

# The National Policy Statement Urban Development

## Independent Hearings Panel

### Auckland

# Recommendation Report Hearing Topics – Metropolitan Centre Centre, and relevant Precincts and Qualifying Matters

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**Prepared by the Independent Hearing Panel pursuant to clauses 99 and 100 of Schedule 1 of the RMA and released to Auckland Council on 11 September 2025**

***Note: Decisions on Plan Changes 79-83 can be found in separate reports.***

This report sets out the Panel's recommendations on the provisions of the IPI covered by the report, including the Panel's recommendations on the matters raised in submissions. The report states the Panel's reasons for accepting or rejecting submissions, identifies any recommendations that are outside the scope of the submissions and where relevant forms a further evaluation in accordance with s32AA.

This report may also include—

(a) matters relating to any alterations necessary to the IPI as a consequence of matters raised in submissions; and

(b) any other matter that the Panel considers relevant to the IPI that arises from submissions or otherwise.

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## 1. Topic Description and Summary

[1] This recommendation report addresses a number of different topics which relate to the Business - Metropolitan Centre Zone (MCZ) and relevant Precincts. The relevant precincts are:

- I336 Sylvia Park Precinct
- I425 Manukau Precinct
- I502 Albany Centre Precinct
- I540 Takapuna 1 Precinct

[2] This report does not address Topic 020AT Precincts – I607 New Lynn or Topic 020AW Precincts – I615 Westgate as these precincts include land zoned residential and therefore contain interactions with the Medium Density Residential Standard requirements. The Panel has determined that it would be inappropriate to issue recommendations on Precincts I607 New Lynn and I615 Westgate in advance of hearing submissions on the residential zones.

Hearing topic number	Hearing topic name	Chapter number and name
016B	Business - Metropolitan Centre Zone provisions	H9 Business – Metropolitan Centre Zone*
20V	Precincts – I425 Manukau Precinct	I425 – Manukau Precinct
20AC	Precincts – I502 Albany Precinct	I502 – Albany Precinct
20AL	Precincts – I540 Takapuna 1 Precinct	I540 – Takapuna 1 Precinct
20AY	Precincts – I336 Sylvia Park Precinct	I336 – Sylvia Park Precinct

The following hearing topics were heard to the extent that they apply to the MCZ and relevant Precincts (see section 2.1 below for further information).

Hearing topic number	Hearing topic name	Chapter number and name
009C	Matters A-I - Significant Ecological Areas	D9 Significant Ecological Areas Overlay E3 Lakes, rivers, streams and wetlands E15 Vegetation management and biodiversity E26 Infrastructure L Schedules – Schedule 3, 4, and 5

Hearing topic number	Hearing topic name	Chapter number and name
009G	Qualifying Matters A-I Maunga Viewshafts and Height Sensitive Areas*	D 14 Volcanic Viewshafts and Height Sensitive Areas Overlay
009J	Qualifying Matters A-I - Significant Natural Hazards	E36 Natural hazards and flooding E38 Subdivision – Urban
009K	Qualifying Matters A-I National Grid*	D26 National Grid Corridor Overlay
009Q	Qualifying Matters A-I – Designations*	K Designations
009R	009R Qualifying Matters A-I - Aircraft Noise	D24 Aircraft Noise Overlay
010D	Qualifying Matters (Other) Notable Trees*	D13 Notable Trees Overlay
011A	Qualifying Matters - (Special Character) – Appropriateness of Qualifying Matter (as it relates to Special Character Business only)	D18 Special Character Areas Overlay – Residential and Business
011B	Qualifying Matters - (Special Character) – Special Character Business - add new property/area to SCAB	D18 Special Character Areas Overlay – Residential and Business
011C	Qualifying Matters - (Special Character) – Special Character Business - general or non-specific	D18 Special Character Areas Overlay – Residential and Business
011D	Qualifying Matters - (Special Character) – Special Character Business – provisions	D18 Special Character Areas Overlay – Residential and Business
011E	Qualifying Matters - (Special Character) – Special Character Business - remove property/area from SCAB	D18 Special Character Areas Overlay – Residential and Business
011F	Qualifying Matters - (Special Character) – Special Character Business - support property/area in SCAB as notified	D18 Special Character Areas Overlay – Residential and Business

Hearing topic number	Hearing topic name	Chapter number and name
012C	Qualifying Matters (Infrastructure) – Combined wastewater network	N/A
013	Qualifying Matters – Additional	N/A
014A	Height - Business height - Policy Principles	H9 Business – Metropolitan Centre Zone

*\*Qualifying Matters (QMs) have already been heard for appropriateness as a QM at the City Centre Outstanding Matters hearing*

## 2. Introduction

### 2.1. Background and PC78 timeline

- [3] This recommendation is made to Auckland Council (**Council**) by an Independent Hearing Panel (“IHP”) comprising hearing commissioners Matthew Casey, KC (Chairperson), Sarah Shaw, Dr Stephanie Mead, Julianne Chetham and Richard Knott (**Panel**) appointed under clause 96 of the First Schedule to the Resource Management Act 1991 (**RMA**).
- [4] The Panel made its recommendation on the City Centre Zone and Precincts (and relevant qualifying matters) (**City Centre Report**) to the Council on **8 May 2025**. On **29 May 2025** the Council notified its decision on the Panel’s recommendations. The provisions as they relate to the City Centre became operative on **6 June 2025**.
- [5] We refer to the background and timeline set out in section 2.1 of the City Centre Report. The hearings relevant to this report are those on the Manukau, Albany Centre and Takapuna 1 Precincts heard from 19 September 2023, and on the MCZ and the Sylvia Park Precinct from 25 November 2024. A further hearing on outstanding matters relating to the MCZ took place from 3 June 2025. A final hearing was held on 20 August 2025 to hear three additional submission points that were erroneously omitted in the earlier hearings (the four hearings forming the **Hearings**).
- [6] The significant delays in progressing PC78 have resulted in some changes to the commissioners appointed to the IHP over the four hearings.
- [7] Panel Chair Matthew Casey, did not sit on the 19 September 2023, 3 June 2025 and 20 August hearings the other Panel members sat on all Hearings and the Panel, as a whole, undertook the relevant site visits and deliberations other than where we have declared below in section 2.3. Mr. Casey has reviewed the evidence and submissions and viewed the recordings of the Hearings he did not attend in person.

## 2.2. Site visits

- [8] The Panel undertook site visits throughout the hearings process and as part of our deliberations. Our site visits took place on 25 October 2023, 12 February 2025 and 5 June 2025 and were based on locations throughout the various Metropolitan centres and relevant Precincts. These greatly assisted the Panel in understanding the issues put forward by the various witnesses. Where particularly relevant, we have referred to the site visits in some recommendations below. For the avoidance of doubt, our site visits have informed all of the Panel's recommendations.

## 2.3. Declarations

- [9] We record that, to avoid any potential or perceived conflicts of interest and out of an abundance of caution:
- i. Panel Chair Matthew Casey recused himself from the portion of the Hearings and deliberations relating to the submission of North Eastern Investments Limited (NEIL) as he had previously acted for NEIL in relation to NEIL's land; and
  - ii. Panel Member Stephanie Mead recused herself from the portion of the hearings and deliberations relating to the appropriateness of the Aircraft Noise Overlay and Designation 1102 as she owns property in an area affected by the Moderate Aircraft Noise Area.

## 3. Issues in contention at the hearing

- [10] The Council's evidence addressed a number of submissions, which those submitters did not subsequently challenge. The Panel generally accepts the Council's uncontested evidence on those matters except where indicated in our report. We likewise accept the Council's updated wording of the PC 78 provisions produced at the close of the Hearing, other than the changes needed to give effect to our recommendations set out below.

### 3.1 The Panel's approach to scope

- [11] This issue does not relate to specific provisions of the AUP. It addresses the principles set out by the Enabling Act and the NPS-UD which direct how the Panel must make its recommendations.

#### 3.1.1 Statement of issue

- i. The scope of PC78 as an IPI.
- ii. Drury metropolitan centre.
- iii. The scope of relief sought in submissions.

#### 3.1.2 Panel recommendation and reasons

##### The scope of PC78 as an IPI

- [12] Section 3.1 of the City Centre Report set out the Panel's approach to statutory interpretation of the IPI provisions in the RMA relating to the scope of an IPI and scope of relief sought in submissions. There has been no additional case law brought to our attention or submissions which have caused the Panel to depart from our that approach.

#### Drury metropolitan centre

- [13] The Drury metropolitan centre was zoned Future Urban at the time of PC78's notification in August 2022. The Drury metropolitan centre and precincts were subsequently made operative in December 2022. The matter of whether the recommendations on PC78 can be applied to Drury was identified by the Council in its evidence on the National Grid QM.
- [14] The Panel accepts the legal submission for the Council that there is no scope issue given the MCZ is now operative in Drury and the MCZ provisions as amended by the Council's decision on our recommendation will apply to Drury. While this was in the context of the QM, the Panel records that where our recommendations are relevant to the MCZ this is inclusive of the Drury metropolitan centre.
- [15] The substance of the National Grid QM is addressed later in this report.

#### The scope of relief sought in submissions

- [16] The scope of other particular submissions are addressed as they arise.

### **3.2 The Panel's approach to Qualifying Matters**

- [17] This issue does not relate to specific provisions of the AUP. It addresses the principles set out by the Enabling Act and the NPS-UD which direct how the Panel must make its recommendations.

#### **3.2.1 Statement of issue**

- i. Application of ss 77O, 77P, 77Q and 77R of the RMA when determining the appropriateness of a 'QM'.
- ii. Approach taken to evaluating QMs and recommending provisions.
- iii. Approach taken to identifying QMs in s 32 evaluation and evidence.

#### **3.2.2 Panel recommendation and reasons**

- [18] As in the City Centre Report we note as a matter of procedure that in order to complete our hearings and recommendations on the MCZ and relevant Precincts, we have had to bring forward consideration of the appropriateness of certain QMs. We have not considered the appropriateness of any QMs that are not relevant to the MCZ and relevant Precincts.
- [19] Our recommendations on the merits of any QMs in this report are only in the context of the MCZ and relevant Precincts, as that is the only evidence we have considered for this report.

[20] Section 3.3 of the City Centre Report set out our approach in regards to the:

- (i) Application of ss 77O, 77P, 77Q and 77R when determining the appropriateness of a 'QM'
- (ii) Approach taken to evaluating QMs and recommending provisions
- (iii) Approach taken to identifying QMs in s 32 evaluation and evidence

[21] In summary, wherever a QM has been identified (by the Council, a submitter or by the Panel) and provisions were proposed to accommodate the QM, we have undertaken a two-step analysis to satisfy ourselves first that the relevant QM has been identified and evaluated in a procedurally correct way under ss 77O, 77P, 77Q and 77R, and second that the requirements of Policy 3(b) are modified to be less enabling of development "only to the extent necessary" to accommodate the identified QM. In undertaking that two-step analysis we have relied on the Council's s 32 evaluation, any relevant s 32 evaluation prepared by submitters, the evidence we heard and our site visits. Our report comprises our s 32AA further evaluation. To avoid lengthening our report we have not repeated these explanations as we evaluate each QM.

[22] There has been no additional case law brought to our attention or submissions which have caused the Panel to depart from our approach.

### **3.3 Qualifying matter – Appropriateness of QMs**

[23] This issue relates to and applies to the MCZ and relevant Precincts.

#### **3.3.1 Statement of issue**

- i. Appropriateness of the Council's application of s 77O(a)-(i) QMs.
- ii. Appropriateness of the Council's application of s 77O(j) any other QMs.
- iii. Plan methodology to give effect to QMs.

#### **3.3.2 Panel recommendation and reasons**

[24] The Panel notes that the clear and directive nature of Policy 3(b) of the NPS-UD resulted in less emphasis on the interaction between QMs and the appropriate level of enablement in the MCZ than was the case for Policy 3(a) and the City Centre Zone

[25] The Panel did not receive further legal submission or evidence in the course of the Hearings which challenged the approach and recommendations outlined in section 3.5 of the City Centre Report. We therefore continue to recommend that the Council-identified QMs are appropriate in providing a pathway under which the corresponding merits-based determination must still be undertaken subject to ss 77P, 77Q and 77R.

[26] While the Council did not present overarching planning evidence as in the City Centre hearings, the Panel considers that Mr. Shield's evidence which we considered in section 3.5 of the City Centre Report continues to be relevant.



- [27] We refer to the respective sections of this report for the detailed findings as to the substance of the various QMs. With regards to the appropriateness of a QM - where there was no additional submitter evidence challenging the Council position on an issue discussed in the City Centre Report, we have not repeated our reasons here.

### **3.4 Business - Metropolitan Centre Zone – general objectives and policies**

- [28] This issue relates to general business objectives and policies (the general objectives and policies) which apply to the Centres, Mixed Use, Business Park, and General Business zones which form the business zones of the AUP. In terms of Chapter H9 Business – Metropolitan Centre Zone they are:

- H9.2(1)(2)(3)(4) and (5)
- H9.3(1)(2)(3)(4)(5)(6)(7)(8)(9)(10)(11)(12)(12A)(13) and (14)

- [29] This section is confined to the general objectives and policies only. The MCZ specific objectives and policies of the MCZ are addressed in section 3.5 below.

#### **3.4.1 Statement of issue**

- i. Appropriateness of amendments to the general objectives and policies.

#### **3.4.2 Panel recommendation and reasons**

- [30] The AUP contains an overarching framework of objectives and policies (the general objectives and policies) which are repeated across all business zones, comprising the Centres, Mixed Use, Business Park, and General Business zones. This structure is intended to ensure a consistent outcome around design matters, distribution of business activities and the role of the centres network.

- [31] Section 3.6 of the City Centre Report recommended amendments to the general objectives and policies as set out in the planning evidence of Mr. Pollard for the Council. In summary, the Panel adopted Mr. Pollard's amendments as they:

- a) Recognise and provide for QMs;
- b) Enable building heights of at least six storeys within a walkable catchment;
- c) Support the roles of centres; and
- d) Reinforce that development should contribute towards a WFUE.

- [32] The general objectives and policies as amended as a result of the City Centre Report now form the background to the consideration of submissions on objectives and policies in the MCZ hearings.

### **3.5 Metropolitan Centre Zone – metropolitan centre zone description, objectives and policies**

- [33] This issue relates to MCZ description and zone specific objectives and policies which are:

- H9.1 Zone description

- H9.2(6)(7)(8) and (9)
- Policy H9.3(15)(15A)(16)(17)(18)(19)(20)(21)(22) and (23)

### 3.5.1 Statement of issue

- i. Appropriateness of amendments to the MCZ zone description and MCZ specific objective and policy.

### 3.5.2 Panel recommendation and reasons

- [34] PC78 contained changes to H9.1 Zone description and introduced a new Objective 9.2(9) and a new Objective H9.3(15A). Mr. Pollard explained that the changes to:
- i. H9.1 Zone description incorporate the requirements of NPS-UD Policy 3(b)
  - ii. Objective H9.2(9) reinforce the Policy 3(b) requirement of height and density of urban form to reflect demand.
  - iii. Policy H9.3(15A) establishes and clarifies that the MCZ enable greater height and densities than the lower order centres.
- [35] In response to submissions, Mr. Pollard's planning evidence amended Objective H9.2(9) and Policy H9.3(15A) to clarify that a QM may limit developments to less than the outcomes described in the Zone description. He stated that the inclusion of the phrase '*unless a qualifying matter applies with modifies height or density*' aligns with the language of NPS-UD Policy 4.
- [36] He likewise proposed amendments to Objective H9.2(9) and Policy H9.3(15A) to clarify that height in the MCZ is at least six storeys (unless a QM applies) to better align with the 6 storey requirements of NPS-UD Policy 3(b).
- [37] Mr. Osborne's planning evidence for Auckland International Airport Limited (AIAL<sup>1</sup>) agreed with the changes proposed by Mr. Pollard.
- [38] The Panel adopts Mr. Pollard's recommended changes to H9.1 Zone description, Objective H9.2(9) and Policy H9.3(15A).

## 3.6 Height and other provisions in the Metropolitan Centre Zone

- [39] This issue relates to the following provisions:

- H9.4.1 Activity table
- H9.6.1 Building height
- H9.6.2 Height in relation to boundary

### 3.6.1 Statement of issue

- i. NPS-UD Polic 3(b) requirements.
- ii. Appropriateness of a 72.5m building height.

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<sup>1</sup> We record that the Board of Airline Representatives New Zealand Limited (BARNZ) adopted the position of Mr. Osborne on behalf of AIAL. Where the Panel refers to AIAL in this report it is inclusive of BARNZ.

- iii. Appropriateness of a 60-degree recession plane measured at 19m height on the boundary of the MCZ.
- iv. New provisions to provide for retirement villages.
- v. Minor amendment to the purpose of Standard H9.6.1 Building height.

### 3.6.2 Panel recommendation and reasons

#### NPS-UD Policy 3(b) requirements

[40] Policy 3(b) of the NPS-UD states the relevant direction for the MCZ:

*(b) in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases buildings heights of at least 6 storeys ...*

[41] The Panel considered the Council's s 32 evaluation and the planning evidence of Mr Pollard, the latter of which outlined PC78's approach to building heights and development standards in the MCZ, in summary:

1. Retaining the existing 72.5m with minor amendments to the purpose statement that provides for greater height in walkable catchments.
2. Retaining existing precinct rules and Height Variation Controls (HVCs) which vary heights in certain metropolitan centres.
3. Amending Standard H9.6.2 Height in relation to boundary (**HIRB**) to a 60-degree recession plane measured at 19m to ensure 6 storey developments are permissible on sites at the MCZ boundary. Previously a more restrictive HIRB limited height in the MCZ where it adjoins a less intensive zone, but this did not give effect to Policy 3(b) as it did not enable 6 storeys.

[42] The Panel's recommendations on Precinct heights are addressed in the respective Precinct related sections of this report. This section addresses standards H9.6.1 Building Height and H9.6.2 HIRB contained in the MCZ.

#### Appropriateness of a 72.5m building height for H9.6.1 Building Height

[43] The Panel received economic evidence from Dr Fairgray for the Council analysing the demand for housing and business use in the metropolitan centres. This is particularly salient in the context of Policy 3(b) as it establishes what, if any, additional enablement of either height or density of urban form under PC78 is required when evaluated against the operative AUP provisions.

[44] Dr Fairgray's evidence assessed the business and housing capacity of each metropolitan centre against projected demand. He outlined the Council's capacity modelling which calculated the plan-enabled floorspace under AUP provisions on a site-by-site basis and at each floor level (storey) while also considering site characteristics. He concluded that the proposed provisions would enable 54.6 million m<sup>2</sup> of floorspace of which approximately three-fifths would be for business use (33 million m<sup>2</sup>) and two-fifths for residential use (21.6 million m<sup>2</sup>). This reflects that a

greater proportion of lower levels would be used for business activity with the balance being residential uses. Dr. Fairgray translated the floorspace into business and housing capacity as approximately 708,000 MEC (the number of persons engaged in economic activity) and 194,000 apartments.

- [45] Dr Fairgray drew on the Housing and Business Capacity Assessment 2023 (HBA) which projected the growth experienced in the 2003 to 2023 period out to 2052. In summary, the HBA found there is already 'abundant' plan-enabled capacity in the MCZ to accommodate demand for business and residential activities into the long term. Dr Fairgray stated that demand for apartment typologies (as the most likely in metropolitan centres) in the MCZ ranges from 8,000 to 12,000 apartments while employment increase is likely to be around 19,000 MEC. Put another way, the plan-enabled capacity under the operative AUP provides approximately 16 times the residential demand and 37 times the business demand.
- [46] Dr Fairgray also undertook modelling of a 100m height (requested in submissions) which represented an additional 15% plan-enabled capacity. He concluded that such an increase would result in no material effect on the role and performance of the metropolitan centres and so there would be no or minimal benefits from the increased height.
- [47] While Dr Fairgray's evidence focuses on plan-enabled capacity, there was no economic or other evidence which challenged his overall conclusions or the Council's overall position on height and development controls. The Panel considers economic evidence for submitters in later sections as they relate specifically to the Sylvia Park and Albany Centre precincts.
- [48] Ms. Mein provided urban design evidence for the Council in response to requests for increased heights beyond 72.5m in the MCZ. Ms. Mein considered that while heights greater than 72.5m could be appropriate, there are amenity effects such as daylight and sunlight to public spaces and shading and dominance which require careful consideration. She concluded that developments greater than 72.5m are more appropriately assessed on individual merit through a resource consent process.
- [49] Similarly, Mr. Brown provided landscape and amenity evidence for the Council on how the increase from 72.5m to 100m or more will appear '*arbitrarily high and stand-alone*' thereby visually disrupting the isthmus' broader sequence of volcanic landforms.
- [50] The Panel note that submitters seeking a 100m or unlimited height in the MCZ generally (that is not precinct specific) did not present evidence challenging the Council's position.
- [51] Ms. Richmond provided planning evidence for Tūpuna Maunga o Tāmaki Makaurau Authority (**Tūpuna Maunga Authority**) in support of the Council noting that there have been no analysis in support of the additional height and that an increase to 100m or unlimited heights would have the potential to diminish the volcanic forms of maunga contrary to Regional Policy Statement (**RPS**) objectives B4.3.1(1) and Policy

B4.3.2(3) which protect significant public views to and between Auckland's maunga from inappropriate development.

- [52] With regards to the six storey minimum requirement of Policy 3(b), the Panel accepts the planning evidence of Mr. Pollard and the urban design evidence of Ms. Mein that the current building height standard enable heights well above six storeys (subject to the amendments to the HIRB standard).

*Recommendation*

- [53] We recommend retaining the 72.5m height under Standard H9.6.1 Building Height as outlined in Mr. Pollard's evidence as it give effect to the requirements of Policy 3(b), and no contrary economic evidence established demand for height beyond 72.5m.
- [54] Our recommendation for the retention of the 72.5m height also reflects the potential adverse effects of increasing heights in the MCZ as outlined in the landscape evidence of Mr. Brown and the urban design evidence of Ms. Mein.

*Appropriateness of a 60-degree recession plane measured at 19m height on the boundary of the MCZ for H9.6.2 Height in relation to boundary (HIRB standard)*

- [55] Mr. Pollard explained that the HIRB standard proposed by PC78 of a 60-degree plane measured at 19m height at the interface of the MCZ boundary and all other zones is more enabling of at least six storeys for sites up to the MCZ boundary, than the operative AUP provisions. The operative provisions range from 45-degree plane measured at 2.5m to a 45-degree plane measured at 16.5m depending on the adjacent zone.
- [56] Mr. Pollard stated that PC78 will retain the requirement for the recession plane to be limited to 30m from the origin point, that is, buildings on land zoned MCZ within 30m of the zone boundary will not be able to achieve the full 72.5m height but can achieve at least six storeys. He concluded that the PC78 HIRB standard will appropriately give effect to Policy 3(b) while achieving an acceptable level of amenity at the zone interface.
- [57] Submitters seeking to make the HIRB standard more restrictive to manage potential amenity effects on lower-intensity zones and Special Character Areas Business and Special Character Areas Residential or those seeking exemptions did not provide evidence challenging the Council's position.

*Recommendation*

- [58] The Panel recommends Standard H9.6.2 be amended to require a HIRB standard of a 60-degree plane measured at 19m height on the MCZ boundary.

*New provisions to provide for retirement villages*

- [59] Mr. Pollard's planning evidence addressed submissions seeking new provisions in the MCZ to provide for retirement villages. He explained that these provisions include

a new activity rule, notification exclusions, modification of an operative standard and new matters of discretion.

[60] Mr. Pollard referred to the Panel's interim guidance which outlined our preliminary view that such provisions do not support and are not consequential on Policies 3 and 4 and therefore run afoul of s 80E(1)(b)(iii). His opinion was that retirement villages are already provided for and managed through provisions as an 'integrated residential development' activities and the additional amendments are not necessary to give effect to NPS-UD Policy 3 in the MCZ given it relates to a type of land use rather than relating to height or density of form.

[61] Submitters did not provide evidence challenging the Council position.

#### *Recommendation*

[62] The Panel refer to the Scope section of the City Centre Report. We consider that the submission seeking to amend the activity status of retirement villages is out of scope under s 80E(1)(b)(iii). If we are incorrect in this, we record that on the merits we accept the evidence of Mr. Pollard and do not recommend new provisions to provide for retirement villages.

#### Minor amendment to the purpose of Standard H8.1.1 Building height

[63] We adopt the Council's proposed minor amendment to the purpose of Standard H8.1.1 Building height to clarify that it is inclusive of walkable catchments.

### **3.7 Qualifying matter – Significant ecological area**

[64] This issue relate to Chapter D9 and E15 and L Schedules to the extent that it applies to the MCZ and relevant Precincts.

#### **3.7.1 Statement of issue**

- i. The appropriateness of provisions to address the QM.

#### **3.7.2 Panel recommendation and reasons**

[65] Chapter D19 Significant Ecological Areas overlay and E15 Vegetation management and biodiversity are existing provisions which manage areas of significant ecological values (**SEAs**). PC78 proposes minor amendments to Chapter D9 to explain that SEAs are a QM under sections 77I(a) and 77O(a) of the RMA. PC78 does not propose changes to Chapter E15 which contain the provisions or to the schedules which list the identified SEAs.

[66] Ms. Rowe provided planning evidence for the Council stating that three SEAs are located in the MCZ, in Henderson, New Lynn and Takapuna. Ms. Rowe confirmed that PC78 does not seek to spatially amend these SEAs. There were no submissions relating to the spatial application of SEAs within the MCZ. Accordingly, we adopt Ms. Rowe's position.

- [67] While Ms. Rowe was not engaged at the time of the expert conference for Topic 009C, she referred to the JWS dated 27 April 2023. Ms. Rowe stated her agreement with the attending planning experts (to the extent that matters addressed were relevant to the MCZ and relevant precincts) that SEAs should be a QM and that there is a lack of further s32AA analysis to amend the planning framework for SEAs to incorporate new tools such as buffers and ecological corridors.
- [68] Ms. Rowe echoed the JWS and stated that SEAs are appropriate under s 77O(a) which identified s 6 matters of national importance as QMs. Relevantly, SEAs fall under section 6(c) for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. SEAs are an 'existing' QM as the identification and management of SEAs are planning methods in use under the operative AUP.
- [69] Submitters seeking the removal of SEAs as a QM or amendments to the provisions managing SEAs did not provide evidence challenging the Council's position.

#### *Recommendation*

- [70] The Panel recommend the retention of provisions relating to SEAs as notified in PC78.

### **3.8 Qualifying matter – Notable trees**

- [71] This issue relate to Chapter D13 Notable Trees Overlay and L Schedules to the extent that it relates and applies to the MCZ and relevant Precincts.

#### **3.8.1 Statement of issue**

- i. Appropriateness of provisions to address the QM.

#### **3.8.2 Panel recommendation and reasons**

- [72] The Panel considered the appropriateness of the Notable Trees QM in the City Centre Report.
- [73] There was no evidence challenging the Council's position and no submitters sought relief on notable trees in the context of the MCZ and relevant Precincts as notified in PC78.
- [74] We accept the Council's section 32 evaluation and Mr. Patience's planning evidence for the Council which noted that there were 21 properties in the MCZ which contain notable trees (63 trees in total).
- [75] Mr. Patience considered that the effects of these on development potential will be minor as they amount to 1.4 per cent of land across all ten metropolitan centres and particularly in the context of Dr. Fairgray's economic evidence on the ample capacity enabled by PC78.

#### *Recommendation*



- [76] The Panel recommend the retention of the notable tree provisions as notified in PC78 to the extent they relate and apply to the MCZ and relevant Precincts.

### **3.9 Qualifying matter – National grid**

- [77] This issue relates to Chapter D26 National Grid Corridor Overlay (**NGCO**) to the extent that the issue applies to the MCZ and relevant Precincts.

#### **3.9.1 Statement of issue**

- i. Spatial extent of the National Grid Corridor Overlay

#### **3.9.2 Panel recommendation and reasons**

- [78] The Panel considered the appropriateness of the National Grid Corridor Overlay as a QM in the City Centre Report.
- [79] Ms. Hart provided planning evidence for the Council. She noted that submissions on this issue are general in nature. Ms. Hart confirmed that her analysis and position remains consistent with her evidence for Topic 009K in the City Centre Outstanding Matters Hearing.
- [80] There was no evidence challenging the Council's position in the context of the MCZ and relevant Precincts.
- [81] Ms. Hart noted two relevant spatial matters relating to the NCGO:
- i. In March 2024 Transpower sought the uplift of the NGCO for the Albany-Henderson Transmission Line located in the Westgate metropolitan centre. She noted that the automatic update removing the NGCO in the operative GIS viewer will carry through once PC78 becomes operative with regards to the MCZ and relevant precincts. We understand that there are no implications for our recommendation given that the removal is an automatic requirement of Chapter D26 NGCO once a site is no longer required for the overlay.
  - ii. A section of the NGCO is located the Drury metropolitan centre which, at the time of notification was zoned Future Urban. The Drury metropolitan centre and precincts were made operative in December 2022 after PC78 was notified in August 2022. Consequently, the notified PC78 planning maps did not include Drury or the relevant section of the NGCO. Ms. Hart stated that the planning maps will need to be updated to include the NGCO as a QM and to apply the MCZ to the Drury metropolitan centre once this part of PC78 becomes operative. As discussed in 3.1.2 above, the Panel accepts the Council's position that the Drury MCZ is within scope of this part of the recommendation for PC78.

#### ***Recommendation***



- [82] The Panel recommends retention of the NGCO provisions with the amendments outlined in the evidence of Ms. Hart and recommended in the City Centre Report to the extent they relate and apply to the MCZ and relevant Precincts.

### **3.10 Qualifying matter – Designations**

- [83] This issue relates to the Chapter K Designations and Chapter A Introduction to the extent that they apply to the MCZ and relevant Precincts.

#### **3.10.1 Statement of issue**

- i. Retention of designations as a QM.
- ii. Clarifications to Chapter K Designations.
- iii. Review / removal of designations.
- iv. Designations and airspace.

#### **3.10.2 Panel recommendation and reasons**

##### **Retention of designations as a QM, clarification to Chapter K Designations, review / removal of designations**

- [84] As declared above, Panel Chair Mr. Casey did not participate in the deliberation of this issue.
- [85] The Panel considered the appropriateness of designations as a QM in the City Centre Report. There were no submitter evidence challenging the Council position on the appropriateness of this QM.
- [86] Ms. Hart provided planning evidence for the Council and confirmed that her analysis and position remains consistent with her evidence for Topic 009Q at the City Centre Outstanding Matters Hearing.
- [87] Ms Coats presented planning evidence on behalf of North Eastern Investments Limited (NEIL). The NEIL submission seeks to remove designations from the PC78 map viewer unless there is supporting information for its application. Ms. Hart clarified in both her evidence, and following questioning by the Panel at the hearings, that PC78 did not apply new designations.
- [88] The Panel is of the view that the issue raised by NEIL is an interpretation issue. We consider that the designations identified by PC78 are existing and operative when PC78 was notified. New designations can only be confirmed and incorporated through the appropriate statutory process under Part 8 of the RMA.

##### **Designation and airspace**

- [89] A submission from Ms. Angela Joy Goodwin's sought to clarify in the provisions of the designation that the airspace component of a designation is 'not included'.
- [90] Ms Hart's planning evidence stated that designations managing airspace relate to airports such as those of Auckland International Airport, Ardmore Airport and the New Zealand Defence Force Whenuapai Airbase. These designations include

conditions limiting height of development and /or location of certain activities to ensure the safe operation of the airports.

- [91] Relevantly for the MCZ, the Obstacle Limitation Surface within the Whenuapai Airbase designation affects Westgate metropolitan centre and is between 16 and 38 metres below the zone height limit of 72.5m, depending on location. Ms. Hart therefore, is of the view that the airspace component of designations serves an appropriate function in terms of managing the effects of development on the operation of the airports / airbase.
- [92] Ms. Goodwin did not present evidence on the issue.
- [93] Ms. Hart identified a minor amendment to assist in the implementation of Designation 1102 Auckland International Airport. She recommended an amendment to the PC78 map viewer to identify the spatial extent of Designation 1102 as a qualifying matter and to match its depiction in the operative AUP maps where this relates to Metropolitan Centres. Ms. Hart concluded that this amendment would reflect spatially that the designation is a QM under sections 77O(g) and provide clarity to the plan user. Mr. Osborne's planning evidence for Auckland International Airport Limited agreed with Ms. Hart.

#### *Recommendation*

- [94] The Panel recommend the retention of the provisions relating to designations as notified in PC78 with the amendments outlined in the evidence of Ms. Hart to the extent they relate and apply to the MCZ and relevant Precincts.

### **3.11 Qualifying matter – Aircraft noise**

- [95] This issue relates to the Chapter D24 Aircraft Noise Overlay to the extent that it applies to the MCZ and relevant Precincts.

#### **3.11.1 Statement of issue**

- i. Appropriateness of QM
- ii. Appropriateness of provisions to address the QM
- iii. Amendments to clarify the relationship between the overlay and underlying zones and/or precincts

#### **3.11.2 Panel recommendation and reasons**

- [96] As declared above, Panel member Ms. Mead did not participate in the deliberation of this issue.
- [97] PC78 proposes to retain the Aircraft Noise Overlay, mapped as the high aircraft noise area (HANA) and moderate aircraft noise area (MANA), which seek to manage reverse sensitivity effects from use and development near Auckland International Airport (Auckland Airport). A large part of the Manukau MCZ is located within the MANA and a small part within HANA.

- [98] AIAL was the only submitter that provided evidence on this issue. The Council and AIAL filed a joint memorandum dated 28 May 2025 which outlined a high degree of agreement between the experts and noted that clarifications around the relationship between the overlay and underlying zones and/or precincts remained the key outstanding matter.

#### Appropriateness of QM

- [99] The Council's section 32 evaluation identified the HANA and MANA as an 'existing' QM to accommodate a s 77O(e) matter relating to the safe or efficient operation of nationally significant infrastructure, that being Auckland Airport.
- [100] Mr. Lau's planning evidence for the Council referred to the section 32 evaluation when highlighting the AUP statutory framework to ensure the efficient operation of Auckland Airport by protecting it from reverse sensitivity effects. This includes RPS Objective B3.2.1(1) (6) and Policies B3.2.2(1) and (4) – (5) and the provisions within the Aircraft Noise Overlay itself. He identified the aircraft noise overlay as accommodating an existing s 77O(e) QM based on the importance of the operation of Auckland Airport.
- [101] The Council's position on the appropriateness of the QM was not challenged by submitter evidence.

#### Appropriateness of provisions to address the QM

- [102] Mr. Runcie and Mr. Day provided acoustic evidence for the Council and AIAL respectively. Both experts were in agreement that the Aircraft Noise Overlay provisions and spatial extent were appropriate to manage activities sensitive to aircraft noise (ASAN). They provided detailed explanations on the effects of aircraft noise on health and amenity values. They also explained how the existing AUP provisions were developed in the context of striking a balance between enabling development and the recommended standards set out in New Zealand Standard 6805:1992 Airport Noise Management and Land Use Planning.
- [103] Mr. Lau and Mr. Osborne, the respective planning experts, identified a clear link between the Aircraft Noise Overlay provisions and managing reverse sensitivity effects on the operation of Auckland Airport. Submitters opposing the provisions did not provide evidence to challenge the Council and AIAL's positions.

#### Amendments to clarify the relationship between the overlay and underlying zones and/or precincts

- [104] The Panel understands that the agreed changes to the description of Chapter D24 Aircraft Noise Overlay go some way to address the AIAL's concern around ensuring the primacy of the overlay provisions over the underlying zone and/or precinct provisions.
- [105] Notwithstanding, the Council and AIAL remains at odds around notified amendments to Chapter C1 General Rules. The crux of the disagreement stems from whether

Standard C1.6A(1), introduced by PC78, potentially contradicted rule C1.6(2) which states that the most restrictive activity status applies. C1.6A(1) states that

*Where an activity is subject to a rule in an overlay, the overlay may specify whether the overlay rule replaces a zone rule, a precinct rule or an Auckland-wide rule.*

- [106] The provisions in Chapter C were not addressed in this Hearing. AIAL acknowledged this and accepted the Panel's proposition that submissions relating to Chapter C can be addressed at a later hearing. As such, the Panel is not making a recommendation on Chapter C but records the outstanding matter relevant to the otherwise agreed position around the Aircraft Noise Overlay.

#### *Recommendation*

- [107] The Panel recommend the retention of the provisions relating to designations as notified in PC78 with the amendments outlined in the evidence of Mr. Lau and amendments to the description of Chapter D24 Aircraft Noise Overlay as outlined in the Joint Memorandum dated 28 May 2025. We make no recommendation on the Chapter C provisions which fall outside this report.

### **3.12 Qualifying matter – Infrastructure**

- [108] This issue relates to the proposed Infrastructure – Combined Wastewater Network Control (**Combined WW**) to the extent that it applies to the MCZ and relevant Precincts.

#### **3.12.1 Statement of issue**

- i. Deletion of the Infrastructure – Combined Wastewater Network Control QM from Newmarket metropolitan centre

#### **3.12.2 Panel recommendation and reasons**

- [109] Ms. Bell's planning evidence for the Council stated that the Combined WW manages effects from the greater intensity enabled by the Medium Density Residential Standards in residential zones. Consequently, the QM was not intended to apply to business zones such as the MCZ.
- [110] Ms. Bell's evidence stated that there are no sites in the MCZ whereby the Combined WW overlay applies and likewise, there are no corresponding provisions in Chapter H9 Business – Metropolitan Zone to accommodate the QM. During deliberations, the Panel noted that the PC78 map viewer identified the WW on a site in the Newmarket metropolitan centre. Ms. Bell confirmed in supplementary evidence that the application of the Combined WW overlay to 9-11 Teed Street and 309 Broadway Newmarket, is a mapping error and should be removed from those sites.

#### *Recommendation*

- [111] The Panel recommends the Infrastructure – Combined Wastewater Network Control QM be removed from all sites within the MCZ and that PC78 GIS Maps be updated to remove the Infrastructure Combined WW QM Overlay from 9-11 Teed Street and 309 Broadway Newmarket.
- [112] The Panel defers any recommendation on the appropriateness of Council's approach to, and application of, infrastructure QMs in PC78.

### **3.13 Qualifying matter – Maunga viewshaft**

- [113] This issue relates to Chapter D14 Maunga Viewshafts and Height Sensitive Areas Overlay to the extent that it applies to the MCZ and relevant Precincts.

#### **3.13.1 Statement of issue**

- i. Appropriateness of QM.
- ii. Application of Maunga Viewshafts and Height Sensitive Areas in the MCZ.
- iii. Maunga to maunga viewshafts.
- iv. Standard D14.6.4A – construction cranes.

#### **3.13.2 Panel recommendation and reasons**

##### **Appropriateness of QM**

- [114] The Panel addressed the appropriateness of Maunga Viewshafts and Height Sensitive Areas (**Maunga Viewshafts**) as a QM in the City Centre Report. Relevant to the MCZ, Newmarket is subject to the following viewshafts
- i. Maungawhau / Mt Eden (Maungawhau): E08, E09, E11, E12, E13, E14
  - ii. Ōhinerau / Mt Hobson (Ōhinerau) : H01, H03, H04, H05, H06, H07
  - iii. Maungakiekie / One Tree Hill: 01; and
  - iv. Maungarei / Mt Wellington: W19, W26.
- [115] We record that there were no submissions or evidence at the hearing which challenged our recommendation in the City Centre Report in the context of the MCZ and relevant Precincts.

##### **Application of Maunga Viewshaft in the Newmarket MCZ**

- [116] Mr. Reaburn's planning evidence for the Council confirmed his position in his City Centre evidence that the current Maunga Viewshafts are an existing QM under the AUP.
- [117] Mr. Brown's landscape evidence for the Council addressed the views and values of Maungawhau and Ōhinerau in the context of the Newmarket metropolitan centre. In response to submissions seeking to remove the Maunga Viewshaft from Newmarket, Mr. Brown stated that Maungawhau like many of Auckland's maunga is not high enough to stand out against developments of up to 72.5m height enabled by the

MCZ if the Maunga viewshaft controls did not apply. His view was that such heights would begin to visually cover the wider volcanic crown and open space which visually differentiate Maungawhau and Ōhinerau from their surrounds and the wider Auckland skyline. Mr. Brown considered that close-up views would be further impacted.

[118] With regards to the s 77Q requirements Mr. Reaburn relied on Mr. Brown and on Dr. Fairgray's economic evidence that the excess capacity enable by PC78 pose no opportunity cost to urban development from not enabling greater height, to conclude that it is appropriate to retain the Maunga Viewshaft in the Newmarket metropolitan centre.

[119] The Tūpuna Maunga Authority tabled a memorandum dated 31 March 2024 which reiterated their position in support of the protection of viewshafts to and between the Maunga. It also supported the position of Mr. Brown and Mr. Raeburn for the Council.

[120] We note that no submitters provided evidence challenging the Council's position.

### *Recommendation*

[121] The Panel recommends the retention of Maunga viewshafts to the extent that each applies and is relevant to the MCZ.

### *Maunga to maunga views*

[122] The Panel considered the appropriateness of a new QM for Maunga to Maunga views and made recommendations on provisions in the City Centre Report. We recorded our view that the protection of Maunga to Maunga views are important given their importance as outlined in the RPS objectives and policies and their significant cultural and visual values.

[123] Consequently, the Panel sought the view of the Council witnesses with regards to how Maunga to Maunga views may interact with the MCZ – particularly Newmarket and Sylvia Park which are two metropolitan centres likely to impact on Maunga to Maunga views.

[124] We noted that as PC78 did not enable additional height or intensity of form in the MCZ (with the exception of the amendment to HIRB), any new provisions protecting Maunga to Maunga views would not modify the effect of (new) intensification, and would therefore not be within the scope of s 80E unless the Panel were to recommend additional height in response to submissions. Counsel for the Council agreed with this.

[125] Mr. Raeburn and Mr. Brown confirmed that the existing Maunga viewshafts in the Newmarket metropolitan centre would likely protect to some degree Maunga to Maunga views (particularly via consideration of objectives and policies relating to views between Maunga as part of matters addressed as resource consents for non-complying activities intruding into the viewshaft) but noted that the overlay does not apply in Sylvia Park metropolitan centre. The impact of height on the Maunga to

Maunga views in Sylvia Park is addressed in the reasoning of our recommendation below in section 3.17.

- [126] The Council agreed with the Panel that the submission by the Tūpuna Maunga Authority was potentially wider and included all Maunga to Maunga connections but noted that identification of such connections will require further evaluation that is beyond the context of the topics related to this recommendation report.

#### *Recommendation*

- [127] The Panel does not recommend new provisions to provide for Maunga to Maunga views as it is out of scope for PC78 under s 80E(1)(b)(iii) as applied to the MCZ and relevant Precincts, given the Panel's recommendation not to increase height in the MCZ beyond the operative 72.5m. We record that should the Council decision depart from our recommendation and enable additional height, we would recommend a planning mechanism such as a matter of discretion or assessment criteria requiring assessment of effects on Maunga to Maunga views for any additional height above 72.5m..

#### *Evaluation outside PC78*

- [128] The Panel reiterate our previous evaluation under the City Centre Report encouraging the Council to advance work on provisions to identify and protect Maunga to Maunga views.

#### Standard D14.6.4A - Construction cranes

- [129] The Council produced addendum evidence to address the submission by Scentre (New Zealand) it had inadvertently not addressed in the primary evidence. This matter relates to the exclusion of temporary crane activities in Standard D14.6.4A from the Maunga Viewshaft and height sensitive area overlay controls - echoing the issue addressed by the Panel in the City Centre Report. Mr. Reaburn and Mr. Brown's addendum evidence confirmed their views at the City Centre hearings and supporting amendments to include the MCZ under standard D14.6.4A excluding temporary construction and safety structures. No submitter provided evidence on this matter.

#### *Recommendation*

- [130] The Panel recommends that Standard D14.6.4A be amended to include sites in the MCZ as stated in the joint evidence of Mr. Reaburn and Mr. Brown.

### **3.14 Qualifying matter – Significant natural hazards**

- [131] This issue relates to Chapter E36 Natural hazards and flooding and J Definitions to the extent that they apply to the MCZ and relevant Precincts.

#### **3.14.1 Statement of issue**

- i. Appropriateness of QM.



- ii. Appropriateness of provisions to address the QM.
- iii. Consequential amendments to Chapter J Definitions.

### **3.14.2 Panel recommendation and reasons**

#### **Appropriateness of QM**

- [132] PC78 identified significant natural hazards as an existing QM under s 77O(a) and (b). Section 77O(a) provides for the management of significant risks from natural hazards as a matter of national importance under s 6(h) of the RMA. Section 77O(b) provides for the management of significant risks from coastal erosion and coastal inundation as a result of giving effect to the New Zealand Coastal Policy Statement 2010.
- [133] The Panel accepts Mr. Shields' planning evidence and considers that significant risks from flooding, coastal erosion, coastal inundation and land instability are appropriate QMs under s 77O(a) and s 77O(b). We have likewise referred to the four section 32 evaluations relating to the different natural hazards and are satisfied that the appropriate statutory tests have been met.

#### ***Recommendation***

- [134] The Panel recommends the appropriateness of significant natural hazards as an existing QM.

#### **Appropriateness of provisions to address the QM**

- [135] Relevantly to the MCZ, Mr Shields identified the various significant natural hazards present in the various metropolitan centres. He drew on the section 32 evaluation reports and explained how PC78 relies on the operative provisions of the AUP to manage significant risks from natural hazards. This is predominately provided by Chapter E36 Natural hazards and flooding and E38 Subdivision – Urban and through spatial identification in the AUP GIS viewer using the most current information available. Provisions in Chapter E12 Land disturbance – District and E15 Vegetation management and biodiversity are relevant to the management of risk from flooding. He further added that a site-by-site analysis is required by the existing provisions where height and density of developments are affected.
- [136] PC78 included small amendments to the objectives and policies in the business (and residential) zones to ensure that the operative heights can be maintained in the context of the additional enablement directed by the NPS-UD and MDRS. The Council sought to amend the note which follows the definition of 'floodplain' in Chapter J Definitions. This change was explained as making clear that floodplains are developed at a catchment level and indicative only and that site-specific reporting is required for specific development proposals.
- [137] Mr. Shields stated that the amendments to and/or deletion of the provisions sought by other submitters will result in the Council not giving effect to a matter of national importance under s 6 of the RMA and the NZCPS. Similarly, he explained that piecemeal deletion of the provisions as sought by some submitters will result in



consequential effects which effectively remove the QM in its entirety. Finally, Mr. Shields addressed submitters seeking alternative provisions or methods and concluded that the operative provisions remain the most appropriate.

- [138] Ms. Coats' planning evidence for NEIL criticised the Council's section 32 evaluation as insufficiently granular with regard to development intensity. She was of the view that it was inadequate to inform PC78's response to the NPS-UD and consequently, the text changes are unnecessary. She added that the section 32 evaluation ought to have considered the Network Discharge Consent (**NDC**) held by the Council and its associated Stormwater Management Plan. Ms. Coats opposed the amendments to the definition of 'floodplains' in Chapter J as it made no reference to the NDC.
- [139] Mr. Shields' rebuttal evidence explained that the section 32 evaluation process fully considered the effects of intensification and reiterated that PC78 retained the operative provisions and any amendments were necessary to ensure that the operative provisions can be retained by satisfying the RMA requirements relating to QMs. With regards to the definition of 'floodplain', Mr. Shields was of the view that while the NDC is relevant in the processing of resource consent applications involving the diversion of stormwater into the public water system, the definition of 'floodplain' has a much wider application beyond such discharges. Relevantly, the definition is used by Chapter E36 to trigger the need for additional consents for the management of natural hazard risks.
- [140] Other submitters did not provide evidence to challenge the Council position. We are particularly minded of this as the RMA's clear identification of significant risk from natural hazards as a matter of national importance (and coastal hazard risks as a matter under the NZCPS) places the onus on submitters disputing the operative provisions to provide a strong evidentiary basis.
- [141] The Panel prefers the analysis of Mr. Shields and, with our own reference to the section 32 evaluations, accept that the statutory tests under s 77Q alternative process for existing QMs are satisfied.
- [142] With regards to amendments to the definition of 'floodplain', we queried the Council whether such changes are consequential on Policy 3 and/ or the MDRS thereby satisfying s 80E(1)(b)(iii) or if such a change was an unrelated by convenient Plan improvement. Counsel for the Council submitted that the change is indeed 'consequential' on Policy 3 and then MDRS as the additional intensity enabled will result in uncertainty that potential flooding will only be restricted to those areas mapped as subject to flooding. Counsel cited the section 32 evaluation explanation *'that the amendment accommodate the likelihood that additional areas might be subject to flooding as a consequence of the intensification requirements'*.

### *Recommendation*

- [143] The Panel recommends the retention of the significant natural hazards QM and the provisions under Chapter E36, E38, E12 Land disturbance – District and E15

Vegetation and the amendments to the definition of floodplain under Chapter J Definitions as outlined in the evidence of Mr. Shields.

### **3.15 Qualifying matter – Special character areas – Business**

[144] This issue relates to Chapter D18 Special Character Areas Overlay – Residential and Business (but only with regards to Special Character Areas Overlay – Business) to the extent that they apply to the MCZ and relevant Precincts.

#### **3.15.1 Statement of issue**

- i. Appropriateness of the qualifying matter.
- ii. Changes to categorisation of SCA Buildings in Newmarket.
- iii. Reduction in the spatial extent of SCA Business in Newmarket.

#### **3.15.2 Panel recommendation and reasons**

##### **Appropriateness of QM**

[145] The City Centre Report assessed the appropriateness of a QM addressing special character buildings in the City Centre Zone. That QM was specific to the City Centre and unrelated to the Special character area – Business (“SCA Business”) relevant to the MCZ.

[146] Ms. Richmond’s planning evidence for the Council stated that SCA Business areas outside the City Centre have been managed in Auckland for over 20 years and contribute to the identity, quality and distinctiveness of Auckland. The RPS recognises the physical and visual qualities and legacy values of identified special character areas and, along with Chapter D18 Special Character Areas Overlay – Residential and Business, seeks to maintain and enhance these values.

[147] There is one SCA Business area in the MCZ, in Newmarket.

[148] As the SCA Business overlay is proposed in PC78 as s 77O(j) “other” matter, the criteria in ss 77R and 77P(3) must be satisfied.

[149] Ms. O’Neil’s heritage evidence for the Council described SCA Business as a finite resource, the values of which, once lost, cannot be replaced. Ms. O’Neil stated that prior to notification of PC78 she undertook a “site by site” qualitative review of all SCA Business areas within the region by surveying the special character values and qualities of each site, and reviewing the spatial extent of each area to determine the areas where special character values were clearly collective and cohesive.

[150] Following that review, SCA Business areas were notified in PC78 with:

- i. Site-specific amendments to the categorisation of buildings; and
- ii. Identified overlay spatial extents.

[151] Ms. Richmond stated that submission points relating to the appropriateness of special character primarily supported or opposed the QM generally, and the majority did not distinguish between the business and residential overlays.

[152] Ms. Richmond and Ms. O'Neil considered that the identification of SCA Business as a QM is appropriate.

[153] No submitters put forward evidence on this issue.

#### *Recommendation*

[154] We are satisfied that the Council's evidence and s 32 evaluation have satisfied the statutory tests set out in ss 77P and 77R with respect to the appropriateness of the QM.

#### *Changes to categorisation of SCA Business buildings in Newmarket*

[155] The evidence of Ms. Richmond and Ms. O'Neil described that, following review, the Newmarket SCA Business area was notified in PC78 with:

- i. Site-specific amendments to the categorisation of buildings; and
- ii. A reduction in the Newmarket SCA Business area's operative spatial extent.

[156] The amendments to categorisation and spatial extent in Newmarket are shown below in comparative figures from Ms. O'Neil's hearing summary statement (Map 1 on the left operative, Map 2 on the right PC78 as notified).

- i. The categorisations are "character defining" (dark pink), "character supporting" (light pink), and neither character defining nor character supporting (no colour). (PC78 added a fourth category – no building / no visible building).
- ii. The operative extent of the Newmarket SCA Business is shown in black outline, with the PC78 notified extent in yellow outline.



**Map 1:** Operative extent of the Newmarket SCA and site categorisations (Schedule 15.1.6.11.)



**Map 2:** An extract of the Newmarket SCA map from the Summary of Area Findings, which has been annotated with the notified extent (yellow outline) relative to the operative AUP extent (black outline). The categorisation of each building based on the survey results is also shown.

[157] As is evident from the maps, Ms. O'Neil's review resulted in some site categorisations being downgraded, some not changing, and some being upgraded.

[158] During the hearing we asked the Council to consider whether there were any potential Waikanae issues associated with categorisation upgrading. The Council reply acknowledged that:

- i. Additional restricted discretionary activity rules apply to demolition to the front façade of a character defining or character supporting building that do not apply to a building that is not character defining or supporting. However, alterations to a building that is not character defining or supporting requires consent as a restricted discretionary activity in any event, and the same matters of discretion apply for all SCA Business restricted discretionary activities.
- ii. The only activity status difference is in the context of total or substantial demolition, which is discretionary activity in relation to a character defining building as opposed to a restricted discretionary activity for a character supporting building and for a building that is not character defining or character supporting.
- iii. Within the PC78 notified extent of the Newmarket SCA Business area, five buildings have been upgraded from not character defining or character supporting to character defining.

- iv. Four of those five are scheduled Category B historic heritage places, a consequence of which is that resource consent is required as a discretionary activity for demolition, and therefore there is no difference in the activity status for demolition that has resulted from the category change. The categorisation upgrades do not limit the level of development previously permitted.
- v. The remaining building, at 424 Khyber Pass Road, would be subject to activity status change from restricted discretionary to discretionary. The Council accepted that the categorisation upgrade would result in a more onerous consenting requirement in terms of demolition and proposed a bespoke site-specific restricted discretionary activity rule for 424 Khyber Pass Road to rectify that.

[159] The Council reply did not address the extent of buildings re-categorised to character defining within the wider operative (compared to reduced PC78 notified) overlay area.

[160] The Panel walked the entire operative overlay area on our site visits. We agreed with the re-categorisations.

[161] We address our recommendations on the re-categorisations and the Waikanae issue below, because they are related to the PC78 notified reduction in the Newmarket SCA Business spatial extent.

*Reduction in the spatial extent of SCA Business in Newmarket*

[162] Ms. O'Neil stated that the survey data collected for each SCA Business area was compared against the stated values, qualities, and descriptions set out in the Schedule 15 Character Statements. The spatial extent for each SCA Business area was then examined to determine the geographic area where the values and qualities were most evident and continued to exemplify collective and cohesive importance, relevance, and interest.

[163] Ms. Richmond stated that 0.09% of land zoned MCZ is subject to SCA Business as proposed in PC78 which she considered an insignificant amount of land subject to the QM.

[164] Ms. O'Neil described the amendments to the spatial extent of the Newmarket SCA Business Overlay proposed as part of PC78. The refined spatial extent encompasses two groups of mainly character defining and character supporting buildings on and around Broadway and Khyber Pass Road. Collectively, Ms. O'Neil considered that they continue to reflect the stated values and qualities of the Newmarket SCA Business area. Ms. O'Neil described the operative area excluded from the notified PC78 extent as encompassing:

- i. The greatest concentrations of non-contributing buildings;
- ii. Small pockets of character supporting buildings that lack the collectiveness and cohesiveness of those that characterise the area; and

iii. A residential area off Remuera Road to the southeast.

- [165] Ms. Richmond summarised the PC78 spatial amendments as reducing the Newmarket SCA Business area extent by 75%, from 122 parcels (6.30 ha) to 34 parcels (1.56 ha). As proposed in PC78 the Newmarket SCA Business will cover 8.7% of parcels or 4.3% of the 35.98 ha of the Newmarket MCZ.
- [166] Ms. Richmond identified that only one submission point (Scentre) is specifically on the Newmarket SCA Business, supporting the notified reduction in extent. Other submission points relevant to the Newmarket SCA Business are general in nature and seek to retain or remove the SCA Business overlay, particularly around walkable catchments. Ms. Richmond also identified one general submission supporting SCA Business as a QM and opposing the reduction of SCA areas.
- [167] The JWS records that the experts who participated in conferencing (for the Council, Scentre, and Heritage NZ) supported the revised extent of the Newmarket SCA Business.
- [168] Ms. Richmond, Ms. O'Neil and Ms. Mein (who provided planning evidence for the Council addressing the SCA Business provisions) considered that the SCA Business categorisations, provisions and reduced Newmarket SCA Business spatial extent modify the relevant building height or density requirements under Policy 3(b) only to the extent necessary to accommodate the QM.
- [169] At the hearing we asked the Council's experts what was proposed for the spatial areas to be removed from the Newmarket SCA Business by PC78 (for example, was the residential area off Remuera Road intended to be converted into SCA Residential). We were informed that the excluded areas would no longer be subject to any SCA provisions.
- [170] No submitters put forward evidence on this issue.
- [171] As noted above, the Panel walked the entire operative overlay area. While we agreed with the re-categorisations, we disagreed with the 75% reduction in the Newmarket SCA Business spatial extent.
- [172] The PC78 spatial extent removes three areas (to the west, south and south-east) containing concentrations of character supporting (and some character defining) buildings. While in some instances those buildings have been re-categorised by downgrading from character defining to character supporting, others have been upgraded from neither supporting nor defining to character supporting or character defining.
- [173] The Panel could not reconcile on the one hand re-categorising extensive areas to character supporting or character defining while on the other hand removing them from the mapped extent of the Newmarket SCA Business. One example is the former Cashmore Bros Ltd building fronting Kent Street: categorised as character supporting, and which the Panel considered to continue to reflect the values and



qualities of the Newmarket SCA Business as an important commercial and light industrial centre during the late nineteenth and early-to-mid-twentieth centuries, but removed from the PC78 mapped extent. We saw many other examples on our site visits.

[174] If the issue is, as we understood it from our questioning of the Council witnesses at the hearing, that:

- i. The buildings demonstrate qualities and characteristics that are inconsistent with Policy 3(b) intensification (reflected in their categorisations); but
- ii. The retention of the existing phrasing of the operative Newmarket SCA Business area description has resulted in the removal of areas that should otherwise have been retained;

then the Council should either have notified PC78 with a revision to the Newmarket SCA Business area description to reflect the demonstrated characteristics of the QM, or progress a separate plan change without the IPI jurisdictional constraints.

[175] The Panel is mindful of the RPS direction and of Ms. O'Neil's description of SCA Business as a finite resource, the values of which, once lost, cannot be replaced.

[176] The Panel therefore disagrees with the Council experts and concludes that it is the operative AUP, rather than PC78, spatial extent of the Newmarket SCA Business that is the extent necessary to accommodate the QM. The Panel considers that the operative spatial extent is the "area" subject to the QM and incompatible with the level of development enabled by Policy 3(a) in accordance with s 77P.

[177] With respect to the *Waikanae* decision, the Council reply only addressed those sites within the PC78 revised spatial area re-categorised to character defining (and therefore subject to the more onerous discretionary activity total demolition control). The Panel observes that outside the PC78 revised spatial area there appears to be only one further cluster of sites re-categorised to character defining, on the corner of Remuera and Middleton Roads. We consider that the Council's proposed solution of a site specific rule retaining the restricted discretionary activity status is an appropriate provision and should also be applied to that cluster of sites.

### *Recommendation*

[178] The Panel recommends:

- i. Adoption of the PC78 changes to categorisation of SCA Business buildings in Newmarket.
- ii. Retention of the operative spatial extent of SCA Business in Newmarket.
- iii. A site specific restricted discretionary activity status rule for demolition as proposed in the Council reply for 424 Khyber Pass Road and also for the cluster of sites re-categorised to character defining on the corner of Remuera and Middleton Roads.

### 3.16 Qualifying matter – new qualifying matter

[179] This issue relates to inserting new QMs not identified in PC78 or extension of proposed QMs as notified in PC78. The Panel notes that this issue only addresses matters to the extent that they apply to the MCZ and relevant Precincts.

#### 3.16.1 Statement of issue

- i. Application of a new QM for land adjacent to the rail corridor relating to the safe and efficient operation of the rail network

#### 3.16.2 Panel recommendation and reasons

##### New QM for land adjacent to the rail corridor relating to the safe and efficient operation of the rail network

[180] The City Centre Report considered the appropriateness of and recommended the introduction of a new QM for land adjacent to the rail corridor relating to the safe or efficient operation of the rail network. In that report, we stressed that while the appropriateness of the QM was considered, the merits of the provisions were only in the context of the City Centre Zone and Precincts and would require appropriate assessment for other parts of Auckland.

[181] The City Centre Report recommended the following provisions and we repeat them here as they are essentially the same relief sought by KiwiRail Holdings Limited for MCZ adjoining the rail corridor (being Henderson, New Lynn, Newmarket, Papakura, Sylvia Park and Manukau) as identified in the Strategic Transport Corridor Zone (STCZ):

- a 5m building setback from the boundary of a site adjoining the STCZ;
- a noise insulation requirement applied to land within 100m of the STCZ; and
- a rail vibration alert overlay to land within 60m of the railway designation boundary.

##### Scope

[182] We do not repeat issues relating to *Clearwater* as we did not hear compelling evidence which challenged our findings in the City Centre Report. The Panel considers that the test under s80E(1)(iii) and *Waikanae* as the germane issue – we are mindful that what is considered in scope under s80E(1)(b)(iii) in one zone, does not equate to the same in another. On this, we were assisted by the legal submission of KiwiRail, the Council and Kiwi Property Group Holdings Limited.

[183] KiwiRail's legal submission and Ms. Heppelthwaite's planning evidence for KiwiRail referred to the City Centre Report and noted that:

- i. The provisions sought for the MCZ did not change the permitted activity status quo (new buildings requiring a consent for a restricted discretionary activity in the MCZ) and thus not disenabling in a *Waikanae* sense. This reasoning was not accepted by the Council (or Kiwi Property) but was



accepted by the Panel in the context of the City Centre Report and remains our view.

- ii. The Panel may recommend increased heights arising from relief sought by submitters.
- iii. New policies in the MCZ enable greater height (and therefore intensification).
- iv. Amendment to the HIRB standard enables greater height adjacent to the rail corridor in several locations.

[184] The policies referenced above are:

- i. (12A): *Enable building height of at least six storeys (21m) within walkable catchments unless a QM applies that modifies height.*
- ii. (15A): *Enable greater building heights and density of urban form in metropolitan centres, than in town, local or neighbourhood centres, to reinforce their role as regional focal points.*

[185] The Panel did not recommend increases to Standard H9.6.1 Building Heights as outlined in section 3.6 above. The question then becomes whether changes to make the HIRB standard more permissive and the new policies satisfy the threshold as intensification that the KiwiRail provisions would be consequential upon.

[186] Legal submission for the Council contextualised that the HIRB standard applies to 30 metres into sites within the MCZ (only where it adjoins a different zone) and is therefore limited spatially. They also noted that while Ms. Heppelthwaite identified six such sites where the HIRB standard is more enabling of intensification compared with the operative provisions, these represent only a small portion of sites in the MCZ. Put another way, most sites which are proposed by KiwiRail to be subject to the additional QM have not seen additional enablement of intensification due to the HIRB standard amendment. The Panel prefer this evidence. We consider that the HIRB standard amendment does provide s 80E scope for KiwiRail's proposed provisions but only for the limited spatial extent identified by the Council.

[187] Legal submission for Kiwi Property likewise put forward that KiwiRail's relief runs afoul of s 80E(1)(b)(iii) and *Waikanae* noting that:

- i. Implementation of a QM requires a nexus between the new constraint proposed and the additional development opportunity proposed. No such opportunity currently exists.
- ii. The 5m setback is addressing a pre-existing issue and the view of KiwiRail that the existing provisions are not adequate.

[188] KGPL further recorded its disagreement with the Panel's conclusions in the City Centre Report that additional standards triggering restricted discretionary resource consent is not 'disenabling' because consent for new buildings is already required,

and that the KiwiRail relief does not satisfy both limbs of *Clearwater*. As noted above, the Panel remain of the view stated in the City Centre Report.

[189] During the Hearings, counsel for Kiwi Property submitted that the new policies relied on by KiwiRail does not enable additional building height. Counsel referred to the planning evidence of Mr. Pollard at the City Centre hearings which explained that policy 12A speaks to six storeys in the walkable catchment and cannot be seen to enable height beyond the 72.5m in the MCZ while the policy refers to *than in town centres...* and therefore speaks to the centres hierarchy and is thus comparative and explanatory as to why metropolitan centres have greater heights than other centres. The Panel prefers this explanation and observe that it aligns with our interpretation of the proposed policies. The Panel does not consider that the policies enable additional height and therefore do not provide s 80E scope for the requested provisions.

[190] We record that during Kiwi Property's counsel's submission references were made to Tramlease but note that only Kiwi Property sought leave to file late legal submission.

*Appropriateness of a 5m setback and noise and vibration standards in the MCZ*

[191] To the extent that the Panel has concluded above that the amendment to the HIRB standard provides limited spatial scope for the requested provisions, and in the event that we are not correct in our assessment of scope from the objective and policy, we turn now to consider the merits of the requested provisions. The Panel heard planning evidence from Mr. Shields for the Council and Ms. Heppelthwaite for KiwiRail. Both planning experts confirmed their previous positions as outlined in the evidence for the City Centre hearings and continue to rely on their respective acoustic experts, Mr. Styles for the Council and Dr. Chile for KiwiRail. We do not repeat the matters addressed in the City Centre Report other than to note that :

- i. Ms. Heppelthwaite in response to Mr. Shields' evidence, stated that she had not prepared specific assessment of cost and broader impacts through a MCZ specific s 32 evaluation and continued to rely on the evaluation included as part of her City Centre evidence. She was of the view that it provided an appropriate information base.
- ii. Ms. Heppelthwaite provided supplementary evidence addressing the potential intensification likely to affect the rail network which we have addressed above in our discussion on scope.

[192] With respect to the 5m setback, in the City Centre Report we concluded that in the context of s 77P:

- i. the standard has a clearly defined spatial extent being land within 5m of the STCZ;
- ii. that increased intensification enabled by PC78 will bring more people and corresponding safety issues into areas adjacent to the rail corridor; and

- iii. that KiwiRail had assessed the cost and broader impacts of the setback.
- [193] The latter of those findings referred not just to the nationwide s 32 assessment provided by KiwiRail, but crucially also to evidence from Ms. Heppelthwaite that she had undertaken a high-level assessment of the sites within the relevant part of the City Centre Zone, existing limits on development due to the extent of recent development, and consequent impact of the 5m setback on overall development capacity. We had no similar evidence from Ms. Heppelthwaite for the MCZ Hearings. We have insufficient evidence to satisfy us that s 77P is met. Nor are we satisfied that the setback is appropriate on a s 32 efficiency and effectiveness basis when, for scope reasons, the setback could only apply to such spatially limited locations (where the amended HIRB standard applies adjacent to the rail corridor) and then only for the portion of any development above the operative HIRB control.
- [194] With respect to the noise and vibration controls, in the City Centre Report we concluded in the context of s 77P:
- i. that the standard has a clearly defined spatial extent being land within 100m/60m of the STCZ;
  - ii. increased intensification enabled by PC78 will bring more people into areas adjacent to the rail corridor; and
  - iii. KiwiRail have assessed the cost and broader impacts of the proposed noise and vibration standards.
- [195] We also observed that the noise controls do not impact on development capacity (requiring internal design considerations for acoustic insulation and ventilation), while the vibration alert layer does not have corresponding controls (instead aiming to inform and shape behaviour similar to the operation of the Auckland Airport noise alert area). Much like in the City Centre hearings, the Panel observed that there is a high degree of agreement between the acoustic witnesses – Mr. Styles for Council and Dr. Chiles for KiwiRail. The areas of agreement are summarised as:
- i. generally accepting the appropriateness of acoustic treatment and vibration controls *in principle*
  - ii. Specific noise mitigation measures for an individual building will require a case-by-case assessment and noise modelling; and
  - iii. A vibration alert layer on either side of the STCZ is sensible.
- [196] The experts helpfully identified the new matter arising from the MCZ which as the appropriateness of the generic provisions being applied to the varied characteristics of the different metropolitan centres.
- [197] Mr. Styles disagreed with KiwiRail's approach whereby the controls are uniform in their spatial application either side of the rail STCZ. He based his position on :

- i. The STCZ essentially duplicates the KiwiRail designation boundaries which expands to include other features such as station buildings, car parks and other peculiarities of landholdings which do not generate noise. The boundaries are therefore arbitrary and do not reflect the actual noise-generating rail.
- ii. There are features of the rail network itself which modify its noise-generation characteristics which means that the 100m cannot be justified in every case. Mr. Styles cited features such as speed limits and tunnels which can result in noise and vibration effects to be so low that no mitigation is required. He further provided the example of Manukau metropolitan centre where there are only commuter services which approach the end of line station slowly.

[198] Mr. Styles concluded that the uniform approach would result in controls applied to land that did not experience rail effects, thereby placing the burden on the landowner to demonstrate to the Council why acoustic measures should not be applied. His view was that this is an expensive process and therefore represents provisions that are inefficient and unreasonable.

[199] Mr. Style's proposed an alternative approach based on distances mapped from the rail line itself taking into account track characteristics which may impact the extent of noise effects. Developers of affected land will then carry out modelling to determine the extent of acoustic requirement required.

[200] Dr. Chiles' agrees with Mr. Styles as to the extent that the mitigation required for rail noise should be determined from site-specific detailed assessment which should include effects of screening by building / structures, terrain and any railway cutting / trenches. He added that the layout and height of a proposed development can affect the level of noise exposure and thus mitigation e.g. ground level compared to second floor level.

[201] The key point of disagreement seemed to be when the assessment should occur. Dr. Chiles was of the view that the assessment should occur when a development proposal applies for a resource consent. He stated that it is not possible to assess the effects in advance of a specific proposal and that the assessment suggested by Mr. Styles to determine the extent of the provisions would require 'material effort'. In response to the example of Manukau, Dr. Chiles noted that the frequency of passenger services will offset the lesser noise and vibration when compared with freight trains.

[202] The Panel notes that there was merit in Mr. Styles' suggestion of refinement of the provisions through further modelling but we agree with Dr Chiles that the speed and frequency of services is dynamic especially in a rail network planned for growth. We conclude that the appropriate provisions would necessitate further analysis and modelling. The Panel considered the potential merits of requesting expert conferencing to do so but the response of the experts were sufficiently apart (as well as the Panel's concern around scope) as to unlikely yield a fruitful conferencing process within the context of these Hearings. Ultimately as for the 5m setback, in the

absence of any assessment of the affected land by Ms. Heppelthwaite, we have insufficient evidence to satisfy us that s 77P is met. Nor are we satisfied that the acoustic and vibration provisions are appropriate on a s 32 efficiency and effectiveness basis when, for scope reasons, the acoustic provisions could only apply to such spatially limited locations (where the amended HIRB standard applies adjacent to the rail corridor) and then only for the portion of any development above the operative HIRB control.

### *Recommendation*

- [203] On the matter of scope under *Waikanae* and s 80E(1)(b)(iii) the Panel prefers the legal submission of the Council and KPGL that the new policies do not enable intensification to the extent that there is something 'consequential on' for the new QM to accommodate. The Panel does however consider that the amendment to the HIRB standard provides for intensification, albeit in limited locations.
- [204] If the Panel is incorrect in its approach to *Waikanae*, and with regards to the HIRB enabled intensification, on the merits we do not recommend the provisions sought by KiwiRail as it relates to the MCZ. The Panel is not satisfied that KiwiRail's section 32 analysis and evidence met the evidentiary threshold.

## **3.17 Precinct – Albany Centre**

- [205] This issue relates to I502 Albany Centre Precinct, particularly the following provisions:

- Rule 502.4.1 (A11) and (A14)

### **3.17.1 Statement of issue**

- i. Scope for Oyster Management Limited's relief sought
- ii. Appropriateness of enabling additional commercial activities and removing GFA requirements in Sub-precinct C

### **3.17.2 Panel recommendation and reasons**

- [206] PC78 proposes to retain the operative provisions of I502 Albany Centre Precinct (Albany Precinct) without change. The Albany Precinct contain sub-precincts which provide for different development outcomes. They are:
- i. Sub-precinct A providing for high density residential development
  - ii. Sub-precinct B providing for high density office development
  - iii. Sub-precinct C providing for large format retail and car oriented commercial development
  - iv. Sub-precinct D providing for high employment office and commercial development.
- [207] Oyster Management Limited (Oyster) is the only submitter on the Albany Precinct. Counsel for Oyster clarified that Oyster is no longer pursuing the parts of its

submission on heights in Sub-precinct D. Legal submissions and evidence for Oyster is restricted to the land use / commercial activity provisions in Sub-precinct C.

Scope for Oyster's relief sought

[208] Oyster sought amendments to enable a wider range of commercial and retail uses beyond the current large format retail. Relevantly it seeks to:

- i. Delete the office Gross Floor Area (GFA) cap of 500sqm per site;
- ii. Remove the rule providing for retail up to 2,000sqm GFA as a non-complying activity

[209] Legal submission for the Council and Mr. Anderson's planning evidence considered that Oyster's relief goes beyond the scope of PC78. Their position was that amendments to enable office and retail activities do not affect height or density of urban form required by Policy 3(b), as height and urban form is solely governed by bulk and location of developments.

[210] Counsel for Oyster put forward that the changes do relate to density of urban form as it provides for more intensive land use activities within the MCZ.

[211] The High Court in *Wallace v Auckland Council [2021] NZHC 3095* considered the issue of building intensity and density. It accepted that 'building intensity' and 'density' are largely the same and that density is determined by the number of units and the intensity of use inclusive of the effect of activities within the buildings as expressed by use and occupation. The Panel considers that premised on *Wallace*, changes to GFA provisions provides a nexus between form and intensity of use. That is, GFA is a factor of bulk and density and changes to GFA, be it through a standard or enablement through an activity rule, will affect density. The Panel therefore prefer the legal submissions for Oyster and accept that its relief is in scope.

Appropriateness of enabling additional commercial activities and removing GFA requirements in Sub-precinct C

[212] Dr. Fairgray's economic evidence for the Council stated that PC78 provisions have a plan-enabled capacity that would be considerably greater than projected demand for business and apartment floor space. He noted that the floor space enabled will be 47 times the currently developed space. With regards to business capacity, Dr. Fairgray noted that the capacity is in extreme excess and that not every location is suitable for every activity. He therefore concluded that the differentiation and concentration of economic activities through planning provisions represent a more efficient and effective economic contribution to the region. Specifically, he considered that from an economic perspective, sub-precinct C is more appropriate for large format retail and car-oriented development than other retail or office use.

[213] Mr. Heath's economic evidence for Oyster stated that more permissive provisions offer land use efficiency, agglomeration benefits, transport efficiency and amenity improvements. Moreover, he was of a view that such changes in the strategically

advantageous location of Sub-precinct C (noting its' proximity to the Albany Bus Station) will reflect "practical demand". He premised this on a survey of current businesses within and in the vicinity of Sub-precinct C. Mr. Heath noted that there were 54 tenancies, 7 of which were large-format retail, 25 are small food and beverage with the balance being smaller-scale retail, commercial activities and community services. He also noted that modern large format retail tend to simply be retail centres and the differentiation of sub-precincts based on 'car orientated' activity are irrelevant in a modern market. Mr. Heath observed that there appeared to be a growing trend towards demand for higher density and larger office space in the immediate vicinity of Sub-precinct C.

- [214] Dr. Fairgray in his rebuttal disagreed with Mr. Heath's analysis and considered that he had applied generic economic principles and observations on marginal economic activity. Dr. Fairgray was of the view that a comparison of different growth outcome across the whole centre and their effects was necessary. He observed that Mr. Heath did not assess wider development potential in terms of scale and nature of economic activity. Mr. Heath responded at the hearing to clarify that he had assessed Sub-precinct C in the context of the Albany metropolitan centre, not in isolation.
- [215] Ms. Sanders' planning evidence for Oyster considered that consenting requirements are inefficient and ineffective. She relied on Mr. Heath's view that from an economic perspective, large format retail stores rarely differentiate and are in fact competing with all retail stores and centres in the market. She was also of the view that shifting the emphasis of Sub-precinct C away from car oriented commercial and entertainment will make more efficient use of land within a walkable catchment of rapid transit. Ms. Sanders and Mr. Wallace (from an urban design perspective) both considered that the activity framework will impact density of urban form – that enabling the appropriate uses is necessary for the uptake of building heights and densities.
- [216] Mr. Anderson remained of a view that differentiation of development is important as it allows for a broad range of commercial activities to serve the community. He also disagreed that having a development emphasis on large-format retail and car-oriented activities will preclude density outcomes. With regards to Policy 3(b) Mr. Anderson relied on Dr. Fairgray's economic evidence that the plan enabled capacity far exceeds demand in the Albany Precinct – consequently, no amendments are necessary. Mr. Anderson note that there are high-density office and residential tenancies within the other sub-precincts within the walkable catchment of Albany Bus Station to illustrate that the Albany Precinct is already utilising co-location efficiencies with the rapid transit station. Finally, he relied on Dr. Fairgray's rebuttal that there are a locational efficiency considerations in the inter-relationships among different activities – that it is not a matter of maximising development potential on the basis of proximity to infrastructure.

### *Recommendation*



- [217] The Panel prefers the submissions for Oyster and with reference to *Wallace* consider that changes to the GFA provisions will affect density of urban form, such that Oyster's relief is therefore within the scope of PC78.
- [218] Dr. Fairgray and Mr. Heath both addressed demand - Mr. Heath in terms of "practical" and "emerging" demand based on his observations, while Dr. Fairgray's methodology relied on employment data and forecasting of existing trends at an aggregate level. The Panel considers that Mr. Heath's evidence did, in principle, referenced demand as required under Policy 3(b).
- [219] With regards to merits, the Panel prefers the planning evidence of Mr. Anderson. We are not persuaded by Ms. Sanders' evidence that the changing nature of some uses justified a wholesale reconsideration of the consenting framework which will nullify a key outcome anticipated by the Albany Precinct. We consider that Ms. Sanders' recommended provisions (following deletions in line with Oyster's relief) would no longer efficiently or effectively function to manage sub-precinct C due to drafting inconsistencies which are not able to be remedied by the Panel.

### **3.18 Precinct – Sylvia Park**

[220] This issue relates to I336 Sylvia Park Precinct, particularly the following provisions:

- Standard I336.6.1 Site intensity
- Standard I336.6.2 Building height

#### **3.18.1 Statement of issue**

- i. Building height and gross floor area limits.
  - Scope for GFA amendments
  - Demand
- ii. Visual effects and effects on views to and between maunga.
- iii. Removal of GFA limits.

#### **3.18.2 Panel recommendation and reasons**

[221] As the various matters are interrelated, our recommendations on the Sylvia Park Precinct are grouped at the end of this section.

##### **Building height and gross floor area limits**

[222] Planning evidence from Mr. Anderson for the Council and Mr. Thompson for Kiwi Property helpfully summarised the history of development at Sylvia Park (a brownfields industrial site). The planning regime for the metropolitan centre has been refined through successive private plan changes and suites of resource consents since the late 1990s. Sylvia Park now comprises a wide range of retail, hospitality, entertainment, healthcare, and commercial activities, with approximately 122,000m<sup>2</sup> of GFA built and a further 26,000m<sup>2</sup> consented by not yet built. At approximately 21.5ha, the Sylvia Park metropolitan centre is the second smallest in Auckland's network of 11 metropolitan centres.



- [223] Kiwi Property's submission sought, as refined at hearing through Mr. Thompson's planning evidence:
- i. Deletion of the provisions governing or constraining height and their replacement with a maximum height standard of 100m.
  - ii. Deletion of the provisions governing or constraining site intensity (GFA).
- [224] The Sylvia Park Precinct applies to almost all of the current Sylvia Park MCZ, excluding only the Burger King and Caltex sites which are subject to height variation controls of 22.5m and 27m respectively (and are not proposed to be amended).
- [225] The Precinct is divided into sub-precincts A, B and C. Sub-precinct A covers the majority of the Precinct. Sub-precincts B and C are 25m deep each, stepping back from the northern Precinct boundary (with sub-precinct C closest to the boundary). The operative height limits and activity status are:
- i. In sub-precinct A: Up to 27m (controlled), 27m - 72.5m (restricted discretionary) and above 72.5m (discretionary).
  - ii. In sub-precinct B: Up to 27m (controlled activity), 27m - 50m (restricted discretionary) and above 50m (discretionary).
  - iii. In sub-precinct C: Up to 27m (controlled) and above 27m (discretionary).
- [226] Operative building standards require that in sub-precinct A buildings between 27m and 72.5m height and in sub-precinct B between 27m and 50m are limited to:
- i. 15% of the area of the sub-precinct;
  - ii. A floor plate area of 3,000m<sup>2</sup>; and
  - iii. A minimum horizontal separation distance of 20m.
- [227] Kiwi Property proposes deletion of the sub-precincts and respective height controls, to be replaced with the following height standards applicable to the entire Precinct:
- i. Up to 27m (controlled), 27m -100m (restricted discretionary) and above 100m (discretionary)
  - ii. Retention of the three building standards discussed above (applicable to buildings between 27m and 100m)
- [228] Operative site intensity (GFA) controls apply a 250,000m<sup>2</sup> GFA cap (except for accommodation which is not subject to the cap). Exceeding the cap is a discretionary activity. Within the cap, additional limits apply to:
- i. Office activity up to 100,000m<sup>2</sup> (permitted), 100,000m<sup>2</sup> - 130,000m<sup>2</sup> (restricted discretionary) and above 130,000m<sup>2</sup> (discretionary).

- ii. Retail, entertainment, food and beverage combined activity up to 120,000m<sup>2</sup> (permitted), exceeding 120,000m<sup>2</sup> but within the 250,000m<sup>2</sup> cap (restricted discretionary) and where the cap is exceeded (discretionary).

[229] The restricted discretionary GFA limits are accompanied by (in summary):

- i. Matters of discretion: travel management and transportation effects.
- ii. Assessment criteria: Modal shift and measures proposed to mitigate adverse transportation effects.

[230] Kiwi Property proposes to delete all of the GFA limits, and consequentially the linked transportation matters of discretion and assessment criteria.

#### *Scope for GFA amendments*

[231] The Council considered that removal of the Precinct GFA limits was unrelated to density of urban form and therefore out of scope in terms of s80E. Kiwi Property maintained that removal of the GFA limits was in scope.

[232] We refer to our findings in that GFA does materially affect density in the context of *Wallace* in the section of our report on the Albany Precinct above. The Sylvia Park Precinct is approximately 21.5ha but GFA (excluding accommodation) is capped at 250,000m<sup>2</sup> (and within that cap the mix of activities is further restricted). The Panel is satisfied that the GFA limits in the Sylvia Park Precinct provisions affect the density of urban form and removal of the GFA limits is within scope.

#### *Demand*

[233] Economic evidence was provided by Dr. Fairgray for the Council and Mr. Osborne for Kiwi Property. Mr. Tolley provided corporate evidence for Kiwi Property.

[234] Dr. Fairgray's evidence explained his analysis of metropolitan centres – including analysis of Sylvia Park – with respect to growth in population, employment and business, compared to plan-enabled capacity. Dr. Fairgray's evidence estimated that the operative provisions provided 3.9M m<sup>2</sup> of GFA in Sylvia Park to accommodate apartments and commercial floorspace. He concluded that there is abundant operative plan-enabled capacity in Sylvia Park to accommodate demand for business activity and for residential activity into the long term. Increasing height limits to 100m would enable a substantial increase in built capacity but, because the currently enabled capacity is so far in excess of long term demand for floorspace, enabling greater height would have no effect on the economics of development or the likely feasibility. The additional enablement would represent potential, however any opportunity or prospect of realising such potential is very far into the future if at all.

[235] During the Hearing the Panel queried whether the modelling for Sylvia Park reflected the operative precinct provision limiting buildings between 27m and 72.5m in sub-precinct A and between 27m and 50m in sub-precinct B to no more than 15% of each sub precinct. Dr. Fairgray confirmed that this requirement had not been taken into

account in the modelling and prepared an amended estimate of plan-enabled capacity. He confirmed that the revised estimates did not change his view that plan-enabled capacity is well in excess of likely growth in demand and provides sufficient capacity for growth.

- [236] Mr. Osborne's economic evidence for Kiwi Property discussed employment growth in the region and an observation that there is increasing demand for higher density development within the city and the region. Mr. Osborne considered that focusing on plan-enabled capacity fails to ensure that business land is suitable to accommodate demands, and that the main economic benefit of increased development capacity is affording developers flexibility to maximise development in an efficient location. Mr. Osborne considered that the benefits of more capacity outweigh the costs. Mr. Tolley's evidence provided a helpful overview of historical development of Sylvia Park and observed that development of Sylvia Park over 20 years (including the global financial crisis) has seen many fluctuations in demand.
- [237] Policy 3(b) of the NPS-UD requires that the MCZ enable building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys. The Panel questioned Dr. Fairgray about the criticisms of his analysis being focused on plan-enabled capacity in light of the Policy 3(b) reference to demand. Dr. Fairgray stepped the Panel through his methodology starting first with analysis of past and projected future demand (for residential and business growth), and then considering plan-enabled capacity to meet that assessed demand.
- [238] The Panel is satisfied that Dr. Fairgray's analysis has appropriately considered building heights and density of urban form to reflect demand for housing and business use in Sylvia Park. In contrast the Panel consider that the evidence of Mr. Osborne and Mr. Tolley focused on the benefits of additional flexibility and choice enabled by increased height but did not provide an analysis of demand in the Precinct nor establish that an increase to 100m height (or removal of GFA limits) is required to reflect demand.

Visual effects and effects on views to and between maunga

- [239] If the Panel is incorrect in its findings on Policy 3(b) and demand, we turn to assess the effects of additional height, particularly landscape and visual effects with respect to views to and between maunga.
- [240] Ms. Mein, Mr. Brown and Mr. Anderson provided urban design, landscape and amenity and planning evidence respectively for the Council. Their evidence recorded the recent construction on Lynton Road - immediately to the north of the Precinct - of Kiwi Property's "Resido" apartment development at 5-12 storeys (approximately 18m-42m) and of the Kainga Ora apartment development at 6 storeys (approximately 22m). In light of this change to the environment Ms. Mein, Mr. Brown and Mr. Anderson recommended an increase in height in sub-Precinct C, immediately adjacent to the northern Precinct boundary, from the operative 27m to 50m (the same as sub-precinct B) as a restricted discretionary activity. Ms. Mein and Mr.

Brown considered that this increase would appropriately manage the northern interface with adjacent residentially zoned land but considered that any further increase risked visual dominance on surroundings. Ms. Mein and Mr. Anderson did not support “merging” sub-precincts B and C as they manage different features and outcomes.

- [241] Ms. Skidmore and Mr. Thompson’s landscape and amenity and planning evidence respectively for Kiwi Property supported the 100m height limit across the entire Precinct. Ms. Skidmore considered that physical features such as a stream, bund, vegetation and the internal ring road at or near the northern end of the Precinct provide a natural separation between the Precinct and the adjacent zone and that Precinct provisions manage the interface and transition without the need for stepped height limits. Ms. Skidmore did not accept that there were dominance issues with other surroundings (such as the motorway).
- [242] An operative assessment criterion in the Precinct provisions requires consideration of whether views from nearby Mutukāroa / Hamlin’s Hill are significantly compromised for any building above 27m in height. No changes are proposed to that criterion. Mr. Kensington and Ms. Richmond provided landscape and planning evidence respectively for the Tūpuna Maunga Authority with respect to the effects of additional height at Sylvia Park on views to and between Maungarei / Mt Wellington and Ōtāhuhu / Mt Richmond over the Precinct (which sits between them). There is no reference to effects on these views in the Precinct provisions and no overlay that protects maunga views ‘by proxy’ (as for example the Museum viewshaft does in the City Centre).
- [243] Ms. Mein and Mr. Brown for the Council also identified the risk of adverse effects on maunga views and observed that no visual modelling had been undertaken by Kiwi Property to assist in assessing those effects. The highest building currently constructed in the Precinct is the distinctive black and white banded ANZ Raranga tower completed in 2018 at 10 storeys and approximately 48m to 50m high. (A higher building has been consented but not yet constructed). In the absence of modelling, Mr. Brown referenced Raranga to review the effect of 100m buildings compared to the operative 72.5m height limit. He ultimately accepted that development to 72.5m (or close to that limit) already has the potential to screen views between Maungarei / Mt Wellington and Ōtāhuhu / Mt Richmond but maintained his opinion that the proposed 100m height has the potential to adversely affect Mutukāroa / Hamlin’s Hill and views from it to both Maungarei / Mt Wellington and Rangitoto.
- [244] Ms. Skidmore considered that the existing height limits on the Burger King and Caltex sites together with the existing assessment criteria (all remaining) would continue to adequately manage height effects on Mutukāroa / Hamlin’s Hill with a 100m limit. With respect to Maungarei / Mt Wellington and Ōtāhuhu / Mt Richmond Ms. Skidmore pointed to the RPS requiring protection of “significant” views, noted that there are no protected viewshafts over the Precinct or Precinct provisions referring to views to and from maunga other than Mutukāroa / Hamlin’s Hill, and considered that the views between Maungarei / Mt Wellington and Ōtāhuhu / Mt

Richmond are not “significant”. Ms. Skidmore considered that the operative height of 72.5m already extends above the height of Ōtāhuhu / Mt Richmond and that the requirements for massing of taller buildings (maximum 15% of site, floor plate restriction and minimum separation) – which would remain – would continue to allow views between 100m buildings.

- [245] All three landscape witnesses provided helpful photographs variously from Mutukāroa / Hamlin’s Hill, Maungarei / Mt Wellington and Ōtāhuhu / Mount Richmond. These photographs were of assistance to the Panel when we undertook our site visits to each of the maunga.
- [246] Kiwi Property did not provide us with modelling or visual simulations (with Mr. Thompson stating that it would be difficult because there are almost limitless options for how future buildings might be massed on the site). We must make our recommendations based on the evidence we received and in light of our site visits. The Panel consider that there are existing maunga to maunga views across the Precinct. Views from Ōtāhuhu / Mt Richmond and Mutukāroa / Hamlin’s Hill to Maungarei / Mt Wellington are particularly striking due to its elevation and distinctive form, but we consider that the views in both directions are significant. The RPS requires those views to be protected. The Panel accept as a general proposition Mr. Brown and Ms. Skidmore’s evidence that buildings at 72.5m have the potential to screen maunga to maunga views across the Precinct, tempered however by the requirements for massing of taller buildings which would allow views between 72.5m buildings. While those massing requirements would remain and therefore also allow views between 100m buildings, in the absence of modelling or visual simulations and with reference to our site visits, we consider that the additional 27.5m (above the operative 72.5m limit) would introduce new adverse visual effects on views to and between maunga. On the merits, if demand for additional height had been demonstrated with reference to Policy 3(b), we would only have recommended the increase in height if accompanied by an additional matter of discretion requiring assessment of the effect on views to and between maunga of any height above 72.5m.

#### Removal of GFA limits

- [247] If the Panel is incorrect in its findings on Policy 3(b) and demand, we turn to assess the effects of removal of the GFA limits and associated provisions.
- [248] Kiwi Property proposes to delete the operative site intensity controls which apply a 250,000m<sup>2</sup> GFA cap (except for accommodation) and further GFA limits on activity mix; and to also delete the accompanying matters of discretion (travel management and transportation effects) and assessment criteria (modal shift and transportation effects mitigation).
- [249] Mr. Anderson for the Council estimates approximately 80,000m<sup>2</sup> of GFA remaining within the cap, while Mr. Thompson for Kiwi Property estimates approximately 100,000m<sup>2</sup>.

- [250] Mr. Thompson said that the GFA thresholds were developed around 1999 and the intention of the rules was to limit competition with other centres, encourage a mix of activities, and to manage traffic effects. Mr. Anderson agreed that the provisions manage traffic effects and modal shift and also have an important role in supporting delivery of a mixed-use environment.
- [251] Mr. Clark's transportation evidence for the Council, supported by a tabled letter from Waka Kotahi, considered that there are significant safety and operational concerns on the bus network and motorway operation arising from the relief sought.
- [252] Mr. Parlane's transportation evidence for Kiwi Property and Mr. Thompson's planning evidence stated that Kiwi Property had built a train station and a bus station at Sylvia Park which are both well utilised, no other metropolitan centre (except Drury) is subject to GFA controls, the AUP accepts that congestion around centres is to be expected, and that congestion and mode share needs to be managed at a network level (such as by provision of bus lanes). Mr. Thompson observed that bus priority measures near Sylvia Park have been considered for 20 years but none have eventuated.
- [253] Mr. Thompson highlighted transportation management provisions that would remain in the Precinct: an assessment criterion (where development exceeds 148,000m<sup>2</sup>) relating to on-site or off-site roading works required to mitigate significant traffic effects; a special information requirement specifying that the Council may require changes to the roading network, and (where development exceeds 148,000m<sup>2</sup>) may require on-site or off-site road works; and a special information requirement requiring that a Transport Plan must be developed and kept updated as part of any application involving new GFA at Sylvia Park. Mr. Parlane considered that the Transport Plan goes well beyond what is required at most metropolitan centres, is more than sufficient to ensure that any adverse transport effects are avoided, remedied or mitigated, and means there is no transport need to limit development within the Precinct using GFA limits. Mr. Thompson stated that no other metropolitan centre is subject to the sorts of provisions that will remain at Sylvia Park, and the regime is sufficient to ensure that transportation effects continue to be managed whilst not discouraging further intensification of the Precinct.
- [254] There was some disagreement between Mr. Clark and Mr. Parlane as to whether bus ridership would trend up or down in future. The Panel preferred Mr. Clark's position.
- [255] While Kiwi Property's evidence addressed transportation provisions that would remain, there was less focus on how the second purpose of the GFA limits – supporting delivery of a mixed use centre – would be managed and, if not, what the consequences would be. The Panel preferred Mr. Anderson's evidence in that regard. We also note that some of the transport provisions to be retained continue to hinge off GFA thresholds when the thresholds themselves would be deleted. We were not told why it was appropriate to retain GFA thresholds in some transportation provisions (which do not affect activity status) but not in others. The provisions were imposed as a comprehensive suite and were intended to work together. Similarly to



the conclusions we reached in our City Centre Report with respect to the Viaduct and Wynyard Precincts, the Panel's view is that removal of GFA limits and corresponding transportation matters from the Precinct provisions would be best addressed (as imposition of the provisions was) as part of a comprehensive review of the Precinct.

### *Recommendation*

- [256] The Panel prefers the submissions for Kiwi Property and with reference to *Wallace* we considers that changes to GFA provisions will affect density of urban form, such that Kiwi Property's relief is within the scope of PC78.
- [257] We accept Dr. Fairgray's economic evidence that plan-enabled capacity in Sylvia Park metropolitan centre is considerably greater than projected demand for housing and business use into the long term. We consider Dr. Fairgray's methodology is more appropriate to address demand under Policy 3(b) whereas Mr. Osborne and Mr. Tolley were more focused on flexibility and choice rather than demand.
- [258] With regard to height, if the Panel is incorrect in our findings on Policy 3(b) and demand, on the merits we accept the Council's proposed revision to height in sub-precinct C to reflect changes in the adjacent environment; and we prefer the Council's and the Tūpuna Maunga Authority's evidence on the effects of height on views to and between maunga. We would only recommend an increase in height to 100m in sub-precinct A if appropriate matters of discretion were included to assess the effects of heights above 72.5m on views to and between maunga.
- [259] With regard to GFA, if the Panel is incorrect in our findings on Policy 3(b) and demand, on the merits we prefer the planning and transportation evidence of Mr. Anderson and Mr. Clark respectively. Consequently, we would not recommend removing limits on GFA as Kiwi Property's evidence failed to address how removal of GFA limits affecting activity status (but not GFA thresholds within supporting provisions) will impact on the precinct delivery supporting a mix of uses.

## **3.19 Precinct – Takapuna 1**

- [260] This issue relates to I540 Takapuna 1 Precinct, particularly the following provisions:

- Standard I540.6.1 Building height
- Standard I540.6.4 Through-site lane for Sub-precinct C
- Standard I540.6.5 Through-site lane for Sub-precinct A

### **3.19.1 Statement of issue**

- i. Appropriate heights in the Takapuna 1 Precinct
- ii. Amendments to Standard I570.6.5 Through-site lane for site in Sub-precinct A
- iii. Boundary adjustment to Precinct Plan 2 related to Standard I570.6.5
- iv. Amendments to I540.6.4 Through-site lane in Sub-precinct C and the withdrawal of the McConnell Developments Limited submission



### 3.19.2 Panel recommendation and reasons

- [261] PC78 proposes to retain the operative provisions of I540 Takapuna 1 Precinct (the Takapuna Precinct) without change and includes the identification of a QM to retain the 12.5m height standard in sub-precinct D.

#### Appropriate heights in the Takapuna 1 Precinct

- [262] Standard I540.6.1 Building height and Table I540.6.1.1 Building height set out the heights in the various sub-precincts within the Takapuna Precinct. They are:

- Sub-precinct A - 24.5m
- Sub-precinct B - 36.5m
- Sub-precinct C - Unlimited
- Sub-precinct D - 12.5m

- [263] I540.1 describes the built form of the precinct as reflecting Takapuna's coastal nature and to enable revitalisation of the beachfront environment through human scale building frontages along the main shopping streets with large towers set away from the coast. This is explained as being expressed in the varied approach to building heights through the different sub-precincts.

- [264] The submission and evidence from submitters on the Takapuna Precinct is summarised as including:

- Increases to the height of Sub-precinct A from 24.5m to 33m (narrowed through evidence to sites bound by Hurstmere Rd, The Strand, Channel View Road and Gould reserve being the HND TS Sites).
- Increases to the height of Sub-precinct A from 24.5m to 28.5m for identified sites (the Crown Mutual sites)
- Increases to the height of Sub-precinct B from 36.5m to 42.5m (no evidence presented)
- Increase the height throughout the whole Takapuna Precinct to 72.5m
- Increase the height standard in each sub-precinct by 15m

- [265] The Panel heard evidence from submitters Foodstuffs North Island Ltd (Foodstuffs), HND TS Ltd (HNDS), and Crown Mutual Limited and State Advances Corporation (Crown Mutual).

#### *Economics - plan-enabled capacity and demand*

- [266] Dr. Fairgray's economic evidence for the Council assessed capacity increase by intensification with and without site re-development, population growth, and employment and business data for the previous 20 years and a further 30 years into the future. Dr. Fairgray stated that the PC78 provisions for the Takapuna metropolitan centre have a plan-enabled capacity that would be considerably greater than projected demand for business and apartment floor space into the long term under medium or high growth futures. Dr. Fairgray considered that capacity is not

constrained in Takapuna metropolitan centre and consequently additional capacity sought by submitters will not make a difference on business or household choice.

[267] Mr. Norwell's planning evidence for Foodstuffs stated that redevelopment occurs in the context of the property's individual circumstances. In the case of Auckland, he put forward that a commercial property may see development every 20-50 years – the implication being that not all land will be available for economic development within a certain time span and that increasing height limits can encourage intensification by increasing realisable economic returns. Mr. Campbell's planning evidence for HNDS echoed Mr. Norwell stating that reduction in consenting requirements can spur development to meet latent demand by making it economically viable.

[268] In response, Dr. Fairgray relied on his detailed assessment of Takapuna and his work on the HBA to conclude that the Takapuna metropolitan centre is not subject to short or long term capacity constraints. Consequently, he disagreed that the Takapuna Precinct or any of its sub-precincts are insufficiently enabling of activity. No economic evidence was presented by the submitters.

#### *Giving effect to NPS-UD Policy 3*

[269] Mr. Turbott's planning evidence for the Council disagreed with submitters who considered that the NPS-UD requires metropolitan centres to intensify 'as much as possible'. He highlighted that subclauses (a) to (d) identify a hierarchy of requirements on development capacity. He noted that the phrase '*as much development capacity is possible*' is limited to Policy 3(a) applying to the City Centre Zone whereas Policy 3(b) directs developments in MCZs to reflect demand for housing and business uses.

[270] Mr. Norwell for Foodstuffs focused on the language of the NPS-UD directing the Council to provide "at least" sufficient development capacity - the corollary being that the minimum being good, then more is better. Mr. Norwell acknowledged that there are limitations on the directive for additional capacity and he referred to QMs as one such means of tempering the enablement of additional height or density of urban form.

[271] Mr. Turbott highlighted Dr. Fairgray's conclusion that there is excess plan-enabled capacity in the notified PC78 Takapuna Precinct provisions to the extent that further amendments are unnecessary to give effect to NPS-UD Policy 3(b). Mr. Turbott noted that the current plan enabled capacity in Sub-precinct A has not been utilised since 2016 with existing buildings well below 24.5m. With regard to the second component of NPS-UD Policy 3(b), Mr. Turbott stated that the existing height standard of 24.5m already satisfies the 6 storey requirement.

#### *Height in Sub-precinct D and relevant QMs*

[272] Mr. Turbott's planning evidence explained that there are relevant QMs present in Sub-precinct D which necessitates a lower height of 12.5m. He referred to the Council's section 32 evaluation in concluding that a lower height and density of urban

form is needed to accommodate risks from coastal erosion and inundation, scheduled notable trees, Significant Ecological Areas and unscheduled waahi tapu. We record that these relate to s 77O (a) and (b) QMs – being matters of national importance under s 6 and giving effect to the NZCPS.

- [273] Mr. Norwell's planning evidence only observed the general lack of QMs in the Takapuna Precinct and did not provide substantive evidence challenging the Council's position on Sub-precinct D. Consequently, we accept Mr. Turbott's evidence.

*Appropriateness of a 72.5m height west of Lake Rd*

- [274] Mr. Norwell's planning evidence focused on the parts of Sub-precinct A and B west of Lake Road. Mr. Norwell emphasised the desirability and market attractiveness of Takapuna. In doing so he referred to higher land values and observed Takapuna's proximity to the City Centre, accessibility, coastal setting and range of amenities. He viewed such values, taken in conjunction with the RPS directive for qualify compact form (emphasising intensification in centres and areas close to public transport and other facilities) and the NPS-UD more broadly, as a driver for revisiting heights in the Takapuna Precinct. He therefore concluded that the area is well-suited for intensification and there is demand for development in Takapuna to the extent that a 72.5m height is justified.
- [275] More specifically, Mr. Norwell stated that increasing heights to 72.5m on the western side of Lake Rd is appropriate given its distance from the coast – Takapuna Beach being separated by the balance of the centre. He concluded that height increases in this area is in keeping with the NZCPS and consistent with the Takapuna Precinct objectives seeking to respect the coastal setting of the centre while providing opportunities for growth. Mr. Norwell relied on Mr. Wallace's urban design evidence that a 72.5m height west of Lake Rd will not result in adverse shading or visual effects on Takapuna Beach and will have beneficial urban design outcomes.
- [276] Mr. Turbott supported retention of the operative heights of 24.5m and 36.5m in Sub-precincts A and B respectively. He was of the view that such a height framework already meets and exceeds the NPS-UD Policy 3(b) requirements and provide a transition of height from the coast to the west. Mr. Turbott relied on the urban design evidence of Ms. Lindsay with regards to adverse dominance and shading effects from height.
- [277] Ms. Lindsay's urban design evidence for the Council stated that Takapuna Beach and Gould Reserve are spaces integral to the character and sense of place for Takapuna. She noted that effects of height on public realm are less significant in the areas west of Takapuna central as represented by the more generous operative heights. Ms. Lindsay relied on the 3D modelling and shading assessment of Ms. Sharpe in arriving at the view that there would be significant dominance and shading effects on key public spaces such as Gould Reserve and the beach front from height increases of 9 – 15m.

- [278] Mr. Wallace's urban design evidence for Foodstuffs was that tall buildings can make a positive contributions to Takapuna by creating a legible development node which visually reinforce the importance of the centre in Auckland's centres hierarchy. He added that enabling such developments is desirable as it concentrates more people in an area of high accessibility and high demand, as expressed by land values and proximity to amenities.
- [279] More generally, Mr. Wallace was critical of the Council modelling using a 'worst case scenario' which omits architectural details and assume a very high site coverage. His view was that such assumptions only provide an indication, and it is highly unlikely that the level of shading shown in the analysis will eventuate. Moreover, Mr. Wallace referenced development controls such as H9.6.2.1 Height in relation to boundary, H9.6.3 Building setback at upper floors, H9.6.4 Maximum tower dimension and tower separation, H9.6.6 Yards and H9.6.10 Outlook space to support his views that it is reasonable to expect development outcomes which do not generate as extensive effects as those modelled by Ms. Sharpe. He further observed that existing developments such as the Sentinel, other established towers and mid-rise buildings will limit the effects from up close and from a wider catchment. He concluded that additional higher rise developments will not look out of place with the existing cluster of buildings.
- [280] Another of Mr. Wallace's criticisms related to the omission of existing trees from the Council's shading analysis and ambiguity as to whether the HIRB standard had been incorporated into Ms. Sharpe's modelling. He stated that the existing trees already create shading effects on Takapuna Beach and that the HIRB standard will necessitate upper storey setbacks to enable sunlight access. Finally, he stated that the Council's reliance on the extent of shading close to sunset (or sunrise) is an overly conservative approach in considering the effects from height given the times of use by most people. Mr. Wallace gave the example of Takapuna beach whereby the Council's modelling showed that with increases in height, Takapuna Beach and reserve largely retained sunlight access other than the times close to sunset (or sunrise).
- [281] With respects to the sub-precincts west of Lake Road, Mr. Wallace noted that Ms. Lindsay's evidence supported unlimited height in Sub-precinct C as it is the 'back' of Takapuna away from the beach, minimising the effects on principal public open spaces. Mr. Wallace considered that the same logic applies to Sub-precinct A and B west of Lake Road given that they share similar characteristics with Sub-precinct C's spatial relationship with the rest of Takapuna.
- [282] Ms. Lindsay's rebuttal relied on Ms. Sharpe's analysis noting that the inclusion of shading from trees and the addition of the HIRB standard will not result in significant changes to the shading studies. Ms. Lindsay also disagreed with Mr. Wallace that the bulk and location controls can guarantee the avoidance of large scale and bulky built forms. Under cross-examination from counsel for Foodstuffs, Ms. Lindsay expressed her concern that increasing height will cause significant shading on Takapuna Bowling Club at 14 Byron Avenue. We note that she did not reach a position as to

whether shading from potential developments in Sub-precinct C directly north of the club (which allows for unlimited heights subject to Floor Area Ratio limitations) would be of similar concern.

- [283] Ms. Sharpe's rebuttal evidence illustrated the shading effects of the 72.5m height, subject to bulk and location standards, compared with the operative provisions. While it did not cover the entirety of the sites west of Lake Road, we observed that the effects of shading on public spaces such as streets from heights of 72.5m were comparable to those of the operative provisions but that the Strand and the beach would be significantly more shaded at 3pm.

*Appropriateness of additional height in Sub-precinct A*

- [284] Mr. Campbell's planning evidence for HNDS explained that the original relief seeking 33m and 42.5m heights for Sub-precinct A and B respectively had been narrowed to 33m height in the southern part of Sub-precinct A ('the HNDS site' as outlined in black below).



- [285] Mr. Blomfield's planning evidence on behalf of Crown Mutual supported a height of 28.5m for properties (the properties) in the north portion of Sub-precinct A (see below).





[286] Mr. Campbell's view was that additional height on the HNDS site will incentivise development and consolidate growth in a highly attractive environment. Moreover, he considered that the limited height increase will retain the stepped approach intrinsic to the Takapuna Precinct and is consistent with the precinct outcomes and the statutory framework including the NZCPS and the RPS. He relied on the urban design evidence of Mr. Falconer who was of the view that the distance of the site; and the large mature trees will reduce the sensitivity of Takapuna Beach and other public open spaces, to the effects of potential shading and visual dominance. The Panel was presented with alternative visualisations by Mr. Falconer.

[287] Mr. Blomfield was of the view that the operative provisions accepted the effects of 24.5m plus one storey (which he put forward as 28.5m) given that it could be considered as a permitted activity. In the context of this height sitting within Standard I540.6.5 Through-site lane in Sub-precinct A, Mr. Blomfield considered that the provision or otherwise of a through-site lane is unrelated to the effects of height. He also noted that Ms. Lindsay's urban design evidence and Ms. Sharpe's modelling evidence for the Council considered the 28.5m height as one of the 'operative' scenarios. Consequently, Mr Blomfield considered that are no additional shading or dominance effects emerging from the Crown Mutual relief sought compared with the operative provision.

[288] Based on the above, Mr. Blomfield disagreed with Mr. Turbott that the height of 28.5m would cause potential negative effects from dominance and shading as it

doesn't represent a difference from what is already currently allowed. In response, Mr. Turbott's view that the 28.5m and the 33m relief sought in sub-precinct A presents a 'spot zoning', Mr. Blomfield noted that the Takapuna Precinct currently provides for 'spot zoning' by way of the variances of 24.5m to 28m height range in Sub-precinct A.

- [289] Ms. Lindsay again relied on Ms. Sharpe's 3D modelling and shading assessment to note that the increases to 28.5m and 33m from 24.5m (which she considered as the permitted height) will result in adverse shading and visual dominance effects on the coastal public open spaces. With regards to the 33m height, Ms. Lindsay stated that shading on Gould Reserve and Takapuna Beach extends south and west by a further of 14-29m with the worst likely to occur near sunset. We note that Ms. Lindsay agreed that Ms. Sharpe's modelling as illustrated in Test 6 used 28.5m height as the *'existing permitted height...when a through-site lane is provided'*.

### *Recommendation*

- [290] The Panel accepts Dr. Fairgray's economic evidence that plan-enabled capacity in Takapuna metropolitan centre is considerably greater than projected demand for business and apartment floorspace into the long term under medium or high growth, and, that the PC78 provisions give effect to NPS-UD Policy 3(b). No submitters provided economic evidence addressing "building heights and density of urban form to reflect demand for housing and business use" to challenge Dr. Fairgray's analysis. Consequently, we recommend building heights for the Takapuna Precinct be those notified in PC78.
- [291] The Panel prefer the evidence of Mr. Turbott and the position of the Council for the interpretation of NPS-UD Policy 3(b). As discussed in our reasoning for our findings on NPS-UD Policy 3(a) in section 3.2 of the City Centre Report, our consideration of demand and capacity must be interpreted in light of the entirety of the NPS-UD and other relevant national direction such as the NZCPS. On this, we consider that the relationship between the concept of a well-functioning urban environment (required by NPS-UD Objective 1 and Policy 1) and the hierarchy within NPS-UD Policy 3 means that the NPS-UD intends to direct differing levels of height and density of urban form (and hence capacity).
- [292] Were it not for the absence of submitter economic evidence establishing that additional height is required to reflect demand, we record that:
- i. With regards to Sub-precinct A and B west of Lake Road, we prefer the evidence of Mr. Norwell and Mr. Wallace and would have recommended amending heights to 72.5m.
  - ii. With regards to Sub-precinct A between Lake Rd and the Strand, while we agree with aspects Mr. Blomfield's evidence, we prefer the Council's position in avoiding 'spot zoning' and to recognise the importance of public open spaces to both the coastal setting of Takapuna and in terms of providing for the intensification already enabled by the precinct.



Standard I540.6.5 Through-site lane in Sub-precinct A

[293] Standard I540.6.5 Through-site lane for Sub-precinct A (Through-site lane standard) allows for an additional one storey of bonus height as a permitted activity to incentivise the delivery of a through-site lane on two identified sites. The standard prescribe design requirements including a minimum 5m width and that the link be open to the air or roof glazing at an average height of 5m if enclosed. By way of comparison, Sub-precinct C incentivises a through-site lane by way of additional floor area ratio while Sub-precinct B simply requires two open-air laneways.

[294] Crown Mutual sought to delete the Through-site lane standard and implement the bonus storey aspect as a permitted activity for the properties owned by Crown Mutual. The Panel addressed the height aspect of the submission above.

[295] Mr. Blomfield provided planning evidence on behalf of Crown Mutual stating that:

- i. Incentive based provisions such as through-site links are not an effective mechanism under the RMA. Mr. Blomfield referenced the Council position in the City Centre hearings whereby incentive-based provisions such as Bonus Floor Area Ratios were deleted as part of PC78. In response to Mr. Turbott's planning evidence that the Bonus Floor Area Ratio standards was in the context of a NPS-UD Policy 3(a) requirement, Mr. Blomfield noted that the criticism of bonus provisions is applicable to any incentive based rule regardless of zone.
- ii. The operative Through-site lane standard is inefficient as it does not require the through-site lane and there are no consequences if one is not provided.
- iii. The operative Through-site lane standard is overly prescriptive in terms of the design for the lane.
- iv. He disagreed with Mr. Turbott that a more directive requirement for through-site links is inconsistent with the 'encourage' verb used in Policy I540.3(3) noting that it is currently implemented by a mixture of require linkages (in Sub-precinct B) and 'encourage' through bonus provisions (in Sub-precinct A and C). Mr. Blomfield's view was that his alternative provision (see below) simply aligns Sub-precinct A with Sub-precinct B.

[296] Mr. Blomfield provided an alternative framework of provisions which allows for 28.5m permitted height while requiring a through-site link (rather than a lane) with the design of the latter considered via matters of discretion and assessment criteria. Failure to provide a through-site link will then trigger consents for a discretionary activity. He concluded that such an approach will provide an unambiguous height standard and a stronger mechanism for a through-site link.

[297] The Council's legal submission and Mr. Turbott raised a matter of scope, noting:

- i. The Through-site lane standard is outside the scope of s80E(1)(b)(iii) in that it is not affecting building heights and density of urban form

- ii. That the alternative framework put forward by Mr. Blomfield is a sidewind in terms of *Clearwater / Motor Machinist* as the notified PC78 did not propose changes to the standard.

[298] In terms of planning view, Mr. Turbott disagreed with Mr. Blomfield that the approach to incentive-based provisions in the City Centre was applicable in the MCZ.

[299] Mr. Turbott relied on Dr. Fairgray's economic evidence that the operative Takapuna Precinct provisions already meet the requirements of NPS-UD Policy 3(b) in terms of plan-enabled capacity vs demand. Mr. Turbott expressed his planning view that the operative Through-site lane standard will not have any material effect on development capacity.

### *Recommendation*

[300] The Panel considers that Crown Mutual's submission and Mr. Blomfield's proposed amendments are in scope noting:

- i. Crown Mutual's submission clearly raised issue with the Through-site lane standard
- ii. The implementation of the Through-site lane standard is material on density of urban form as it affects what is able to be built on the site (with reference to our findings in relation to density and *Wallace* in the section of our report on Albany precinct above).

[301] While the Panel considered that the position of Mr. Blomfield as having merit, we are ultimately mindful of s 80E(1)(a)(ii) which requires giving effect to NPS-UD Policy 3(b) and PC78 is not intended as a 'cure-all' for existing inefficiencies in the AUP. The Panel note that in the absence of economic evidence challenging Dr. Fairgray's conclusions we accept Mr. Turbott's position and his explanation that the Through-site standard already gives effect to Policy 3(b).

### *Boundary adjustment of Precinct Plan 2*

[302] We record that counsel for the Council raised the issue that Mr. Blomfield's amended provisions include changes to the northern boundary of Precinct Plan 2. The Panel accepts the Council's submission to the degree that such a change was not included as part of the relief sought in Crown Mutual's submission and is therefore out of scope.

### *Amendments to I540.6.4 Through-site lane in Sub-precinct C and the withdrawal of the McConnell Developments Limited submission*

[303] McConnell Developments Limited (McConnell) sought the deletion of Standard I540.6.4 Through-site lane for Sub-precinct C. McConnell subsequently withdrew its submission on 15 September 2023 after the Council experts prepared their evidence in chief and rebuttal evidence.

[304] The Panel therefore considers there is no submission and therefore no 'scope' for us to make a recommendation on. Consequently, we do not make a recommendation on the suggested amendments to I650.6.4 outlined in Mr. Turbott's planning evidence.

### **3.20 Precinct – Manukau**

[305] This issue relates to I425 Manukau Precinct, particularly the following provisions:

- I425.6.1 Sunlight admission

#### **3.20.1 Statement of issue**

- i. Retention of Standard I425.6.1 Sunlight admission and the Manukau Precinct

#### **3.20.2 Panel recommendation and reasons**

- [306] PC78 proposes to retain the operative provisions of I425 Manukau Precinct (Manukau Precinct) without change including a sunlight admission QM. I425.1 describes the purpose of the Manukau Precinct as protecting sunlight admission to Manukau Square to maintain its amenity and function as a community focal point. Standard I425.6.1 Sunlight admission (Sunlight admission standard) requires development in the Manukau Precinct to not cast any shadow in an identified area at certain times. The Sunlight admission standard is the only standard in the precinct.
- [307] Kāinga Ora was the only relevant submitter and opposed the identification of the sunlight admission QM. Kāinga Ora did not provide evidence challenging the Council's position.
- [308] Ms. Andrews planning evidence for the Council referred to the Council's section 32 analysis and relied on the economic evidence of Dr. Fairgray, urban design evidence from Ms. Jones and landscape evidence from Mr. Kensington. Ms. Andrews confirmed that sunlight admission is identified as a QM under s 77O(j) 'any other matter'. Her evidence provided an updated section 32 analysis which included two alternatives for the 'amend' option considered in the original section 32 – either extending or reducing the area / times. Her evidence stepped through the tests under s 77R.
- [309] With regard to s 77R(a) identification of the specific characteristic, Ms. Andrews relied on Ms. Jones' shading assessment and Mr. Kensington's landscape evidence to conclude that height from buildings will have adverse effects on sunlight in this '*unique square*'. We understand the amenity values of the square as the characteristic being protected by the QM.
- [310] With regard to s 77R(b) the justification of the reduction of development in light of the national significance of urban development and the NPS-UD, Ms. Andrews stated that the effect of the control is limited to only a small part of the Manukau Precinct (the square itself comprising approximately 17% of the Manukau MCZ). She referred to Ms. Jones' evidence which found that there is still a degree of intensification available to affected sites while complying with the control. Dr. Fairgray's economic

evidence noted that with the sunlight provisions in place, PC78 provides for plan-enabled capacity 28 times the metropolitan centre's current size. He concludes that the Sunlight admission standard '*...would not constrain development of the centre and would not have any material effect on the roles and performance of Manukau*'.

[311] Finally, with regard to s 77R(c), Ms. Andrews' option analysis drew upon Ms. Jones' shading assessment considering different height scenarios, Mr. Kensington's analysis, and Dr. Fairgray's economic conclusions in finding that the Sunlight admission standard is not onerous or unreasonably limiting.

#### *Recommendation*

[312] The Panel accepts Ms. Andrews' evidence and is satisfied that the statutory tests under s 77R have been met. We therefore recommend the retention of the Sunlight admission standard and the Manukau Precinct.

## **4. Summary of the Panel's recommended changes to the Auckland Unitary Plan**

The following is a summary of the recommended changes to the AUP contained in this Report.

### **1. Metropolitan Centre Zone – general objectives and policies**

The Panel confirms its' recommendations in the City Centre Report on the amendments to the general business objectives and policies and apply the same changes to the Business – Metropolitan Centre Zone. The changes to the general objectives and policies:

- i. Provide for qualifying matters.
- ii. Provide for Policy 3 inclusive of all centres hierarchy as the general business objective and policies apply to all business zones.
- iii. With regards to Policy 12A, remove reference to the '21m' metric and replaced with reference to 'mapped' walkable catchments.

### **2. Metropolitan Centre Zone – zone specific objective and policy**

The Panel recommends introducing new:

- i. Objective H9.2(5A); and
- ii. Policy H9.3(12A).

### **3. Height and other provisions in the Metropolitan Centre Zone**

The Panel recommends:

- i. Retaining the 72.5m height under the operative Standard H9.6.1 Building Height.
- ii. Minor amendment to the purpose of H9.6.1 Building Height to recognise walkable catchments.
- iii. Amending Standard H9.6.2 Building in relation to boundary to a 60-degree recession plane measured at 19m height from the boundary of the Metropolitan Centre Zone.

**4. Qualifying Matter – Significant ecological area**

The Panel recommends retaining the 3 Significant Ecological Areas in the Henderson, New Lynn and Takapuna metropolitan centres.

**5. Qualifying Matter – Notable trees**

The Panel recommends retaining the 63 scheduled notable trees within the Metropolitan Centre Zone.

**6. Qualifying Matter – National grid**

The Panel recommends retaining the National Grid Corridor Overlay as it applies to the Metropolitan Centre Zone (including Drury).

**7. Qualifying Matter – Designations**

The Panel recommends retaining designations as they apply to the Metropolitan Centre Zone.

**8. Qualifying Matter – Aircraft noise**

The Panel recommends retaining the Aircraft Noise Overlay as it applies to the Metropolitan Centre Zone and amendments to the description of Chapter D24 Aircraft Noise Overlay to clarify the relationship between the overlay and underlying zones and/or precincts.

**9. Qualifying Matter – Infrastructure**

The Panel recommends removing the Infrastructure – Combined Wastewater Network Control from Newmarket metropolitan centre due to a mapping error.

**10. Qualifying Matter – Maunga viewshaft**

The Panel recommends:

- i. Retaining all Maunga Viewshafts as they apply to the Metropolitan Centre Zone.
- ii. Amendments to D14.6.4 allowing for construction cranes to infringe Maunga viewshafts for up to 24 months.

**11. Qualifying Matter – Significant natural hazards**

The Panel recommends:

- i. Retaining Significant Natural Hazards provisions as they apply to the Metropolitan Centre Zone.
- ii. Amendments to the definition of 'floodplain' in Chapter J Definitions.

**12. Qualifying Matter – Special character areas – Business**

The Panel recommends:

- i. Re-categorisation of Special Character Areas Overlay – Business buildings in Newmarket as notified in PC78
- ii. Retention of the operative AUP spatial extent of the Special Character Areas Overlay – Business
- iii. Introducing a site specific restricted discretionary activity status rule for the demolition for 424 Khyber Pass Road and also for the cluster of sites re-

categorised to character defining on the corner of Remuera and Middleton Roads.

**13. Qualifying matter – new qualifying matter**

The Panel does not recommend a new qualifying matter for the safe or efficient operation of the railway corridor in the Metropolitan Centre Zone as there is no change in intensification for such provisions to be 'consequential on'.

**14. Precinct – Albany Centre**

The Panel recommends the retention of the notified PC78 provisions for the Albany Centre Precinct.

**15. Precinct – Sylvia Park**

The Panel recommends the retention of the notified PC78 provisions for the Sylvia Park Precinct.

**16. Precinct – Takapuna 1**

The Panel recommends the retention of the notified PC78 provisions for the Takapuna 1 Precinct.

**17. Precinct - Manukau**

The Panel recommends the retention of the notified PC78 provisions for the Manukau Precinct.

## 5. Scope

[313] The recommendations contained in this Report were made pursuant to s 99(2)(a) of the RMA.

## 6. Panel recommendation on submissions

[314] Appendix 1 of the Report contain a list of submissions and further submissions considered in this recommendation report to the extent that those submissions relate to the Metropolitan Centre Zone, relevant Precincts and relevant qualifying matters.

[315] Those submissions seeking the provisions relating to the Metropolitan Centre Zone, relevant Precincts and relevant qualifying matters be retained are accepted or rejected in part to the extent of changes recommended above.

[316] Those submissions opposing the plan provisions and seeking amendments are accepted in part to the extent that the plan has been modified.

[317] Those submissions seeking additions or changes to QMs are accepted or rejected in part to the extent of changes recommended above.

## 7. Recommended changes

### 7.1 Changes to the text

Appendix 2 of the Report includes the Panel recommended set of plan provisions where practical. Deletions to the operative provisions are shown in strike through and new text is identified by underlining.

### 7.2 Changes to the planning maps

This Report does not recommend any changes in the extent of the Metropolitan Centre Zone.

Appendix 3 shows the spatial application of QMs recommended to be retained in the Metropolitan Centre Zone and relevant Precincts. Where possible all changes have been carried across, in cases where there is uncertainty the recommendations in the Report take precedence.

Changes to spatial application of controls in precincts are reflected where practical in the recommended set of provisions.



## 8. Reference documents/documents relied on

The Panel have relied on submissions and further submissions (identified in Appendix 1), the evidence presented identified in Appendix 4 and documents below in making its recommendations.

Joint Witness Statements on the following topics:

- 009C QMs A-I, Significant Ecological Areas
- 009G QMS A- I, Maunga Viewshafts and Building Sensitive Areas, dated 17 April 2023
- 009Q QMs A-I, Designations, dated 9 May 2023
- 009R QMs A-I Aircraft Noise
- 011 and 014K QMs Special Character – Special Character Business and Height – transitions/height next to SCAB
- 016B and 014F Metropolitan Centre Zone Provisions and Height – Metropolitan Centre Walkable Catchment Intensification Response

Mediation Statements on the following topics:

- 020AL I540 – Takapuna Precinct

The documents can be located on the IHP website

([www.IntensificationHearingsakl.co.nz](http://www.IntensificationHearingsakl.co.nz)) on the hearings page under the relevant hearing topic number and name.

You can use the links provided below to locate the documents, or you can go to the website and search for the document by name or date loaded.



**Matthew Casey, KC**  
**On behalf of the Independent**