

Proposed Plan Change 26 to the Auckland Unitary Plan

Clarifying the relationship between the Special
Character Areas Overlay (Residential and
General) and the underlying zones

**SECTION 32
EVALUATION REPORT**

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1. Introduction

This report is prepared as part of the evaluation required by Section 32 of the Resource Management Act 1991 (**RMA**) for Proposed Plan Change 26 (**PPC 26**) to the Auckland Unitary Plan (Operative in Part) (**AUP**).

PPC 26 proposes a series of amendments to Chapters D18 and E38 of the AUP and is, in part, a response to the Environment Court's Declarations in respect of *Auckland Council v Budden* (**Declaration proceedings**)¹ regarding the relationship between the Special Character Areas Overlay – Residential (**SCA Residential**) and the Single House zone (**SHZ**).

The Court's decisions on the Declaration proceedings determined that the provisions of the SCA Residential overlay did not act as a 'replacement package', prevailing over the provisions of the underlying SHZ zone. Rather, that all provisions (objectives, policies and rules) relevant to an activity must be applied.

There are a number of instances where there are equivalent provisions (activities and standards) in both the Special Character Areas (**SCA**) overlay and the underlying zones, which is resulting in conflict and inconsistency between each set of (zone and overlay) provisions. This is causing uncertainty and unnecessary complexity in terms of processing resource consent applications; and most fundamentally means the SCA overlay is not achieving its objectives.

PPC 26 is focussed on addressing the relationship between the SCA Residential overlay, the Special Character Areas – General (**SCA General**) overlay (insofar as it relates to residential zoned land) (together **SCA Overlay**) and the relevant underlying zones that apply within the SCA overlay. This report assesses the extent to which potentially competing rules should take precedence over the other, or if both should continue to apply as per the Environment Court's findings in the Declaration proceedings.

PPC 26 clarifies that where there are equivalent provisions (such as development standards) in the underlying zone and in the SCA overlay, that the provision in the SCA Residential Overlay will take precedence over those equivalent provisions within the underlying zone. The Plan Change also makes some amendments to some of the development standards in the SCA overlay to ensure that they are appropriately tailored to the special character values in the areas to which they relate.

In addition, the matters of discretion and assessment criteria within the SCA Residential now include a cross reference to those within the underlying zones. This is to ensure that those effects considered for infringement of standards within the underlying zones are also considered within the SCA overlay.

¹ Auckland Council v Budden [2017] NZEnvC 209 ('interim decision') issued 19 December 2017. The decision was further clarified in the Court's second interim decision issued on 23 January 2018 as Auckland Council v Budden (No 2) [2018] NZEnvC 003 ('second decision') and in the third decision issued on 15 March 2018 Auckland Council v Budden (No 3) [2018] NZEnvC 030 ('third decision').

By way of overview, the issues that PPC 26 seeks to address relate to the following:

- a) Clarifying the way in which the activity rules in D18.4.1 should relate to activity rules in the relevant underlying zones;
- b) Confirming which development standards in D18.6.1 take precedence over any equivalent standards in the underlying zones;
- c) Amending the height in relation to boundary (**HIRTB**), yard, coverage, and fencing controls in D18.6.1 so that they more appropriately reflect the special character values of the areas to which they relate.
- d) Adding a cross reference within the matters of discretion and assessment criteria (in D18.8) to the underlying zone.
- e) Clarifying the appropriate minimum net site area requirement that should apply to the subdivision of sites in certain parts of the SCA Residential overlay;
- f) Confirming the applicability of rules in Chapter D18 to sites with a residential zoning in the SCA General overlay;

1.1 The Special Character Areas Overlay

The SCA overlay is one of a series of overlays in the AUP that seek to manage the protection, maintenance or enhancement of particular values associated with an area or resource.² The SCA overlay is identified on the planning maps and the provisions that apply to areas within the SCA overlay are predominantly in Chapter D18 of the AUP. Provisions that relate to the SCA overlay are also included in Chapter E38 Subdivision – Urban; Chapter E23 – Signs; and E26 – Infrastructure.

The SCA overlay gives effect to the objectives and policies in B5.3 of the RPS. These objectives and policies set out the manner in which special character areas are identified and managed in the AUP. There are three ‘types’ of special character areas:

- Special Character Areas – Business
- Special Character Areas – Residential
- Special Character Areas – General

Details of the specific special character areas within each of the above groups are set out in the introduction to Chapter D18 and are contained within Schedule 15.

Sites in the Special Character Areas – Business (**SCA Business**) overlay generally have a business zoning, but also include a limited number of sites in the Open Space and Residential zones. The predominant underlying zone in the SCA Residential overlay is the Single House zone, while the zoning of land in the Special Character Areas – General (**SCA General**) overlay can be a mix of residential and business. Further details in relation to the underlying zoning of land in the SCA overlay is set out later in this report and in **Attachment 1**.

² AUP Standard A1.6.2

Chapter D18 Special Character Areas Overlay – Residential and Business

The stated purpose of the SCA Overlay (within D18.1) is to retain and manage the special character values of specific areas identified as having collective and cohesive values, importance, relevance and interest to the communities within the locality and wider Auckland region. Standards have been placed on the development and demolition of buildings to manage change in these areas.

Section D18.2 sets out the objectives of the SCA overlay; these objectives seek to maintain and enhance the special character values of special character areas as identified in the Special Character Area Statements (included in Schedule 15 to the AUP);³ retain the physical attributes that define, contribute to, or support the special character of the area;⁴ and avoid, remedy or mitigate the adverse effects of subdivision, use and development on the identified special character values of the area.

Within D18.3, policies are grouped into those that apply to SCA Residential areas; and those that apply to SCA Business areas. The policies variously relate to (among other matters) maintaining and enhancing built form in respect of new buildings, additions and alterations;⁵ discouraging the demolition or removal of buildings that contribute to the continuity or coherence of special character areas;⁶ and encouraging the ongoing maintenance of buildings.⁷

Chapter D18 includes two activity tables, being Table D18.4.1 SCA- Residential and Table D18.4.2 SCA - Business. The activity tables only manage development activities, and not land use activities. Table D18.4.1 sets out the activity status of development activities for sites within the SCA Residential overlay and sites in the SCA General overlay with a residential zoning. Table D18.4.2 sets out the activity status of development activities for sites in the SCA Business overlay and sites within the SCA Business overlay with a business zoning.

The development activities managed by the SCA overlay relate to the construction of new buildings (including the relocation of buildings onto sites in the overlay); the demolition of buildings (including the removal of buildings from sites) within certain sites in the SCA overlay; and additions and alterations to existing buildings. Restoration, repair, and minor alterations to buildings are enabled within the SCA overlay.

Section D18.6.1 sets out a series of standards that apply to sites in the SCA Residential overlay (the subject of PPC 26):

- Building height;
- Height in relation to boundary;
- Yards;
- Building coverage;
- Landscaped area;

³ AUP Objective D18.2(1)

⁴ AUP Objective D18.2(2)

⁵ AUP Policy D18.3(2)

⁶ AUP Policy D18.3(3) and D18.3(11)

⁷ AUP Policy D18.3(5) and D18.3(14)

- Maximum paved area; and
- Fences, walls and other structures.

While similar development standards in the underlying zones include statements that describe the intended purpose of the development standards, the SCA overlay provisions do not include such purpose statements. There are no specific standards in Chapter D18 that apply within the SCA Business overlay. All activities listed in Table D18.4.2 must instead comply with the standards for the zone in which they are located, unless otherwise specified.⁸

Remaining provisions in Chapter D18 set out the matters of discretion for the SCA Residential overlay and the SCA Business overlay;⁹ and related assessment criteria.¹⁰ Chapter D18 does not specify any special information requirements.¹¹ The matters of discretion and assessment criteria for the SCA Overlay – Residential are specific to development activities such as demolition, alterations and additions and infringements to development standards. The matters of discretion and assessment criteria therefore do not relate to broader matters such as neighbours amenity, and the purpose of the standard, as specified in the matters of discretion in the residential zones.

Chapter E38 Subdivision – Urban

Policy E38.3 (30) seeks to maintain the distinctive pattern of subdivision as identified in the character statements for special character areas. The subdivision of sites identified in the Special Character Areas Overlay – Residential and Business that complies with Standard E38.8.2.6 is a restricted discretionary activity.¹² Subdivision of sites that does not comply with E38.8.2.6 is a non-complying activity.¹³

Standard E38.8.2.6 states that sites within the sub-areas of the SCA overlay listed in Table E38.8.2.6.1 must comply with the minimum net site area requirements set out in that table. Sites that are not within the listed sub-areas must comply with the minimum net site area for that site's zone in Table E38.8.2.3.1 (which sets out the minimum net site area for vacant proposed sites in the Residential zones). Depending on which SCA sub-area a site is located in, and what the underlying zone is, the minimum lot size requirement for the specified SCA sub-areas may be less than, equivalent to, or greater than, the minimum lot size requirement for the underlying zone. Further details are set out in Section 5.8.

⁸ AUP Standard D18.6.2

⁹ AUP Standard D18.8.1

¹⁰ AUP Standard D18.8.2

¹¹ AUP Standard D18.9

¹² AUP Activity Table E38.4.2(A24)

¹³ AUP Activity Table E38.4.2(A25)

1.2 The Auckland Unitary Plan (Operative in Part)

The AUP was made operative in part on 15 November 2016. The AUP has provisions and rules across a range of overlays, Auckland-wide rules, zones, and precincts, which can all apply to a proposed activity.

Of specific relevance to PPC 26 are the provisions that relate to the SCA Residential overlay and the SCA General overlay; and their relationship to the provisions in the underlying zones.

The general rules in Chapter C of the AUP set out how these different parts of the AUP work together.

Standard C1.6(1) states that:

The overall activity status of a proposal will be determined on the basis of all rules which apply to the proposal, including any rule which creates a relevant exception to other rules.

Standard C1.6(2) addresses the overall activity status of a proposal:

Subject to Rule C1.6(4), the overall activity status of a proposal is that of the most restrictive rule which applies to the proposal.

In circumstances where a precinct rule manages an activity that is also managed in a zone or an Auckland-wide rule, Standard C1.6(4) states that the activity status in the precinct takes precedence over the activity status in the zone or Auckland-wide rules, whether it is more or less restrictive.

Standard C1.6(3) states that the activity status of an activity in an overlay takes precedence over the activity status of that activity in a precinct. However, Chapter C does not specify whether an overlay provision takes precedence over a zone or Auckland-wide provision in circumstances where the overlay either manages an activity that is also managed in the underlying zone; or where the overlay includes a development standard that is also included in the underlying zone.

Within the AUP (Operative in Part) there are certain overlaps between the SCA Residential overlay and its underlying zones, in particular the Single House zone (**SHZ**). The SHZ is the most predominant zone within the SCA Residential overlay.

1.3 The Independent Hearings Panel (IHP) Hearings

During the AUP IHP Hearings, Council's intention was that the SCA Residential overlay provisions take precedence over the underlying zone provisions, in instances where both the SCA Residential overlay and the underlying zone contain a rule relating to the same issue (e.g. a height in relation to boundary control). This was reflected in the Council's closing position through the IHP Hearings process.

Council's position was also that the standards varied for different special character areas. For example, the underlying zone height in relation to boundary rules applied, *except* in

areas such as Isthmus A and C1, where the more enabling control applied. Standards for yards, building coverage, landscaped area and paved surfaces also varied for the different special character areas to reflect different subdivision and development patterns.

Council's tailored approach was amended through the IHP recommendations, and the standards were generalised across the SCA Residential; particularly the HIRB control for example. Ultimately, there was a lack of clarity about the status of the overlay and chapter C generally, and how the corresponding underlying zone standards should apply. The Council subsequently sought a Declaration to seek clarity on the interpretation of the provisions.

1.4 The Declarations

Declarations Sought

In July 2017 Auckland Council sought the following three declarations (Declarations A, B and C) under section 311 of the RMA regarding the interpretation of the relationship of overlays with other provisions of the AUP, most specifically the relationship between the Residential – Single House Zone and the Special Character Areas Overlay – Residential. Those declarations sought:

1. That in cases where the AUP does not contain any specific provisions that set out the relationship between provisions in an overlay and other parts of the plan, the provisions within an overlay shall take precedence over corresponding provisions within other sections of the AUP which similarly control the land use addressed by overlay provisions. **(Declaration A)**;
2. That in the context of the height in relation to boundary (**HIRTB**) standards in the overlay and the SHZ, the Council is properly carrying out its statutory functions by requiring resource consent for activities that infringe the HIRTB standards in the overlay provisions only, and not the SHZ, regardless of whether the proposed activity infringes the SHZ standard **(Declaration B)**; and
3. That where a restricted discretionary activity infringes a rule or standard in the overlay, the Council is properly carrying out its statutory functions by limiting its discretion to those matters prescribed in the overlay, rather than applying any broader discretion and assessment criteria as may be prescribed for restricted discretionary activities in the zone or general rules **(Declaration C)**.

During the course of proceedings, Council withdrew the request for Declaration A (in October 2017) but continued to pursue Declarations B and C. Auckland Council then invited the court to make one declaration in different terms to those set out in the original declarations, as follows:

Where a proposed activity is on a site located within both the Residential – Single House zone (SHZ) and the Special Character Areas Overlay – Residential (SCAR) of the partly operative Auckland Unitary Plan (AUP) and requires a resource consent for a restricted discretionary activity in accordance with Activity Table D18.4.1 or, due to the infringement of a SCAR development standard pursuant to Rule C1.9(2):

- (a) *It is a separate reason for resource consent pursuant to C1.9(2) if the same activity infringes a SHZ development standard.*

Decisions of the Court

The court issued a series of three decisions on these matters; an interim decision on 19 December 2017;¹⁴ the second interim decision on 23 January 2018;¹⁵ and the third decision on 15 March 2018.¹⁶ The decisions were as follows:

- **First Interim Decision: Auckland Council v Budden [2017] NZEnvC 209**

In the first interim decision, the court found that the SCA Residential overlay does not have the effect of cancelling out SHZ performance standards. The court did not issue a declaration on the matters raised, noting that it would be addressed in a subsequent decision.

- **Second Interim Decision: Auckland Council v Budden [2018] NZEnvC 003**

The second interim decision set out a timetable for submissions on a revised form of wording for the declaration and made directions for the council to report back to the court on its findings of the analysis that the council had commenced into the relationship of various overlays and underlying zones.

- **Third Decision: Auckland Council v Budden [2018] NZEnvC 030**

The third decision found the following:

Where a proposed activity:

(a) is on a site located within both the Residential - Single House zone ("SHZ") and the Special Character Areas Overlay - Residential ("SCAR") of the partly operative Auckland Unitary Plan ("AUP"); and

(b) is classed as a restricted discretionary activity either under Activity Table 018.4.1 or, due to its non-compliance with a SHZ or SCAR development standard, under Rule C1.9(2)-

then the relevant SHZ, SCAR and General Rules (and any relevant objectives and policies)

apply, in the processing and determination of any resource consent application for the proposed activity, without the SCAR rules prevailing over or cancelling out other rules.

The Third Decision also instructed the council to file an updating memorandum on its progress of the analysis of the overlay and zone provisions by 27 July 2018. The council provided a draft version of the report (Auckland Unitary Plan Overlays Analysis¹⁷) setting out its findings in relation to this analysis to the court on 27 July 2018.

1.5 Key Issues arising from the Declarations

The Declaration proceedings found that the current situation in the AUP is that all provisions in the zone(s), relevant overlay(s) (if any), and relevant precinct(s) (if any) that apply to a site

¹⁴ *Auckland Council v Budden* [2017] NZEnvC 209

¹⁵ *Auckland Council v Budden* [2018] NZEnvC 003

¹⁶ *Auckland Council v Budden* [2018] NZEnvC 030

¹⁷ Auckland Unitary Plan Overlays Analysis; December 2018. ISBN 978-1-98-856470-8 (Print)

are relevant in respect of a proposed activity; along with any relevant Auckland wide and general rules.

The Council began applying both sets of rules when the first interim decision was received. The 'incorrect' approach had been applied to consents issued between 1 December 2016 and 19 December 2017. In August 2018, it was identified that this issue potentially affected around 430 resource consents, largely for additions or alterations to an existing house in the SCA Residential. Of these, 137 properties had already received building consent and may have started work when they were notified of the potential issue with their resource consent. Some of the consent holders are required to reapply for resource consent. The council has notified all the affected consent holders and has waived the processing fees for the new consent applications.

Notwithstanding, the new approach resulting in particular issues in respect of the interrelationship between the SCA Residential Overlay and the underlying zones. The approach of two sets of provisions applying may be appropriate in some circumstances, such as objectives and policies, and matters of discretion and assessment criteria, or different activities and standards. However, the problem arises when two potentially conflicting rules (in the form of activities and standards), with differing activity statuses or metrics, apply to the same activity; for example, two height in relation to boundary controls for the same development.

This is resulting in unnecessary complexities and time costs for plan users, particularly with respect to processing resource consent applications, as there is no clarity which metric or activity status should take precedence. Most fundamentally, the situation means that the SCA - Residential does not function as it was intended, as there is no clarity regarding the relationship of this with the corresponding activities and metrics of the underlying zones.

This situation is not considered to meet the purpose of the RMA for the following reasons:

- a) There is uncertainty as to which provisions should take precedence (if at all) in circumstances where there are equivalent rules (activities and standards) in the SCA overlay and the underlying zone. This has the potential to result in unanticipated effects on the environment, or the management of effects on the environment in a manner that is not correctly aligned to the purpose of the SCA overlay and/or the underlying zone;
- b) The uncertainty that arises from the current situation may compromise the overall social wellbeing of communities affected by the SCA overlay due to the uncertainty of environmental outcomes that may arise; and
- c) In addition, the current situation may compromise overall economic wellbeing by triggering unnecessary resource consent requirements, and/or resulting in unnecessary delays or complexities in the processing of resource consent applications.

1.6 Overview of Proposed Plan Change 26

The purpose of PPC 26 is to clarify the interrelationship between the SCA overlay and its underlying zones. This is considered to be the most appropriate way of achieving the purpose of the RMA for the following reasons:

- a) Specifying the relationship between equivalent rules in the SCA overlay and the relevant underlying zones will ensure that the correct rules are applied in order to avoid, remedy or mitigate the adverse effects of activities on the environment; recognising that the SCA overlay and the underlying zone provisions may use equivalent rules to manage different issues.
- b) Ensuring that effects on the environment are appropriately managed may also contribute to overall social wellbeing as communities affected by the SCA overlay will have greater certainty as to the outcomes that can be anticipated in their neighbourhoods.
- c) Providing this specificity will also contribute to the overall economic wellbeing of the broader Auckland community by avoiding the need for unnecessarily triggering resource consent requirements as a result of plan provisions that are unclear or uncertain.

PPC 26 makes amendments to Chapter D18 and E38 in order to clarify the relationship between the provisions in these chapters and equivalent provisions in the underlying zones. As set out in further detail in **Section 5** this report, PPC 26 seeks to address a range of issues that relate to the interrelationship between the provisions that manage the SCA Residential overlay, residential zoned sites in the SCA General overlay; and the provisions that manage sites in the relevant underlying zones.

The analysis undertaken¹⁸ identified issues across many overlays, but concluded that the issues with the SCA overlay and the underlying zones were most significant. Therefore, there may be other instances where the findings of *Budden* result in complexities between overlay and other provisions in the AUP, however PPC 26 is focussed solely on the relationship between the SCA Overlay and the underlying zones.

This will ensure that the controls in the SCA Overlay that are intended to maintain and enhance the special character values of the area are imposed. PPC 26 also refines some of the development standards in the SCA overlay, in order to better reflect its purpose. By way of overview PPC 26 makes the following amendments:

Chapter D18

1. Amend the introductory text preceding Activity Table D18.4.1 Special Character Areas Overlay – Residential to state:
 - a) That Activity Table D18.4.1 does not apply to land use activities;
 - b) That the activity status of activities in Activity Table D18.4.1 takes precedence over the activity status of that activity in the underlying zone;

¹⁸ Auckland Unitary Plan Overlays Analysis; December 2018. ISBN 978-1-98-856470-8 (Print)

- c) That the activity status in the relevant zone applies to land use activities and to development activities that are not specified in Table D18.4.1; and
 - d) That all other relevant overlay, precinct and Auckland-wide rules apply unless otherwise specified.
2. Amend Activity Table D18.4.1 Special Character Areas Overlay – Residential to:
 - a) Insert a new activity rule to provide for the construction of new fences and walls, and alterations to fences and walls that comply with Standard D18.6.1.7(1) as a permitted activity; and
 - b) Insert a new activity rule to state that the construction of new fences and walls, or alterations to fences and walls, that do not comply with Standard D18.6.1.7(1) is a restricted discretionary activity.
 3. Amend D18.6.1 Standards for buildings in the Special Character Areas Overlay – Residential to:
 - a) Clarify that the development standards listed within D18.6.1 apply to all activities undertaken in the Special Character Areas Overlay – Residential, whether they are listed in Activity Table D18.4.1 or in the relevant zone; and
 - b) State that the following development standards in D18.6.1 prevail over the equivalent development standards in the underlying zone (except where otherwise specified):
 - building height
 - height in relation to boundary
 - yards
 - building coverage
 - maximum impervious area
 - landscaped area
 - fences and walls
 4. Include a purpose statement for the following development standards:
 - a) building height
 - b) height in relation to boundary
 - c) yards
 - d) building coverage
 - e) landscaped area
 - f) maximum impervious area
 - g) fences and walls
 5. Amend Standard D18.6.1.2 Height in relation to boundary to specify that:
 - a) The control (3m + 45 degree recession plane) only applies to sites with a frontage length of less than 15m;
 - b) The underlying zone height in relation to boundary standard applies:
 - To sites that have a frontage length of 15m or greater; or
 - Rear sites.
 - c) Standard D18.6.1.2 only applies to side and rear boundaries (not front boundaries)
 - d) Standard D18.6.1.2 does not apply to site boundaries with an existing common wall between two buildings on adjacent sites or where a common wall is proposed;

- e) Standard D18.6.1.2 applies from the farthest boundary of legal rights of way, entrance strips, access sites or pedestrian access ways; and
 - f) That gable ends, dormers or roofs may project beyond the recession plane in certain circumstances.
6. Delete the rear yard requirement from D18.6.1.3; and state that the underlying zone yard standards apply for all other yards.
 7. Amend the reference to 'maximum paved area' in D18.6.1.6 to 'maximum impervious area'; along with associated amendments to the maximum levels in Table D18.6.1.6.1.
 8. Amend the standard that relates to fences and walls in D18.6.1.7 to the effect that fences constructed between the front facades of houses and the street are limited to 1.2m in height, but can be up to 2m in height elsewhere on a site.
 9. Amend D18.8 to require an assessment of resource consents against the matters of discretion and assessment criteria set out in D18.8 as well as the matters of discretion and assessment criteria in the underlying zone (for infringements to equivalent standards only).

For clarity, PPC 26 does not propose any amendments to the following standards in Chapter D18:

- D18.2 Objectives
- D18.3 Policies
- Table D18.4.2 Activity table – Special Character Areas Overlay - Business
- D18.5 Notification
- D18.6.2 Standards for buildings in the Special Character Areas Overlay – Business
- D18.7 Assessment – controlled activities
- D18.9 Special Information Requirements

Chapter E38: Subdivision - Urban

1. Amend Standard E38.8.2.6 to state that the minimum net site area standards in Table E38.8.2.6.1 prevail over the zone-specific standards in Table E38.8.2.3.1.

2. The Evaluation Approach

Section 32 of the RMA requires that before adopting any objective, policy, rule or other method, the Council shall carry out an evaluation to examine:

- The extent to which each objective is the most appropriate way to achieve the purpose of the RMA,¹⁹ and
- Whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objective.²⁰

The evaluation must also take into account:

- The benefits and costs of policies, rules, or other methods;²¹ and

¹⁹ RMA s 32(1)(a)

²⁰ RMA s 32(1)(b)

- The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.²²

As PPC 26 is making an amendment to the AUP, the assessment referred to in section 32(1)(b) (assessment of policies, rules and other methods) must relate to the provisions and objectives of the PPC 26; and the objectives of the AUP to the extent that they are relevant, and would remain if PPC 26 would take effect.²³

An overview of the objectives (or purpose) of PPC 26 and an evaluation of the extent to which they are the most appropriate way to achieve the purpose of the RMA is set out in Section 32. Section 32 assesses the extent to which the proposed amendments to the provisions are the most appropriate way to achieve the purposes of PPC 26, and the AUP.

Section 32(1)(a) requires an evaluation report to examine the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA.

PPC 26 does not include any objectives to be included in the AUP, nor does it propose any amendments to any existing objectives in the AUP. Therefore, in accordance with section 32(6) of the RMA, 'objectives' in the sense of PPC 26 mean the purpose of the plan change.

The purpose of PPC 26 is to amend Chapters D18 and E38 in order to:

- a) ensure that the AUP appropriately specifies the relationship between the SCA overlay and the underlying zone provisions; and
- b) ensure that the development standards that apply to sites in the SCA overlay are most appropriately targeted to managing the special character values of the areas to which they relate.

The table below sets out an overview of the way in which PPC 26 has been evaluated. In accordance with section 32(6) of the RMA and for the purposes of this report:

- i. the 'proposal' means PPC 26;
- ii. the 'objectives' means the purpose of the proposal (as there are no objectives affected by, or proposed by, PPC 26); and
- iii. the 'provisions' means the rules and other methods of PPC 26. It is noted that no policies are affected by PPC 26.

Sections of this report	Evaluation Approach
<p>Section 3: Development of PPC 26</p>	<p>This part of the report outlines the methodology and development of PPC 26, including the information used and consultation undertaken in preparing PPC 26.</p> <p>This section includes a summary of all advice received from iwi authorities on PPC 26, and the response to the advice, including any provisions of the proposal that are intended to give effect to the advice (as required by section 32(4A)(a) and (b) of the RMA.</p>

²¹ RMA s 32(2)(a)

²² RMA s 32(2)(c)

²³ RMA s 32(3)

Sections of this report	Evaluation Approach
Section 4: Statutory evaluation	This part of the report evaluates the relevance of PPC 26 to Part 2 (sections 5-8) and other relevant parts / sections of the RMA.
Section 5: Evaluation of provisions	In accordance with sections 32(1)(b), (2) and (3) of the RMA, this section examines whether the provisions appropriately achieve the objectives of PPC 26 in relation to the relevant objectives of the AUP. The options are assessed by their efficiency and effectiveness, costs, benefits and risks to resolve the RMA issue.
Section 6: Conclusion	This part of the report concludes that PPC 26 is the most efficient, effective and appropriate means of addressing the resource management issues identified.

3. Development of PPC 26

3.1 Methodology

Following the Environment Court's release of the Declarations, the Council decided to undertake a review of the interrelationship between the provisions of all of the overlays and the relevant underlying zones in order to identify the issues that may arise due to potential overlaps between provisions. Recognising the importance of the issue, the Council commenced this work in February 2018

The analysis identified issues across many overlays, but concluded that the issues with the SCA overlay and the underlying zones were among the most significant. This has resulted in unnecessary complexities and time costs for plan users, and more fundamentally, the SCA overlay provisions do not function as they were intended.

A project team was established in September 2018 to look at the options for addressing the identified issues relating to the SCA overlay. The first step was to identify the zoning of all sites in the SCA overlay in order to determine which zone provisions of the AUP needed to be reviewed alongside the provisions of the SCA overlay. Details of the zoning of land in the SCA overlay are set out in Attachment 1 to this report.

Following the determination of the relevant zones in the SCA overlay, a comparison of the activity rules and development standards in the zone and overlay provisions was undertaken, focusing on the land within the SCA Residential overlay and residential zoned sites in the SCA General overlay. The results of this analysis are set out in Section 5 to this report.

The project team focused on each of the individual issues identified as a result of the analysis to determine the most appropriate approach that should be taken to address each issue. This was completed through an assessment of the likelihood that the values were being managed appropriately by the existing provisions.

Once it was determined how best to address each of the issues (through ongoing s32 assessments), amendments to the relevant plan provisions were developed by the project

team. A report was presented to the Planning Committee on 6 November 2018 outlining the issues and the way that it was proposed to address them. The Planning Committee resolved to approve the development of PPC 26 to resolve the conflicts between the SCA Residential overlay and the underlying zones; and to delegate the approval of the final content of the plan change and accompanying section 32 evaluation report to a sub-committee prior to public notification.²⁴

3.2 Development and evaluation of options

1. This section assesses the high-level options available to achieve the purpose of PPC 26. The options to address the individual provisions themselves are assessed in Section 5 of this report. The high-level options that are available are: Maintain the status quo in that all provisions relating to an activity (be they in the underlying zone or SCA overlay provisions) must apply to a proposed activity ('the Declaration approach')
2. Amend the AUP to stipulate that the SCA overlay provisions take precedence over any equivalent provision in the underlying zone provisions; either by:
 - a) Adding a rule to the SCA overlay provisions to clarify that the SCA overlay provisions prevail over any equivalent provisions in the underlying zone; or
 - b) Adding a rule to the SCA overlay provisions to clarify that the SCA overlay provisions prevail over any equivalent provisions in the underlying zone; and introduce the assessment criteria from the underlying zone that relate to assessing broader environmental effects into the SCA overlay provisions (such as effects on neighbours and stormwater); or
 - c) Adding a rule to the SCA overlay provisions to clarify that the SCA overlay provisions prevail over any equivalent provisions in the underlying zone; and reviewing (and amending as required) the development standards in the SCA overlay provisions to reflect the different characteristics of the SCA areas; or
 - d) Adding a rule to the SCA overlay provisions to clarify that the SCA overlay provisions prevail over any equivalent provisions in the underlying zone; and introducing tailored development standards to reflect the underlying site characteristics.
3. Undertake a wider review of the planning tools used to manage Special Character Areas and the spatial extent of the Overlay. This could include consideration of matters such as to whether a zone or precinct should be used to manage special character values, for example.

There are various advantages and disadvantages associated with each option are outlined in the table below.

²⁴ Auckland Council Planning Committee Minutes 6 November 2018, page 6 (Resolution PLA/2018/109)

Option	Advantages	Disadvantages
1 – Status quo	<p>Maintaining the status quo will not require a plan change and will not result in the associated costs for the preparation and assessment of a plan change.</p> <p>The status quo approach relies on a case by case assessment of effects on the amenity values of neighbouring sites.</p>	<p>Maintaining the status quo will result in the SCA overlay not functioning as it was intended, particularly given the conflicts that exist between certain provisions in the SCA overlay and the underlying zones.</p> <p>This results in complexities and inefficiencies in assessing development proposals against two sets of corresponding rules, which in some cases may conflict. Of particular difficulty is the need to determine whether certain rules should take precedence over others, in the absence of clear direction in the AUP.</p>
Option 2 – Special Character overlay plan change (preferred)	<p>Implementing option 2 has the advantage of ensuring that the provisions in the SCA Overlay will function as intended, and will contribute to achieving the objectives in D18. Adopting this approach will align with the approach that the Council was seeking to achieve prior to the issue of the Declarations from the Environment Court.</p> <p>Option 2 will provide greater levels of clarity and certainty to plan users and those implementing the plan. This will avoid unnecessary consent requirements and assessment, reducing compliance costs for plan users and Council. The underlying zone still applies and will function as intended, where there are no equivalent overlay provisions.</p> <p>Finally, adopting option 2 provides the opportunity to ensure that the SCA development standards are appropriately tailored to managing the special character values of special character areas, and amending them if necessary.</p>	<p>Implementing option 2 will necessitate the preparation of a plan change. It may result in requests (via submissions) for the reconsideration of issues relating to the special character overlay in a more general sense.</p> <p>Implementing option 2 may also result in some provisions being more restrictive than they are under the status quo; however some provisions may be more enabling.</p>
Option 3 – wider review of special character management	<p>Adopting option 3 provides additional time to reconsider the extent to which the SCA overlay is delivering the intended outcomes and may enable a comprehensive</p>	<p>Implementing option 3 would require a significant amount of resources which could have the effect of delaying the delivery of a solution to the issues identified by</p>

Option	Advantages	Disadvantages
approach	<p>approach that is further tailored to individual special character areas. Similar to option 2, option 3 would also provide a greater degree of clarity and certainty to plan users and those implementing the plan.</p>	<p>the Council after receiving the declarations from the Environment Court.</p> <p>Implementing option 3 would go beyond what is required to address the issues identified in this assessment. There are also potentially large costs (such as staff time, research and consultation) involved in adopting option 3.</p>

Of these identified options, Option two is preferred. This option requires a plan change that would involve:

- Specifying where the SCA overlay prevails over the underlying zone provisions. Where there are equivalent standards (i.e. where there are standards relating to the same effect), then the standard in the overlay will be used in assessment.
- Refining some of the standards within the SCA overlay, based on the particular characteristics of the SCA areas. This is required because some of the standards in the SCA overlay are too general;
- Introducing matters of discretion relating to the effects on the amenity of neighbouring sites as a consideration of the SCA overlay. Currently the SCA overlay itself does not provide scope to consider effects on neighbours' amenity when standards are infringed.

It is also proposed to refine the standards to apply to particular site characteristics, to create consistency of terminology, and to improve consistency with the underlying zones. The specific provisions to be amended are addressed in the following sections of this report.

3.3 Risk of acting or not acting

Section 32(2)(c) of the RMA requires this evaluation to assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. There is considered to be sufficient information about the technical issues being addressed through PPC 26 to proceed with the plan change.

This evaluation will continue to be refined in relation to any new information that may arise following notification, including during hearings on PPC 26 as required by Section 32AA.

3.4 Information Used

The following information has been used to inform the development of PPC 26:

1. The following chapters of the AUP:
 - a. Chapter B5 (RPS) – Historic heritage and special character
 - b. Chapter C1 General rules

- c. Chapter D18 – Special Character Areas Overlay – Residential and Business
 - d. Chapter E38 – Subdivision – Urban
 - e. Chapter H – Zones (various)
2. The following Declarations of the Environment Court:
- a. *Auckland Council v Budden* [2017] NZEnvC 209
 - b. *Auckland Council v Budden* [2018] NZEnvC 003
 - c. *Auckland Council v Budden* [2018] NZEnvC 030

3.5 Consultation

In accordance with clause 3 of Schedule 1 of the RMA, during the preparation of a proposed policy statement or plan, the Council is required to consult with:

- a) the Minister for the Environment; and
- b) those other Ministers of the Crown who may be affected by the policy statement or plan; and
- c) local authorities who may be so affected; and
- d) the tangata whenua of the area who may be so affected, through iwi authorities; and
- e) any customary marine title group in the area.

A local authority may consult anyone else during the preparation of a proposed policy statement or plan.

Summary of general consultation undertaken

Engagement with the Council local boards was undertaken through the preparation of PPC 26. Memos were sent informing local board members about the preparation of the draft plan change and copies of the draft documents were sent to the planning leads of the affected local board. Officers also gave presentations to the local board chairs forum and cluster workshops (centralised meetings of local board members) in the different geographical areas (South, Central and North). At the request of the Orakei local board, a meeting was held to run through the detail of the plan change. Subsequently, comments were received generally supporting the plan change and pointing out specific concerns for the Orakei local board area. A meeting was held with representatives from the Waitemata local board who were also generally supportive of the plan change.

Crown consultation

The Minister for the Environment and Heritage NZ were sent a copy of the draft plan change and section 32 report on 29 January 2019 seeking comments.

No comments were received from the Minister for the Environment. Comments were received from Heritage NZ on 22 February 2019. Heritage NZ supports the intent of the plan change in providing clarity to how the Special Character Area Overlay and the underlying residential zone provisions are supposed to interact. However, they did question the method of using an overlay for the special character areas and commented on the proposed changes to the introduction to the activity table and the assessment criteria. As a result of this feedback, the draft plan change was amended to no longer change the introduction to the assessment criteria.

It is noted that no other local authorities are considered affected by the proposed plan change and there is no customary marine title group in the area.

Consultation with iwi authorities

In October 2018 the Council sent a letter to the potentially affected iwi authorities informing them of the preparation of the draft plan change and providing details of who to contact if they had any questions. No feedback was received at that time. On 29 January 2019 the draft plan change and section 32 report was sent to the following iwi authorities seeking comments:

1. Te Rūnanga o Ngāti Whātua
2. Te Uri o Hau
3. Ngāti Manuhiri
4. Ngātiwai Trust Board
5. Ngāti Rehua
6. Te Kawerau a Maki
7. Ngāti Whātua o Kaipara
8. Ngāti Whātua Ōrākei
9. Ngāi Tai ki Tāmaki
10. Ngāti Tamaoho
11. Te Ahiwaru-Waiohua
12. Ngāti Te Ata
13. Te Ākitai Waiohua
14. Waikato-Tainui
15. Ngāti Paoa
16. Ngaati Whanaunga
17. Ngāti Maru
18. Ngāti Tamaterā
19. Te Patukirikiri

A meeting was held with a representative from Te Rūnanga o Ngāti Whātua on 19 February 2019 to go through the details of the plan change. The informal feedback from this meeting was that the draft plan change was supported.

Correspondence was also received from Te Ākitai Waiohua seeking assistance with participating in the plan change process given time constraints. The Council offered to have a meeting to go through the details of the plan change but this offer was not taken up.

No other feedback was received from the iwi authorities.

Declaration parties

As noted in Section 1 of this report, PPC 26 is in part, a response to the Environment Court's Declarations in respect of *Auckland Council v Budden*. Given their involvement with that process and knowledge of the topic, the following parties to the declaration proceedings were sent a copy of the draft plan change and section 32 report on 29 January 2019 seeking comments.

- HC Trust, Ollerton Trust and J Farmer QC
- London Pacific Family Trust
- Ministry of Education, Minister for the Environment and Housing NZ Corporation
- Auckland International Airport Limited, Brookby Quarries Limited, Fulton Hogan Limited, Stevenson Group Limited, Winstone Aggregates (a division of Fletcher Concrete and Construction Limited)
- Wiri Oil Services Limited
- Suzanne Janissen

HC Trust, Ollerton Trust and J Farmer QC advised through their lawyer that they did not wish to provide any comment on the draft plan change.

A letter was received (through Ellis Gould Lawyers) from Housing New Zealand Corporation and the Ministry of Education. Below is an extract from that letter.

“We respond as follows:

- 1. In summary, whilst our Clients understand the rationale behind Auckland Council incorporating some of the residential zoning provisions within the Special Character Overlay, namely to create an Overlay which can operate as a standalone set of provisions which override the underlying zoning provisions, our Clients consider that the Proposed Plan Change as currently drafted is fundamentally flawed.*
- 2. That is because by incorporating provisions from the residential zones, for example, Building Height and Height in Relation Boundary, the Plan Change proposes development controls that are no longer in keeping with the objectives and policies of the Special Character Overlay, namely the streetscape qualities and cohesiveness (Objective D18.2(b)). This will then create attendant issues with processing consent applications. A similar issue arises with the proposal to make activities within the underlying zone subject to the Special Character Overlay development standards, irrespective of whether or not that activity has the potential to generate effects on streetscape character and amenity.*

Thank you again for the opportunity to comment on the draft Proposed Plan Change. We are very happy to meet to discuss our concerns with the Proposed Plan Change should that assist”

The Council sought a meeting with Housing New Zealand Corporation and the Ministry of Education to clarify the concerns raised given the general nature of the comments. Housing New Zealand Corporation and the Ministry of Education however did not have any availability to meet with the Council. No changes have been made to the proposed plan change or the s.32 evaluation report as a result of this correspondence.

No comments were from London Pacific Family Trust, the Minister for the Environment Auckland International Airport Limited, Brookby Quarries Limited, Fulton Hogan Limited, Stevenson Group Limited, Winstone Aggregates (a division of Fletcher Concrete and Construction Limited), Wiri Oil Services Limited or Suzanne Janissen.

4. Statutory evaluation under the RMA

A district plan should be designed in accordance with,²⁵ and assist the territorial authority to carry out – its functions²⁶ so as to achieve the purpose of the RMA.²⁷ When preparing its district plan a territorial authority must give effect to a national policy statement, New Zealand coastal policy statement, or regional policy statement.²⁸ A territorial authority must also:

- a) have regard to any management plans and strategies under any other Acts, and to any relevant entry on the New Zealand Heritage List and to various fisheries regulations (to the extent that they have a bearing on resource management issues in the region); and to consistency with plans and proposed plans of adjacent territorial authorities;²⁹
- b) take into account any relevant planning document recognised by an iwi authority;³⁰ and
- c) not have regard to trade competition.³¹

The district plan must be prepared in accordance with any regulation.³² In making a rule, the territorial authority shall have regard to the actual or potential effect on the environment of activities including, in particular, any adverse effect.³³

The purpose of the RMA is to promote the sustainable management of natural and physical resources. Sustainable management is defined in the RMA as 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 well-being 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.

Overall it is considered that the purpose of PPC 26 is the most appropriate way to achieve the purpose of the RMA.

4.1 National Policy Statements

Territorial authorities are required to give effect to National Policy Statements (**NPS**). National policy statements are instruments issued under section 52(2) of the RMA and state

²⁵ RMA s 74(1)

²⁶ As described in RMA s 31

²⁷ RMA ss 72 and 74(1)(b)

²⁸ RMA s 75(3)(a)-(c)

²⁹ RMA s 74(2)(b)

³⁰ RMA s 74(2A)

³¹ RMA s 74(3)

³² RMA s 74(1)(f)

³³ RMA s 76(3)

objectives and policies for matters of national significance. The following NPS are currently in effect:

- National Policy Statement on Urban Development Capacity (**NPS-UDC**)
- National Policy Statement for Freshwater Management (**NPS-FW**)
- National Policy Statement for Renewable Electricity Generation (**NPS-REG**)
- National Policy Statement on Electricity Transmission (**NPS-ET**)
- New Zealand Coastal Policy Statement (**NZCPS**)

Work is underway on a proposed National Policy Statement for Indigenous Biodiversity.

National Policy Statement on Urban Development Capacity

The NPS-UDC sets out objectives and policies for ensuring that sufficient feasible development capacity for residential and business growth is provided for. It came into effect on 1 December 2016. It requires councils in high growth areas to produce a future development strategy which demonstrates that there will be sufficient, feasible development capacity in the medium and long term. The Auckland Region is identified as a high growth area.

The Auckland Plan 2050 sets out the long-term vision for how Auckland will grow and how challenges of high population growth will be met. A component of the Auckland Plan is Auckland's Development Strategy. The Development Strategy proposes a plan for how and where Auckland will grow, as well as where and when investment in planning and infrastructure will be needed. The Auckland Plan Development Strategy serves as Auckland's future development strategy as required under the NPS-UDC.

PPC 26 is focused on providing greater clarity about the way in which the provisions in the SCA Overlay relate to similar provisions in the underlying zones. The underlying zones and the spatial extent of the SCA Overlay are not changing through PPC 26. Notwithstanding, within Chapter E38 Subdivision – Urban, Table E38.8.2.6.1 provides for different minimum net site areas within certain areas of the SCA Overlay. It is considered that the majority of the identified areas within the SCA will benefit in terms of development capacity in comparison to the predominant underlying Residential: Single House Zone minimum site size of 600m², and therefore affords these areas with a greater opportunity to subdivide.

National Policy Statement for Freshwater Management

The NPS-FW provides direction on how regional councils should carry out their responsibilities under the RMA for managing fresh water. It came into effect on 1 August 2014, and amendments made in August 2017 took effect on 7 September 2017. The NPS-FW is not relevant to PPC 26 as the NPS-FW requires regional council to set objectives for the state of fresh water bodies in their regions and to set limits on resource use to meet these objectives, and that is not the subject of PPC 26.

National Policy Statement for Renewable Electricity Generation

The NPS-REG seeks to drive a consistent approach to planning for renewable electricity generation in New Zealand. It gives clear government direction on the benefits of renewable electricity generation and requires all councils to make provision for it in their plans. It came

into effect on 13 May 2011. The NPS-REG applies to renewable electricity generation activities at any scale, including small and community-scale renewable generation activities.

PPC 26 is focussed on providing greater clarity about the interrelationship between the provisions in the SCA overlay and the underlying zones. None of the provisions in the SCA overlay specifically relate to renewable electricity generation activities. Provisions in Chapter E26 Infrastructure relate to renewable electricity generation activities. Accordingly, the NPS-REG is not relevant to PPC 26 because other provisions in the AUP manage renewable electricity generation activities and PPC 26 does not relate to those provisions.

National Policy Statement on Electricity Transmission

The NPS-ET came into effect on 10 April 2008. It contains guidance for local authorities on how to recognise the national significance of the national grid in RMA planning documents and local decision-making.

PPC 26 is focussed on providing greater clarity about the interrelationship between the provisions in the SCA overlay and the underlying zones. None of the provisions in the SCA overlay specifically relate to providing for electricity transmission. Various other provisions in the AUP relate to providing for the national grid in the Auckland Region, including the National Grid Corridor Overlay. Accordingly, the NPS-ET is not relevant to PPC 26 because other provisions in the AUP manage matters relating to the National Grid and PPC 26 does not relate to those provisions.

New Zealand Coastal Policy Statement 2010

The NZCPS guides local authorities in the day to day management of the coastal environment. Objectives in the NZCPS seek to safeguard the integrity, form, functioning and resilience of the coastal environment, and to sustain its ecosystems;³⁴ preserve the natural character of the coastal environment and protect natural features and landscape values;³⁵ and to take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in the management of the coastal environment.³⁶

Other objectives seek to maintain and enhance public open space qualities and recreation opportunities of the coastal environment;³⁷ ensure that coastal hazard risks are managed (taking climate change into account);³⁸ enabling people and communities to provide for their social, economic and cultural wellbeing and their health and safety through subdivision use and development;³⁹ and ensuring that the management of the coastal environment recognises and provides for New Zealand's international obligations regarding the coastal environment.⁴⁰

Parts of the SCA overlay may be within the coastal environment of Auckland and may contribute in part towards the amenity values of the coastal environment in those

³⁴ NZCPS Objective 1

³⁵ NZCPS Objective 2

³⁶ NZCPS Objective 3

³⁷ NZCPS Objective 4

³⁸ NZCPS Objective 5

³⁹ NZCPS Objective 6

⁴⁰ NZCPS Objective 7

locations.⁴¹The AUP was recently made operative in part and the NZCPS has not been amended since that date. PPC 26 is focussed on improving the clarity about the relationship between the SCA overlay and the underlying zones. Accordingly, as PPC 26 is not proposing a shift to the way in which the coastal environment is managed, the NZCPS is not relevant to PPC 26.

4.2 National Environmental Standards

Territorial authorities are required to give effect to National Environmental Standards (**NES**). The following NES are currently in force as regulations:

- National Environmental Standards for Air Quality
- National Environmental Standard for Sources of Drinking Water
- National Environmental Standards for Telecommunication Facilities
- National Environmental Standards for Electricity Transmission Activities
- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health
- National Environmental Standard on Plantation Forestry
- National Environmental Standard on Aquaculture (in the process of development)

PPC 26 has a narrow purpose and seeks to clarify the relationship between the SCA overlay provisions and the provisions in underlying zones. It proposes amendments that are largely technical in nature and does not seek to change the overall policy direction of the AUP. Consequently, PPC 26 will not result in any inconsistencies with the above NES.

4.3 Regional Policy Statement

Chapter B of the AUP sets out the Regional Policy Statement (**RPS**). Chapter B5.3 sets out the objectives and policies that relate to special character. The objectives seek to protect the historic heritage values of identified special character areas from inappropriate subdivision, use and development;⁴² and to maintain and enhance the character and amenity values of identified special character areas.⁴³ It is noted that Objective B5.3.1 (1) was appealed by the Housing New Zealand Corporation (ENV-2016-AKL-000238).

A decision on this appeal was issued by the Environment Court on 11 August 2017, but this decision was appealed to the High Court both by Auckland Council and HNZN. The High Court issued its decision on 1 March 2018 and directed that the Environment Court reconsider its decision. The Environment Court's second decision on this appeal was issued on 28 September 2018.

Related policies in B5.3.2 seek to identify special character areas in accordance with stipulated criteria;⁴⁴ include those special character areas in Schedule 15 of the AUP;⁴⁵ and manage special character areas by:⁴⁶

⁴¹ NZCPS Policy 1(f)

⁴² AUP Objective B5.2.1(1)

⁴³ AUP Objective B5.3.1(2)

⁴⁴ AUP B5.3.2(1) and (2)

⁴⁵ AUP B5.3.2(3)

- a) Requiring new buildings, additions and modifications to existing buildings to maintain and enhance the special character of the area
- b) Restricting the demolition of buildings and destruction of features that define, add to, or support the special character of the area
- c) Maintaining and enhancing the relationship between the built form, streetscape, vegetation, landscape and open space that define, add to or support the character of the area
- d) Avoiding, remedying or mitigating the cumulative effect of the loss or degradation of identified special character values

PPC 26 seeks to clarify the relationship between the SCA overlay provisions (which give effect to the above RPS provisions) and the provisions in underlying zones. It proposes amendments that are largely technical in nature and does not seek to change the overall policy direction of the AUP. Consequently, PPC 26 will not result in any inconsistencies with the RPS.

4.4 Management Plans and Strategies under other Acts

Hauraki Gulf Marine Park Act 2000

The Hauraki Gulf Marine Park Act 2000 (**HGMPA**) has the purpose of seeking the integrated management of the national, historic and physical resources of the Hauraki Gulf, its islands, and catchments. It also established the Hauraki Gulf Forum, the Park itself and the recognition of tangata whenua with the Hauraki Gulf and its islands.

PPC 26 has a narrow purpose and seeks to provide greater clarity as to how the SCA overlay provisions relate to the underlying zone provisions. PPC 26 is proposing amendments that are technical in nature and will not change the overall policy direction of the plan. Consequently PPC 26 is consistent with the purpose of HGMPA and section 6 of the RMA (recognition of the national significance of the Hauraki Gulf, and its islands).

Waitākere Ranges Heritage Protection Act 2008

The purpose of the Waitākere Ranges Heritage Protection Act 2008 (**WRHPA**) is to recognise the national, regional and local significance of the Waitākere Ranges heritage area and promote its protection and enhancement for present and future generations.

To achieve this, the WRHPA established the Waitākere Ranges area as a matter of national significance (s6 of the RMA) and defines its heritage features. Furthermore, it provides additional matters for the council and other parties to consider when making decision, exercising a power or carrying out its duty that relate to the heritage area.

No parts of the Waitakere Ranges area is in the SCA overlay.

Local Government Act 2002

Council's functions and powers are derived from the purpose of the Local Government Act 2002 (**LGA**). The LGA mandates the purpose, funding, and governance duties of the council. Additional responsibilities for Auckland Council are set out under the provisions of the Local

⁴⁶ AUP B5.3.2(4)

Government (Auckland Council) Act 2009, including the requirement to prepare a spatial plan.

Section 12 of the LGA states that a local authority has full capacity to carry on or undertake any activity or business, do any, or enter into any transaction with full rights, powers and privileges subject to any other enactment and the general law.

PPC 26 is prepared under the RMA and overall is consistent with the LGA.

Local Government (Auckland Transitional Provisions) Act 2010

The purpose of the Local Government (Auckland Transitional Provisions) Act 2010 (**LGATPA**) is to resolve further matters relating to the reorganisation of local government in Auckland begun under the Local Government (Tāmaki Makaurau Reorganisation) Act 2009 and continued under the Local Government (Auckland Council) Act 2009.

In s3 (2) (d) of the LGATPA it states this Act “provides a process for the development of the first combined planning document for Auckland Council under the RMA”.

Part 4 (sections 115-171) of the LGATPA outlines the process for development of the combined plan for Auckland Council. The development of the first combined plan followed the legislation set out in LGATPA, and the Hearings Panel (also known as IHP) was established under the LGATPA.

Although the AUP is now operative in part, and PPC 26 is prepared under the RMA, the purpose of the plan change is to address technical issues that have arisen from the development of the first combined plan process. Consequently, reference is made to the material developed in this process to support the proposed amendments included in PPC 26.

Auckland Plan

The Auckland Plan 2012 informed the development of the AUP. The Auckland Plan was reviewed in 2018 and the Auckland Plan 2050 is now available. The plan sets out three key challenges Auckland will face over the next 30 years –high population growth and its various impacts, sharing prosperity across all Aucklanders' and reducing environmental degradation.

The plan is framed around six outcomes and a development strategy. The development strategy sets out how Auckland will grow and change over the next 30 years, including sequencing of growth and development.

The strategic directions in the Auckland Plan 2012 influenced the regional policy statement which the SCA overlay provisions give effect to. The amendments to Chapter D18 are technical in nature and do not change the way in which the AUP implements the strategic direction of the Auckland Plan 2012 or the Auckland Plan 2050.

4.5 New Zealand Heritage List / Rārangī Kōrero

The Council is required to have regard to any relevant entry on the New Zealand Heritage List / Rārangī Kōrero (**NZHL/RK**) when preparing its district plan. The NZHL/RK is

maintained by Heritage New Zealand Pouhere Taonga and includes historic places, historic areas, wāhi tupuna, wāhi tapu, and wāhi tapu areas.

There may be listed historic places within the SCA overlay, and those places may also be included in the Historic Heritage Schedule, thereby being subject to the rules in the Historic Heritage Overlay. PPC 26 does not seek to amend the provisions of the Historic Heritage Overlay and therefore the NZHL/RK is not considered to be of relevance to PPC 26.

4.6 Plans and proposed plans of adjacent territorial authorities

Due to the limited technical focus of PPC 26 the plans and proposed plans of adjacent territorial authorities are not considered to be of relevance to PPC 26.

4.7 Iwi authority planning documents

An iwi management plan (**IMP**) is a term commonly applied to a resource management plan prepared by an iwi, iwi authority, rūnanga or hapū. IMPs are generally prepared as an expression of rangatiratanga to help iwi and hapū exercise their kaitiaki roles and responsibilities. IMPs are a written statement identifying important issues regarding the use of natural and physical resources in their area.

The RMA describes an iwi management plan as "...a relevant planning document recognised by an iwi authority and lodged with the council". IMPs must be taken into account when preparing or changing regional policy statements and regional and district plans (sections 61(2A)(a), 66(2A)(a), and 74(2A) of the RMA).

Council is aware that the following iwi authorities have an iwi management plan:

- Ngāti Whātua Ōrākei
- Te Kawerau-a-Maki • Ngāti Rehua • Ngāti Paoa
- Waikato – Tainui
- Ngāti Te Ata • Ngātiwai
- Ngāi Tai ki Tāmaki
- Te Uri o Hau

It is considered that the amendments to Chapter D18 proposed within PPC 26 are minor and will have little bearing on the IMPs listed above. PPC 26 does not seek to alter the current policy direction of the plan, and therefore the provisions will not change the degree to which the AUP addresses matters in an IMP.

5. Evaluation of Provisions

Section 32(1)(b) requires an assessment to be undertaken as to whether the proposed provisions are the most appropriate way to achieve the objectives by—

- (i) identifying other reasonably practicable options for achieving the objectives; and

- (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
- (iii) summarising the reasons for deciding on the provisions;

As PPC 26 is amending the AUP, the above assessment must relate to the provisions and objectives of PPC 26, and the objectives of the AUP to the extent that they are relevant to PPC 26 and would remain if PPC 26 were to take effect.⁴⁷

As assessment of the efficiency and effectiveness of the provisions in achieving the objectives must:

- (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—
 - (i) economic growth that are anticipated to be provided or reduced; and
 - (ii) employment that are anticipated to be provided or reduced; and
- (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and
- (c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

Scale and significance of the issues

The Declaration proceedings focussed on the relationship between the provisions of the SCA Residential overlay and the SHZ. However the zones that are affected by the SCA overlay include a range of business, open space and residential zones.

There may be a number of circumstances where amendments may need to be made to the AUP to address inconsistencies between other overlays and zones. However, PPC 26 is focussed on addressing the relationship between the SCA Residential overlay, the SCA General overlay (insofar as it relates to residential zoned land), and the relevant underlying zones that apply within those overlays.

Given the court's findings that the relevant SHZ, SCA Residential overlay and General Rules (and any relevant objectives and policies) apply in the processing and determination of any resource consent application for the proposed activity, PPC 26 is focussed on:

- a. Identifying rules in the SCA Residential overlay, SCA General overlay and underlying zone provisions that:
 - i. Address the same land use activity; and
 - ii. Relate to the same or similar development standard;
- b. Assessing the extent to which one or the other of these 'competing' rules should take precedence over the other (or if both should continue to apply as per the court's findings); and

⁴⁷ RMA s 32(3)

c. assessment matters

An analysis of the provisions of the SCA Residential overlay and SCA General overlay and the relevant underlying zones has identified issues relating to the following themes, which are outlined in more detail below:

- a. Table D18.4.1 Activity Table
- b. Applicability of standards to the Special Character Areas – General Overlay
- c. Development standards:
 - i. Standard D18.6.1.2 Height in relation to boundary;
 - ii. Yards;
 - iii. Coverage controls;
 - iv. Fences, walls and other structures;
- d. Assessment criteria; and
- e. Chapter H7: Open Space: Conservation and Informal Recreation zone.
- f. Chapter E38: Subdivision

Each issue is outlined and the options available to address each of the issues are set out in turn below. Each option is then evaluated as to whether it will meet the objectives of PPC 26, focussing on the matters outlined above.

5.1 Activity table D18.4.1

5.1.1 Overview

Activity Table D18.4.1 applies to the SCA Residential overlay, and sites in the SCA General overlay with a residential zoning. This activity table specifically manages the following *development* activities:

- a. Restoration and repair to buildings (permitted);⁴⁸
- b. Minor alterations to the rear of buildings where those works use the same design and materials as the existing building (permitted);⁴⁹
- c. External alterations or additions to buildings (restricted discretionary);⁵⁰
- d. Total or substantial demolition of buildings (restricted discretionary);⁵¹
- e. Removal of buildings (excluding accessory buildings) (restricted discretionary);⁵²
- f. Relocation of buildings within the site (restricted discretionary);⁵³

⁴⁸ AUP Table D18.4.1 Activity A1

⁴⁹ AUP Table D18.4.1 Activity A2

⁵⁰ AUP Table D18.4.1 Activity A4

⁵¹ AUP Table D18.4.1 Activity A3, noting that this rule applies only to certain specified areas within the SCA Residential overlay

⁵² AUP Table D18.4.1 Activity A3, noting that this rule applies only to certain specified areas within the SCA Residential overlay

- g. Construction of new buildings; or relocation of a building onto a site (restricted discretionary);⁵⁴

Provisions in Chapter D18 stipulate that activities listed in Activity Table D18.4.1 must comply with the standards set out in section D18.6.⁵⁵ The provisions of the various underlying zones contain activity rules that relate to both *land uses* and *development*. A comparison of the development rules in D8.4.1 and the management of those development activities in the applicable underlying zones is set out in **Attachment 3**. Activity Table D18.4.1 does not manage *land use* activities.

The development rules in Activity Table D18.4.1 are more restrictive than the development rules in the underlying zones in relation to:

- the demolition, removal and relocation of buildings
- additions and alterations*
- new buildings*

*New buildings and additions and alterations are a restricted discretionary activity under D18.4.1. New buildings in the underlying residential zones are the same activity status as the land use to which they relate.

In some cases this may mean that additions or the construction of new buildings may have an equivalent or more restrictive activity status than as set out in Activity Table D18.4.1.

In addition, within Chapter C1, Standard C1.6 relates to Overall activity status, and specifically Standard C1.6(2) states that the overall activity status of a proposal is the most restrictive rule which applies to a proposal.

5.1.2 Issue

The key issue to address in respect of the activities in Activity Table D18.4.1 and their relationship with the activities in the underlying zones is whether, in circumstances where the zone and overlay provisions both manage the same activity, the activity status within zone or overlay rule should prevail. Addressing this issue is important in order to achieve one of the fundamental purposes of PPC 26, which is to clarify the relationship between rules in the SCA overlay and the relevant underlying zones.

It is also necessary to address this issue to ensure that the objectives of the special character area are achieved, including maintaining and enhancing the special character values of special character areas, retaining the physical attributes that define, contribute or support the special character of the area, and avoiding, remedying or mitigating the adverse effects of development on special character areas (in particular associated with the construction of new buildings, demolition, and additions and alterations to buildings).

5.1.3 Options

⁵³ AUP Table D18.4.1 Activity A3, noting that this rule applies only to certain specified areas within the SCA Residential overlay

⁵⁴ AUP Table D18.4.1 Activity A5

⁵⁵ AUP Rule D18.6.1

The following options are available to address this issue:

1. Amend the AUP to clarify that
 - Where the activity status of activities in Table D18.4.1 is different to the corresponding activity status in the underlying zone, then the activity status in D18.4.1 takes precedence over the activity status of that activity in the underlying zone;
 - The activity status of land use activities and development activities in the underlying zone applies to land use activities and development activities that are not specified in Table D18.4.1; and
 - All other relevant overlay, precinct, general and Auckland-wide rules apply unless otherwise specified in Chapter D18; or
2. Retain the status quo, where some activities are managed under both the zone provisions and the SCA overlay provisions and may have different activity statuses.

5.1.4 Assessment of options

An assessment of the extent to which the options outlined above are the most appropriate way to achieve the objectives of PPC 26 (and the relevant objectives of the AUP) is set out in the table below.

	Option 1	Option 2
Environmental costs and benefits	<p>Amending the AUP to clarify that the rules in Activity Table D18.4.1 take precedence over any corresponding rules in the underlying zone will ensure that the environmental effects that the SCA overlay provisions will prevail. Specifically, this will ensure that additions and alterations, new buildings, and the demolition of buildings are managed in a manner that is commensurate to the special character values of the SCA overlay.</p> <p>The amendments outlined in Option 1 to clarify that the zone activity rules manage land use, and that other overlay, precinct and Auckland-wide rules apply will assist in achieving this clarity.</p> <p>This option will be consistent with the purpose of PPC 26, and with the relevant objectives and policies of the SCA overlay and the underlying zones.</p>	<p>If the status quo is retained, there is the potential for adverse environmental effects to arise in respect of the anticipated outcomes in the SCA overlay, and in the underlying zones in cases where both the zone and the overlay provisions contain rules that manage the same activity (but with different activity statuses).</p> <p>This option is considered to be inconsistent with the purpose of PPC 26, and the objectives and policies of the overlay and underlying zones.</p>
Economic costs and benefits	<p><u>Implementation</u></p> <p>If the SCA overlay activity rules managing the demolition and construction of new buildings, and additions and alterations to buildings apply instead of any equivalent</p>	<p><u>Implementation</u></p> <p>Continuing to apply both 'sets' of development activity rules in the SCA overlay and the underlying zone potentially results in greater consenting and compliance costs on applicants than those that would arise</p>

	Option 1	Option 2
	<p>activity rules in the underlying zone this could result in some savings in term of consenting and compliance costs because less plan provisions will be relevant for applications for these activities.</p> <p>In addition, there will be fewer matters to assess in respect of these applications, focussing only on the effect that the activities will have on the special character values of the area. This could result in economic benefits from a consent preparation and processing perspective both for consent applicants and the council (as the consenting authority).</p>	<p>under Option 1 due to the range of matters that need to be addressed in an application, and the matters that the council will then need to consider in its assessment of the application.</p> <p>This approach may also result in potentially greater costs in terms of resourcing required to process resource consent applications than would arise under Option 1 due to increased complexity.</p>
Social and cultural costs and benefits	<p>If the SCA overlay activity rules managing the demolition and construction of new buildings, and additions and alterations to buildings, this will result in social and cultural benefits in terms of the certainty that communities have that the special character values of the special character areas will continue to be managed in conjunction with the objectives of the SCA overlay.</p> <p>This is consistent with the purpose of PPC 26 and the objectives and policies of the SCA overlay and the underlying zones.</p>	<p>Continuing to apply both 'sets' of development activity rules in the SCA overlay and the underlying zones could result in social and cultural costs as the specific outcomes of the SCA Overlay may not be fully achieved.</p> <p>This option is considered to be inconsistent with the purpose of PPC 26, and the objectives and policies of the underlying zones.</p>

Given the purpose of the SCA overlay, amending the AUP so that the underlying zone activity statuses prevail over any equivalent activity rule in the SCA overlay is not an appropriate option because the purpose of the SCA overlay is to retain and manage the special character values of specific residential and business areas.

For the reasons outlined in the table above, it is considered that Option 1 is the most appropriate way in which to achieve the purpose of PPC 26 in relation to managing the relationship between activity rules in the SCA overlay and the underlying zones that manage the same development activities.

5.1.5 Recommendation

Amend Standard D18.4 as follows (proposed amendments are shown as underline):

D18.4. Activity table

Table D18.4.1 Activity table Special Character Areas Overlay – Residential specifies the activity status of ~~land use and~~ development for activities in the Special Character Area Overlay – Residential pursuant to section 9(3) of the Resource Management Act 1991.

Where the activity status of an activity specified in Table D18.4.1 is different to the corresponding activity status in the underlying zone then the activity status in Table D18.4.1 takes precedence over the activity status in the underlying zone (whether or not that activity status is more restrictive).

Where an activity is not provided for in Table D18.4.1, the activity will have the activity status provided in the underlying zone. All other relevant overlay, precinct, Auckland-wide and general rules apply.

Areas in the ...

5.2 Standards within D18.6.1

5.2.1 Overview

The preamble to Activity Table D18.4.1 states that the rules in the table apply both to sites in the SCA Residential overlay, and to sites in the SCA General overlay that have a residential zone. The preamble also states that the rules in Activity Table D18.4.2 apply both to sites in the SCA Business overlay, and sites in the SCA General overlay that have a business zone.

D18.6.1 sets out the standards that apply to activities listed in Table D18.4.1. While this reference to D18.4.1 has the effect of applying all the development standards to sites with a residential zoning in the SCA General overlay as well as the SCA Residential overlay, the text of the development standards is not explicit that this is the case. This could lead to confusion regarding interpretation.

However, it is intended that the development standards in D18.6.1 apply to sites in the SCA Residential overlay, and to sites with a residential zoning in the SCA General overlay. The development standards in D18.6.1 all relate to maintaining and enhancing the character and amenity values of special character areas;⁵⁶ and retaining the physical attributes that define, contribute to, or support special character values of an area.⁵⁷

5.2.2 Issue

Rule D18.4 (the preamble to activity table) states that Table D18.4.1 will apply to sites within the SCA General Overlay with a residential zoning. However, the text in the preamble to the development standards in D18.6.1 is not explicit that the *standards* also apply to residential zoned sites in the SCA General overlay as well as the SCA Residential overlay. This could lead to confusion over interpretation of which standards apply to those sites, i.e. those within D18.6.1 or the relevant underlying zone.

This does not meet the purpose of the SCA Overlay, which is to ensure that the development standards that apply to sites in the SCA overlay are managing the special character values of the areas to which they relate.

⁵⁶ Objectives B5.3.1(2), D18.2(1)

⁵⁷ Objective D18.2(2)

5.2.3 Options

The following options are available to address this issue:

1. Retain the status quo; or
2. Amend the wording of the text in the preamble to the development standards in D18.6.1 to explicitly state that they apply to sites in the SCA Residential overlay and to residential zoned sites in the SCA General overlay.

5.2.4 Assessment of options

An assessment of the extent to which the options outlined above are the most appropriate way to achieve the objectives of PPC 26 (and the relevant objectives of the AUP) is set out in the table below.

	Option 1 – status quo	Option 2 – amend development standards to explicitly state that they apply to sites in the SCA General overlay with a residential zone and SCA Residential overlay
Environmental costs and benefits	<p>Retaining the status quo may, due to the potential for the existing development standards to be interpreted as not applying to sites in the SCA General overlay with a residential zoning, result in environmental outcomes in the SCA General areas that are not consistent with the special character values of those areas.</p> <p>This would be contrary to the objectives of maintaining and enhancing the special character values of these areas, and of avoiding, remedying and mitigating adverse effects of use and development on these special character areas.</p> <p>In addition, retaining the status quo would not achieve one of the purposes of PPC 26, which is to ensure that the development standards that apply to sites in the SCA overlay are most appropriately targeted to managing the special character values of the areas to which they relate.</p>	<p>Amending the development standards in D18.6.1 to be explicit that they all apply to sites in the SCA General overlay with a residential zoning should ensure that consistent environmental outcomes are commensurate to the special character values of these areas are being achieved.</p> <p>This would be consistent with the objectives of maintaining and enhancing the special character values of these areas, and of avoiding, remedying and mitigating adverse effects of use and development on these special character areas.</p> <p>In addition, amending D18.6.1 to be explicit that all standards apply would contribute towards achieving one of the purposes of PPC 26, which is to ensure that the development standards that apply to sites in the SCA overlay are most appropriately targeted to managing the special character values of the areas to which they relate.</p>
Economic costs and benefits	<p><u>Implementation costs</u></p> <p>Retaining the status quo may result in unnecessary implementation costs in terms of additional time required to interpret the provisions. It may also result in the failure to impose the correct standards in respect of proposed development, which could have flow on economic costs if</p>	<p><u>Implementation costs</u></p> <p>Amending the provisions as set out above should result in greater certainty about which standards apply in respect of proposed development on sites in the SCA General overlay. This is more efficient from an economic perspective due to the reduced costs associated with the</p>

	Option 1 – status quo	Option 2 – amend development standards to explicitly state that they apply to sites in the SCA General overlay with a residential zone and SCA Residential overlay
	additional consents are then required at a later date.	time spent interpreting the provisions (if there is uncertainty).
Social and cultural costs and benefits	Retaining the status quo may have the effect of uncertain outcomes for the communities within the SCA General overlay.	Implementing option 2 should result in greater levels of certainty about the environmental outcomes for areas within the SCA General overlay, which will be of benefit to those communities.

For the reasons outlined in the table above, it is considered that Option 2 is the most appropriate way in which to achieve the purpose of PPC 26 in relation to clearly specifying that the development standards in D18.6.1 apply to sites in the SCA Residential overlay as well as residential zoned sites in the SCA General overlay.

5.2.5 Recommendation

Amend Standard D18.6.1 as follows:

D18.6.1 Standards for buildings in the Special Character Areas Overlay – Residential and in the Special Character Areas Overlay – General (with a residential zoning)

- a) All activities listed in Table D18.4.1 Activity table – undertaken within the Special Character Areas Overlay – Residential, or Special Character Areas Overlay – General (with a residential zoning), whether they are listed in Table D18.4.1 or in the underlying zone, must comply with the following development standards.
- b) Except where otherwise specified in this chapter, the development standards within D18.6.1 replace the following corresponding development standards within the underlying zone and the corresponding development standards within the underlying zone do not apply:
- Building height
 - Height in relation to boundary
 - Yards
 - Building coverage
 - Maximum impervious area
 - Landscaped area or Landscaping
 - Fences and walls

5.3 Standard D18.6.1.2 Height in relation to boundary

5.3.1 Overview

Standard D18.6.1.2 Height in relation to boundary (HIRTB) states that buildings must comply with a 3m + 45 degree recession plane control on all boundaries of a site (including front boundaries. This standard applies to all sites in the SCA Residential overlay (and to residential zoned sites in the SCA General overlay).

The purpose of Standard D18.6.1.2 is targeted to manage potential adverse effects on the particular built form characteristics of special character areas, from a streetscape perspective. The HIRTB standards in the underlying zones largely relate to managing shading, dominance and privacy on adjoining sites, and therefore have a neighbours' amenity related purpose.

Standard D18.6.1.2 differs from the HIRTB control in the underlying zones. **Attachment 4** sets out a comparison of the HIRTB standard in D18.6.1.2 to the HIRTB standards in the relevant underlying zones. The HIRTB standards in the underlying residential zones are either more restrictive than, or equivalent to, Standard D18.6.1.2. The more restrictive standard (2.5m + 45 degrees) applies within the Single House and Rural and Coastal Settlement zones. The Mixed Housing Urban zone has the same basic HIRTB standard as D18.6.1.2, but also has an alternative standard.

The HIRTB standards in the underlying residential zones only apply to side and rear boundaries, and not front boundaries as specified in the SCA Residential Overlay. The standards also set out certain exemptions from the primary HIRTB standard, as well as some provisions that clarify how the standard should apply in respect of access ways, rights of way, and entrance strips. No such provision is made in D18.6.1.2. It is not clear whether or not the exemptions outlined above as set out in the zone provisions would also apply in respect of developments on sites in the SCA Residential overlay, or on residential zoned sites in the SCA General overlay.

The matters of discretion and assessment criteria for the SCA Overlay – Residential are specific to development activities such as demolition, alterations and additions and infringements to development standards. This means that for infringements of the height in relation to boundary standard, discretion in the overlay is limited to the matters specified in the overlay, and not broader matters of discretion and assessment criteria such as consideration of neighbours' amenity, which is specified as a matter of discretion within the underlying residential zones.

Traditional subdivision patterns within SCA Overlay

The SCA – Residential Overlay demonstrates traditional residential subdivision and development patterns typical of the mid-19th century through to the mid-20th century. Subdivision and development in the areas covered by this overlay generally occurred in three phases, each with a distinct character and clear beginning and end points marked by

shifts in transport technology and planning regulations and approaches. The majority of these development types are covered by the SCA overlay.

There were three clear phases of development, characteristics of which are shown in the table below, which are further detailed in **Attachment 5**:

Phase	Frontage width	Lot size	Areas
FIRST PHASE 1860s-1880s	Narrow Lot widths 10-12m	Small lot sizes (300- 400m ²)	St Mary's Bay, Ponsonby, Freeman's Bay, Arch Hill, Eden Terrace, Parnell and Grafton
SECOND PHASE 1880s- 1920	12-15m	Larger lot sizes (450m ² -600m ²)	Grey Lynn, parts of Herne Bay, Kingsland, Mount Eden, Mount St John, parts of Balmoral, parts of Epsom, parts of Ellerslie and Otahuhu.
THIRD PHASE 1920-1940	15m-20m	750m ² -1000m ²	Parts of Balmoral, Sandringham, Avondale, parts of Ellerslie, and parts of Epsom.

Origins of the SCA – Residential Height in Relation to Boundary Control

The purpose of a more enabling HIRTB standard within the SCA overlay (when compared with the underlying Single House Zone, for example) is related to the historic patterns of development, particularly in the first and second phases of development described above, which include narrow site widths and dwellings in closer proximity to each other, in comparison to more recent patterns of development in residential zones (i.e. post 1920s).

At the time of Council's closing statement to the IHP, a more enabling HIRTB of 3m and 45 degrees was proposed to *specific* SCA Overlay areas, including Isthmus C1 and Isthmus A (with some exclusions). There was a similar (albeit slightly more sophisticated) HIRTB control applying to Devonport, between Ngataranga Bay and Seabreeze Road. The remainder of the SCA overlay relied on using the HIRTB standard of the underlying zone. The more permissive 3m + 45 degrees is intended to maintain the built form in particular the roof pitch associated with the more compact sites within traditional Victorian walking suburbs. Many of these sites are highly constrained, and in order achieve good outcomes for both design and character, special treatment with respect to HIRTB is justified.

Upon review of the character statements, it is evident that the development pattern across each of the character areas is not uniform and there are other parts of the overlay, other than Isthmus A, C1 or Devonport character areas that exhibit similar narrow sites and patterns of development. By way of example, Isthmus A includes not only early villas, but also transitional villas and bungalows and then interwar development with large lot sizes and an array of housing typologies.

5.3.2 Issue

The key issues to address in relation to the height in relation to boundary development standards are:

- Whether standard D18.6.1.2 should prevail over the equivalent height in relation to boundary standard in the underlying zone;
- Whether the 3m + 45 degree height in relation to boundary control in development standard D18.6.1.2 is appropriate to apply to **all** sites within the SCA Residential overlay and SCA General overlay with a residential zone, especially given the varying phases of development and lot sizes described above; or
- Whether the standard should only apply to specific areas or sites with particular characteristics (i.e. those with a narrow street frontage);
- To what extent the elements of the underlying zone height in relation to boundary standards that specify the boundaries to which the development standard should apply should be consistent with the overlay;
- To what extent the various exemptions to the rule should also be reflected in D18.6.1.2 (if that rule prevails over the underlying zone); and
- To what extent the matters of discretion and assessment criteria that relate to infringements of the height in relation to boundary standard in the underlying zone should also apply to infringements of D18.6.1.2 (if that rule prevails over the underlying zone).

Addressing these issues is important in order to achieve the purpose of PPC 26, which is to clarify the relationship between rules in the SCA overlay and the relevant underlying zones. It is also necessary to address this issue to ensure that the objectives of maintaining and enhancing the special character values of special character areas are achieved.

5.3.3 Options

The following options are available to address these issues:

1. Retain the status quo as outlined earlier in this report;
 - a) Standard D18.6.1.2 (3m + 45 degrees) applies as well as the height in relation to boundary development standards in the underlying zones (which may be more permissive or restrictive than D18.6.1.2);
 - b) Standard D18.6.1.2 applies to 'any' boundary of a site in the SCA Residential overlay, whereas the height in relation to boundary development standards in the underlying zones apply to various different boundaries (and generally do not apply to the road boundary of sites);
 - c) The height in relation to boundary development standards in the underlying residential zones provide for certain exemptions for dormer windows, gable end roofs, and common walls; and
 - d) The assessment criteria for infringements of the zone and overlay HIRTB standards are tailored to different matters.
2. Delete Standard D18.6.1.2 from the Chapter D18, leaving the underlying zone provisions to manage HIRTB.

3. Amend standard D18.6.1.2 in the following ways:
 - a) Insert a purpose statement for D18.6.1.2;
 - b) Clarify that the HIRTB standard in D18.6.1.2 (as amended) applies to side and rear boundaries of sites only;
 - c) Clarify that the underlying zone HIRTB control applies, except in the case of sites with certain characteristics – i.e. narrow frontages of less than 15m, where the SCA HIRTB control would apply.
 - d) Add the following exemptions to D18.6.1.2 (that currently existing in the underlying zones):
 - The HIRTB standard in D18.6.1.2 (as amended) does not apply where a common wall is located on the boundary;
 - The HIRTB standard in D18.6.1.2 (as amended) provides for an exemption for gable ends, dormers, and roofs;
 - The HIRTB standard in D18.6.1.2 (as amended) applies from the farthest boundary of legal rights of way, entrance strips or access sites; and
 - e) The matters of discretion and assessment criteria that relate to infringements of the zone HIRTB and the overlay HIRTB standards both apply.

5.3.4 Assessment of options

An assessment of the extent to which each of the options outlined above is the most appropriate way to achieve the objectives of PPC 26 (and the relevant objectives of the AUP) is set out in the table below.

	Option 1 – Status quo	Option 2 – Remove HIRTB standard from SCA Residential, underlying zone standards apply	Option 3 – Underlying zone standard applies except for sites with frontages of less than 15m, where an amended HIRTB standard applies
Environmental costs and benefits	<p>Continuing to apply the status quo is likely to result in unexpected and unpredictable environmental outcomes as it is not clear which HIRTB standard should apply. This is not consistent with the purpose of PPC 26 of clarifying the relationship between the SCA Overlay and underlying zone provisions.</p> <p>If the underlying zone standard is given prevalence, this could result in adverse effects on the special character values of special character areas, and would result in outcomes that are unlikely to result in maintaining and enhancing the special character values of special character areas, nor retaining the built form of buildings in special character areas.</p> <p>Conversely if the HIRTB standard in D18.6.1.2 is given prevalence, this could result in increased adverse dominance and shading effects on neighbours (as the standard is generally more permissive than that in most of the underlying residential zones, which are the predominant zone in the SCA overlay).</p> <p>In addition, applying HIRTB from the front boundary of the site is inconsistent with the approach taken</p>	<p>Removing standard D18.6.1.2 and relying on the underlying zone HIRTB standards (where they apply) will assist in achieving greater certainty in respect of likely environmental outcomes.</p> <p>However the HIRTB standards in the underlying zone may not in all cases appropriately reflect the unique characteristics of certain special character areas, and in particular those areas that tend to have narrower frontages (and thus warrant a slightly more permissive HIRTB standard as is currently provided for in D18.6.1.2). Failure to provide for this approach could result in adverse effects on the special character values of these particular areas.</p>	<p>Implementing Option 3 will assist in achieving greater certainty in respect of likely environmental outcomes as it will be clear which HIRTB standard is intended to apply within the SCA overlay.</p> <p>Amending D18.6.1.2 such that the 3m + 45 degree HIRTB standard only applies to sites with frontage widths of less than 15m more appropriately targets the slightly more generous recession plane to those sites that reflect the closely packed, high-density development pattern of the earliest areas of the city.</p> <p>During earliest phase of development lot sizes tended to be small, ranging from under 300m² up to around 450m². Lot widths tended to be narrow (around 10-12m) and resulted in higher density development with houses closely spaced to each other and the road.</p> <p>The next phase of development reflected slightly larger lots (450m² – 600m², and slightly wider lot widths (between 12-15m). Houses typically occupied much of the width of the sites.</p> <p>Within the first and second phases of development the sites are highly constrained in terms of frontage</p>

	Option 1 – Status quo	Option 2 – Remove HIRTB standard from SCA Residential, underlying zone standards apply	Option 3 – Underlying zone standard applies except for sites with frontages of less than 15m, where an amended HIRTB standard applies
	<p>in the underlying zones (which use side and rear boundaries), and is not considered to contribute to the amenity of SCA areas given the height and front yard requirements of the overlay.</p>		<p>width. Therefore in order to achieve good outcomes both in terms of design and special character values, a slightly more permissive HIRTB standard is considered appropriate for these sites. An exception (to the underlying zone HIRTB control) should be triggered for these sites to recognise their unique circumstances and help retain their character qualities, and their impact on the streetscape and wider neighbourhood character.</p> <p>Tying the HIRB to a frontage width has a simplicity and ready justification that one general control across all SCA overlay areas, few of which are uniform, does not. Based on the various Character Statements and GIS information, a 15m frontage width determinant of HIRTB is proposed. It is acknowledged that this will not cover all of Isthmus A, C1 or Devonport areas; however, it is considered that the threshold would capture most of the key characteristics identified within the character statements.</p> <p>It considered that imposing a HIRTB control from the side and rear</p>

	Option 1 – Status quo	Option 2 – Remove HIRTB standard from SCA Residential, underlying zone standards apply	Option 3 – Underlying zone standard applies except for sites with frontages of less than 15m, where an amended HIRTB standard applies
			boundaries, and the existing height and front yard requirements, will sufficiently control amenity within the overlay from a streetscape perspective (and that a front boundary HIRTB control is unnecessary).
Economic costs and benefits	<p><u>Implementation</u></p> <p>Continuing to apply the status quo may result in unnecessary consenting and compliance costs on applicants due to the complexity, uncertainty, and ambiguity for Plan users as to which HIRTB standard should prevail, particularly in instances where the standards are different.</p> <p>This will also result in costs to the Council (and ratepayers) in relation to administering both sets of standards.</p>	<p><u>Implementation</u></p> <p>Removing standard D18.6.1.2 and relying on the underlying zone HIRTB standards (where they apply) will result in greater certainty in terms of the planning framework that applies to the affected sites.</p> <p>This should result in cost savings in terms of consenting and compliance, both to applicants, and to the Plan users in terms of implementing and monitoring delivery of outcomes of the AUP.</p>	<p><u>Implementation</u></p> <p>Implementing Option 3 will result in greater certainty in terms of the planning framework that applies to the affected sites.</p> <p>This should result in cost savings in terms of consenting and compliance, both to applicants, and to Plan users in terms of implementing the AUP.</p> <p><u>Development potential</u></p> <p>Amending D18.6.1.2 so that the 3m + 45 degree recession plane only applies to sites with a frontage length of 15m or less will result in a slight reduction in development potential as compared to the status quo for those sites that are in the SCA Residential overlay and have an underlying zoning with a HIRTB standard that is less permissive than 3m + 45 degrees.</p>
Social and cultural costs and benefits	Maintaining the status quo could result in social and cultural costs due to the uncertain outcomes that could	Removing standard D18.6.1.2 and relying on the underlying zone HIRTB standards (where they apply) could	Implementing Option 3 will result in an improvement from a social and cultural perspective due to the

	Option 1 – Status quo	Option 2 – Remove HIRTB standard from SCA Residential, underlying zone standards apply	Option 3 – Underlying zone standard applies except for sites with frontages of less than 15m, where an amended HIRTB standard applies
	<p>arise as a result of the conflicting standards in the AUP currently. Ambiguity also leads to a loss in confidence in the AUP and Council in general, and lack of confidence in the consenting process.</p> <p>Due to the uncertainty associated with the status quo, this option is less consistent with the purpose of PPC 26 and the objectives and policies of the SCA overlay than Options 2 and 3.</p>	<p>result in an improvement from a social and cultural perspective due to the increased certainty that would arise for communities within the SCA overlay.</p>	<p>increased certainty that would arise for communities within the SCA overlay.</p>

For the reasons outlined in the table above, it is considered that Option 3 is the most appropriate way in which to achieve the purpose of PPC 26 in relation to clarifying the way that HIRTB standards will apply to sites in the SCA Residential overlay, and sites with residential zoning in the SCA General overlay.

5.3.5 Recommendation

Amend D18.6.1.2 as follows:

D18.1.1.1. Height in relation to boundary

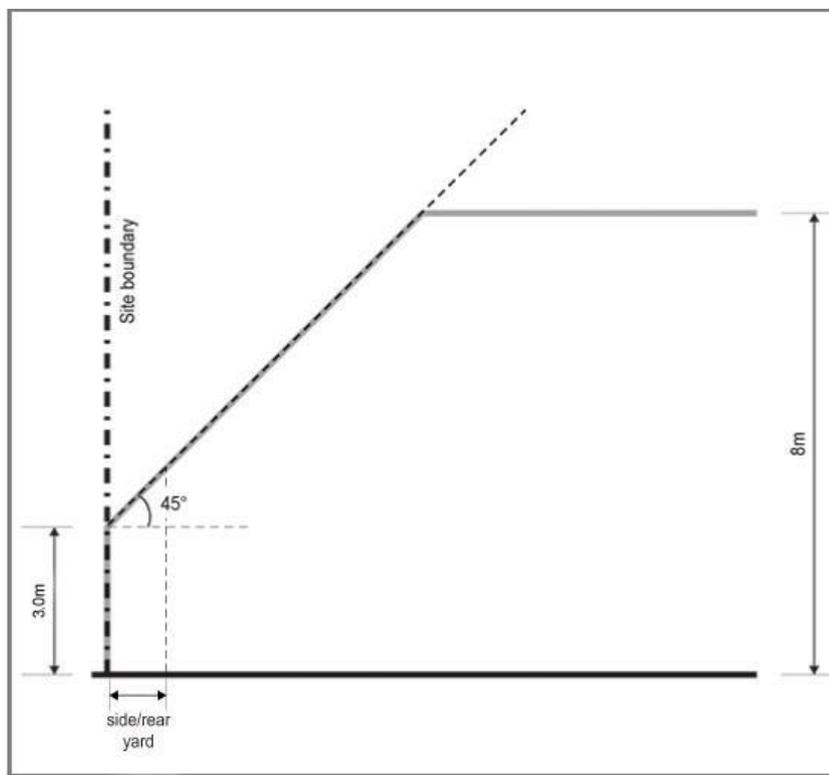
Purpose: to manage the height and bulk of buildings to:

- retain the character of the streetscape;
- enable a built form that reflects the identified character of the area; and
- maintain a reasonable level of sunlight access and minimise visual dominance effects.

(1) Buildings in the Special Character Areas Overlay – Residential must not project above a 45-degree recession plane measured from a point 3m above the ground level along any side and rear boundaries of the site where:

- (a) The site has a frontage length of less than 15m;
- i) For corner sites, Standard D18.6.1.2 (1) applies from each frontage, where that frontage has a length of less than 15m.

Figure D18.6.1.2.1 Height in relation to boundary



(2) The underlying zone height in relation to boundary standard applies where:

- (b) The site has a frontage length of 15m or greater; or
- (c) The site is a rear site.

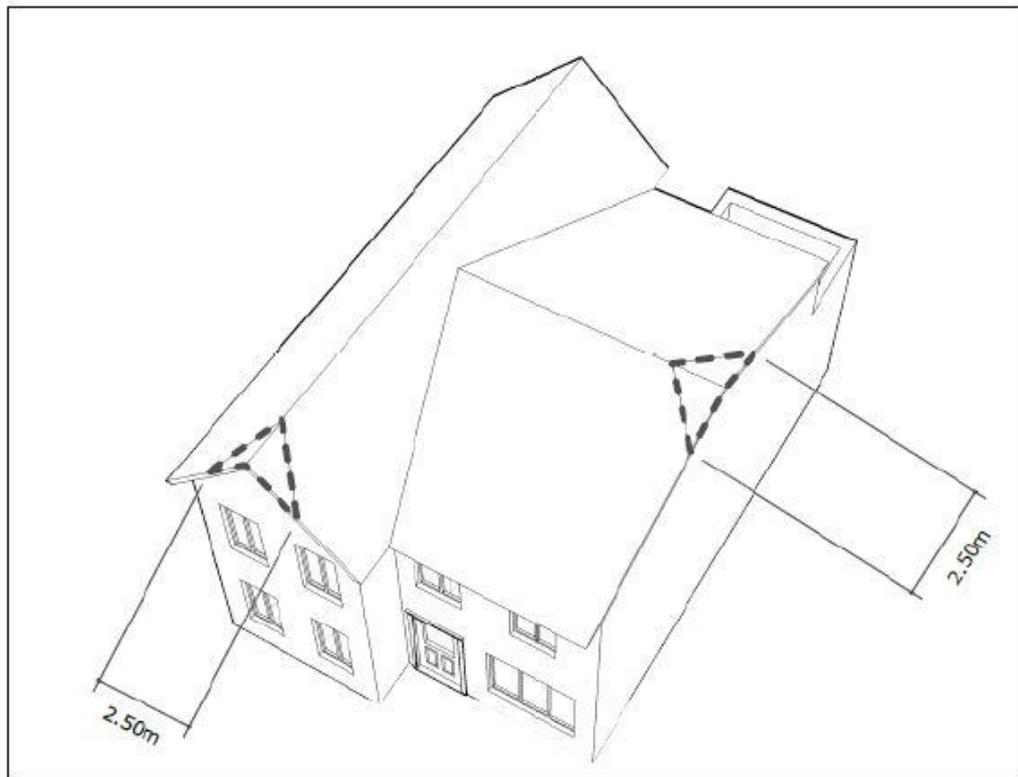
(4) Standard D18.6.1.2 (1) above does not apply to site boundaries where there is an existing common wall between two buildings on adjacent sites or where a common wall is proposed.

(5) Where the boundary forms part of a legal right of way, entrance strip, or access site, Standard D18.6.1.2(1) applies from the farthest boundary of the legal right of way, entrance strip, access site or pedestrian access way.

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

- (a) no greater than 1.5m² in area and no greater than 1m in height; and
- (b) no greater than 2.5m cumulatively in length measured along the edge of the roof

Figure D18.6.1.2.2 Exceptions for gable ends and dormers and roof projections



(7) No more than two gable ends, dormers or roof projections are allowed for every 6m length of site boundary.

5.4 Standard D18.6.1.3 Yards

5.4.1 Overview

Both Chapter D18 and the provisions in corresponding underlying zones contain development standards that relate to yards. Standard D18.6.1.3 sets out requirements for front, side, and rear boundary yards; whereas the provisions in most of the underlying zones also include requirements for riparian, lakeside, and coastal protection yards. The table in **Attachment 4** sets out a comparison of the yard standard in D18.6.1.3 to the yard standards in the relevant underlying zones.

The Single House and Mixed Housing Urban zones provide for an exemption from the requirement to provide a side yard if a common wall is proposed (but the other underlying zone provisions do not).

All of the underlying zone provisions set out requirements for riparian, lakeside and coastal protection yards, except that there are no lakeside protection yard standards in the Open Space zones.

Given that the front yard standard in D18.6.3 is based on the average setbacks of buildings on adjoining sites, it is not possible to state whether the front yard requirement in D18.6.1.3 is more restrictive, more enabling, or equivalent to, the front yard requirements in the underlying zones. The Open Space Community and Open Space Informal Recreation zones also have front yard requirements that are based on the setbacks of buildings on adjoining sites.

The side yard standard in D18.6.3 (1.2m) is:

- a) More restrictive than the equivalent development standard in the underlying residential zones (which require a 1m yard).
- b) More enabling than the equivalent development standards in:
 - a. The underlying open space zones (3m – 6m yard depending on the adjacent zone); and
 - b. The underlying Special Purpose Healthcare Facilities and Hospital zone (3m yard).

The rear yard standard in D18.6.3 (3m) is:

- a) More restrictive than the equivalent rear yard standard in the underlying residential zones (1m).
- b) Potentially more enabling than the equivalent rear yard standard in the underlying Open Space Conservation and Open Space Informal Recreation zones, depending on the zoning of the adjacent site;
- c) The same as the equivalent rear yard standard in the underlying Special Purpose – Healthcare Facilities and Hospital, Open Space Community, and Business zones (noting that the rear yard standards in the Open Space Community and Business zones are only triggered where certain zones adjoin these sites).

The table in **Attachment 4** sets out a comparison of the yard standard in D18.6.1.3 to the yard standards in the relevant underlying zones.

5.4.2 Issue

The key issues to address in relation to yards are:

- Whether it is appropriate to maintain a requirement for a 3m rear yard in development standard D18.6.1.3 in the SCA Residential overlay provisions;
- Whether development standard D18.6.1.3 Yards in the SCA Residential overlay provisions should prevail over the equivalent yard rules in the underlying zones;
- Whether the requirements in the underlying zones for coastal, riparian, and lakeside yards should also apply to sites in the SCA Residential overlay; and
- To what extent the matters of discretion and assessment criteria that relate to infringements of the yard development standards in the underlying zone should also apply to infringements of D18.6.1.3 (if that rule does prevail over the underlying zone).

Addressing these issues is important in order to achieve the purposes of PPC 26 and the objectives of the SCA Overlay as outlined above. In particular, the yard control seeks to retain the relationship of built form to the street in special character areas, and as such form an important component in managing the effects of development in these areas.

5.4.3 Options

The following options are available to address these issues:

1. Retain the status quo; or
2. Amend the AUP so that Development Standard D18.6.1.3 is deleted, and yard requirements are managed solely by the underlying zone; or
3. Amend the AUP such that the front and side yard requirements in Development Standard D18.6.1.3 prevail over the underlying zone, with the remaining yards managed by the underlying zone

5.4.4 Assessment of options

An assessment of the extent to which each of the options outlined above is the most appropriate way to achieve the objectives of PPC 26 (and the relevant objectives of the AUP) is set out in the table below.

	Option 1 – Status quo	Option 2 – Remove D18.6.1.3 and rely on underlying zone provisions	Option 3 – Front and side yard control in D18.6.1.3 prevails over zone, remaining yards managed by underlying zone
Environmental costs and benefits	Continuing to apply the status quo is likely to result in unexpected and unpredictable	Removing D18.6.1.3 and relying on the yard standards in the underlying zone would	Implementing Option 3 will assist in achieving greater certainty in respect of likely

	Option 1 – Status quo	Option 2 – Remove D18.6.1.3 and rely on underlying zone provisions	Option 3 – Front and side yard control in D18.6.1.3 prevails over zone, remaining yards managed by underlying zone
	<p>environmental outcomes as it is not clear which yard standard should apply. This is not consistent with the purpose of PPC 26 of clarifying the relationship between the SCA Overlay and underlying zone provisions.</p> <p>If the underlying zone standard is given prevalence, this could result in adverse effects on the special character values of special character areas, particularly in relation to the front yard control. The setback of buildings from the street is a key characteristic of special character areas and often strongly relates to the period within which the area was developed.</p>	<p>assist in achieving greater certainty in respect of likely environmental outcomes. However, as addressed in respect of Option 1, relying on the underlying zone yard requirements would result in adverse effects on the special character values of special character areas, particularly in relation to the front yard control. The setback of buildings from the street is a key characteristic of special character areas and often strongly relates to the period within which the area was developed.</p>	<p>environmental outcomes as it will be clear which yard standard is intended to apply within the SCA overlay.</p> <p>In addition, a yard requirement will apply to the SCA overlay that is appropriately linked to the special character values of the areas. Most particularly, retaining a front yard requirement that is informed by the average setbacks of buildings on adjoining sites will assist to retain one of the key characteristics of special character areas.</p>
Economic costs and benefits	<p><u>Implementation</u></p> <p>Continuing to apply the status quo may result in unnecessary consenting and compliance costs on applicants due to the complexity, uncertainty, and ambiguity as to which yard standard should prevail, particularly in instances where the standards are different.</p> <p>This will also result in costs to the Council (and ratepayers) in relation to administering both sets of standards.</p>	<p><u>Implementation</u></p> <p>Removing standard D18.6.1.3 and relying on the underlying zone yard standards (where they apply) will result in greater certainty in terms of the planning framework that applies to the affected sites.</p> <p>This should result in cost savings in terms of consenting and compliance, both to applicants, and to the Council (and ratepayers) in terms of implementing the AUP.</p>	<p><u>Implementation</u></p> <p>Implementing Option 3 will result in greater certainty in terms of the planning framework that applies to the affected sites.</p> <p>This should result in cost savings in terms of consenting and compliance, both to applicants, and to the Council (and ratepayers) in terms of implementing the AUP.</p>
Social and cultural costs and benefits	<p>Maintaining the status quo could result in social and cultural costs due to the uncertain outcomes that could arise as a result of the conflicting</p>	<p>Removing standard D18.6.1.3 and relying on the underlying zone yard standards (where they apply) could result in an improvement from a</p>	<p>Implementing Option 3 will result in an improvement from a social and cultural perspective due to the increased certainty that</p>

	Option 1 – Status quo	Option 2 – Remove D18.6.1.3 and rely on underlying zone provisions	Option 3 – Front and side yard control in D18.6.1.3 prevails over zone, remaining yards managed by underlying zone
	standards in the AUP currently. Due to the uncertainty associated with the status quo, this option is less consistent with the purpose of PPC 26.	social and cultural perspective due to the increased certainty that would arise for communities within the SCA overlay.	would arise for communities within the SCA overlay.

For the reasons outlined in the table above, Option 3 is the most appropriate way in which to achieve the purpose of PPC 26 in relation to clarifying the way that yard standards will apply to sites in the SCA Residential overlay, and sites with residential zoning in the SCA General overlay.

5.5.5 Recommendation

Amend D18.6.1.3 as follows:

D18.6.1.3. Yards

Purpose:

- to retain the historical built character of the streetscape by managing the setback and the relationship of the building to the street.

- (1) *A building or parts of a building in the Special Character Overlay – Residential must be set back from the relevant boundary by the minimum depth listed in Table D18.6.1.3.1 Yards below:*

Table D18.6.1.3.1 Yards

Yard	Minimum depth
<i>Front</i>	<i>The average of existing setbacks of dwellings on adjacent sites, being the three sites on either side of the subject site or six sites on one side of the subject site</i>
<i>Side</i>	<i>1.2m</i>
<i>Rear</i>	<i>3m</i>

- (2) Standard D18.6.1.3.1 above does not apply to site boundaries where there is an existing common wall between two buildings on adjacent sites or where a common wall is proposed.

(3) The underlying zone yard standards apply for all other yards not specified within Table D18.6.1.3.1.

5.5 Building Coverage, Landscaped Area and Impervious Area

5.5.1 Overview

Chapter D18 contains a development standard that relates to maximum building coverage, landscaped area and maximum paved area on a site. The coverage controls in Standards D18.6.1.4 (building coverage), D18.6.1.5 (landscaped area), and D18.6.1.6 (maximum paved area) are different in some instances to the building coverage controls in the relevant underlying zones, depending on the size of the site, and the underlying zone. In addition, Development Standard D18.6.1.6 stipulates a maximum paved area, whereas the underlying zones stipulate a maximum impervious surface area (which may comprise buildings and/or paved surface).

There are specific matters of discretion and assessment criteria in the underlying zones that relate to infringements of the coverage standards, and they are not reflected in the SCA overlay (which instead focuses on the impact of infringements only on special character values).

A comparison of the building coverage standard in D18.6.1.4, the landscaped area standard in D18.6.1.5 and the maximum paved area standard in D18.6.1.6 and the various underlying zones is set out in **Attachment 4**.

It is not currently clear in the AUP whether the standards in D18.6.1 should prevail over the relevant coverage standards in the underlying zone.

5.5.2 Issue

The issues to address in relation to these provisions are:

- Whether Development Standards D18.6.1.4, D18.6.1.5 and D18.6.1.6 should prevail over the equivalent coverage control standards in the underlying zones (where they exist);
- Whether it is appropriate to refer to 'maximum paved area' in D18.6.1.6 given that it is different to 'maximum impervious surface area' in the underlying zones; and
- Whether it is necessary to amend the matters of discretion and assessment criteria for infringements of these standards in Chapter D18 to reflect the matters of discretion and assessment criteria in the underlying zones.

As set out above in respect of the HIRTB and yard standards, addressing these issues is important in order to achieve the purposes of PPC 26 and the objectives of the SCA Overlay as outlined above. In particular, the coverage controls seek to retain the physical attributes that define, contribute and support the special character of areas, including the relationship of built form to landscape qualities and open spaces.

5.5.3 Options

The following options are available to address the issues outlined above:

1. Retain the status quo in that the development standards in D18.6.1.4; D18.6.1.5; and D18.6.1.6 continue to apply in addition to the equivalent standards in the relevant underlying zones; or
2. Amend the AUP so that the development standards in D18.6.1.4; D18.6.1.5; and D18.6.1.6 prevail over any equivalent standards in all underlying zones in the SCA Residential overlay and the SCA General overlay (with residential zoning); and
 - a) Development standard D18.6.1.6 is amended to refer to 'maximum impervious area', rather than 'maximum paved area', and to amend the related coverage limits to reflect the change in terminology; and
 - b) Development standard D18.6.1.6 is amended to change the reference from 'net site area' to 'site area', in order for consistency with the underlying zones impervious area calculations;
 - c) A purpose statement is inserted for all the coverage controls, and that reference is made in the purpose statement for D18.6.1.6 to the importance of the impervious surface control to manage stormwater runoff.
 - d) Create an exemption to in relation to the Residential: Rural and Coastal Settlement Zone for standards in D18.6.1.4; D18.6.1.5; and D18.6.1.6.

5.5.4 Assessment of options

An assessment of the extent to which each of the options outlined above is the most appropriate way to achieve the objectives of PPC 26 (and the relevant objectives of the AUP) is set out in the table below.

	Option 1 – Status quo	Option 2 – SCA Coverage standards prevail
Environmental costs and benefits	<p>Retaining the status quo is likely to result in unexpected and unpredictable environmental outcomes as it is not clear whether the coverage controls in Chapter D18.6.1 should apply, or if the underlying zone coverage controls should apply. This is not consistent with the purpose of PPC 26 of clarifying the relationship between the SCA Overlay and underlying zone provisions.</p> <p>If the underlying zone controls are given prevalence, this could result in adverse effects on the special character of areas in the SCA overlay, particularly where the underlying zone controls are more permissive than those in D18.6.1. The coverage controls in the SCA overlay have been tailored to reflect the special character values of the areas to which they relate and enabling greater amounts of building coverage or overall</p>	<p>Amending the AUP so that the development standards in D18.6.1 prevail over any equivalent standards in the underlying zone will have the benefit of increasing the level of certainty as to the environmental outcomes that should arise in these areas (as one set of standards would apply). Amending the term 'paved area' to 'impervious area' will also assist in greater clarity. These amendments will assist to meet one of the purposes of PPC 26, which is to clarify the relationship between rules in the SCA overlay and any equivalent rules in the underlying zones.</p> <p>Incorporating purpose statements for the coverage controls in D18.6.1 will clarify the intent of these standards and the environmental outcomes they are intended to achieve. This will assist in meeting the objective of avoiding, remedying or mitigating</p>

	Option 1 – Status quo	Option 2 – SCA Coverage standards prevail
	<p>impervious surface has the potential to adversely affect those values. This outcome would not reflect the objective of retaining the physical attributes that define, contribute or support the special character values of special character areas.</p> <p>There are circumstances where the coverage controls in D18.6.1 are more enabling than the coverage controls in the underlying zone. In general, for sites that have buildings on them and form part of the overall character of a special character area.</p> <p>The reference to ‘net site area’ is inconsistent with the calculation for impervious area within the underlying residential zones, which use ‘site area’ instead.</p>	<p>adverse effects on the special character values of these areas.</p> <p>Including a reference to the management of stormwater runoff in the purpose statement for D18.6.1.6 will ensure that this issue is addressed in the case of any infringements of this standard, which will be particularly important if the underlying zone standard no longer applies. This will assist to meet objectives in the AUP that relate to the management of stormwater, and water quality generally.</p> <p>It is considered more appropriate that Standard D18.6.1.6 is based on ‘site area’ rather than ‘net site area’, to improve consistency with the underlying residential zones, and to avoid adverse stormwater effects in terms of large impervious areas, such access ways, being excluded from this calculation.</p> <p>The Rural and Coastal Settlement Zone is considered to be significantly different in character to the other residential zones, and it has significantly lower coverage controls due to the larger site sizes. It is therefore considered appropriate to exclude the Rural and Coastal Settlement Zone from the coverage controls within the SCA Overlay, as the Zone coverage controls are considered more appropriate in this instance.</p>
Economic costs and benefits	<p><u>Implementation</u></p> <p>Retaining the status quo may result in unnecessary implementation costs in terms of the time taken to determine whether, and which, development standard should prevail in the case of individual development proposals. It may also result in triggering unnecessary resource consents for infringements of controls that are not necessarily tailored to managing the values of the site to which they relate.</p>	<p><u>Implementation</u></p> <p>Amending the AUP as set out in option 2 above will contribute to greater plan clarity, and thus is expected to result in economic benefits in terms of the time taken to interpret the plan provisions and avoiding the unnecessary triggering of resource consents (along with the associated time and processing costs).</p> <p>In addition, ensuring that infringements of the paved impervious area standard address potential effects on the stormwater network could result in some benefits in terms of the costs associated with</p>

	Option 1 – Status quo	Option 2 – SCA Coverage standards prevail
		maintaining and operating the stormwater network (due to avoiding unnecessary loading of this network).
Social and cultural costs and benefits	Retaining the status quo is likely to have the effect of ongoing uncertainty as to outcomes for communities in the SCA Residential overlay, and for residential zoned sites in the SCA General overlay.	Amending the AUP as set out above for Option 2 will result in greater levels of certainty about the environmental outcomes for areas in the SCA Residential overlay, and for residential zoned sites in the SCA General overlay

For the reasons outlined in the table above, Option 2 is the most appropriate way in which to achieve the purpose of PPC 26 in relation to clarifying the way that coverage control standards will apply to sites in the SCA Residential overlay, and sites with residential zoning in the SCA General overlay.

5.5.5 Recommendation

Amend Standard D18.6.1.4 Building Coverage as follows:

D18.6.1.4 Building coverage

Purpose: to manage the extent of buildings on a site commensurate with the existing built character of the neighbourhood.

- (1) *The maximum building coverage for sites ...*
- (2) *Where a site is within the Rural and Coastal Settlement zone, Standard D18.6.1.4. Building coverage does not apply and Standard H2.6.9. Building coverage applies.*

Amend Standard D18.6.1.5 Landscaped area as follows:

D18.6.1.5. Landscaped area

Purpose: to maintain the level of landscaped character and mature trees consistent with the identified character of the area.

- (1) *The minimum landscaped area for sites ...*
- (3) *Where a site is within the Rural and Coastal Settlement zone, Standard D18.6.1.5. Landscaped area does not apply.*

Amend Standard D18.6.1.6 Maximum paved area as follows:

D18.6.1.6. Maximum ~~paved~~ impervious area

Purpose:

- to reinforce the building coverage and landscaped area standards;
- to limit paved areas on a site to maintain the identified character of the area.

(1) The maximum ~~paved~~ impervious area for sites in the Special Character Areas Overlay – Residential must not exceed the percentage of net site area listed in Table D18.6.1.6.1 Maximum ~~paved~~ impervious area in the Special Character Areas Overlay – Residential below:

Table D18.6.1.6.1 Maximum ~~paved~~ impervious area in the Special Character Areas Overlay – Residential

Site area	<u>Paved Impervious</u> area
Up to 200m ²	17 <u>72</u> per cent of the net site area
200m ² – 500m ²	20 <u>65</u> per cent of the net site area
500m ² – 1,000m ²	25 <u>60</u> per cent of the net site area
Greater than 1,000m ²	25 <u>50</u> per cent of the net site area

(2) Where a site is within the Rural and Coastal Settlement zone, Standard D18.6.1.6. Maximum impervious area does not apply and Standard H2.6.8. Maximum impervious area applies.

Standard D18.6.1.7 Fences and walls

5.6.1 Overview

Standard D18.6.1.7 restricts the maximum height of ‘fences, walls and other structures’ on all boundaries of a site to 1.2m. There is no reference to fences or walls in Activity Table D18.4.1. This has resulted in the potential interpretation that fencing is a permitted activity in sites within the SCA Residential overlay and sites in the SCA General overlay with a residential zoning, irrespective of whether or not it meets the development standard.

While inappropriate fencing can have adverse effects on the special character values of an area, the particular focus relates to walls and fences on the front boundary of a site, and side boundaries where they are adjacent to the street.

The application of the 1.2m height limit on all fences and walls is triggering unnecessary consent requirements. Fencing of up to 2m in height on the rear and side boundary (where it is not adjacent to the street) is not considered to adversely affect special character values, in particular the streetscape values of an area.

5.6.2 Issue

The application of the 1.2m height limit on all fences and walls could trigger unnecessary consent requirements. Fencing of up to 2m in height on the rear and side boundary (where it is not adjacent to the street) is not considered to adversely affect special character values, in particular the streetscape values of an area.

As set out above in respect of the HIRTB, yard, and coverage standards, addressing these issues is important in order to achieve the purposes of PPC 26 and the objectives of the SCA Overlay as outlined above. In particular, the fencing control seeks to retain the physical attributes that define, contribute and support the special character of areas, including streetscape qualities and cohesiveness.

5.6.3 Options

The following options are available to address the issues in relation to fences and walls:

1. Retain the status quo as outlined earlier in this report; or
2. Amend Activity Table D18.4.1 to include fences and walls as a permitted activity where they comply with development standard D18.6.1.7 (and are a restricted discretionary activity where they do not comply with development standard D18.6.1.7); or
3. Amend Activity Table D18.4.1 to include fences and walls as a permitted activity where they comply with development standard D18.6.1.7 (and are a restricted discretionary activity where they do not comply with development standard D18.6.1.7); and amend Standard D18.6.1.7 to allow for fencing along rear boundaries and that portion of the side boundaries where it is not adjacent to the street (located behind the front façade of the dwelling on the site) of up to 2m.

5.6.4 Assessment of options

An assessment of the extent to which each of the options outlined above is the most appropriate way to achieve the objectives of PPC 26 (and the relevant objectives of the AUP) is set out in the table below.

	Option 1 – Status quo	Option 2 – Amend activity table only	Option 3 – Amend activity table and development standard
Environmental costs and benefits	<p>Maintaining the status quo will result in ongoing confusion and potential inconsistency in implementation, with the potential for some varying interpretations. This is likely to result in less certainty as to the environmental outcomes that will be achieved when applying the provisions.</p> <p>The objective of retaining the streetscape values of areas within the SCA overlay may not be achieved, especially when the absence of fencing within the activity</p>	<p>Amending Activity Table D18.4.1 to include a specific reference to fences and walls will clarify the plan provisions and ensure that they are implemented as intended. This will assist in greater certainty as to the environmental outcomes that are intended to be achieved.</p> <p>However, as per Option 1, not amending development standard D18.6.1.7 will mean that the unnecessary limitation on the height of fences and walls on side and rear boundaries is</p>	<p>As for option 2, amending Activity Table D18.4.1 to include a specific reference to fences and walls will clarify the plan provisions and ensure that they are implemented as intended. This will assist in greater certainty as to the environmental outcomes that are intended to be achieved.</p> <p>In addition, amending Development Standard D18.6.1.7 to allow for fencing of up to 2m in height along rear boundaries and the portion of side</p>

	Option 1 – Status quo	Option 2 – Amend activity table only	Option 3 – Amend activity table and development standard
	<p>table is interpreted to mean that all fencing is permitted.</p> <p>The existing 1.2m height limitation on fences and walls on side and rear boundaries is an unnecessary restriction given that it does not directly relate to the objective of retaining the physical attributes that define, support, or contribute to the special character values in the SCA overlay.</p>	<p>not addressed. This is not consistent with the objective of retaining the physical attributes that define, support, or contribute to the special character values in the SCA overlay.</p>	<p>boundaries where it is not adjacent to the street and located behind the front façade of the dwelling on the site) will more appropriately align with the objective of retaining the physical attributes that define, support, or contribute to the special character values in the SCA overlay. It is more important to manage the height of fences and walls on the front boundaries of sites, and the portions of side boundaries closes in order to meet the objective of retaining the streetscape qualities and cohesiveness of special character areas.</p>
Economic costs and benefits	<p><u>Implementation</u></p> <p>Continuing to apply the status quo may result in unnecessary consenting and compliance costs on applicants due to the complexity, uncertainty, and ambiguity as how the construction of fences and walls in special character areas is intended to be managed.</p> <p>The status quo may be triggering the requirement for unnecessary resource consent applications due to the uncertainty as to how they should be interpreted. In addition, unnecessary resource consent requirements may be triggered as a result of the 1.2m maximum height limit for fences and walls on all boundaries, which is managing an activity that is not known to have an impact on the values of</p>	<p><u>Implementation</u></p> <p>Amending Activity Table D18.4.1 to include a specific reference to fences and walls will have the benefit of reducing the costs associated with implementing an uncertain and ambiguous set of provisions. This would reduce the triggering of unnecessary resource consents (and therefore the attendant implementation and application costs).</p> <p>However, option 2 would not address the costs associated with triggering unnecessary resource consents as a result of the 1.2m maximum height limit for fences and walls on <i>all</i> boundaries, which is an activity that is not known to have an impact on the values of special character areas.</p>	<p><u>Implementation</u></p> <p>As for option 2, amending Activity Table D18.4.1 to include a specific reference to fences and walls will reduce the costs associated with implementing an uncertain and ambiguous set of provisions. This would reduce the triggering of unnecessary resource consents (and therefore the attendant implementation and application costs).</p> <p>In addition, implementing option 3 would reduce the consenting and application costs associated with triggering unnecessary resource consents as a result of the 1.2m height limit for fences and walls on all boundaries. Instead this threshold is tailored to the parts of sites where it most appropriately relates to</p>

	Option 1 – Status quo	Option 2 – Amend activity table only	Option 3 – Amend activity table and development standard
	special character areas.		the values of special character areas, and therefore meeting the objective of retaining the streetscape qualities and cohesiveness of special character areas.
Social and cultural costs and benefits	<p>Maintaining the status quo could result in social and cultural costs due to the uncertain outcomes that could arise as a result of the complexity, uncertainty, and ambiguity as to how the construction of fences and walls in special character areas is intended to be managed.</p> <p>Due to the uncertainty associated with the status quo, this option is less consistent with the purpose of PPC 26.</p>	<p>Amending Activity Table D18.4.1 to include a specific reference to fences and walls will have the benefit of clarifying the plan provisions to ensure that they are implemented as intended. This will reduce the uncertainty and ambiguity associated with the status quo, and the attendant social and cultural costs, so will be of some benefit.</p> <p>However, this option does not address the unnecessary limitation on the height of fences and walls on side and rear boundaries, and could result in some residual costs from unnecessary regulation of this issue.</p>	<p>As for option 2, amending Activity Table D18.4.1 to include a specific reference to fences and walls will clarify the plan provisions and ensure that they are implemented as intended. The additional amendments to Development Standard D18.6.1.7 will more appropriately target this rule to the impact on special character values. This will have the benefit of reducing the uncertainty and ambiguity associated with the status quo, and the attendant social and cultural costs.</p>

1. In conclusion, and in accordance with section 32(1)(b)(iii) of the RMA, implementing the proposed amendments under Option 3 is considered to be the most appropriate way to achieve the objectives of PPCX because:
 - a. The amendments will implement the objectives of the AUP by ensuring that the fencing provisions of the SCA Residential overlay maintain and enhance the special character values of the area and to avoid, remedy or mitigate the adverse effects of development (B5.3.1);
 - b. The amendments will result in provisions that are clearer and therefore will assist with consistent implementation; and
 - c. The amendments will ensure that fences and walls will only require resource consent under the SCA Residential overlay provisions where they may affect special character values (due to their height and/or location).

5.6.5 Recommendation

Amend Activity Table D18.4.1 as follows:

Table D18.4.1 Activity table– Special Character Areas Overlay - Residential

Activity		Activity status
Development		
<u>(AX)</u>	<u>New fences and walls, and alterations to fences and walls that comply with Standard D18.6.1.7(1)</u>	<u>P</u>
<u>(AXX)</u>	<u>New fences and walls and alterations to existing fences and walls that do not comply with Standard D18.6.1.7(1)</u>	<u>RD</u>

Amend Development Standard D18.6.1.7 as follows:

D18.6.1.7. Fences and walls ~~and other structures~~

Purpose:

- to retain the boundary fences and walls that contribute to the character of the area and ensure that new fences and walls complement the existing character of the streetscape
- (1) Fences and walls ~~and other structures~~, or any combination of these, in the Special Character Areas Overlay - Residential must not exceed a the height specified below, measured from of 1.2m above ground level:
- (a) On the front boundary or between the front façade of the house and the front boundary, 1.2m in height.
 - (b) On the side boundary of the front yard, or between the house and the side boundary, where the fence or wall is located forward of the front façade of the house, 1.2m in height.
 - (c) For the purposes of this standard, the front façade of the house means the front wall of the main portion of the house facing a street, and shall exclude bay windows, verandahs, stairs, attached garages and similar projecting features. Houses on corner sites have two front facades.
 - (d) On any other boundary or within any other yard not described above, 2m in height.

5.7 Open Space: Conservation and Informal Recreation Zones

5.7.1 Overview

There are number of sites in the SCA Residential Overlay that are also in the Open Space Conservation, and Informal Recreation zones. There are differences between the development controls in D18.6.1 and the corresponding development controls that apply to the underlying open space zones.

In general, the development controls in the SCA Residential overlay are more enabling of development than the corresponding development controls in the underlying Open Space Conservation and Informal Recreation zones, particularly in relation to the maximum height and the coverage controls. The differences are less pronounced for sites in the Open Space Community zone.

The SCA overlay manages the construction of, demolition of, and additions and alterations to, buildings in a more restrictive manner than the underlying open space zones. These activities are permitted in the underlying open space zones.

Details of the sites that are in the SCA Residential overlay and are in an Open Space zone are set out in the table below. Further details of these sites (including their location) are set out in **Attachment 2**.

5.7.2 Issue

The issue that needs to be addressed is whether it is appropriate for sites with an Open Space: Informal Recreation or Conservation zoning to be subject to the activity rules in D18.4.1 and the development controls in D18.6.1, or whether the underlying zone provisions should apply. Addressing this issue is important in order to achieve the purpose of PPC 26 and the objectives of both the SCA Overlay and the Open Space zones.

5.7.3 Options

The following options are available to address the issues outlined above:

1. Retain the status quo in that the activity rules and development standards in D18 for the SCA Residential overlay continue to apply in addition to the activity rules and development standards in the underlying open space zones; or
2. Amend the planning maps to remove the SCA Residential overlay from sites that are in the following zones:
 - a. Open Space Informal Recreation
 - b. Open Space Conservation; or
3. Amend the provisions of Chapter D18 to exempt development on sites in the following zones from any requirement to comply with the development standards in D18.6.1:
 - a. Open Space Informal Recreation
 - b. Open Space Conservation; or

5.7.4 Assessment of options

An assessment of the extent to which each of the options outlined above is the most appropriate way to achieve the objectives of PPC 26 (and the relevant objectives of the AUP) is set out in the table below.

	Option 1 (Status quo)	Option 2 (Spatial Approach)	Option 3 (Text Approach)
Environmental costs and benefits	<p>Continuing to apply the status quo is likely to result in unexpected and unpredictable outcomes given that it is unclear as to which activity rules and development standards should apply. This is not consistent with the purpose of PPC 26 of clarifying the relationship between the SCA Overlay and the underlying zone provisions.</p> <p>These Open Space zones are not included within the SCA overlay in most scenarios, however there are a few instances (detailed in Attachment 2) where they are included within the SCA overlay. This creates an inconsistency across the region where some Open Space Zones are subject to the overlay provisions, and some are not.</p>	<p>The provisions of the SCA - Residential Overlay are primarily designed for residential sites with character dwellings.</p> <p>In contrast, the identified Open Space Zones are non-residential in nature and have an open space character. The Open Space Zones have significantly different development controls suited to the open space characteristics and use of the zones, particularly relating to coverage, height and yards (refer to Attachments 3 and 4 for a more detailed analysis).</p> <p>Therefore, it is considered that the SCA – Residential provisions are inappropriate to apply the Open space: Conservation and Informal Recreation zones.</p> <p>Excluding the few Open Space Zoned sites that are still within the Overlay creates greater consistency and certainty of application of the appropriate Zone provisions, given that the majority of Open Space zone sites are not included within the SCA Overlay.</p>	<p>As mentioned option 2, it is considered inappropriate to apply the SCA development standards to the Open Space: Informal Recreation and Conservation Zoned sites, given their fundamentally different characteristics and land use.</p> <p>Including these zones within the overlay is also considered inconsistent with the purpose of the SCA – Residential, which is primarily residential in nature.</p> <p>A text-based approach would still include the sites within the overlay but exempt them from development controls. This is considered contrary to the purpose of the overlay, however, and is therefore more appropriate to exclude the Open Space Zones spatially.</p>
Economic costs and benefits	<p><u>Implementation</u></p> <p>Continuing to apply the status quo may result in unnecessary consenting and compliance costs to applicants due to the complexity, uncertainty and ambiguity that may arise as to which activity rules and development standards should prevail, particularly in instances where the rules and standards are different.</p> <p>This will also result in costs to the Council (and ratepayers)</p>	<p>Removing the Open Space Zone sites from the Overlay will create more certainty in relation to consenting and compliance, as it is clear the base zone provisions will apply (and not the SCA provisions).</p> <p>This would reduce the triggering of unnecessary resource consents (and therefore the implementation and application costs).</p>	<p>Exempting the Open Space Zones through a text-based approach is more complex for applicants and adds to processing costs, than to exclude these zones from the overlay spatially.</p> <p>While this option would create more certainty than the status quo, it has more time and processing costs than Option 2 (spatial approach).</p>

	Option 1 (Status quo)	Option 2 (Spatial Approach)	Option 3 (Text Approach)
	in relation to administering both sets of standards.		
Social and cultural costs and benefits	<p>Maintaining the status quo could result in social and cultural costs due to the uncertain outcomes that could arise as a result of conflicting activity rules and development standards in the SCA Residential Overlay and the Open Space zones currently.</p> <p>Due to the uncertainty associated with the status quo, this option is less consistent with the purpose of PPC 26 and the objectives and policies of the SCA overlay and the Open Space zones.</p>	Removing the Open Space Zone sites from the overlay will reduce the uncertainty and ambiguity associated with the status quo, and the attendant social and cultural costs, so will be of some benefit.	This option will reduce the uncertainty and ambiguity associated with the status quo, and the attendant social and cultural costs, however to a lesser extent than Option 2.

5.7.5 Recommendation

It is recommended to remove the identified Open Space: Conservation and Open Space: Informal Recreation sites from the SCA Overlay, so that they are not subject to the Overlay provisions.

Open Space Zone	SCA sub-area	Site details
Open Space Conservation zone	Residential Isthmus B	71 Almorah Road, Epsom
	Residential Isthmus C	16B Belvedere Street, Epsom
		28B Halifax Avenue, Epsom
		12 Warborough Avenue, Epsom
	Residential North Shore Birkenhead Point	R28 Palmerston Road, Birkenhead
Open Space Informal Recreation zone	Residential Helensville	Pt, Garfield Road, Helensville
	Residential Isthmus A	10A New Bond Street, Kingsland
	Residential Isthmus B	2 parcels at Tohunga Crescent, Parnell
		10 Bonnie Brae Road, Meadowbank
	Residential North Shore Devonport and Stanley Point	
		Access track between Second Avenue and the CMA, Stanley Point

5.8 Chapter E38: Subdivision - Urban

5.8.1 Overview

Chapter 38 Subdivision - Urban includes specific provisions relating subdivision within Special Character Areas. Policy E38.3.30 specifically seeks to maintain the distinctive pattern of subdivision in Special Character Areas as identified in the character statements for those areas.

References to subdivision are also made in Chapter D18: objective D18.2 (2) seeks to retain the physical attributes that define, contribute to, or support the special character of an area, including its historical form of subdivision, and objective D18.2 (3) seeks to avoid, remedy or mitigate the adverse effects of subdivision (and development) on the identified special character values of the area. Related policies seek to ensure that subdivision (and other development) maintains the continuity and coherence of the special character values of the area; and responds positively to any distinctive pattern of subdivision.⁵⁸ There are no rules that relate to subdivision in Chapter D18.

Subdivision of sites in the Special Character Areas overlay that complies with the specific minimum net site area standards for Special Character Areas set out in rule E38.8.2.6 is a restricted discretionary activity.⁵⁹ Subdivision of sites in the Special Character Areas overlay that does not comply with the specific minimum net site area standards for the Special Character Areas is a non-complying activity.⁶⁰

Standard E38.8.2.6 states that sites within the sub-areas of the SCA overlay listed in Table E38.8.2.6.1 must comply with the minimum net site area requirements set out in that table. Sites that are not within the listed sub-areas must comply with the minimum net site area for that site's zone in Table E38.8.2.3.1 (which sets out the minimum net site area for vacant proposed sites in the Residential zones).

The following table sets out the minimum net site area requirements for the Special Character Areas set out in rule E38.8.2.6 as compared to the minimum net site area in the applicable underlying residential zones set out in Table E38.8.2.3.1:

Special Character Areas Overlay - Sub area	Minimum net site area	Minimum net site area in applicable residential (E38.8.2.3.1) underlying zones	Number of parcels affected
Isthmus A	400m ² or 500m ² where the site does not comply with the shape factor	Mixed Housing Urban – 300m ² *	9
		Single House – 600m ² *	8258
Isthmus B1 and B3	1,000m ²	Single House – 600m ² *	5090
Isthmus B2	600m ²		

⁵⁸ AUP Policy D18.3(2)

⁵⁹ AUP E38.4.2(A24)

⁶⁰ AUP E38.4.2(A25)

Special Character Areas Overlay - Sub area	Minimum net site area	Minimum net site area in applicable residential (E38.8.2.3.1) underlying zones	Number of parcels affected
Isthmus C1	400m ² or 500m ² where the site does not comply with the shape factor	Single House – 600m ² *	474
Isthmus C2	600m ²		
Isthmus C2a (refer to Figure E38.8.2.6)	1,000m ² on sites identified in Figure E38.8.2.6		
North Shore Area A	450m ²	Single House – 600m ² *	4040
North Shore Area B	500m ²		
North Shore Area C	600m ²		

* where the parent site is less than 1ha

5.8.2 Issue

The key issue to address in respect of subdivision is the whether the minimum net site area requirements for sites within the SCA Residential areas in Table E38.8.2.6.1 should prevail over the minimum net site area requirements for sites in residential zones set out in Table E38.8.2.3.1. Depending on which SCA sub-area a site is located in, and what the underlying zone is, the minimum lot size requirement for the specified SCA sub-areas may be less than, equivalent to, or greater than, the minimum lot size requirement for the underlying zone.

Addressing this issue is important in order to achieve one of the purposes of PPC 26, which is to clarify the relationship between rules in the SCA overlay and the relevant underlying zones. It is also necessary to address this issue to ensure that the objectives of maintaining and enhancing the special character values of special character areas.

5.8.3 Options

It is considered that the following options are available to address this issue:

1. Retain the status quo; or
2. Amend the AUP to state that the minimum net site area requirements for sites in the SCA Residential areas in Table E38.8.2.6.1 prevails over the minimum net site area requirements for sites in the underlying zones.

Given the purpose of the SCA overlay, amending the AUP so that the minimum net site area requirements for sites in the underlying zones prevails over the overlay-specific minimum net site area requirements in Table E38.8.2.6.1 is not an appropriate option. The overlay-specific minimum net site area requirements seek to retain the historical form of subdivision in these areas, which is consistent with objective D18.2 (2)(b).

5.8.4 Assessment of options

An assessment of the extent to which each of the options outlined above is the most appropriate way to achieve the objectives of PPC 26 (and the relevant objectives of the AUP) is set out in the table below.

	Option 1 – Status quo	Option 2 – SCA Residential overlay specific net site area requirements prevail over minimum net site area requirements in the underlying zone (preferred)
Environmental costs and benefits	<p>Continuing to apply the status quo may result in unexpected environmental outcomes as it is not clear which minimum net site area requirements should be applied.</p> <p>If the underlying zone standards are given prevalence, this could result in adverse effects on the special character values of those special character areas where the specific minimum net site area requirements reflect the predominant subdivision pattern of the area.</p> <p>Conversely if the SCA Residential overlay specific minimum net site area requirements are given prevalence in implementation of the AUP, the special character values of those areas will be positively managed in a way that reflects the predominant subdivision of the area.</p> <p>Due to the uncertainty associated with the status quo, this option is less consistent with the purpose of PPC 26 and the objectives and policies of the SCA overlay, and the underlying zones than Option 2.</p>	<p>Amending the AUP to clarify that the specific minimum net site area standards set out in Table E38.8.2.6.1 for certain areas within the SCA Residential overlay prevail over the minimum net site area requirements for the underlying zone will result in a greater level of certainty that the predominant subdivision patterns in these areas will be maintained, thus contributing to the retention of the special character values of these areas.</p> <p>Subdivision pattern is one of the elements that informs the special character values of special character areas. The minimum net site area requirements in Table E38.8.2.6.1 reflect those historical subdivision patterns in the particular areas in the SCA overlay where the subdivision pattern is a particularly important element of the area's special character. Failure to recognise these subdivision patterns (and associated lot sizes) would not meet objective D18.2 (2)(b) of the AUP.</p> <p>This option will be consistent with the purpose of PPC 26, and with the relevant objectives and policies of the SCA overlay and the underlying zones.</p>
Economic costs and benefits	<p><u>Implementation</u></p> <p>Continuing to apply the status quo may result in unnecessary consenting and compliance costs on applicants due to the complexity, uncertainty, and ambiguity as to which minimum net site area standard should prevail, particularly in instances where the standards are different.</p> <p>This will also result in costs to the Council (and ratepayers) in relation to administering both sets of standards. Maintaining the status quo will not</p>	<p><u>Implementation</u></p> <p>Amending the AUP to clarify that the specific minimum net site area standards set out in Table E38.8.2.6.1 for certain areas within the SCA Residential overlay prevail over the minimum net site area requirements for the underlying zone will result in greater certainty in terms of the planning framework that applies to the affected sites.</p> <p>This should result in cost savings in terms of consenting and compliance, both to applicants, and to the Council</p>

	Option 1 – Status quo	Option 2 – SCA Residential overlay specific net site area requirements prevail over minimum net site area requirements in the underlying zone (preferred)
	<p>incur any costs associated with the preparation and processing of a plan change.</p> <p><u>Development potential</u></p> <p>There are potential economic costs to landowners if a particular standard is applied that results in reduced development potential on particular sites.</p> <p>Due to the uncertainty associated with the status quo, this option is less consistent with the purpose of PPC 26 and the objectives and policies of the SCA overlay than Option 2.</p>	<p>(and ratepayers) in terms of implementing the AUP.</p> <p><u>Development potential</u></p> <p>There are three potential scenarios that could arise in relation to the development potential (from a subdivision perspective) of sites within the SCA Residential overlay as a result of implementing this option.</p> <p>Firstly, there may be the perception that implementing this option will reduce the subdivision potential for those sites in the SCA Residential overlay areas listed in Table E38.8.2.6.1 where the minimum net site area in the table is more restrictive than the standard in the underlying zone.</p> <p>This may apply to sites that are in the Isthmus A SCA and the MHU zone; sites that are in the isthmus B1, B2 and B3 SCA and Single House zone; and sites in the Isthmus C2a SCA and the Single House zone.</p> <p>Overall, a low proportion of sites are potentially affected by this 'lost' development potential and is not considered to represent a significant loss in terms of development potential.</p> <p>Additionally, the minimum net site area requirements set out in Table E38.8.2.6.1 reflect the density limits and minimum lot requirements that applied to sites in the listed areas for a long period of time and were reflected in the legacy district plans. Implementing this option clarifies that the legacy plan approach continues to apply.</p> <p>Secondly, implementing option 2 could result in some increased development potential (from a subdivision perspective) for sites where the SCA Residential overlay minimum net site area requirement is more enabling (smaller than) than the underlying zone:</p> <ul style="list-style-type: none"> - Isthmus A and the Single House zone - Isthmus C1 and the Single House zone

	Option 1 – Status quo	Option 2 – SCA Residential overlay specific net site area requirements prevail over minimum net site area requirements in the underlying zone (preferred)
		<ul style="list-style-type: none"> - North Shore Areas A and B and the Single House zone <p>Finally, implementing this option will have no effect on the development potential (from a subdivision perspective) on sites that are within:</p> <ul style="list-style-type: none"> - Isthmus B2 and the Single House zone - Isthmus C2 and the Single House zone - North Shore Area C and the Single House zone <p>Notwithstanding the potential economic costs outlined above, it is considered that this option will be consistent with the purpose of PPC 26, and with the relevant objectives and policies of the SCA overlay as it will clarify that the specific SCA Residential overlay minimum net site area requirements will continue to apply in those areas where these standards were applied in the various legacy district plans.</p>
Social and cultural costs and benefits	<p>Maintaining the status quo could result in social and cultural costs due to the uncertain outcomes that could arise as a result of the conflicting standards in the AUP currently.</p> <p>Due to the uncertainty associated with the status quo, this option is less consistent with the purpose of PPC 26 and the objectives and policies of the SCA overlay than Option 2.</p>	<p>Amending the AUP to clarify that the specific minimum net site area standards set out in Table E38.8.2.6.1 for certain areas within the SCA Residential overlay prevail over the minimum net site area requirements for the underlying zone should contribute to social and cultural benefits due to increased certainty on the type of outcomes that can be expected in the communities within the SCA Residential overlay.</p> <p>This option will be consistent with the purpose of PPC 26, and with the relevant objectives and policies of the SCA overlay.</p>

For the reasons outlined in the table above, it is considered that Option 2 is the most appropriate way in which to achieve the purpose of PPC 26 in relation to clarifying the minimum net site area requirements that should apply to sites within the SCA Residential areas listed in Table 38.8.2.6.1.

5.8.5 Recommendation

Amend Chapter E38 Standard E38.8.2.6 as follows:

- (1) *Proposed sites ...*

(2) *Proposed sites identified ...*

(3) *The minimum net site area controls within Table E38.8.2.6.1 take precedence over those within Table E38.8.2.3.1.*

6. Conclusion

PPC 26 seeks to amend Chapters D18 and E38 to clarify the relationship between the provisions that relate to the SCA Residential overlay and residential zoned sites in the SCA General overlay; and the provisions in the relevant underlying zones.

This evaluation report concludes that:

1. PPC 26 is consistent with the purpose of sustainable management in Section 5 and with the principles in Part 2 of the RMA;
2. PPC 26 will assist the council to carry out its functions set out in Sections 30 and 31 of the RMA;
3. Pursuant to section 75(3)(c) of the RMA, PPC 26 is consistent with the objectives and policies of the RPS; and
4. The proposed amendments to Chapters D18 and E38 are the most appropriate way to achieve the purpose of PPC 26, and the objectives of the AUP, having regard to their efficiency and effectiveness, costs and benefits.

7. Attachments

Attachment	Name of Attachment
Attachment 1	Details of the underlying zones of the SCA overlay
Attachment 2	Open Space: Conservation and Informal Recreation zones to be excluded from the SCA Overlay – Residential.
Attachment 3	Comparison of Development Activity Rules
Attachment 4	Comparison of Development Standards
Attachment 5	Traditional Subdivision and Development Patterns in SCA Overlay – Residential
Attachment 6	Proposed Plan Change 26: Amendments to Chapter D18 & Chapter E38