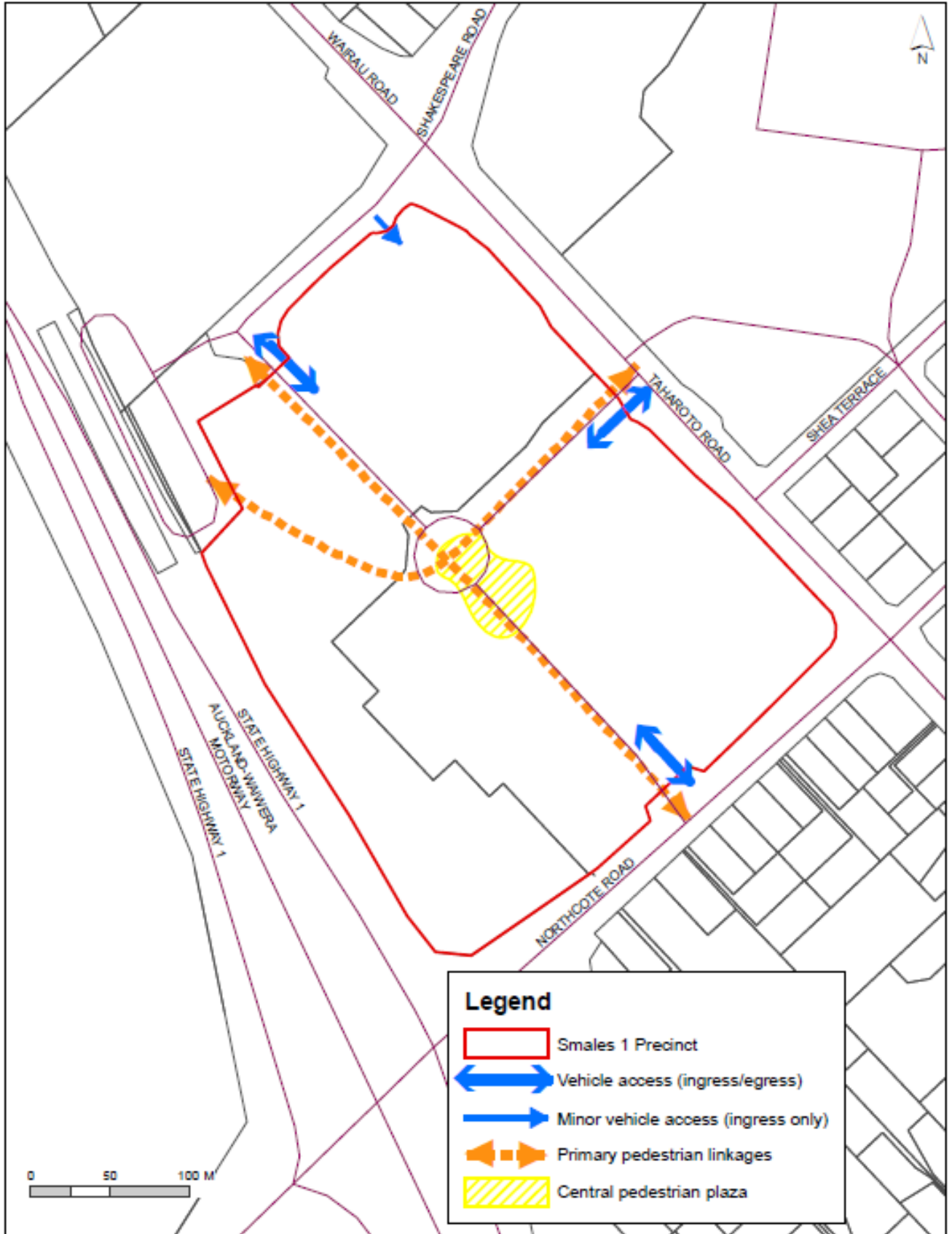
I538.10.2 Smales 1 Precinct: Precinct Plan 2 – Structuring Elements.



I538.10.1 Smales 1 Precinct: Precinct Plan 1 – Maximum Height



I538.10.2 Smales 1 Precinct: Precinct Plan 2 – Structuring Elements.



**Private Plan Change 23 Smales Farm – Decision version**

Tracked changes version – 30 April 2020 (Attachment 1)

Black text is current operative text - it either remains or is to be deleted

Red underlined text is new text as per the decision

## I538. Smales 1 Precinct

### I538.1. Precinct description

The zoning of land within the Smales 1 precinct is the Business - Business Park Zone.

The precinct is located on a 10.8 hectare site at the corner of Taharato and Northcote roads, and is adjacent to State Highway 1, ~~and the Northern Busway, and Smales Farm Station.~~ ~~The precinct permits a maximum gross floor area for activities, a maximum number of car parking spaces, and provides for some accessory activities to address demand from those employed on the site and visitors to the precinct.~~

Initial development within the precinct was in the nature of a business park, as provided for in the North Shore District Plan and the Auckland Unitary Plan. Most forms of residential development were not explicitly provided for and were non-complying activities. However, the characteristics of the site and its context make it a very suitable location for a high-density, public transport focused, mixed-used node, with an emphasis on both office and residential uses. These characteristics include:

- the large size and remaining development capacity of the precinct;
- the precinct's position beside a high capacity, high frequency public transport corridor in the form of the Northern Busway, and high capacity bus services that link to it by way of Smales Farm Station; and
- that adjacent uses are primarily institutional and otherwise less-sensitive to the adverse effects of the form and scale of development enabled by the precinct provisions.

Accordingly, the precinct provisions provide for a diversity of uses, including residential and employment activities, in addition to supporting non-residential activities, including retail, at a level to address demand from workers, residents, and visitors to the precinct. The provisions also encourage intensive development and the efficient use of land by providing for tall buildings to be developed. A high standard of building design and pedestrian amenity is ensured by the application of appropriate policies, standards and assessment criteria.

An overarching goal of the precinct is to support a reduction in dependence on vehicles in favour of public transport, walking, cycling and other active modes. The use of public transport is specifically encouraged by ensuring high quality primary pedestrian linkages are provided through the precinct to access the bus station, and by imposing limits on the number of car parking spaces for non-residential activities.

Integrated traffic modelling has been carried out to determine the ability of the surrounding road network to accommodate the levels of traffic expected to be generated by both development enabled by the precinct and that which is forecast to be generated by the North Shore Hospital site. This is because extensive development of the North Shore Hospital site (including new access arrangements) is planned to be implemented during the same timeframe as development at the precinct. The modelling has taken account of anticipated traffic generated from the combined future development. This modelling confirms that the road network can accommodate the levels of traffic expected to be generated, without necessitating an assessment of the transportation effects on the surrounding road network for new development that is otherwise permitted.

The site offers a unique opportunity to promote a quality compact urban form based on characteristics that do not usually occur together in one location. The use of a Business - Business Park zone and the Smales 1 Precinct overlay together recognize that the site has:

- an existing and (foreseeably) future employment role anchored around high-density, office-based employment of the sort enabled in the Business - Business Park zone;
- characteristics that lend it to a variety of compatible uses and activities that are similar to that normally enabled in the Business - Mixed Use zone;
- a capability to accommodate residential development at a scale and of a form that is similar to that normally enabled in the Business - Metropolitan Centre zone; and
- the likely future catchment size and relationship with Milford and Northcote Town Centres, and Takapuna Metropolitan Centre, that justifies the function of a Business - Local Centre zone.

The underlying Business - Business Park zone remains in recognition of the substantial existing Business Park activities occurring on the site, and that these should continue to be maintained. The precinct sits on top of the zone in recognition that the two methods together seek to manage a transition over time away from a Business Park mono-culture to a mixed use environment that provides for both high-density residential and employment activities.

## **I538.2. Objectives**

- (1) ~~Ongoing development of the Smales Farm Technology Office Park as an employment node is enabled while managing significant adverse effects on the safe and efficient operation of the transport network, on the amenity of neighbouring zones, and on the function and amenity of the Business—Metropolitan Centre Zone and Business—Town Centre Zone.~~  
~~[deleted]~~
- (1) The Smales 1 Precinct is a vibrant, intensively and efficiently developed mixed-use precinct which:
  - (a) is an attractive place to live, work and visit;
  - (b) takes advantage of its close proximity to the adjoining frequent and reliable transit bus station;
  - (c) responds positively to its immediate surrounds and its wider built and landscape setting; and
  - (d) has a strong sense of place.
- (2) The Smales 1 Precinct is a mixed use and passenger-transport based node successfully integrating intensive, high amenity residential developments with business park activities and an appropriate range and scale of accessory uses and developments to support its workers, residents and visitors.
- (3) The Smales 1 Precinct develops and functions in a way which promotes:
  - (a) travel mode shifts to rapid and frequent public transport services, and connecting stations and services, and active modes;

- (b) reduced car trip generation rates and car parking ratios over time particularly compared to the surrounding area;
- (c) a high quality public realm containing a central plaza gathering place; and
- (d) a well-connected and legible network of primary and secondary pedestrian linkages connecting the precinct with its immediate surrounds and providing a good standard of amenity and accessibility throughout the precinct.

(4) The Smales 1 Precinct limits adverse effects on the:

- (a) safe and efficient operation of the transport network of the locality;
- (b) amenity of neighbouring zones and sites;
- (c) function and amenity of Business – Metropolitan or Town Centre zones.

The overlay, Auckland-wide and zone objectives apply in this precinct in addition to those specified above.

### **I538.3. Polices**

The overlay, Auckland-wide and underlying zone policies apply in this precinct in addition to those specified below, except that:

- (a) Clauses (b) and (c) of policy H15.3(18) do not apply; and
- (b) Policy E27.3(2) Integrated transport assessment does not apply to non-residential development up to 162,000 m<sup>2</sup> gross floor area, and residential development up to 1,380 dwellings.
- (1) Require any development in the precinct which causes the cumulative total gross floor area of business office activity ever to exceed 162,000m<sup>2</sup> gross floor area of business activity or the cumulative total number of dwellings to exceed 1,380 to demonstrate that significant adverse effects on the amenity of neighbouring zones will be managed and that the function and amenity of the Business – Metropolitan Centre Zone and Business – Town Centre Zone will not be significantly adversely affected.
- (1A) Enable the development of intensive residential activities within the precinct and require these to be designed to provide privacy and outlook, with good access to daylight and sunlight.
- (1B) Require the development of intensive residential activities within the precinct to be designed, constructed and maintained to provide the occupants of noise sensitive spaces with a reasonable level of internal acoustic amenity, thereby managing any potential reverse sensitivity effects.
- (1C) Recognise that the precinct has an on-going role as a location for business park activities, the need to integrate the range of uses enabled by the precinct with this function, and to manage the potential for conversion of buildings used for business park activities to other uses to affect the viability of the precinct as a business park.
- (2) Limit Provide for accessory activities to ~~those which~~ meet the immediate needs of office workers, residents and visitors to ~~Smales Farm-~~ the precinct while limiting the extent of

those uses and activities to manage potential adverse effects on the function and amenity of the Business – Metropolitan Centre Zone and Business – Town Centre Zone.

(2A) Enable the establishment of tall buildings within the precinct to maximise the opportunity for intensification and the efficient use of the land that:

- (a) takes maximum advantage of the frequent, high capacity and reliable public transport services available within close proximity to the precinct; and
- (b) avoids significant adverse effects on adjoining land and on properties outside the precinct, and on the wider built and landscape setting of the city; and
- (c) contributes positively to a visually interesting skyline including through the management of building locations and heights so as to achieve a clustered, singular visual focal point in the wider built and landscape setting of the city.

(2B) Require the establishment of a central pedestrian plaza at the heart of the precinct that provides a vibrant people-focused space which supports the evolving mixed-use community.

(2C) Require high-amenity, safe and convenient primary pedestrian linkages to be provided that connect the central pedestrian plaza with the bus station and the precinct's Northcote Road, Taharoto Road, and Shakespeare Road frontages.

(2D) Recognise the role of secondary linkages to provide quality walkable connections to integrate all buildings and spaces within the precinct with the primary pedestrian linkages.

(2E) At each stage of development, require consideration of how primary pedestrian linkages and landscaped open spaces, provided or maintained with each new building, are integrated with adjacent linkages, open space and the bus station to ensure an appropriate level of amenity for residents, workers and visitors to the precinct, whilst preserving flexibility of options for future stages.

(2F) Require buildings and uses on or near primary pedestrian linkages to contribute positively to the vitality and amenity afforded to users of those linkages, particularly in the vicinity of the rapid transit bus station and the central plaza.

(2H) Discourage high car trip generating uses - such as service stations, large supermarkets or drive through restaurants – and only allow the activity where it:

- (a) is necessary to support a near capacity level of office and residential development that already exists in the precinct;
- (b) can be well integrated with other retail and commercial uses;
- (c) will not detract from a high quality transit-oriented urban environment;
- (d) will not generate significant adverse traffic effects within or adjacent to the precinct.

(3) Require ~~business~~ development over ~~405,000m<sup>2</sup>~~ 162,000m<sup>2</sup> gross floor area ~~of business activity or 1380 dwellings in the precinct~~ to demonstrate that ~~they~~-activity will not significantly adversely affect the safe and efficient operation of the transport network, or that such effects will be mitigated.

- (4) Require any development over 125,000m<sup>2</sup> gross floor area of business activity or 855 dwellings in the precinct to assess the effectiveness of the travel demand management measures and the specific transport management changes required to achieve the precinct mode share targets.
- (5) For any development over 105,000m<sup>2</sup> gross floor area of business activity or 285 dwellings in the precinct, require progress towards the achievement of reduced private car trips and a shift to other travel modes to be monitored and reported at key stages in the development of the precinct.
- (6) Limit the supply of on-site parking serving non-residential activities over time to recognise the accessibility of the precinct to frequent and reliable public transport services and active modes, while supporting the planned growth of non-residential activities with an appropriate supply of parking on the site in the short term to encourage that growth.
- (7A) Enable sufficient retail, commercial service and entertainment activities within the precinct to meet the needs of residents, workers and visitors.
- (7B) Require the provision of retail, commercial service and entertainment activities to locate at or very close to the central pedestrian plaza so as to contribute to it being a vibrant, well-activated and lively heart within the precinct.
- (7C) Require any retail, commercial service or entertainment activities that do not meet policy (7B) to demonstrate that not locating at or very close to the central pedestrian plaza:
  - (a) is not physically or spatially possible; and
  - (b) will not compromise the ability of a sufficient quantity of other or future retail, commercial service or entertainment activities provided for in the precinct rules to achieve policy (7B).

The overlay, Auckland-wide and zone policies apply in this precinct in addition to those specified above

#### I538.4. Activity table

The provisions in any relevant overlays, zone and the Auckland-wide apply in this precinct unless otherwise specified below.

Table I538.4.1 specifies the activity status of land use activities in the Smales 1 Precinct pursuant to section 9(3) of the Resource Management Act 1991.

**Table I538.4.1 Activity table Smales 1 Precinct**

Activity		Activity status
<del>General</del> [deleted]		
(A1)	<del>Activities exceeding the 162,000m<sup>2</sup> gross floor area maximum in Standard I538.6.1.</del> [deleted]	D
(A2)	<del>Activities exceeding the gross floor area limit in Table I538.6.1.4</del>	D



	<u>[deleted]</u>	
(A3)	Activities exceeding the limits in Standard I538.6.2 <u>[deleted]</u>	RD
<b><u>Accommodation</u></b>		
(A4)	<u>Dwellings</u>	<u>P</u>
(A5)	<u>Conversion of a building or part of a building to dwellings, integrated residential development, visitor accommodation or boarding houses</u>	<u>RD</u>
(A6)	<u>Integrated residential development</u>	<u>P</u>
(A7)	<u>Supported residential care</u>	<u>P</u>
(A8)	<u>Visitor accommodation and boarding houses</u>	<u>P</u>
(A9)	<u>Each residential development where the cumulative number of dwellings in the precinct will be greater than 285.</u>	<u>C</u>
(A10)	<u>Each residential development where the cumulative number of dwellings in the precinct will be greater than 855.</u>	<u>RD</u>
<b><u>Commerce</u></b>		
(A11)	<u>Conference facilities</u>	<u>P</u>
(A12)	<u>Entertainment facilities</u>	<u>D</u>
(A13)	<u>Retail</u>	<u>P</u>
(A14)	<u>Department store, trade supplier, motor vehicle sales</u>	<u>D</u>
(A15)	<u>Service stations</u>	<u>NC</u>
(A16)	<u>A single supermarket up to 2,000m<sup>2</sup> gross floor area</u>	<u>P</u>
(A17)	<u>A single supermarket greater than 2,000m<sup>2</sup> gross floor area</u>	<u>D</u>
(A18)	<u>Drive-through restaurants</u>	<u>D</u>
(A19)	<u>[deleted]</u>	
<b><u>Community</u></b>		
(A20)	<u>Community facilities</u>	<u>P</u>
(A21)	<u>Education facilities</u>	<u>P</u>
(A22)	<u>Tertiary education facilities</u>	<u>P</u>
<b><u>Non-residential activities</u></b>		
(A23)	<u>Exceeding the maximum gross floor area in Standard I538.6.1(1)</u>	<u>D</u>
(A24)	<u>Exceeding the limits in Standard I538.6.2(1)</u>	<u>RD</u>
(A25)	<u>Each non-residential development where the cumulative floor area in the precinct will be greater</u>	<u>C</u>

	<u>than 105,000 m<sup>2</sup> gross floor area.</u>	
<u>(A26)</u>	<u>Each non-residential development where the cumulative floor area in the precinct will be greater than 125,000 m<sup>2</sup> gross floor area.</u>	<u>RD</u>
<b><u>Development</u></b>		
<u>(A27)</u>	<u>New buildings</u>	<u>RD</u>
<u>(A28)</u>	<u>Temporary structures that are in place for less than 21 days.</u>	<u>P</u>
<u>(A29)</u>	<u>Central pedestrian plaza</u>	<u>C</u>
<u>(A30)</u>	<u>New and redeveloped primary pedestrian linkages (as depicted in Precinct Plan 2 Structuring Elements).</u>	<u>C</u>
<u>(A31)</u>	<u>Any new vehicle access or change in the direction of vehicle movements at an existing vehicle access off Shakespeare Road relative to the accesses shown on Precinct Plan 2 Structuring Elements.</u>	<u>D</u>
<u>(A32)</u>	<u>Activities exceeding the standards at I538.6, except where otherwise specified in this table</u>	<u>RD</u>

### **I538.5. Notification**

(A1) An application for resource consent for a controlled activity listed in Table I538.4.1 above will be considered without public or limited notification or the need to obtain written approval from affected parties unless the Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.

(1) Any application for resource consent for an activity listed in Table I538.4.1 Activity table above will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.

(2) When deciding who is an affected person in relation to any activity for the purposes of section 95E of the Resource Management Act 1991 the Council will give specific consideration to those persons listed in [Rule C1.13\(4\)](#).

### **I538.6. Standards**

The standards applicable to the underlying zone and Auckland-wide apply in this precinct, except the following:

- ~~Policy E27.3(2) Integrated transport assessment for development up to 105,000m<sup>2</sup> gross floor area (see Standard I538.6.3); [deleted]~~
- ~~Standard E27.6.1 Trip generation for development up to 105,000m<sup>2</sup> gross floor area (see Standard I538.6.3); and [deleted]~~
- ~~Standard H16.6.1 Building height. [deleted]~~

- Standard E27.6.1 Trip generation does not apply to non-residential development up to 162,000m<sup>2</sup> gross floor area and does not apply to residential development up to 1,380 dwellings;
- Standard E27.6.2(5) (Parking);
- Standard H15.6.1 Building height;
- Standard H15.6.3 Yards; and
- Standard H15.6.7 Outlook space.

All activities in the Smales 1 Precinct must comply with the following standards.

#### **I538.6.1. Gross floor area (GFA)**

Purpose: to create thresholds beyond which new evaluations of the scale, uses and effects of development must occur addressing potential negative impacts on the transport network and or on the function and amenity of centres.

- (1) The maximum gross floor area in the precinct **for non-residential activities regardless of activity status** is 162,000m<sup>2</sup> subject to the following in Table I538.6.1.1: **(2) below:**
- (2) The total gross floor area within the precinct that is occupied by the activities listed below, regardless of activity status, must not exceed 2,000m<sup>2</sup> plus a cumulative gross floor area of 500m<sup>2</sup> for every 10,000m<sup>2</sup> of gross floor area of development up to 162,000m<sup>2</sup> and 250m<sup>2</sup> for every 10,000m<sup>2</sup> over 162,000m<sup>2</sup> gross floor area:
  - (a) Retail
  - (b) Commercial services
  - (c) Entertainment.
- (3) The activities identified in (2) above, shall be located to have their primary pedestrian entrances at or within 50m of the central pedestrian plaza.
- (4) The activities identified in (2) may occur ahead of the identified thresholds up to a maximum of 10,000m<sup>2</sup> retail, commercial services or entertainment GFA, if they are located in accordance with (3) above.

**Table I538.6.1.1 Gross floor area – [deleted]**

<b>Activity</b>	<b>Gross floor area</b>
Commercial services	Must not exceed 3,800m <sup>2</sup> plus a cumulative gross floor area of 500m <sup>2</sup> for every 10,000m <sup>2</sup> of gross floor area of offices over 41,120m <sup>2</sup> including development already established in the Smales 1 Precinct
Food and beverage	
Retail	
Service stations	
Care centres	
Community facilities	
Repair and maintenance services	

#### **I538.6.2. Parking**

Purpose: to

- manage the effects of parking for non-residential development on trip generation as the precinct develops
  - encourage a reduction in the ratio of parking spaces to floor area as the precinct develops
  - ensure that land and resources are used efficiently within the precinct.
- (1) The number of parking spaces accessory to non-residential activities must not exceed:
    - (a) 1936 car parking spaces for the first 44,770m<sup>2</sup> gross floor area;
    - (b) ~~an additional one car parking space per 31.8m<sup>2</sup> gross floor area for any development between 44,770m<sup>2</sup> and 105,000m<sup>2</sup> gross floor area~~ up to 105,000m<sup>2</sup> gross floor area up to a maximum of 3,639 spaces; and
    - (c) ~~an additional one car parking space per 45.1m<sup>2</sup> gross floor area for any development in excess of 105,000m<sup>2</sup> gross floor area~~ up to a maximum of 5094 4,585 spaces.
  - (2) No minimum or maximum parking requirements apply to residential activity.

### **I538.6.3. Trip generation**

Purpose: the trip generation effects of development within the precinct are subject to the following thresholds:

- up to 105,000m<sup>2</sup> gross floor area of non-residential activities or 285 dwellings the effects are considered acceptable.
- up to 125,000m<sup>2</sup> gross floor area of non-residential activities or 855 dwellings the effects are considered manageable.
- up to 162,000m<sup>2</sup> gross floor area of non-residential activities or 1,380 dwellings an assessment of the effects is required against the matters of discretion in I538.8.1(6) and the assessment criteria in I538.8.2(6).

~~(1) Development up to 105,000m<sup>2</sup> gross floor area will not be subject to the following:  
[deleted]~~

~~(a) Policy E27.3(2) Integrated transport assessment; and~~

~~(b) Standard E27.6.1 Trip generation.~~

(2) For development over 162,000m<sup>2</sup> gross floor area of non-residential activities or 1,380 dwellings, an integrated transportation assessment (ITA) will be required as set out in Chapter E27.

(3) Non-residential development up to 162,000 m<sup>2</sup> gross floor area, and residential development up to 1,380 dwellings, will not be subject to the following:

(a) Policy E27.3(2) Integrated transport assessment; and

(b) Standard E27.6.1 Trip generation.

### **I538.6.4. Building height**

Purpose: to

- manage the effects of building height;
- allow reasonable sunlight and daylight access to publicly accessible open space excluding streets and nearby sites;
- enable efficient use of land by enabling tall buildings in appropriate locations within the precinct; and
- contribute to a visually interesting and varied skyline appearance when viewed from distant viewpoints, including by limiting the number of buildings with heights above RL98.4.

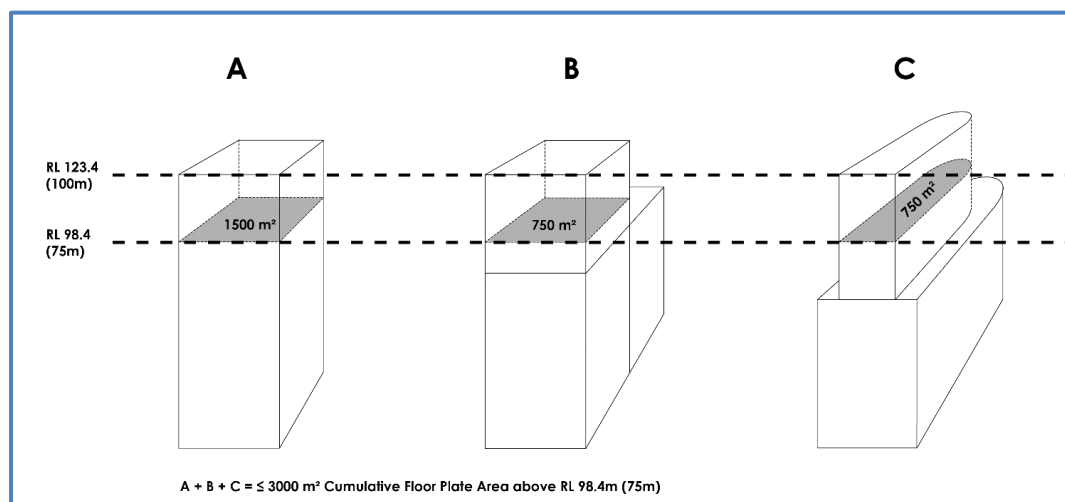
(1) Buildings must not exceed ~~RL48.5m in height~~ the heights in the following table (expressed as an RL = Reduced Level above Mean Sea Level).

**Table I538.6.4.1 Building height**

<b><u>Height Area as identified on Precinct Plan 1</u></b>	<b><u>RL</u></b>	<b><u>Equivalent height above average ground level at Taharoto Road frontage</u></b>
<u>1</u>	<u>50.4</u>	<u>27m</u>
<u>2</u>	<u>123.4</u>	<u>100m</u>

(2) Notwithstanding I538.6.4(1) the cumulative floor area of the largest floor plate in each building in Height Area 2 above a height of RL98.4 (75m above average ground level at the Taharoto Road frontage) must not exceed 3,000m<sup>2</sup>. For clarity, this standard does not constrain the total gross floor area of buildings above RL98.4. Refer to Figure I538.6.4.1 Calculation of the cumulative area of floorplates for an example of the calculation of the cumulative area of floorplates.

**Figure I538.6.4.1 Calculation of the cumulative area of floorplates**

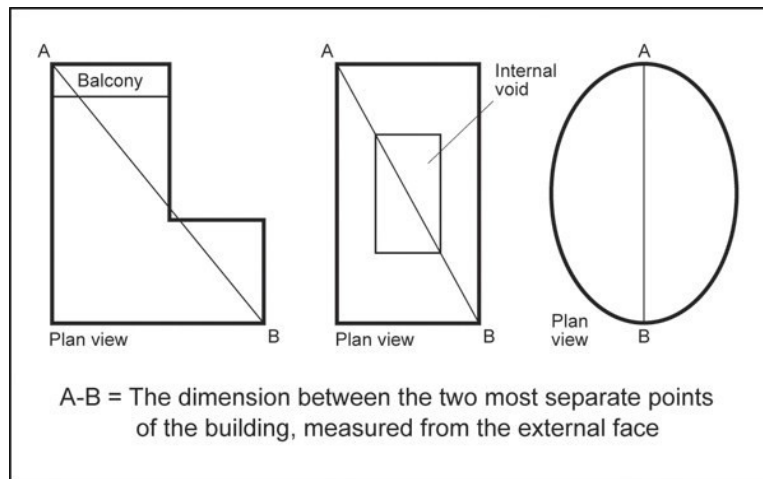


### **I538.6.5 Maximum tower dimension and building separation**

Purpose: to ensure that tall buildings

- are not overly bulky in appearance and manage significant visual dominance effects;
  - allow adequate sunlight and daylight access to adjoining buildings and land;
  - provide adequate sunlight and outlook around and between buildings; and
  - mitigate adverse wind effects; and
  - contribute to a visually interesting and varied skyline appearance when viewed from distant viewpoints, including by limiting the dimension and cumulative floor area of buildings above RL98.4.
- (1) The maximum plan view dimension of that part of a building above RL50.4 must not exceed 55m.
  - (2) The maximum plan view dimension of that part of a building above RL98.4 must not exceed 35m.
  - (3) The maximum plan view dimension is the horizontal dimension between the exterior faces of the two most separate points of the building, depicted as A to B in Figure I538.6.5.1 Maximum tower dimension plan view below.
  - (4) Above a height of RL50.4, a minimum distance of 20m must be provided between buildings.

**Figure I538.6.5.1 Maximum tower dimension plan view**



### **I538.6.6 Outlook space**

Purpose: to

- ensure a reasonable standard of visual and acoustic privacy between different dwellings, including their outdoor living space, on the same or adjacent building sites;
  - encourage the placement of habitable room windows to maximise both passive surveillance of any open space designed to accommodate public use, and privacy, and to manage overlooking of neighbouring building sites.
- (1) Refer to H9 Business – Metropolitan Centre Zone, Standard H9.6.10.
  - (2) The outlook space must be clear and unobstructed by buildings.

### **1538.6.7 Minimum dwelling size**

Purpose: to ensure dwellings are functional and of a sufficient size to provide for the day to day needs of residents, based on the number of occupants the dwelling is designed to accommodate.

- (1) Refer to H9 Business – Metropolitan Centre Zone, Standard H9.6.11.

### **1538.6.7A Residential at ground floor**

Purpose: to discourage the location of activities that require privacy and which do not contribute to activation on the ground floor of buildings on primary pedestrian linkages.

- (1) Dwellings, including units within an integrated residential development, must not locate on the ground floor of a building where the dwelling or unit has frontage to the edge of a primary pedestrian linkage.

### **1538.6.8 Central Pedestrian Plaza**

Purpose: to ensure that a high amenity central gathering place is developed at a timely stage to function as the heart of the precinct.

- (1) No later than the completion of 125,000m<sup>2</sup> GFA of development in the precinct, a pedestrian plaza shall be provided approximately at the intersection of the primary pedestrian linkages shown on Precinct Plan 2.
- (2) The central pedestrian plaza shall have a minimum area of 1,000m<sup>2</sup>.
- (3) Notwithstanding the definition of landscaped area in Chapter J Definitions, any part of the central pedestrian plaza that is not part of the internal vehicular network shall be included in the calculation of landscaped area for the precinct.

### **1538.6.9 Primary pedestrian linkages**

Purpose: to ensure that legible, high quality linkages are in place at a timely stage in development of the precinct.

- (1) No later than the completion of 125,000m<sup>2</sup> GFA of development in the precinct, the primary pedestrian linkages shown on Precinct Plan 2 shall be provided.

### **1538.6.10 Noise levels between residential units and for noise sensitive spaces**

Purpose: to ensure within the precinct an acceptable level of acoustic amenity for activities sensitive to noise.

- (1) Noise levels between units in the precinct shall comply with E25.6.9 (adopting the limits prescribed for the Business Mixed Use Zone).
- (2) Noise sensitive spaces within the precinct shall be designed and / or insulated to comply with E25.6.10, adopting the internal noise levels for the Business Mixed Use Zone. For the purpose of applying E25.6.10(2), the external noise level shall be the maximum noise levels permitted in the Business Park Zone.

- (2A) New buildings or alterations to existing buildings containing noise sensitive activities within 100 metres of the nearest carriageway edge line of State Highway 1 (“State Highway Buffer Area”) must be designed, constructed and maintained to achieve an indoor design noise level from road-traffic of 40 dB LAeq(24h).
- (3) The relevant assessment criteria in E25.8 shall apply to any activity that does not comply with I538.6.11. The assessment criteria shall be applied as if the precinct was located in the Business - Mixed Use Zone.

Note: The relevant provisions of E25 for the Business - Business Park zone apply in the precinct unless otherwise specified above.

### **I538.7. Assessment – controlled activities**

~~There are no controlled activities in this precinct.~~

#### **I538.7.1 Matters of control**

For activities and development that are controlled activities in the precinct, the council will reserve its control to the following matters in addition to the matters specified for the relevant controlled activities in the Business – Business Park zone and the Auckland-wide provisions:

(1) The central pedestrian plaza:

(a) design.

(2) New and redeveloped primary pedestrian linkages:

(a) design.

(3) Each development where either the cumulative floor area of non-residential development will be greater than 105,000 m<sup>2</sup> gross floor area (A25) or the cumulative number of dwellings will be greater than 285 (A9):

(a) the management of parking;

(b) active modes facilities - the nature and location of facilities throughout the precinct that support active modes of travel;

(c) precinct-wide travel demand management initiatives and

(d) in granting resource consent for any development which results in the cumulative development exceeding 105,000m<sup>2</sup> GFA of non-residential development or 285 dwellings, if the mode share for single occupancy cars is greater than the values set out in I538.8.2(6), the council may impose a condition requiring a travel demand management plan that encourages the use of travel modes other than single occupancy vehicles for accessing the precinct to be prepared in consultation with Auckland Transport and major tenants within the precinct and includes Auckland Transport responses.

#### **I538.7.2 Assessment criteria**

For activities and development that are controlled activities in the precinct, the council will consider the relevant assessment criteria below in addition to the criteria specified for the



relevant controlled activities in the Business – Business Park zone and the Auckland-wide rules:

(1) The central pedestrian plaza:

The extent to which the central pedestrian plaza:

- (a) provides a central gathering place and public space heart to the precinct;
- (b) achieves a strong sense of edge definition to the public space through building and other elements (e.g. walls, screens, changes in level, vegetation) acknowledging that temporary design solutions may be used as interim measures where adjacent development has not occurred;
- (c) creates a positive interface and closely integrates with the adjoining primary pedestrian linkages;
- (d) receives adequate sun during the winter between the hours of 11am and 2pm;
- (e) is appropriately sheltered from the prevailing south-westerly wind;
- (f) provides comfortable places to sit and spend time in;
- (g) is primarily hard-surfaced to provide for pedestrian movement, people gathering and events; and
- (h) provides lighting to support a safe night-time environment.

(2) New and redeveloped primary pedestrian linkages:

The extent to which primary pedestrian linkages:

- (a) are consistent with Precinct Plan 2;
- (b) achieve legible, accessible, safe and high quality walking routes between the street entrances, bus station and central pedestrian plaza that are also supportive of people using other active travel modes - bicycles, scooters and other micro-mobility choices;
- (c) achieve edge definition through building and other elements (e.g. walls, screens, changes in level, vegetation) acknowledging that temporary design solutions may be used as interim measures where adjacent development has not occurred;
- (d) achieve a high-quality interface with adjoining activity, including through weather protection at building entrances, recognising the importance of this interface to the overall quality of the pedestrian environment;
- (e) provide lighting to support a safe night-time environment; and
- (f) create a positive interface and closely integrated with the central pedestrian plaza.

(3) Each development where either the cumulative floor area of non-residential development in the precinct will be greater than 105,000 m<sup>2</sup> gross floor area (A26) or the cumulative number of dwellings will be greater 285 (A10):

- (a) the management of parking – the extent to which all parking within the precinct is being effectively managed to reduce the demand for single occupancy car trips;

- (b) active modes facilities - the nature and location of facilities throughout the precinct that support active modes of travel – the extent of provision in all existing and proposed buildings for active modes of travel and end of trip facilities; and
- (c) precinct-wide travel demand management initiatives – including biennial travel mode questionnaire surveys of all precinct workers and residents for comparison with the values set out in I538.8.2(6, as well as travel demand management initiatives that have been established and administered to determine if they are consistent with the objectives and policies of the precinct, connectivity with any new or upgraded public transport and pedestrian/active mode facilities on the adjacent transport networks, and new facilities for active mode travellers that are being established.

## **I538.8. Assessment – restricted discretionary activities**

### **I538.8.1. Matters of discretion**

~~The Council will restrict its discretion to all of the following matters when assessing a restricted discretionary activity resource consent application, in addition to the matters specified for the relevant restricted discretionary activities in the overlay, Auckland wide or zone provisions:~~

For activities and development that are restricted discretionary activities in the precinct, the council will restrict its discretion to the following matters in addition to the matters specified for the relevant restricted discretionary activities in the Business – Business Park zone and the Auckland-wide provisions:

- ~~(1) refer to E27 Transport and H16 Business – Business Park Zone for the matters for activities that do not comply with the above standards.~~

Activities exceeding the limits in Standard I538.6.2 (Parking):

- (a) refer to E27 Transport, Rule E27.8.1(5)(a), (b) and (c).

- (2) Activities exceeding the limits in Standard I538.6.4 (Height):

- (a) the effects of the infringement on the amenity of neighbouring sites;
- (b) the effects of the infringement on amenity within the precinct;
- (c) the location of the building site in relation to its suitability for high buildings; and
- (d) the contextual relationship of the building with adjacent buildings and the wider landscape.

- (3) Activities exceeding the limit in clause (2) of Standard I538.6.5 (Maximum tower dimension and building separation):

- (a) The effects of the infringement on the amenity of neighbouring sites; and
- (b) The effects of the infringement on the wider landscape.

- (4) Conversion of a building or part of a building to dwellings, integrated residential development, visitor accommodation or boarding houses:

- (a) refer to H9 Business – Metropolitan Centre zone, Rule H9.8.1(5); and
- (b) effects on the business park function of the precinct.

(5) New buildings, and additions and alterations not otherwise provided for:

- (a) consistency with Precinct Plan 2;
- (b) building design and appearance;
- (c) the design of ground floor residential activity;
- (d) the provision and design of landscaped open space;
- (e) pedestrian amenity, safety and access; and
- (f) the design and appearance of tall buildings.

(6) Each development where either the cumulative floor area of non-residential development in the precinct will be greater than 125,000m<sup>2</sup> gross floor area (A26) or the cumulative number of dwellings will be greater than 855 (A10):

- (a) mode share;
- (b) travel management;
- (c) transport infrastructure and parking provisions; and
- (d) in granting resource consent for the first development which results in the cumulative development in the precinct exceeding 125,000m<sup>2</sup> GFA of non-residential development or 855 dwellings, if either the peak hour traffic generation rates or the mode share for single occupancy car travel is greater than the values set out in I538.8.2(6)(a), the council may impose a condition requiring a travel demand management plan that encourages the use of travel modes other than single occupancy vehicles for accessing the precinct to be prepared in consultation with Auckland Transport and major tenants within the precinct.

**I538.8.2. Assessment criteria**

~~The Council will consider the relevant assessment criteria below for restricted discretionary activities, in addition to the assessment criteria specified for the relevant restricted discretionary activities in the overlay, Auckland-wide or zone provisions:~~

For activities and development that are restricted discretionary activities in the precinct, the council will consider the relevant assessment criteria below in addition to the criteria specified for the relevant restricted discretionary activities in the Business – Business Park zone and the Auckland-wide rules:

~~(1) refer to E27 Transport and H16 Business – Business Park Zone for the matters for activities that do not comply with the above standards.~~

Activities exceeding the limits in Standard I538.6.2 (Parking):

(a) refer to E27 Transport, Rule E27.8.1(5)(a), (b) and (c).

(2) Activities exceeding the limits in Standard I538.6.4 (Height):

(a) the extent to which the amenity of neighbouring sites including those outside the precinct is adversely affected;

(b) the extent to which the precinct can accommodate higher buildings without generating significant adverse effects on the wider environment;

(c) the extent to which the height of a new building is appropriate in the context of the height of buildings on adjacent land and within the wider landscape;

- (d) for buildings in Height Area 1, in addition to (a), (b) and (c) above, those criteria listed in I538.8.2(5)(f).
- (3) Activities exceeding the limit in clause (2) of Standard I538.6.5 (Maximum tower dimension and building separation):

  - (a) the extent to which the amenity of neighbouring sites including those outside the precinct is adversely affected; and
  - (b) the extent to which building footprint, mass and visual scale is managed above RL98.4, including through appearing obviously smaller than below RL98.4, in order to avoid significant adverse effects on the wider environment, in particular, the skyline of the precinct, as seen within the broader urban area.
- (4) Conversion of a building or part of a building to dwellings, integrated residential development, visitor accommodation or boarding houses:

  - (a) refer to H9 Business – Metropolitan Centre zone, Rule H9.8.2(5); and
  - (b) effects on the business park function of the precinct:  
the extent to which:
    - (i) the conversion avoids adverse effects on the business park function of the precinct; and
- (5) New buildings, and additions and alterations not otherwise provided for:

  - (a) consistency with Precinct Plan 2:  
the extent to which development is generally consistent with the structuring elements identified on Precinct Plan 2. Note: Primary pedestrian linkages need not be linear.
  - (b) building design and appearance:  
the extent to which:
    - (i) building design is of high quality, expressing a clear and coherent design concept that responds to its surrounding context and utilises a palette of durable materials to express the building form;
    - (ii) features such as façade modulation and articulation, and/or the use of materials and finishes, are used to manage visual amenity effects of building bulk and scale, and to create visual interest;
    - (iii) the roof profile is part of the overall building form and rooftop plant and equipment is integrated into the building design; and
    - (iv) the ground floor areas of buildings on primary pedestrian linkages are adaptable to a range of uses.
  - (c) ground floor residential activity:  
where ground floor residential activity adjoins a publicly accessible area, the extent to which the design of the public/private interface:
    - (i) addresses the privacy of occupiers of dwellings;

- (ii) provides appropriate levels of passive surveillance of the adjoining area of public access; and
- (iii) maintains the visual and pedestrian amenity of the adjoining area of public access.

(d) landscaped open space:

the extent to which:

- (i) landscaped open space is provided or maintained with each stage of development; and
- (ii) the design of hard and soft landscaping integrates with and appropriately enhances the design and configuration of buildings and the amenity of publicly accessible areas for the various users of the precinct.

(e) pedestrian amenity, safety and access:

the extent to which:

- (i) the design of a building contributes to pedestrian vitality and interest where it fronts an area of significant pedestrian activity, in particular adjoining primary pedestrian linkages and the central pedestrian plaza;
- (ii) building entrances are easily identifiable and accessible, and provide pedestrian shelter;
- (iii) separate pedestrian entrances are provided for residential activity that are clearly located and legible for public access and provide a sense of address for residents and visitors;
- (iv) the design of development has regard to pedestrian amenity and personal safety; and
- (v) parking, loading and service areas are located and screened (as necessary) to maintain pedestrian amenity.

(f) buildings within Height Area 2 extending above RL50.4:

the extent to which:

- (i) the building maintains the visual amenity of the overall development on the site as viewed from residential zones and public places outside the precinct;
- (ii) the building makes a positive contribution to the collective skyline of the precinct, including architectural expression to the rooftops and upper levels of tall buildings;
- (iii) the building responds and relates appropriately to the scale and form of neighbouring buildings within the precinct;
- (iv) the building, particularly where above RL98.4, positively contributes to achieving a clustered concentration of built form with a singular visual focal point in the precinct, as seen within the broader urban area around the precinct, through building location and height; and

- (v) adverse off-site and off-precinct effects of tall buildings, in particular:
  - wind, shadowing, dominance and privacy effects; and
  - significant visual effects, including cumulative effects, on the wider landscape environment, including views to the summit of Rangitoto  
are avoided or suitably mitigated;

(6) Each development where either the cumulative floor area of non-residential development in the precinct will be greater than 125,000m<sup>2</sup> gross floor area (A26) or the cumulative number of dwellings will be greater than 855 (A10):

(a) mode share – assessment of the actual mode share of travel associated with non-residential and residential activities at the precinct in the morning and afternoon peak hour, against the following mode shares:

- (i) non-residential: single occupancy car travel 60%; all other travel 40%; and
- (ii) residential: single occupancy car travel 45%; all other travel 55%.

(b) demonstrate the success or otherwise of Travel Demand Management measures implemented within the precinct, including demonstrating these are consistent with the objectives and policies of the precinct, including:

- (i) site travel demand management plans corresponding to the scale and significance of the activity;
- (ii) physical infrastructure to be established or currently established on the site to support alternatives to single occupancy car use, such as covered facilities for cyclists, scooters, showering, lockers and changing facilities, plus carpool, shared vehicles and shared parking areas; and
- (iii) operational and management measures to be established or currently implemented on the site to encourage reduced vehicle trips including car share schemes, management to incentivise lower vehicle use, public transport incentives, flexi-time, remote working, and staggered working hours;

(c) reporting on any new or upgraded public transport and pedestrian / active modes connections on the transport network adjacent to the precinct; and

(d) where criterion I538.8.2.(6)(a) is not met, the council shall have regard to whether the overall non-residential activity could meet that criterion where, either:

- (i) the parking proposed in the application for non-residential activity gross floor area results in a reduction in the overall parking ratio for non-residential activity consistent with achieving the requirements in standard I538.6.2(1); or
- (ii) information is provided in the application to demonstrate how the parking provision for later intended buildings will be delivered to achieve the requirements in standard I538.6.2(1).

### **I538.9. Special information requirements**

~~There are no special information requirements in this precinct.~~

Special information is required in respect of the following applications, as set out below:

- (1) Each development where either the cumulative floor area of non-residential development in the precinct will be greater than 105,000 m<sup>2</sup> gross floor area (A25) or the cumulative number of dwellings will be greater than 285 (A9):
  - (a) All the information necessary for council to be able to gain a comprehensive understanding of the matters which are listed for assessment.
  - (b) An 'integration' plan indicating the positioning of all existing and intended buildings relative to 'structuring elements' and how the balance of the precinct is to be developed to achieve or promote the objectives and policies of the precinct and thereby how the proposal fits with the developed and consented urban structure and form. To avoid doubt, this plan is not to be the subject of any approval from the council but is to inform any other travel-related conditions that might be appropriate and to understand such things as the developing movement pattern throughout the precinct and the location of noise-emitting and noise-sensitive activities.
  - (c) An assessment including a biennial travel mode questionnaire survey of travel patterns of workers and residents prepared by a suitably qualified and experienced person addressing the following:
    - i. Mode share

Details of the actual mode share of travel associated with non-residential and residential activity in the precinct in the morning and afternoon peak hour.
- (2) The application for resource consent under rules I538.4.1 (A25), (A9), (A26) and (A10) shall provide evidence of consultation on the mode share assessment with Auckland Transport and the New Zealand Transport Agency and their responses to that consultation.
- (3) The formation of a new primary pedestrian linkage and or the central pedestrian plaza at any time or stage in the development of the precinct.
  - (a) As for I538.9(1)(a) and (b).
- (4) A building extending above RL50.4.
  - (a) As for I538.9(1)(a) and (b).
- (5) Where Standard I538.6.10(2A) applies, a design report prepared by a suitably qualified and experienced acoustics specialist must be submitted to the council demonstrating noise compliance prior to the construction or alteration of any building containing a noise sensitive activity in or partly in the State Highway Buffer Area.

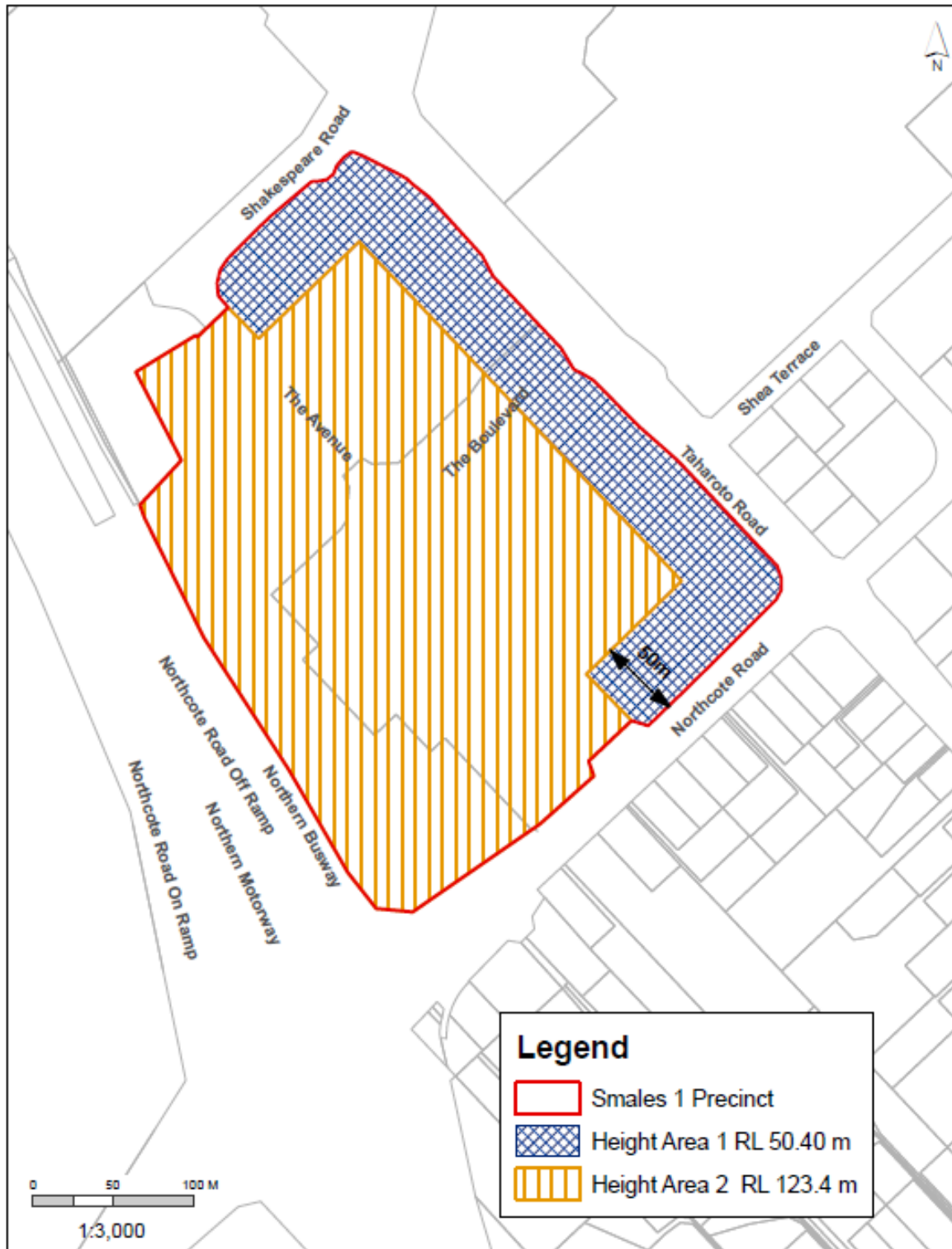
### **I538.10. Precinct plans**

~~There are no precinct plans in this precinct.~~

I538.10.1 Smales 1 Precinct: Precinct Plan 1 – Maximum Height

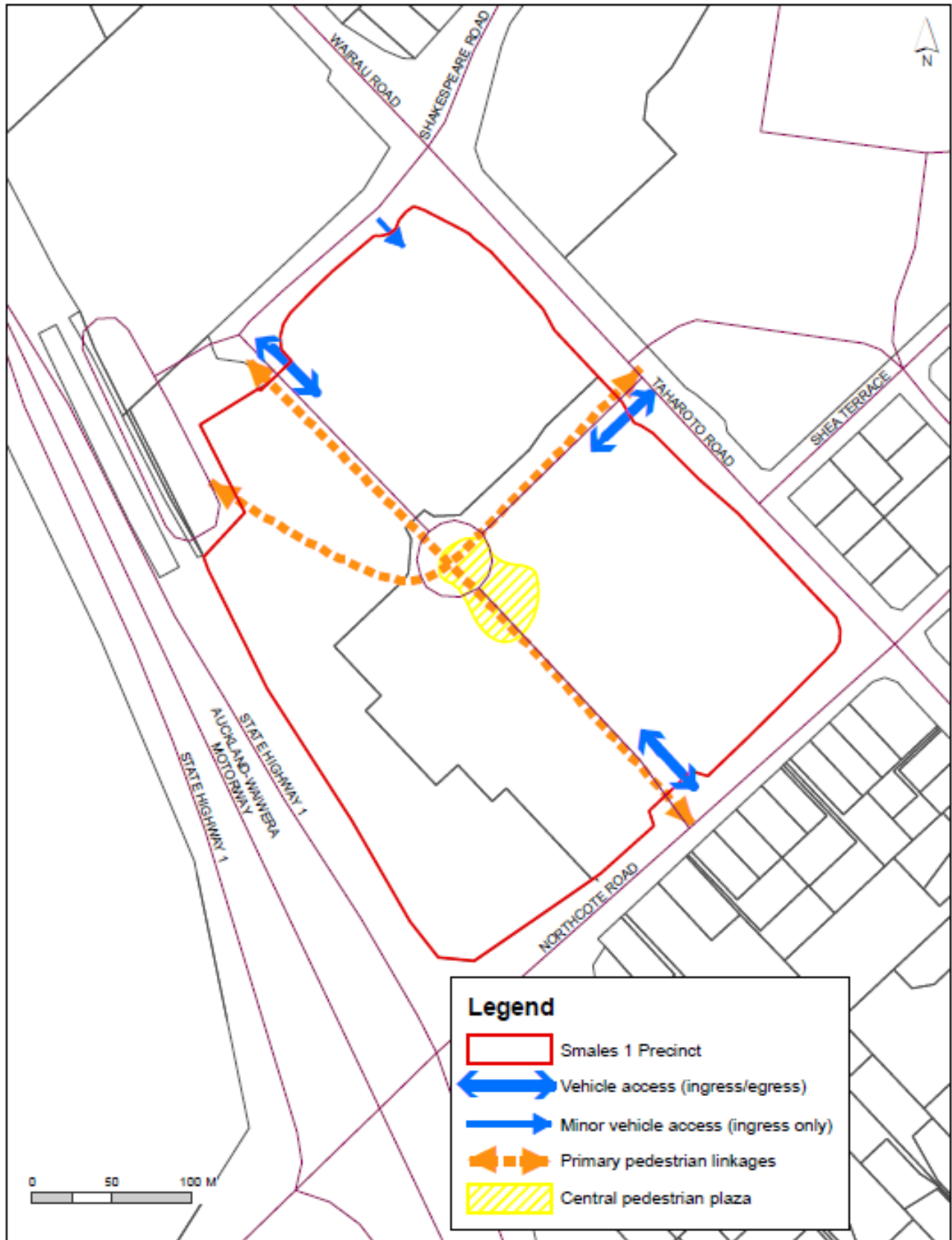
I538.10.2 Smales 1 Precinct: Precinct Plan 2 – Structuring Elements.

**I538.10.1 Smales 1 Precinct: Precinct Plan 1 – Maximum Height**





I538.10.2 Smales 1 Precinct: Precinct Plan 2 – Structuring Elements.



**Attachment 4**

**List of names and addresses of persons to be served with a copy of the appeal**

Sub #	FS #	Submitter Name	Address for Service
1	-	Shorecare Medical Services Limited Attn: Stephenie Quinn	stephenie.quinn@shorecare.co.nz
2	-	Anthony Kang	dongoh82@gmail.com
3	-	Les Probert Attn: Toho Consulting	les@toho.co.nz
4	-	Jungho Hong	isonobe@hotmail.com
5	-	Susan Peace	25 Nile Rd Milford, Auckland 0620
6	-	Simon O'Connor (Sentinel Planning Ltd)	simon@sentinelplanning.co.nz
7	-	Sally Slawson	sallyslawson@gmail.com
8	-	Soon bok Ko	knkltd@hotmail.com
9	-	Charles Crisp	charlie.crisp@tab.co.nz
10	-	New Zealand Transport Agency Attn: Mike Wood	Mike.Wood@nzta.govt.nz
11	FS3	Auckland Transport Attn: Kevin Wong Toi	Kevin.Wong-Toi@at.govt.nz
12	-	Sovereign Services Limited Attn: Kristy Redfern	kristy.redfern@aia.com
13	-	Auckland Council Attn: Celia Davison	celia.davison@aucklandcouncil.govt.nz
14	FS1	Westlake Girls High School Attn: Joy Bradfield	joybradfield@gmail.com
15	FS5	Housing New Zealand Attn: Gurv Singh Attn: Matt Lindenberg	matt.lindenberg@beca.com; gurv.singh@hnzc.co.nz
16	-	Watercare / Mark Bourne  Attn: Lindsay Wilson	lindsay.wilson@water.co.nz
17	FS6	Svetla Grigorova	svetlag7@gmail.com
18	-	Atanas Gornakov	atanas@moderntiling.co.nz
-	FS4	Waitemata District Health Board Attn: Bianca Tree / Patrick Senior	bianca.tree@minterellison.co.nz patrick.senior@minterellison.co.nz