

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2016-AKL-

IN THE MATTER of the Local Government (Auckland Transitional Provisions) Act 2010 (**LGATPA**) and the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER of an appeal under section 156 of the LGATPA 2010 against a decision of the Auckland Council on a recommendation of the Auckland Unitary Plan Independent Hearings Panel (**Hearings Panel**) on the proposed Auckland Unitary Plan (**Proposed Plan**)

AND

IN THE MATTER of Proposed Plan Hearing Topic 059 – 063 Residential Objectives, Policies and Controls

BETWEEN **MAHI PROPERTIES LIMITED**
(Submitter No. 5476)

Appellant

AND **AUCKLAND COUNCIL**

Respondent

NOTICE OF APPEAL
Dated 15 September 2016

**To: The Registrar
Environment Court
Auckland**

- 1. MAHI PROPERTIES LIMITED (Mahi Properties)** appeals against a decision of the Auckland Council (the **Council**) on the Proposed Auckland Unitary Plan (**Proposed Plan**).
- 2. It has the right to appeal** the Council's decision under section 156(1) of the LGATPA because the Council rejected a recommendation of the Hearings Panel in relation to matters addressed in Mahi Property's submission (5476) on the proposed plan.
- 3. Mahi Properties is appealing** Council's rejection of the Independent Hearing Panel's recommendation to make the Alternative Height in Relation to Boundary control (AHIRB) a permitted standard in the Residential Mixed Housing Suburban and Mixed Housing Urban zones.
- 4. Mahi Properties made a submission** (No 5476 Section 6 pages 8 – 10) in relation to the proposed Height in Relation to Boundary Control (HIRB) in rule 7.3 and 8.3; and the proposed Alternative Height in Relation to Boundary Control (AHIRB) in rule 7.4 and 8.4 of the Mixed Housing Suburban and Mixed Housing Urban zones. The submission sought to amend rules 7.4 and 8.4 of the proposed plan to make the AHIRB a permitted activity provided it complies with two accompanying rules designed to protect the amenity of adjacent properties:
 - One rule is designed to limit overshadowing (protect and provide a prescribed amount of solar access) to the outdoor living space of an adjacent property.
 - The other rule is designed to limit the capacity to overlook identified habitable room windows and the outdoor living space of an adjacent property.

The proposed additional rules were included in the submission and subsequently in the submission and evidence to the Panel.

5. **It was submitted that** the AHIRB needs to be a permitted standard, otherwise developers will choose the permitted HIRB to avoid the need for a resource consent. This will not achieve the intended and levels of intensification and housing capacity anticipated in the two mixed housing zones. It will also result in a proliferation of poorly designed buildings with no resemblance to the housing typologies promoted by Council as being appropriate for the mixed housing zones.
6. **Mahi Properties is not a trade competitor** for the purposes of section 308D of the RMA.
7. **Mahi Properties received notice** of the decision by mail on 19 August 2016. The content of the decision relevant to the appellant was not available to be viewed until Monday 22 August 2016.
8. **In its Report to Auckland Council** on Hearing topics 059 – 063 the Panel emphasised the importance of enabling greater residential development capacity, greater development on sites as of right, and generally to be more enabling in the Residential – Mixed Housing Suburban and Mixed Housing zones. The Panel agreed with a number of submissions (including the submitters) seeking a substantial liberalizing of residential development controls noting that its recommended package of provisions, especially the development standards, would provide greater choice in housing options and assist in improving housing affordability.
9. **In its Decision Report on Topic 059 – 063** [Item 40 (d)] Council proposed to make the AHIRB a restricted discretionary activity in the Activity table H4.4.1 in the Mixed Housing Suburban zone and in the Activity table H 5.4.1 in the Mixed Housing Urban zone, for the reason that the AHIRB is more enabling and should be assessed as a Restricted Discretionary Activity. This decision is contrary to the considered recommendation of the Panel that had included the macro

residential development strategy promoted through regional and district wide provisions of the Proposed Plan.

10. The reasons for this appeal are as follows:

- (a) The Council decision fails to give effect to the principles of sustainable management of resources, in this case, valuable urban residential resources required for the future sustainable growth of Auckland.
- (b) The AHIRB is the only variable height in relation to boundary control in the two mixed housing zones that will allow for the efficient use of land and encourage the type of housing being promoted as appropriate and typical for the mixed housing zones.
- (c) The AHIRB will increase housing choice and supply by encouraging small scale investors to develop in-fill housing of smaller lots in the form of two storeyed duplex/terrace type housing being promoted as appropriate and typical for the mixed housing zones.
- (d) If the AHIRB is not a permitted standard it will discourage use of the control by small scale investors who cannot afford the risks and costs of obtaining a resource consent.
- (e) The amenity of adjacent properties will not be compromised if the controls accompanied by permitted development standards that limit the extent to which a development can overshadow or overlook the outdoor living space and habitable room windows of an adjacent property.
- (f) The reasons for the Council rejecting the use of the AHIRB as a permitted standard because it is more enabling is contrary to the principles of the Panel's recommendations and contrary to the purpose and principles of Part 2, RMA, particularly Section 5.

- (g) The Council failed to justify the position taken on the AHIRB through an appropriate assessment under s32 and s32AA RMA.

11. The Appellant seeks the following relief:

- (a) That Auckland Council's decision on the AHIRB rule be set aside.
- (b) That the Independent Hearings Panel recommendation in respect of the AHIRB rule be accepted and adopted, subject to any modifications considered by the Court to be necessary and appropriate including the two sub-rules 5 and 6 required to accompany the AHIRB as set out in Attachment (d).
- (c) Costs.

12. An electronic copy of this notice is filed on the designated electronic address at the Auckland Registry of the Environment Court and is served today by email on the Auckland Council at unitaryplan@aucklandcouncil.govt.nz. Waivers and directions have been made by the Environment Court in relation to the usual requirements of the RMA as to service of this notice on other persons.

13. The Appellant attaches the following documents to this notice:

- (a) A copy of the Independent Hearings Panel's report and recommendations.
- (b) A copy of the relevant Council decision.
- (c) A copy of submissions by Mahi Properties to the Council and the Panel
- (d) A copy of the requested standards/rule as tracked changes to rules H4.6.6 and H5.6.6 of the Mixed Housing Suburban and Mixed Housing Urban zones respectively.

Brian William Putt
Town Planner

15 Sept - 2016

Date

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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may become a party to the appeal if you are one of the persons described in section 274(1) of the RMA.

To become a party to the appeal, you must, within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003) with the Environment Court by email (to unitaryplan.ecappeals@justice.govt.nz) and serve copies of your notice by email on the Auckland Council (to unitaryplan@aucklandcouncil.govt.nz) and the appellant.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the RMA.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (*see* form 38 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003).

Advice

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

ATTACHMENT A

Copy of Independent Hearings Panel's Report and Recommendations

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

**Report to Auckland Council
Hearing topics 059 - 063**

Residential zones

July 2016

Report to Auckland Council Hearing topics 059 - 063 Residential zones

Contents

| | |
|---|----|
| Contents | 1 |
| 1. Hearing topic overview | 3 |
| 1.1. Topic description..... | 3 |
| 1.2. Summary of the Panel's recommended changes to the proposed Auckland Unitary Plan | 4 |
| 1.3. Overview..... | 7 |
| 1.4. Scope | 8 |
| 1.5. Documents relied on | 9 |
| 2. Enabling capacity | 10 |
| 2.1. Statement of issue | 10 |
| 2.2. Panel recommendation and reasons..... | 10 |
| 3. The purpose of the Residential - Single House Zone..... | 13 |
| 3.1. Statement of issue | 13 |
| 3.2. Panel recommendation and reasons..... | 13 |
| 4. Retaining the Mixed Housing Urban and Mixed Housing Suburban Zones..... | 14 |
| 4.1. Statement of issue | 14 |
| 4.2. Panel recommendation and reasons..... | 14 |
| 5. Removal of the density provisions | 16 |
| 5.1. Statement of issue | 16 |
| 5.2. Panel recommendation and reasons..... | 16 |
| 6. Permitted development and outcome-led development..... | 17 |
| 6.1. Statement of issue | 17 |
| 6.2. Panel recommendation and reasons..... | 17 |
| 7. Integrated residential development (including retirement villages)..... | 22 |
| 7.1. Statement of issue | 22 |
| 7.2. Panel recommendation and reasons..... | 22 |
| 8. Affordable housing | 24 |

| | | |
|-------|--|----|
| 8.1. | Statement of issue | 24 |
| 8.2. | Panel recommendation and reasons..... | 24 |
| 9. | Matters of discretion and assessment criteria..... | 25 |
| 9.1. | Statement of issue | 25 |
| 9.2. | Panel recommendation and reasons..... | 25 |
| 10. | Design statements..... | 25 |
| 10.1. | Statement of issue..... | 25 |
| 10.2. | Panel recommendation and reasons | 25 |
| 11. | Consequential changes | 26 |
| 11.1. | Changes to other parts of the Plan | 26 |
| 11.2. | Changes to provisions in this topic | 26 |
| 12. | Reference documents | 26 |
| 12.1. | General topic documents..... | 26 |
| 12.2. | Specific evidence | 27 |

1. Hearing topic overview

1.1. Topic description

Topics 059, 060, 061, 062 and 063 address the district plan provisions of the proposed Auckland Unitary Plan relating to:

| Topic | Proposed Auckland Unitary Plan reference | Independent hearings Panel reference |
|---|--|---|
| Residential - 059, 060, 061, 062 and 063. | D1.1 General objectives and policies for the residential zones D1.2 Large Lot Zone D1.3 Rural and Coastal Settlement Zone D1.4 Single House Zone D1.5 Mixed Housing Suburban Zone D1.6 Mixed Housing Urban Zone D1.7 Terrace Housing and Apartment Buildings Zone I1.1. Activity table I1.2. Notification I1.3. Land use controls I1.4. Development Controls - Large Lot Zone I1.5. Development Controls - Rural and Coastal Settlement Zone I1.6. Development Controls - Single House Zone I1.7. Development Controls - Mixed Housing Suburban Zone I1.8. Development Controls - Mixed Housing Urban zone I1.9. Development Controls - | H1 Residential – Large Lot Zone H2 Residential – Rural and Coastal H3 Residential – Single House Zone H4 Residential – Mixed Housing Suburban Zone H5 Residential – Mixed Housing Urban Zone H6 Residential – Terrace Housing and Apartment Buildings Zone |

| | | |
|--|---|--|
| | Terrace Housing and Apartment Buildings Zone I1.10. Assessment – Restricted discretionary activities I1.11. Assessment – Development control infringements I1.12. Special information requirements D.8.7 Retirement Village Zone I.21 Retirement Village Zone C.7.8 Affordable Housing H.6.6 Affordable Housing | |
|--|---|--|

Under the Local Government (Auckland Transitional Provisions) Act 2010, section 144 (8) (c) requires the Panel to set out:

the reasons for accepting or rejecting submissions and, for this purpose, may address the submissions by grouping them according to—

- (i) the provisions of the proposed plan to which they relate; or
- (ii) the matters to which they relate.

This report covers all of the submissions in the Submission Points Pathways report (SPP) for this topic. The Panel has grouped all of the submissions in terms of (c) (i) and (ii) and, while individual submissions and points may not be expressly referred to, all points have nevertheless been taken into account when making the Panel's recommendations.

1.2. Summary of the Panel's recommended changes to the proposed Auckland Unitary Plan

Overall the purpose of the Panel's recommended changes to the residential provisions of the proposed Auckland Unitary Plan is to:

- i. provide greater residential development capacity (linked with the spatial distribution of the residential zones);
- ii. greater development on sites as of right, provided they comply with the development standards;

- iii. a more flexible outcome-led approach to sites developed with five or more dwellings in the Mixed House Suburban Zone and Mixed House Urban Zone and for all development in the Terraced Housing and Apartment Buildings Zone; and
- iv. to provide for 'integrated residential developments', which include retirement villages, recognising that while a range of activities may be provided on site, they are essentially for residential purposes.

This report needs to be read in conjunction with the Panel's Report to Auckland Council – Overview of recommendations July 2016 and Report to Auckland Council – Rural Urban Boundary, rezoning and precincts July 2016 relating to residential zones and precincts, as the combined recommendations provide an integrated approach to residential development – i.e. the various residential zones and the provisions within them and their spatial distribution.

Key changes recommended are set out below.

- i. Overall the residential development capacity has been better enabled by the changes recommended.
- ii. The Panel recommends the retention of the zoning structure of the six residential zones, but has recommended a number of changes to the zone provisions. The zones are:
 - a. Residential - Terrace Housing and Apartment Buildings Zone;
 - b. Residential - Mixed Housing Urban Zone;
 - c. Residential - Mixed Housing Suburban Zone;
 - d. Residential - Single House Zone;
 - e. Residential - Rural and Coastal Settlement Zone; and
 - f. Residential - Large Lot Zone.
- iii. The purpose of the Residential - Single House Zone has been amended and clarified to better reflect its purpose.
- iv. There are no density provisions for the Mixed Housing Suburban, Mixed Housing Urban and Terrace Housing and Apartment Buildings Zones, but development standards and resource consents are applied, as addressed below.
- v. Up to four dwellings are permitted as of right on sites zoned Residential - Mixed Housing Urban Zone and Residential - Mixed Housing Suburban Zone which meet all the applicable development standards.
- vi. Five or more dwellings require a restricted discretionary activity consent in the Residential - Mixed Housing Suburban Zone and Residential - Mixed Housing Urban Zone.

- vii. All dwellings require a restricted discretionary activity consent in the Residential - Terrace Housing and Apartment Buildings Zone.
- viii. A new category of activity - integrated residential development - is included and this includes retirement villages.
- ix. Where a restricted discretionary activity for five or more dwellings or for an integrated residential development complies with the core development standards, being height, height in relation to boundary (including the alternative height in relation to boundary standard) and yards, it will not be publicly notified.
- x. For restricted discretionary activities, other than the core development standards, all other development standards are matters of discretion.
- xi. If one or more of the core development standards are not met, then the normal tests for notification apply.
- xii. A range of other (some non-residential) activities are provided for, such as visitor accommodation, care centres (including child care centres), supported residential care, boarding houses, dairies, restaurants, community facilities and healthcare facilities. Some are permitted activities where they are small-scale, and some will require a consent where they are of a larger scale to ensure they are compatible with the surrounding residential environment.
- xiii. The following development standards, particularly in Residential - Mixed Housing Suburban, Residential - Mixed Housing Urban and Residential - Terrace Housing and Apartment Buildings Zones, have been deleted; some recommended by the Council and others by the Panel:
 - a. separation between buildings on the site;
 - b. dwellings fronting the street;
 - c. maximum building length;
 - d. front fence requirements (side and rear retained);
 - e. garages (percentage of front façade and setbacks);
 - f. minimum dwelling size;
 - g. servicing and waste;
 - h. storage;
 - i. universal access;
 - j. minimum dimensions of principal living rooms and principal bedrooms;
 - k. dwelling mix; and
 - l. minimum frontage and site width.

- xiv. Design statements have been deleted (noting that the reasons for this are set out in the Panel's Report to Auckland Council – Hearing topic 077 Sustainable design July 2016).
- xv. Minor dwellings are provided for in the Residential - Large Lot Zone, Residential - Rural and Coastal Settlement Zone and the Residential - Single House Zone.
- xvi. Conversion of dwellings is provided for in all zones except the Residential - Large Lot Zone, and a purpose statement included for this activity/rule.
- xvii. The retained affordable housing provisions are deleted (noting that the reasons for this are set out in the Panel's Report to Auckland Council – Overview of recommendations July 2016 and Report to Auckland Council – Hearing topic 013 Urban Growth July 2016).
- xviii. Restricted discretionary activities and the matters of discretion and the assessment criteria have been redrafted in line with a general restructuring and redrafting across the entire Plan.

1.3. Overview

The issues of the capacity for residential growth and the spatial distribution of the various residential (and mixed) zones are addressed in the Overview of recommendations (as referenced above) and the Report to Auckland Council – Rural Urban Boundary, rezoning and precincts July 2016 respectively. This report needs to be read in conjunction with those reports, as the combined recommendations provide an integrated approach to residential development.

There was considerable evidence on this topic, and a significant number of the issues were either agreed at mediation and or through the hearings process and contained in the mediation statements and the Council's opening and closing statements. This report focuses on the key changes recommended by the Panel, and those not otherwise already agreed by the parties.

The Panel accepts the zoning structure of the six residential zones:

- i. Residential - Terrace Housing and Apartment Buildings Zone (THAB);
- ii. Residential - Mixed Housing Urban Zone (MHU);
- iii. Residential - Mixed Housing Suburban Zone (MHS);
- iv. Residential - Single House Zone (SHZ);
- v. Residential - Rural and Coastal Settlement Zone (R&CS); and
- vi. Residential - Large Lot Zone (LLZ).

However a number of changes have been recommended to address matters raised by the Council and submitters. The main thrust of the changes is to:

- i. set out more clearly the purpose of the Residential - Single House Zone;

- ii. be more enabling in the Residential - Mixed Housing Suburban, Residential - Mixed Housing Urban and Residential - Terrace Housing and Apartment Buildings Zones by removing density provisions, allowing more as of right residential development (Residential - Mixed Housing Suburban Zone and Residential - Mixed Housing Urban Zone) and also enable a more flexible consenting regime for multi- dwelling/unit developments and integrated residential developments (Residential - Mixed Housing Suburban, Residential - Mixed Housing Urban and Residential - Terrace Housing and Apartment Buildings zones);
- iii. delete specific provisions for retirement villages and incorporating that form of development under the category of integrated residential developments;
- iv. remove a number of the development standards;
- v. remove the affordable housing provisions for the reasons set out in the Overview of recommendations and the Report on Urban growth as referenced above;
- vi. remove the need for design statements for the reasons set out in the Panel's Report to Auckland Council – Hearing topic 077 Sustainable Design July 2016; and
- vii. remove many of the prescriptive urban design provisions and those that cross over the jurisdiction of the Building Act 2004, and their replacement with a more outcome-led consenting process, without the need for rigid compliance with development standards which have little or no effect on adjoining or nearby properties.

The Panel is clear that based on much of the evidence from the Council and submitters, the residential provisions needed to be more enabling and to provide for greater residential capacity. At the same time it was acknowledged by all parties that good quality residential and urban design outcomes needed to be achieved. These submitters included Housing New Zealand, Ockham Holdings Limited (Ockham), Todd Property Group Limited (Todd), Fletcher Construction Developments Limited, Fletcher Residential, The New Zealand Institute of Architects, The Urban Design Forum, Generation Zero, Auckland 2040, the Property Council, a number of community and resident and ratepayer groups and others.

While the need for an appropriate set of residential provisions could be agreed at a conceptual level, there was not agreement on how that outcome could be achieved. The Panel's findings on these matters and reasons for its recommendations are set out in the following sections of this report.

1.4. Scope

The Panel considers that the recommendations in 1.2 above and the changes made to the provisions relating to this topic (see 1.1 above) are within scope of submissions.

For an explanation of the Panel's approach to scope see the Panels' Report to Auckland Council - Overview of recommendations July 2016.

1.5. Documents relied on

Documents relied on by the Panel in making its recommendations are listed in full below.
See section 12 Reference documents.

2. Enabling capacity

2.1. Statement of issue

The Council and many submitters, including those listed earlier, did not consider that sufficient residential capacity had been enabled in the notified proposed Auckland Unitary Plan. Concerns included the spatial distribution of the zones (addressed in the Panel's Overview of recommendations and Report on the Rural Urban Boundary, rezoning and precincts as referenced above) and that the provisions within the zones were too restrictive, prescriptive and costly. In summary the combination of the zonings and zone provisions would not give effect to the regional policy statement's objectives and policies relating to a quality compact urban form, a centres plus strategy and housing affordability. These are also major policy directives in the Auckland Plan to which the proposed Auckland Unitary Plan must have regard.

It is the Panel's view that the proposed Auckland Unitary Plan did not have sufficient regard to the Auckland Plan and would not give effect to the regional policy statement as notified nor as amended through the submission and hearing process.

2.2. Panel recommendation and reasons

The Panel recommends enabling greater residential development capacity by changing a number of the provisions in the zones. In doing so the Panel has relied on a number of submissions and the position taken by the Council.

The Council, in opening at the hearing, had changed its position on density provisions, essentially supporting no density in the Residential - Mixed Housing Suburban Zone (on sites greater than 1,000m²), Residential - Mixed Housing Urban Zone and Residential - Terrace Housing and Apartment Buildings Zone. This was supported by many submitters. However in relaxing the density provisions, the Council sought a less enabling position in relation to the number of dwellings that could be built as of right, generally a reduction from three to two, and retention of an extensive list of development standards.

While many submitters supported the relaxation of the density provisions, they sought more enabling development provisions. Housing New Zealand and the submissions made by the Ministry of Business, Innovation and Employment and the Minister for the Environment probably best capture the sentiments of the many submitters seeking more enabling provisions. Housing New Zealand, the Ministry of Business, Innovation and Employment and the Minister for the Environment, while strongly supporting the strategic direction of the Auckland Plan, considered that the proposed Auckland Unitary Plan fell well short of implementing this strategic direction of providing greater residential intensification. Housing New Zealand, in particular, provided extensive legal submissions and evidence on this issue.

As stated in Housing New Zealand's submission:

Overall, Housing New Zealand considers that the provisions of the proposed Auckland Unitary Plan as notified (30 September 2013) do not sufficiently provide for the long term residential development capacity needed to meet the population growth expected in Auckland, as set out in the Auckland Plan. While the objectives and policies of the Regional Policy Statement are, in the main, supported by Housing

New Zealand, it is concerned that they are not adequately reflected in the District Plan provisions. In particular, the additional consenting requirements and the complexity of the District and Regional Plan provisions, particularly the rules, are not the most appropriate policies and methods to achieve the urban and economic growth goals of the Regional Policy Statement. This is particularly the case in respect of provisions relating to use, development and subdivision within the existing 2010 metropolitan area. (Page 4, Housing New Zealand Corporation (submission number 839, 28 February 2014).)

The Ministry of Business, Innovation and Employment in its submission stated:

MBIE's concern with the Unitary Plan as proposed is that it does not follow through on its strategic objectives (which are generally supported) with the appropriately-aligned policies and rules:

By not providing sufficient capacity through appropriate zonings and density provisions to meet Auckland's forecast growth.

By failing to free development from complicated policies and rules that will create high transaction costs, thereby limiting innovation and responsiveness of supply to demand.

In doing so, the proposed Unitary Plan does not provide for the growth that Auckland needs over the next thirty years, and to the extent that it does not, Auckland's housing market will not perform efficiently and house prices will become even more unaffordable. (Paragraphs 8 and 9, Ministry of Business, Innovation and Employment).

A similar submission regarding the need for greater residential development capacity was made by the Minister for the Environment:

The proposed development controls and zoning (including future and urban land) do not provide the needed long-term residential development capacity to meet the projected population growth. (Paragraph 17, Minister for the Environment)

While the Panel acknowledges the many other submissions seeking a similar outcome to Housing New Zealand, the evidence of Housing New Zealand was comprehensive and addressed the many concerns raised by others. The Housing New Zealand position was set out in the joint planning evidence of Ms Linzey and Mr Lindenberg. They stated:

The overarching basis of the Corporation's submission on the PAUP is the need to enable the increased supply of housing choices, particularly within the existing urban area, in order to achieve the intensification and 'quality compact city' aspirations of both the Auckland Plan and the Unitary Plan (para 18). Indeed, the Corporation's position with regard to the PAUP process as a whole, is that Auckland has a unique opportunity through this plan development process to identify a policy framework for the future growth of Auckland which seeks a 'step change' or 'transformational shift' (to use the Auckland Plan language) with regard to how urban growth and intensification should occur in the future. This transformational shift requires an innovative response, and recognition that the planning framework of the past will not achieve the urban growth and 'quality compact city' aspirations which both the

Auckland Plan and Unitary Plan are seeking. We support the need for zone provisions of the PAUP (particularly the Residential, 'Centre' and Mixed Use zone rules and development controls) to be bold in their intentions to enable a form of urban intensification within the Isthmus area in order to achieve the urban intensification outcomes which the Council's Auckland Plan and PAUP RPS provisions describe.

We suggest that such a bold and innovative approach within the key 'urban' zoned locations, which will provide for residential activities and development, would need to include:

- ×Moderate increases to the permitted height limits in appropriate locations (being in and around centres, and within walking distance of public transport facilities and other recreational, community, commercial and employment opportunities and facilities);
- ×Significant reductions in, or removal of, land use density controls (particularly in the Residential - Mixed Housing Suburban and the Residential - Mixed Housing Urban zones);
- ×A reduction in the currently proposed extensive suite of quantitative development controls, such that a limited number of quantitative controls are retained to address the key matters which have the potential to create adverse effects external to a site, most notably in relation to amenity effects (such as retention of building height, height in relation to boundary and yard, building coverage, impermeable surface controls for instance); with the remainder of controls which relate to potential effects internal to a site being addressed in a more flexible way through the use of design-related matters of discretion and assessment criteria; and
- ×A simplified yet potentially strengthened, suite of matters of discretion and assessment criteria, particularly in relation to development control infringements (in order to address concerns of neighbours in relation to amenity impacts, and provide clear guidance to processing planner to assist in their assessment), as well as design assessment. (Paragraphs 27 to 30.4).

The Panel in general agrees with the evidence presented by Housing New Zealand, as set out above. In response to Housing New Zealand's evidence and other submitters' evidence (addressed below) the Panel has amended the residential provisions to enable greater residential capacity. At the same time the Panel believes the amended provisions will also enable good urban design and planning outcomes. This is necessary to give effect to the regional policy statement and to have due regard to the Auckland Plan.

Other provisions have also been included to enable greater capacity and more flexibility in the supply of housing. These include the provision of minor dwellings in the Residential - Large Lot Zone, Residential - Rural and Coastal Settlement Zone and the Residential - Single House Zone. It is not necessary to have these as a class of activity in the Residential - Mixed Housing Suburban, Residential - Mixed Housing Urban and Residential - Terrace Housing and Apartment Buildings zones as these zones provided for a number of dwellings as of right. The conversion of dwellings is provided for in all zones except the Residential - Large Lot Zone, and a purpose statement has been included for this activity/rule.

3. The purpose of the Residential - Single House Zone

3.1. Statement of issue

There was considerable contention with respect to how the Council had proposed to 're-cast' the Residential - Single House Zone, and whether it was in scope of submissions lodged. The issue from submitters' perspective, in particular Auckland 2040, Cockle Bay Residents and Ratepayers Association Incorporated and the Howick Ratepayers and Residents Association Incorporated, appeared to be that the Council was providing a platform to reduce the spatial extent of the Residential - Single House Zone and provide for greater upzoning (Residential - Mixed Housing Suburban, Residential - Mixed Housing Urban and the Residential - Terrace Housing and Apartment Buildings Zones) as part of its case at the hearings for topics 080 and 081.

The Council had intended to up zone areas to enable greater residential capacity, and had publicised its maps to demonstrate this and these were to be presented in evidence at the 080/081 hearings. Included as part of those maps was what the Council referred to as its 'out of scope' rezonings. At the hearing for 081, in response to a Council resolution (24 February 2016), Council's counsel advised that the Council no longer supported its 'out of scope' upzonings and that no expert planning evidence would be called.

With respect to the Residential - Single House Zone the question that the Panel addressed was - what the purpose of that zone, and what therefore is the appropriate zone purpose statement. This is important as it describes the characteristics of the zone and helps determine its spatial identification as well as the relevant zone provisions.

The Panel has proposed, and recommends, a revised zone purpose statement. This is to better reflect that the zone does not have a single purpose; but multiple purposes.

3.2. Panel recommendation and reasons

The Panel's view is that the purpose statement proposed by the Council (Mr Roberts, Council's expert planner) for the Residential - Single House Zone is not appropriate, as it did not reflect the multiple purposes of the zone. As the proposed Auckland Unitary Plan has restricted the residential zones to six, it was inevitable that the zones would not have a single purpose. This is particularly so for the Residential - Single House Zone. In Council's closing statement version of the provisions it stated:

The purpose of this zone provides for low density suburban housing to:

- provide for development that complements identified natural and built heritage values within identified areas; or
- recognise the limited ability of areas with significant environmental or infrastructure constraints to support more intensive development; and
- recognise the limited ability of areas which are not in close proximity to the City Centre, Metropolitan, Town or Local Centres, the public transport network or large urban facilities, to support more intensive development.

The Panel's view is that the zone does not only provide for "low density suburban housing" and the zone is not only applied to areas "not in close proximity to the City Centre, Metropolitan, Town or Local Centres, the public transport network or large urban facilities" as was set out in the notified Plan. The zone is applied to:

- i. some inner city suburbs, albeit with the special character overlay;
- ii. some coastal settlements (e.g. Kawakawa Bay); and
- iii. other established suburban areas with established neighbourhoods (e.g. parts of Howick, Cockle Bay, Pukekohe and Warkworth).

This view was strongly supported by a number of the residents and ratepayer groups and community groups, who presented to the Panel on a number of occasions on this and related issues. These included the Howick Residents and Ratepayers Association Incorporated, the Cockle Bay Residents and Ratepayers Association Incorporated, Auckland 2040 and the Herne Bay Residents Association Incorporated.

The Panel finds that the Residential - Single House Zone is an important zone and contributes to the range of living options and choices available. It should not be constrained in the way proposed by the Council. The Panel has reworded the purpose statement as a zone description to reflect what it considers, based on the evidence, as the purpose/description of the zone. This has incorporated the issues of maintaining and enhancing the amenity values of established residential neighbourhoods in an array of locations, and that these neighbourhood amenity values may be based on special character informed by the past, spacious sites with large trees, a coastal setting or other factors such as neighbourhood character. Also, to provide choice for future residents, the Residential - Single House Zone may be applied in greenfield developments.

The zone description is set out in the Panel's recommended version of the Plan.

4. Retaining the Mixed Housing Urban and Mixed Housing Suburban Zones.

4.1. Statement of issue

A number of submitters, in particular Ockham Holdings Limited, sought that the Residential - Mixed Housing Urban and Residential - Mixed Housing Suburban Zones should be merged. This was based on the need to provide greater residential capacity, and the submitters' view that there was little distinction between the zones, given the Council's position on removing density. The Council and other submitters such as the Institute of Architects and the Urban Design Forum did not agree and submitted that they should remain as separate zones.

4.2. Panel recommendation and reasons

Witnesses for Ockham Holdings (Messrs Todd and Kaye) in their presentation at the hearing suggested that any differences between the Residential - Mixed Housing Urban and the Residential - Mixed Housing Suburban zones were indistinct and that the zones ought to form a single zone. Mr Todd, in his evidence, called for a merging of the Residential - Mixed Housing Suburban and the Residential - Mixed Housing Urban zones. Mr Kaye, Ockham

Holdings' expert planner, noted that, having looked at the spread of the residential zones on the Council maps, he was unable to identify any distinguishing characteristics of a Residential - Mixed Housing Suburban Zone versus a Residential - Mixed Housing Urban Zone. In his view, the only distinguishing feature was height control.

It was also Mr Kaye's opinion that a fundamental part of delivering a compact urban form was to be more proactive in recognising a zoning enabling three-storey developments, including a mix of uses. He said this could be more easily achieved if the two zones were rolled together.

It was the Council's position, one that the Panel supports, that the Residential - Mixed Housing Urban and the Residential - Mixed Housing Suburban zones should remain separate for the reasons set out in Mr Roberts' evidence in chief (paragraph 13.18 and section 24) and evidence in rebuttal (at paragraph 4.6 onwards).

In summary Mr Roberts described the key difference between the two zones as being the planned built character (evidence in chief, paragraph 24.2). The objectives and policies for the Residential - Mixed Housing Suburban Zone provide for a planned suburban character of up to two storey buildings within a more spacious setting, whereas in the Residential - Mixed Housing Urban Zone greater intensification is provided through providing for an urban character of up to three storey buildings. In his opinion, the distinction between the Residential - Mixed Housing Suburban Zone and the Residential - Mixed Housing Urban Zone is justified as it provides greater choice in neighbourhood character, and will enable a higher level of intensification to be directed into areas identified as being more appropriate for a greater level of growth (evidence in chief, paragraph 18.13).

The Panel finds that the Residential - Mixed Housing Suburban Zone will facilitate some intensification while retaining a more suburban character, generally defined by buildings of up to two storeys. The Residential - Mixed Housing Urban Zone will provide for a more intensive building form of up to three storeys, facilitating a transition to a more urban built character over time. The Residential - Mixed Housing Urban Zone also provides for a transition in built character between suburban areas (zoned Residential - Mixed Housing Suburban Zone) and areas of higher intensification with buildings of five to seven storeys in areas zoned Residential - Terrace Housing and Apartment Buildings Zone.

The difference in height and height in relation to boundary provisions, as well as the different subdivision site size standard, will assist in the transition in character described above and are important points of distinction. Mr Roberts notes that the difference between two and three storey height will make a fundamental difference in terms of character. The Panel agrees. The Panel also notes that the difference in height between the two zones was supported by more than 100 community groups represented by Auckland 2040.

For all of the above reasons that Panel supports the retention of both zones. However it is noted that this needs to be read in conjunction with the changes made to the zones, including removing the density provisions (including the Panel's recommendation to remove the 200m² limit in the Residential - Mixed Housing Suburban Zone) and the other provisions seeking a more flexible approach to multi-unit developments where core standards (those directly affecting adjoining and nearby sites) are met.

5. Removal of the density provisions

5.1. Statement of issue

The Council, with the support of a number of submitters, including Auckland 2040, sought to remove the density provisions from the Residential - Terrace Housing and Apartment Buildings Zone and the Residential - Mixed Housing Urban Zone, and from the Mixed Housing Suburban Zone on sites over 1,000m², but to include a 200m² density requirement for sites less than 1,000m².

Other submitters sought to retain density provisions as a means of limiting development and 'densification' of Auckland.

The Panel recommends that all density provisions in the Residential - Mixed Housing Suburban, Residential - Mixed Housing Urban and Residential - Terrace Housing and Apartment Buildings Zones be removed. The Panel further recommends that the development standards (e.g. height, height in relation to boundary, yards, building coverage etc) and the resource consenting process determine the appropriate level of development on a site. Density limits are retained for the Residential - Single House Zone, the Residential - Large Lot Zone and the Residential - Rural and Coastal Settlement Zone.

5.2. Panel recommendation and reasons

The capacity for growth and the need to accommodate more people in Auckland has been fully set out in the Panel's Overview of recommendations (as referenced above). The removal of the density provisions is a key planning tool to enable greater intensity of development. The Council and a number of submitters supported the removal of the density provisions.

The Panel recommends that the density provisions in their entirety be removed; and this includes the density proposed by the Council in the Residential - Mixed Housing Suburban Zone on sites less than 1,000m².

This density 'relaxation' is on the basis that:

- i. the density provisions can lead to an inefficient use of land as only the prescribed number can be placed on the land;
- ii. due to the bullet point above, limiting the number of dwellings encourages the maximisation of the site development by building larger units. This leads to fewer smaller dwellings being built and has an impact on affordability as the larger units tend to be more expensive;
- iii. no density limits would enable considerably greater housing capacity and housing choice as this would likely result in a range of dwelling sizes rather than only larger units being built; and
- iv. along with a number of development standards and consenting processes (generally restricted discretionary activity), these would ensure good living environments and good environmental outcomes.

For the reasons set out above the Panel does not support the density restrictions in the Residential - Mixed Housing Suburban Zone (1:200m² up to 1,000m² and no density after this). The Panel and a number of submitters did not understand what these restrictions were trying to achieve. The section below sets out the Panel's recommendation on how the combination of permitted activities, development standards, consenting processes (mainly restricted discretionary activities) and notification will achieve good quality outcomes. This, in the Panel's view, negates the need for any density provisions.

6. Permitted development and outcome-led development

6.1. Statement of issue

A number of submitters, in particular those seeking a more enabling policy/rule framework to enable residential development, considered the provisions proposed by the Council were too 'rules' driven, especially the urban design requirements, and would stifle innovative outcomes and add cost with little or no benefit. They sought more enabling plan provisions which could be more outcome-led rather than rule-led.

The Council's position was that all of the development standards were required to ensure development adhered to good urban design principles, and this in turn would lead to good urban design outcomes.

The Panel finds that the combination of a rule-based approach, with a more enabling approach (as set out below) is the most appropriate to help achieve a quality compact city and 'unlock' needed residential development capacity.

6.2. Panel recommendation and reasons

The notified proposed Auckland Unitary Plan provided for up to three dwellings per site in the Residential - Mixed Housing Suburban and Residential - Mixed Housing Urban zones and one dwelling per site in the Residential - Terrace Housing and Apartment Buildings Zone as a permitted activity. The Council in its opening submissions to the hearing provided a tracked change version of the residential provisions. In those provisions, up to two dwellings per site in the Residential - Mixed Housing Suburban, Residential - Mixed Housing Urban and Residential - Terrace Housing and Apartment Buildings zones was a permitted activity.

It was the Council's position and the expert evidence of Mr Roberts (the Council's planner) that the change in the number of dwellings permitted was due to the removal of the density provisions. Mr Roberts was of the view that this was necessary as a closer scrutiny was needed to ensure that the design outcome was appropriate.

The Panel did not agree and considered that a greater level of development needed to be provided for as of right, given the matters as follows:

- i. that the extensive development standards would ensure appropriate amenity levels where the number of dwellings permitted per site was limited;
- ii. if a development standard was not met, this would trigger a restricted discretionary activity consent requirement, with the potential for notification, and this would ensure an assessment of the effects of the development; and

- iii. limiting the number of dwellings as proposed would potentially create inefficient land use as land owners 'underdeveloped' their sites in order to avoid a consenting process.

Also the Panel agrees with a number of submitters, such as Generation Zero, that more development needs to be enabled (see above, section 2 Enabling capacity).

The Panel recommends the following provisions which will, in its opinion, enable greater and appropriate development, while at the same time providing safeguards to ensure quality outcomes. The provisions are set out in the Panel's recommended version of the Plan and are summarised below.

- i. Up to four dwellings are permitted as of right on sites in the Residential - Mixed Housing Suburban Zone and the Residential - Mixed Housing Urban Zone that meet all the applicable development standards.
- ii. Five or more dwellings require a restricted discretionary activity consent in the Residential - Mixed Housing Suburban Zone and the Residential - Mixed Housing Urban Zone.
- iii. All dwellings require a restricted discretionary activity consent in the Residential - Terrace Housing and Apartment Buildings Zone.
- iv. If the core development standards in the Residential - Mixed Housing Suburban, Residential - Mixed Housing Urban and Residential - Terrace Housing and Apartment Buildings zones are met (height, height in relation to boundary and yards) any application will, unless special circumstances apply, be non-notified. If one or more of the core standards are not met, the normal tests of notification will apply.
- v. As a restricted discretionary activity for multiple dwellings or all dwellings in the Residential - Terrace Housing and Apartment Buildings Zone, the development standards become matters of discretion rather than actual standards which must be met.

As part of the above provisions there are a number of development standards that the Council (in its closing statement) did not support. The Panel agreed but has recommended the deletion of more of the development standards. The reasons for this are those set out in the Council's evidence, and addressed below. These standards considered by the Panel to be either unnecessary and/or inappropriate in terms of:

- i. achieving quality urban design outcomes;
- ii. providing for a more outcome led approach as opposed to a more prescriptive rule- based approach; and
- iii. imposing costs which have little benefit.

The standards are:

- i. separation between buildings on the site;

- ii. dwellings fronting the street;
- iii. maximum building length;
- iv. front fence requirements (side and rear retained);
- v. garages (percentage of front facade);
- vi. minimum dwelling size;
- vii. servicing and waste;
- viii. storage;
- ix. universal access;
- x. minimum dimensions of principal living rooms and principal bedrooms;
- xi. dwelling mix; and
- xii. minimum frontage and site width.

It is the Panel's finding, largely agreeing with the Council on those it sought to delete and a range of submitters seeking a more enabling regime, that the proposed Auckland Unitary Plan's approach is too prescriptive in urban design terms, will not assist in providing a supply of residential dwellings and the costs (both money and in terms of quality outcomes) outweigh the benefits.

There was considerable debate between the Council and submitters about the need for standards such as dwelling sizes, minimum ceiling heights and minimum dimensions of principal living rooms and principal bedrooms (the latter two being detailed assessment criteria). Considering the arguments for and against, the Panel recommends that these provisions be deleted, noting that the Council recommended that minimum ceiling heights and minimum dimensions of principal living rooms and principal bedrooms standards be deleted as part of the assessment of multi-unit developments.

With respect to the issue of minimum dwelling/apartment sizes, there was clearly support for and opposition to the specification of dwelling/apartment sizes. As set out in the Council's closing statement, the purpose of minimum dwelling size is:

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

Much of the debate focussed on the need for the rule. The Council and other submitters argued that it was necessary to ensure functional spaces and part of amenity for the residents and the wider community (not having 'shoe box' apartments). Many of the submitters who developed apartments argued that the rule was not needed as the market, in combination with the other development standards, would ensure appropriately-sized dwellings and there was a significant cost imposed with specifying minimum size of dwelling.

It is the Panel's position and recommendation that minimum dwelling sizes be deleted as a standard. There are two main reasons: the relationship between the Building Act 2004 and

the Resource Management Act 1991; and whether a minimum dwelling size is a resource management issue and, if it is, whether it is the most appropriate method to ensure 'amenity' and 'functionally'. This is addressed further below.

The Council's position on the relationship between the Building Act 2004 and the Resource Management Act 1991 was set out in legal submissions, evidence and in the Council's closing statement. The Panel notes that formal submissions concerning the relationship between the Resource Management Act 1991 and the Building Act 2004 were filed in response to the Panel's 8 October 2015 direction on the Resource Management Act 1991 and the Building Act 2004 in the proposed Auckland Unitary Plan. Also the relationship of the Building Act 2004 and the Resource Management Act 1991 is more fully addressed in the Panel's Overview of recommendations (as referenced above).

The primary thrust of those submissions for the Council was that section 18 of the Building Act 2004 does not limit the ability to include rules in the proposed Auckland Unitary Plan that may require buildings to achieve higher performance standards than the Building Code where the rules meet the statutory tests of the Resource Management Act 1991 and have a legitimate resource management purpose. This was also addressed in Part 2C of the Council's opening submissions (para 2.19 to 2.23 onwards), and reiterated the justifications for all the onsite amenity controls set out in the evidence of the Council's witnesses, including Mr MacIndoe, the Council's urban design expert, (see his evidence in rebuttal: section 6 on daylight control; section 8 on minimum dwelling size; and section 9 on floor to ceiling height). Mr Roberts, the Council's expert planner, also supported the provisions.

The Council's position, as set out in legal submissions and the evidence, is that the controls address what it considers are resource management issues. It was further stated that they also achieve the health and social well-being purpose of the Resource Management Act 1991 and support the quality compact city objectives of the proposed Auckland Unitary Plan.

As already addressed in this report, a number of submitters sought a substantial 'freeing up' of the residential development controls. As examples, Mr Kaye, expert planner for Ockham Holdings Limited sought the removal of all development controls in the residential zones other than those relating to yards, height, height to boundary, and landscaped area standards (referred by him as core development controls). It was his opinion that the core development controls should be limited to those that directly constrain the built form and site development outcomes that directly impact on the residential amenity of surrounding land.

Generation Zero, in Mr Christensen's written evidence, supported the lowering of minimum studio apartment sizes to 30m² although noting that:

- (a) this still precludes many "tiny house" designs seen overseas; and
- (b) minimum sizes for 1 bedroom apartments also need to be reduced (paragraph 7 of Mr Christensen's evidence).

He also supported simplifying the requirements for interior design, stating that while "interior design is an important part of 'density done well', hard and fast requirements aren't necessarily the best way to achieve good outcomes" (paragraph 8 of Mr Christensen's evidence in chief).

Based on the submissions and evidence, and the Panel's position on the relationship of the Building Act 2004 and the Resource Management Act 1991, the Panel recommends the deletion of the provisions relating to dwelling sizes, minimum ceiling heights and minimum dimensions of principal living rooms and principal bedrooms. The reasons are those already set out but in summary are:

- i. the package of provisions proposed, especially the development standards and the outcome-led consenting process, will:
 - a. enable quality developments and urban design outcomes;
 - b. provide greater choice of housing options;
 - c. assist in improving housing affordability as there is a cost to specifying these development controls, and the costs outweigh the benefits in section 32 terms;
- ii. minimum standards are required pursuant to the Building Act 2004, and these will ensure functionality is considered as well as health and well-being.

The Panel also recommends the deletion of a number of the development standards which have largely been predicated on urban design grounds. While the Panel supports good urban design and quality outcomes, it was the Panel's view that these had been over-prescribed and the costs and benefits had not been sufficiently evaluated. The Panel agrees with those submitters, such as Todd Property Group Limited, Fletcher Construction Developments Limited, Fletcher Residential and Ockham Holdings Limited, that the provisions would not necessarily achieve better quality outcomes, would add to cost, with little benefit, stifle innovation and would generate significant costs and delays as a result of needing to obtain consent to breach any of the standards.

Auckland's typography, site orientation, existing street and subdivision patterns (especially for smaller-scale brownfields redevelopment or infilling) will mean these many potential developments would not be able to comply (and that many of the standards were not appropriate). This will trigger a number of consent applications to justify why particular development standards cannot be met. In this regard the Panel notes the comments of Ms Mackereth of the Howick Ratepayers and Residents Association Incorporated who stated that people need to be able to build houses to orient to the sun and views, and that as sites can be steep (either above or below the road) it is not always possible or desirable to orientate houses to the street.

The Panel accepts that for large-scale developments (five or more dwellings and all development in the Residential - Terrace Housing and Apartment Buildings Zone and integrated residential developments) will require a restricted discretionary consent where an overall design assessment will be undertaken and evaluated. Many of the matters set out above will be relevant in that evaluation, however they do not need to be prescribed for the reasons already set out. It is the Panel's view, based on evidence, that the provisions are not the most appropriate or efficient to achieving a good quality residential outcome. Accordingly the Panel recommends the provisions be deleted.

7. Integrated residential development (including retirement villages)

7.1. Statement of issue

The Panel issued a procedural minute (5 June 2015) in relation to the hearings process for Hearing topic 061 Retirement villages and affordability. It stated:

Following the mediation on Topic 061 Retirement Villages held on 25-26 May 2015, it was agreed by all parties present that the removal or replacement of the Special Purpose Retirement Village Zone as proposed by Auckland Council was appropriate provided specific retirement village provisions are incorporated into the Residential and Business Zones, and/or a Retirement Village Auckland-Wide Precinct.

The issue before the Panel is what specific retirement village provisions should be incorporated into the residential zone provisions. The Panel's recommendations are set out below.

7.2. Panel recommendation and reasons

The Panel has not provided for a particular class of activity called 'retirement village' but has instead provided for 'integrated residential developments', which would include a retirement village.

The Panel notes there was considerable discussion, negotiation and evidence on this topic from the Council (mainly Ms Rogers, the Council's expert planner) and the industry including the Retirement Villages Association and Ryman Healthcare Limited, Bloom St George Limited, Aria Bay Retirement Village Limited and Summerset Group Holdings Limited.

Much of what was presented to the Panel centred on what constituted a retirement village and whether it should be limited to retirement villages pursuant to the Retirement Villages Act 2003. The Retirement Villages Association and Ryman Healthcare Limited considered that it should be so limited and Bloom St George Limited (that offers apartment/ living accommodation that does not constitute a retirement village under that Act) did not.

The Panel notes that it gave leave for the Retirement Villages Association and Ryman Healthcare Limited (in a memorandum dated 23 October 2015) to file reply submissions clarifying their positions on the definition of retirement villages and to respond to the submissions from Bloom St George Limited. The Panel essentially agrees with the Council's closing statement, which in summary are:

The primary purpose of the Retirement Villages Act 2003 is to protect the interests of residents and intending (i.e. future) residents. section 3(c) of that Act sets out the matters of interest and these are primarily around ensuring that residents understand the financial and ownership nature of what they are purchasing (often a licence to occupy as opposed to outright ownership (paragraph 12.2 of the closing statement)).

Neither the Retirement Villages Act 2003 nor the Retirement Villages Code of Practice 2008 prescribes detailed design standards for retirement villages relating to onsite/internal amenity. Ms Rogers notes that there appears to be nothing in the Retirement Villages Act

2003 that requires a retirement village operator to provide a wide range of services or even high-quality accommodation or amenity.

It is the Panel's view, and that of the Council, that the focus of the Plan needs to remain on the resource management reasons relating to villages, primarily due to their typical site/building size and scale and the management of effects associated with accessory activities that tend to establish with the village – matters not determined by a particular ownership model.

As discussed at the hearing on 20 October 2015, some of the issues around the definition of retirement villages related to maintaining a broad resource management-based definition which enabled a variety of comprehensive residential development activities (catering to aged people) regardless of the ownership or business model on which the retirement village is based.

It is the Panel's position that using the residential provisions that apply to residential developments which are a restricted discretionary activity in the Residential - Mixed Housing Suburban, Residential - Mixed Housing Urban and Residential - Terrace Housing and Apartment Buildings Zones (i.e. those involving five or more dwellings) is appropriate as the criteria are applicable to assessing a retirement village or other forms of integrated residential development.

These provisions, as amended, are focused on the size and scale of buildings and site development, and how that development responds to its surrounds and the planned character of the zone. The Panel considers that in terms of built form and the likely larger site sizes, a retirement village complex and a larger-scale residential development are likely to have similar effects and should therefore be subject to similar assessment matters. Furthermore, this approach fits with the structure of the residential provisions, which do not include separate lists of criteria applying to different activities.

The activity status for integrated residential developments is restricted discretionary in the Residential - Single House Zone, the Residential - Mixed Housing Suburban Zone, the Residential - Mixed Housing Urban Zone and the Residential - Terrace Housing and Apartment Buildings Zone. The provisions are largely the same as those applying to larger scale residential developments, with a focus on the effects on the neighbourhood character, residential amenity and the surrounding residential area from all of the following:

- i. building intensity, scale, location, form and appearance;
- ii. traffic;
- iii. design of parking and access; and
- iv. noise, lighting and hours of operation.

Taking into account all of the above, the Panel does not support a definition of retirement villages being limited to that in the Retirement Villages Act 2003. It is the Panel's view that a retirement village is essentially a residential activity. While a range of other complementary activities (such as recreation, social, community, cultural and health) may be offered in an integrated manner, it is still essentially part of a residential activity. In the Panel's view any residential activity that offers a range of other complementary activities (other than for

retirement purposes) should be treated in the same way as a retirement village and vice versa.

Accordingly a class of activity termed 'integrated residential development' has been defined and could apply to a range of activities such retirement villages, campus-style student accommodation, community and cultural style residential developments.

The Panel notes that the proposed Auckland Unitary Plan already provides for integrated developments in the Auckland-wide precinct (Chapter K.1.1.3), and can apply anywhere providing they meet the following definition (as proposed by the Council):

Integrated residential development

Residential development on sites more than 2,000m² where elements of the development such as building design, open space, landscaping, vehicle access, roads and subdivision are designed to form an integrated whole. The height in relation to boundary and yards development controls do not apply to internal site boundaries within the integrated residential development.

This definition and activity status of this Auckland-wide precinct has been recommended for deletion, in large part due to the recommended changes made to the residential provisions as has been addressed in this report, i.e. it is no longer necessary.

Mr Brown, expert planner for the Caughey Preston Trust, was concerned that the Caughey Preston Trust development might be defined as a hospital as opposed to a residential activity (and therefore be treated as a non-complying activity in residential zones). The Panel's position is that would not be the case as the Caughey Preston facility does not provide for any medical or surgical treatment of residents other than day-to-day care. The Panel finds that this development and similar forms of development would meet the definition of an integrated residential development.

8. Affordable housing

8.1. Statement of issue

The issue is the extent to which the residential provisions should require (retained) affordable housing.

8.2. Panel recommendation and reasons

The issue of affordable housing has been fully addressed in Panel's Overview of recommendations (as referenced above). For the reasons set out there, there are no provisions of affordable housing in the residential section of the Panel's recommended version of the Plan.

9. Matters of discretion and assessment criteria

9.1. Statement of issue

That the matters of discretion, and in particular the assessment criteria, were written in a way that was prescriptive and read more in the nature of rules.

9.2. Panel recommendation and reasons

The Panel has, across most of the Plan, redrafted the matters of discretion and the assessment criteria. The redrafting has been to make it clearer what the actual matters of discretion are (i.e. more specific) and that the assessment criteria are drafted as matters to consider in assessment as opposed to rules, and better align to and in some cases link to the zone policies. Most of the residential assessment criteria were drafted as 'should' or 'must' statements and read much more like rules, and things that should or must be undertaken rather than matters for assessment.

The Panel has redrafted the assessment criteria to be statements of 'whether' or the 'extent to which'. Mr Donnelly of Todd Property Group Limited was particularly concerned about the assessment criteria 'masquerading' as de facto rules. The Panel requested Mr Donnelly to provide what he considered to be appropriate criteria based on the 'whether' and the 'extent to which' statements. The Panel largely accepted Mr Donnelly's approach. The Panel also notes that Mr Roberts, the Council's expert planner, stated in response to a question from the Panel that he also preferred the 'whether' and 'extent to which' convention rather than that used in the notified version of the Plan.

10. Design statements

10.1. Statement of issue

The issue is whether design statements should be retained as part of application for residential developments, including integrated residential developments.

10.2. Panel recommendation and reasons

The issue of design statements and their recommended deletion has been fully set out in the Panel's Report to Auckland Council – Hearing topic 077 Sustainable design July 2016. In summary the Panel does not support the use of design statements as proposed by the Council. In this respect the Panel accepts the evidence of Mr Donnelly for Todd Property Group Limited and others who consider the design statement simply adds cost for little or no benefit.

While the Panel accepts that a design statement may be prepared as part of an assessment of environmental effects, the Panel does not accept use of a design statement as a procedural tool as set out in Council's closing statement on topic 077.

11. Consequential changes

11.1.Changes to other parts of the Plan

There are no consequential changes to other parts of the Plan as a result of the Panel's recommendations on this topic.

11.2.Changes to provisions in this topic

As a result of the Panel's recommendations on other topics, there are consequential changes to the provisions in this part of the Plan as set out below.

- i. Design statements have been deleted (noting that the reasons for this are set out in the Panel's Report to Auckland Council – Hearing topic 077 Sustainable design July 2016).
- ii. The retained affordable housing provisions are deleted (noting that the reasons for this are set out in the Panel's Report to Auckland Council – Overview of recommendations July 2016 and Report to Auckland Council – Hearing topic 013 Urban Growth July 2016).

12. Reference documents

The documents listed below, as well as the submissions and evidence presented to the Panel on this topic, have been relied upon by the Panel in making its recommendations.

The documents can be located on the aupihp website (www.aupihp.govt.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 to the website.

(The date in brackets after the document link refers to the date the document was loaded onto the aupihp website. Note this may not be the same as the date of the document referred to in the report.)

12.1.General topic documents

The Submission Points Pathway report

059-Submission Point Pathway Report - 5 October 2015 (06 Oct 2015)

060-Submission Point Pathway Report – 29 April 2015 (29 Apr 2015)

062-Submission Point Pathway Report - 27 August 2015 (28 Aug 2015)

063-Submission Point Pathway Report - 27 August 2015 (28 Aug 2015)

The Parties and Issues Report

059, 060, 062 and 063-Parties and Issues Report -12 October 2015 (12 Oct 2015)

Council closing statement

059, 060, 062 and 063- Hrg - CLOSING STATEMENT (18 Nov 2015)

Council closing statement – marked up version

059, 060, 062 and 063- Hrg - CLOSING STATEMENT - Annexure D -proposed mark ups (18 Nov 2015)

Mediation statements

059, 060, 062 and 063 – Mediation Joint Statement – Session 1 – 11 (27 – 31 July, 4 – 7 August and 10 – 11 August 2015) (12 Aug 2015)

059, 060, 062 and 063 - memorandum - Issues arising in mediation on Single House zone (01 Sep 2015)

059, 060, 062 and 063- Hrg - Point Chevalier Residents Against THABs Incorporated - Terrace Housing and Apartment Buildings Zone Mediation Tracked Changes (12 Aug 2015)

Panel direction

022, 50, 59-63, 64 and 77 - Panel direction on the Resource Management Act 1991 and the Building Act 2004 in the PAUP (8 October 2015)

Procedural Minute

The Panel issued a procedural Minute (5 June 2015) in relation to Hearings Process for Topic 061 Retirement Village and Affordability.

<http://aupihp.govt.nz/documents/docs/aupihpproceduralminute13.pdf>

12.2. Specific evidence

Aria Bay Retirement Village Limited

059, 060, 062 and 063 - Hrg - (Craig Moriarty) - Planning - LATE (24 September 2015)

059, 060, 062 and 063 - Hrg - (Craig Moriarty) - Planning – Summary Statement (22 Oct 2015)

Auckland Council

059, 060, 062 and 063 - Hrg - LEGAL SUBMISSIONS (13 October 2015)

059, 060, 062 and 063 - Hrg - (Graeme McIndoe) - Architecture and Urban Design - general - LATE (9 September 2015)

059, 060, 062 and 063 - Hrg - (Graeme McIndoe) - Architecture and Urban Design - general – REBUTTAL (6 October 2015)

059, 060, 062 and 063 - Hrg - (Nick Roberts) - Planning- LATE (10 September 2016)

059, 060, 062 and 063 - Hrg - (Deanne Rogers) – Planning – Retirement Villages (9 September 2015)

059, 060, 062 and 063 - Hrg - (Deanne Rogers) – Planning – Retirement Villages – Attachment A, B and C – VERY LATE (15 September 2015)

Auckland 2040 Incorporated

059, 060, 062 and 063 - Pre-hrg - additional hearing time (15 May 2015)

059, 060, 062 and 063 - Hrg - Auckland 2040 Incorporated and others – JOINT STATEMENT (21 September 2015)

059, 060, 062 and 063 - Hrg - (Richard Burton) (23 September 2015)

059, 060, 062 and 063 - Hrg - (Brian Putt) - Planning (24 September 2015)

059, 060, 062 and 063 - Hrg - LEGAL SUBMISSIONS (15 October 2015)

059, 060, 062 and 063 - Hrg - (Richard Burton) - Summary statement (16 October 2015)

Bloom St George Limited

059, 060, 062 and 063 - Hrg - (James Klein) – Architecture (29 September 2015)

Caughey Preston Trust

059, 060, 062 and 063 - Hrg - (Jeff Brown) - Planning (23 September 2015)

059, 060, 062 and 063 - Hrg - (Jeff Brown) - Planning - Attachments B-E (23 September 2015)

059, 060, 062 and 063 - Hrg - (Jeff Brown) – Planning – Summary Statement (20 October 2015)

Fletcher Construction Developments

059, 060, 062 and 063 - Hrg - (Vijay Lala) - Planning (23 September 2015)

059, 060, 062 and 063 - Hrg - (Vijay Lala) - Planning - Supplementary Evidence - Presentation (20 October 2015)

Fletcher Residential Limited

059, 060, 062 and 063 - Hrg - Auckland 2040 Incorporated and others – JOINT STATEMENT (21 September 2015)

059, 060, 062 and 063 - Hrg - (Ian Craig) - Planning (23 September 2015)

059, 060, 062 and 063 - Hrg - Fletcher Residential Ltd - (Ian Craig) - Planning - Appendices 3 and 4 (24 September 2015)

059, 060, 062 and 063 - Hrg - (Ian Craig) – Planning – Summary Statement (19 October 2015)

Generation Zero

059, 060, 062 and 063 - Hrg - (Luke Christensen) (23 September 2015)

059, 060, 062 and 063 - Hrg - (Luke Christensen) - Appendix A (23 September 2015)

059, 060, 062 and 063 - Hrg - (David Gibbs) - Architecture and Urban Design (24 September 2015)

059, 060, 062 and 063 - Hrg - (Graeme Scott and David Gibbs) – Architecture - Good and bad development examples (26 November 2015)

059, 060, 062 and 063 - Hrg - (Graeme Scott and David Gibbs) – Architecture - Good and bad development examples - Memorandum (26 November 2015)

Housing New Zealand Corporation

059, 060, 062 and 063 - Hrg - Auckland 2040 Incorporated and others – JOINT STATEMENT (21 September 2015)

059, 060, 062 and 063 - Hrg - Housing New Zealand - (Matthew Lindenberg & Amelia Linzey) - Planning (24 September 2015)

059, 060, 062 and 063 - Hrg - (Tim Heath & Philip Osborne) – Economics – (29 September 2015)

059, 060, 062 and 063 - Hrg - (Matthew Lindenberg & Amelia Linzey) – Planning - REBUTTAL (06 October 2015)

059, 060, 062 and 063 - Hrg - LEGAL SUBMISSIONS (20 October 2015)

059, 060, 062 and 063 - Hrg - Supplementary Evidence – Presentation – Residential Zones Evidence (20 October 2015)

059, 060, 062 and 063 - Hrg - Supplementary Evidence –Comparison of AP / PAUP / HNZN Sub (20 October 2015)

059, 060, 062 and 063 - Hrg - Supplementary Evidence –Photos (20 October 2015)

Howick Ratepayers and Residents Association Incorporated

059, 060, 062 and 063 - Hrg - (Gayleen Mackereth) - Cockle Bay case (25 September 2015)

059, 060, 062 and 063 - Hrg - (Gayleen Mackereth) - Residential controls (25 September 2015)

059, 060, 062 and 063 - Hrg - Howick Ratepayers and Residents Association - (Gayleen Mackereth) - Speaking Notes (22 October 2015)

059, 060, 062 and 063 - Hrg - Howick Ratepayers and Residents Association - (Gayleen Mackereth) - Photo 1 (22 October 2015)

059, 060, 062 and 063 - Hrg - Howick Ratepayers and Residents Association - (Gayleen Mackereth) - Photo 2 (22 October 2015)

059, 060, 062 and 063 - Hrg - Howick Ratepayers and Residents Association - (Gayleen Mackereth) - Photo 3 (22 October 2015)

059, 060, 062 and 063 - Hrg - Howick Ratepayers and Residents Association - (Gayleen Mackereth) - Photo 4 (22 October 2015)

059, 060, 062 and 063 - Hrg - Howick Ratepayers and Residents Association - (Gayleen Mackereth) - Photo 5 (22 October 2015)

059, 060, 062 and 063 - Hrg - Howick Ratepayers and Residents Association - (Gayleen Mackereth) - Photo 6 (22 October 2015)

059, 060, 062 and 063 - Hrg - (Gayleen Mackereth) – Good and bad development examples (27 October 2015)

059, 060, 062 and 063 - Hrg - (Gayleen Mackereth) – Supplementary Evidence - Essay: Fire Rated Separation (19 November 2015)

059, 060, 062 and 063 - Hrg - (Gayleen Mackereth) – Supplementary Evidence – Fire Danger (19 November 2015)

Ockham Holdings Limited

059, 060, 062 and 063 - Hrg - (Barry Kaye) - Planning (23 September 2015)

059, 060, 062 and 063 - Hrg - (Mark Todd) - Corporate (23 September 2015)

059, 060, 062 and 063 - Hrg - (Barry Kaye and Mark Todd) - Attachment 1 (23 September 2015)

059, 060, 062 and 063 - Hrg - (Mark Todd) – Corporate – Supplementary Evidence – Presentation (14 October 2015)

059, 060, 062 and 063 - Hrg - (Barry Kaye) – Planning – Summary Statement (19 October 2015)

059, 060, 062 and 063 - Hrg – (Mark Todd) - Corporate– Summary Statement (19 October 2015)

Property Council New Zealand

059, 060, 062 and 063 - Hrg - Auckland 2040 Incorporated and others – JOINT STATEMENT (21 September 2015)

059, 060, 062 and 063 - Hrg - (Adam Thompson) - Economics (22 September 2015)

059, 060, 062 and 063 - Hrg - (Vijay Lala) - Planning (23 September 2015)

059, 060, 062 and 063 - Hrg - Patrick Fontein and Property Council New Zealand – (Patrick Fontein and Adam Thompson) – Supplementary Evidence on Panel direction for additional information on capacity forecasts (09 October 2015)

059, 060, 062 and 063 - Hrg - (Adam Thompson) – Economics – Summary Statement (20 October 2015)

059, 060, 062 and 063 - Hrg - (Vijay Lala) - Planning - Supplementary Evidence - Presentation (20 October 2015)

Retirement Villages Association

059, 060, 062 and 063 - Hrg - LEGAL SUBMISSIONS (20 October 2015)

059, 060, 062 and 063 - Hrg - (John Kyle) – Planning – Summary Statement (20 October 2015)

059, 060, 062 and 063 - Hrg - (Clinton Bird) - Architecture and Urban Design – Summary Statement (20 October 2015)

059, 060, 062 and 063 – Hrg – Reply Submissions (12 November 2015)

Ryman Healthcare Limited

059, 060, 062 and 063 - Hrg - (John Kyle) - Planning (24 Sep 2015)

059, 060, 062 and 063 - Hrg - (Andrew Mitchell) - Corporate (24 September 2015)

059, 060, 062 and 063 - Hrg - (Clinton Bird) - Architecture and Urban Design (24 September 2015)

059, 060, 062 and 063 - Hrg - LEGAL SUBMISSIONS (20 October 2015)

059, 060, 062 and 063 - Hrg - (John Kyle) – Planning – Summary Statement (20 October 2015)

059, 060, 062 and 063 - Hrg - (Clinton Bird) - Architecture and Urban Design – Summary Statement (20 October 2015)

059, 060, 062 and 063 – Hrg – Reply Submissions (12 November 2015)

Summerset Group Holdings Limited

059, 060, 062 and 063 - Hrg - (Craig Moriarty) - Planning - LATE (24 September 2015)

059, 060, 062 and 063 - Hrg - (Craig Moriarty) - Planning – Summary Statement (22 October 2015)

The New Zealand Institute of Architects

059, 060, 062 and 063 - Hrg - (David Gibbs) - Architecture and Urban Design (24 Sept 2015)

059, 060, 062 and 063 - Hrg - (Graeme Scott) - Architecture (24 September 2015)

059, 060, 062 and 063 - Hrg - (Graeme Scott and David Gibbs) – Architecture - Good and bad development examples (26 November 2015)

059, 060, 062 and 063 - Hrg - (Graeme Scott and David Gibbs) – Architecture - Good and bad development examples - Memorandum (26 November 2015)

The Urban Design Forum New Zealand

059, 060, 062 and 063 - Hrg - (David Gibbs) - Architecture and Urban Design (24 September 2015)

059, 060, 062 and 063 - Hrg - (Graeme Scott) - Architecture (24 September 2015)

059, 060, 062 and 063 - Hrg - (Graeme Scott and David Gibbs) – Architecture - Good and bad development examples (26 November 2015)

059, 060, 062 and 063 - Hrg - (Graeme Scott and David Gibbs) – Architecture - Good and bad development examples - Memorandum (26 November 2015)

Todd Property Group Limited

059, 060, 062 and 063 - Hrg - (Neil Donnelly) - Planning (22 September 2015)

059, 060, 062 and 063 - Hrg - (Neil Donnelly) – Planning - Revised design criteria – Auckland Council marked up version (30 October 2015)

059, 060, 062 and 063 - Hrg - (Neil Donnelly) – Planning - Revised design criteria - Suggestions (30 October 2015)

ATTACHMENT B

Copy of Council Decision



**Decisions of the Auckland Council on
recommendations by the Auckland Unitary
Plan Independent Hearings Panel on
submissions and further submissions to the
Proposed Auckland Unitary Plan**

Decisions Report

19 August 2016

40. Council decisions relating to Panel report entitled “Report to Auckland Council Hearing Topic 059 to 063 (Residential zones), July 2016”

Panel recommendations accepted:

40.1 The Council has accepted all the recommendations of the Panel contained in the Panel reports for Hearing Topic 059 - 063 (Residential zones), as they relate to the content of the PAUP, and also the associated recommendations as they appear in the plan and the maps except as listed below at paragraph 40.2.

Panel recommendations rejected:

40.2 The Council has rejected the Panel recommendations in relation to Hearing Topic 059 to 063 (Residential zones) as listed below, with accompanying reasons, alternative solutions and section 32AA evaluation (where necessary):

~~(a) **That Integrated Residential Developments are provided for as a Restricted Discretionary activity within the Single House Zone**~~

| Reasons | |
|---|------------------|
| (i) The assessment of this intensity of development in the Single House zone as a Restricted Discretionary activity is contrary to the stated purpose and associated objectives and policies of the zone. | |
| (ii) A full assessment as a Discretionary Activity is a more appropriate approach for the assessment of Integrated Residential Developments in the Single House zone. | |
| Alternative solution | See Attachment A |

(c) **The deletion of the minimum dwelling size standard.**

| Reasons | |
|---|------------------|
| (i) In the Residential zones it is considered that the minimum dwelling size standard should still be applied to developments of three or more dwelling units | |
| (ii) The Building Act does not address social or design quality effects associated with small dwellings. It is therefore necessary to manage these through the District Plan | |
| (iii) Living environments associated with three or more dwelling units require internal living spaces which are functional and which provide for amenity to meet the day- to-day needs of residents | |
| (iv) This will assist to maintain the social wellbeing of the community, support social cohesion and thereby support further intensification within urban environments as these areas become desirable places to live | |
| Alternative solution | See Attachment A |

(d) **Amending the Height in Relation to Boundary Controls in the Mixed Housing Suburban, Mixed Housing Urban and Terrace Housing and Apartment Building zones.**

| Reasons | |
|---|------------------|
| (i) The Alternative Height in Relation to Boundary Rule is more enabling than the Height in Relation to Boundary control and should be assessed as a Restricted Discretionary Activity. | |
| Alternative solution | See Attachment A |



**Decisions of the Auckland Council on
recommendations by the Auckland Unitary
Plan Independent Hearings Panel on
submissions and further submissions to the
Proposed Auckland Unitary Plan**

Attachment A

The alternative solutions prepared by the Council for any rejected recommendations (which includes: text, diagram and map alternative solutions).

19 August 2016

AS Topic 059-063
H4 Residential - Mixed
Housing Suburban Zone

H4. Residential – Mixed Housing Suburban Zone

H4.1. Zone description

The Residential – Mixed Housing ~~Urban~~ Suburban Zone is the most widespread residential zone covering many established suburbs and some greenfields areas. Much of ...

Up to ~~four~~ two dwellings are permitted as of right subject to compliance with the standards. This is to ensure a quality outcome for adjoining sites and the neighbourhood, as well as residents within the development site.

Resource consent is required for ~~five~~ three or more dwellings and for other specified buildings in order to:

- achieve the planned suburban built character of the zone;
- achieve attractive and safe streets and public open spaces;
- manage the ...

H4.3. Policies

(1) Enable a ...

(3) Encourage development to achieve attractive and safe streets and public open spaces including by:

- (a) providing for passive surveillance
- (b) optimising front yard landscaping
- (c) minimising visual dominance of garage doors.

~~(34)~~Require the ...

~~(45)~~Require accommodation to be designed to:

- (a) provide privacy and outlook; and
- (b) be functional, have access to daylight and sunlight and provide the amenities necessary to meet the day-to-day needs of residents.

~~(56)~~Encourage accommodation ...

H4.4. Activity table

Table H4.4.1 Activity table specifies the activity status of land use and development activities in the Residential – Mixed Housing Suburban Zone pursuant to section 9(3) of the Resource Management Act 1991.

Table H4.4.1 Activity table

| Activity | | Activity status | Standards to be complied with |
|--------------------|--|-----------------|--|
| Use | | | |
| (A1) | ... | | |
| Residential | | | |
| (A2) | ... | | |
| (A3) | Up to four <u>two</u> dwellings per site | P | Standard H4.6.4 Building height; ... Standard H4.6.14 <u>Front</u> , side and rear fences and walls; |
| (A4) | Five <u>Three</u> or more dwellings per site | RD | Standard H4.6.4 Building height; Standard H4.6.5 Height in relation to boundary; Standard H4.6.6 Alternative height in relation to boundary; Standard H4.6.7 Yards |
| (A5) | ... | | |
| (A9) | Supported residential care accommodating up to 10 people per site inclusive of staff and residents | P | Standard H4.6.4 Building height; ... Standard H4.6.14 <u>Front</u> , side and rear fences and walls |
| (A10) | ... | | |
| (A11) | Boarding houses accommodating up to 10 people per site inclusive of staff and residents | P | Standard H4.6.4 Building height; ... Standard H4.6.14 <u>Front</u> , side and rear fences and walls |
| (A12) | ... | | |
| (A13) | Visitor accommodation accommodating up to 10 people per site inclusive of staff and visitors | P | Standard H4.6.4 Building height; ... Standard H4.6.14 <u>Front</u> , side and rear fences and walls |
| (A14) | ... | | |
| Commerce | | | |
| (A15) | Dairies up to 100m ² gross floor area per site | RD | Standard H4.6.4 Building height; ... Standard H4.6.14 <u>Front</u> , side and rear fences and walls |
| (A16) | ... | | |
| Community | | | |
| (A18) | Care centres accommodating up to 10 people per site excluding staff | P | Standard H4.6.4 Building height; ... Standard H4.6.14 <u>Front</u> , side and rear fences and walls |

H4 Residential – Mixed Housing Suburban Zone

| | | | |
|--------------------------------|---|-----------|--|
| (A19) | Care centres accommodating greater than 10 people per site excluding staff | RD | Standard H4.6.4 Building height; ... Standard H4.6.14 <u>Front</u> , side and rear fences and walls |
| (A20) | Community facilities | RD | Standard H4.6.4 Building height; ... Standard H4.6.14 <u>Front</u> , side and rear fences and walls |
| (A21) | ... | | |
| (A24) | Healthcare facilities up to 200m ² gross floor area per site | RD | Standard H4.6.4 Building height; ... Standard H4.6.14 <u>Front</u> , side and rear fences and walls |
| (A25) | ... | | |
| Development | | | |
| (A29) | ... | | |
| (A30) | Internal and external alterations to buildings | P | Standard H4.6.4 Building height; ... Standard H4.6.14 <u>Front</u> , side and rear fences and walls; <u>Standard H4.6.15 Minimum dwelling size</u> |
| (A31) | ... | | |
| (A32) | Additions to an existing dwelling | P | Standard H4.6.4 Building height; ... Standard H4.6.14 <u>Front</u> , side and rear fences and walls; <u>Standard H4.6.15 Minimum dwelling size</u> |
| (A33) | <u>Development which does not comply with H4.6.5 Height in relation to boundary</u> | <u>RD</u> | <u>Standard H4.6.6 Alternative height in relation to boundary</u> |
| (A33) (A34)) | New buildings ... | | |

H4.5. Notification

- (1) Any application for resource consent for the following activities will be considered without public or limited notification or the need to obtain the written approval from affected parties unless the Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991:
- (a) ~~five-three~~ or more dwellings per site that comply with all of the standards listed in Table H4.4.1 Activity table; ~~or~~
 - (b) an integrated residential development that complies with all of the standards listed in Table H4.4.1 Activity table; ~~or~~
 - (c) development which does not comply with Standard H4.6.5 Height in relation to boundary, but complies with Standard H4.6.6 Alternative height in relation to boundary;

- (d) development which does not comply with Standard H4.6.15 Minimum dwelling size; or
- (e) development which does not comply with H4.6.14 (1a) Front, side and rear fences and walls.

(2) Any application ...

H4.6. Standards

H4.6.1. Activities listed in Table H4.4.1 Activity table

(1) Activities and ...

H4.6.6. Alternative height in relation to boundary

Purpose: to enable the efficient use of the site by providing design flexibility at the first floor of a dwelling close to the street frontage, while maintaining a reasonable level of sunlight access and minimising visual dominance effects to immediate neighbours.

- (1) This standard is an alternative to the permitted Standard H4.6.5 Height in relation to boundary and applies to development that is within 20m of the site frontage.
- (2) Buildings within ...

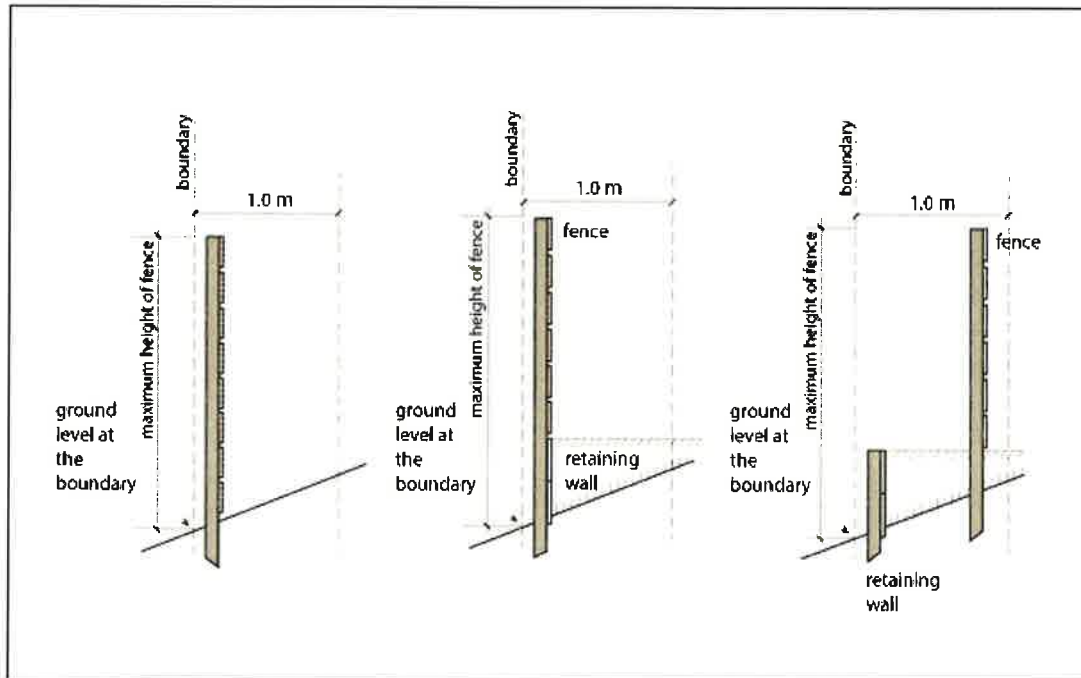
H4.6.14. Front, side and rear fences and walls

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

- provide privacy; and for dwellings while enabling opportunities for passive surveillance of the street
 - minimise visual dominance effects to immediate neighbours and the street.
- (1) Fences or walls or a combination of these structures (whether separate or joined together) ~~on a side or rear boundary or within a side or rear yard~~ must not exceed a height of 2m above ground level, the height specified below, measured from the ground level at the boundary:
- (a) Within the front yard, either:
- (i) 1.2m in height, or
 - (ii) 1.8m in height for no more than 50 per cent of the site frontage and 1.2m for the remainder, or
 - (iii) 1.8m in height if the fence is at least 50 per cent visually open.

(b) Within the side and rear yards: 2m.

Figure H.4.6.14.1 Measurement of fence height



H4.6.15 Minimum dwelling size

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

(1) Dwellings must have a minimum net internal floor area as follows:

- (a) 30m² for studio dwellings.
- (b) 45m² for one or more bedroom dwellings.

H4.7. Assessment – controlled activities

There are no controlled activities in this zone.

H4.8. Assessment – restricted discretionary activities

H4.8.1. Matters of discretion

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

- (1) for supported residential care accommodating greater than 10 people per site inclusive of staff and residents; boarding houses accommodating greater than 10 people per site inclusive of staff and residents; visitor accommodation accommodating greater than 10 people per site inclusive of staff and visitors; dairies up to 100m² gross floor area per site; care centres accommodating greater than 10 people per site excluding staff; community facilities; and healthcare facilities up to 200m² gross floor area per site:

~~(a) the effects on wastewater capacity; and~~

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

- ~~(i) building intensity, scale, location, form and appearance;~~
- ~~(ii) traffic;~~
- ~~(iii) design of parking and access; and~~
- ~~(iv) noise, lighting and hours of operation.~~

~~(b) Infrastructure and servicing.~~

(2) for ~~five~~ three or more dwellings per site:

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

- (i) building intensity, scale, location, form and appearance;
- (ii) traffic; and
- (iii) design of parking and access.

(b) all of the following standards:

- (i) Standard H4.6.8 Maximum impervious areas;
- (ii) Standard H4.6.9 Building coverage;
- (iii) Standard H4.6.10 Landscaped area;
- (iv) Standard H4.6.11 Outlook space;
- (v) Standard H4.6.12 Daylight;
- (vi) Standard H4.6.13 Outdoor living space; and (vii) Standard H4.6.14 Front, side and rear fences and walls; and

(vii) Standard H4.6.15 Minimum dwelling size.

(c) Infrastructure and servicing.

(3) for integrated residential development:

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

- (i) building intensity, scale, location, form and appearance;
- (ii) traffic;
- (iii) design of parking and access; and

H4 Residential – Mixed Housing Suburban Zone

(iv) noise, lighting and hours of operation.

(b) all of the following standards:

- (i) Standard H4.6.8 Maximum impervious areas;
- (ii) Standard H4.6.9 Building coverage;
- (iii) Standard H4.6.10 Landscaped area;
- (vi) Standard H4.6.11 Outlook space;
- (v) Standard H4.6.12 Daylight;
- (vi) Standard H4.6.13 Outdoor living space; ~~and~~
- (vii) Standard H4.6.14 Front, side and rear fences and walls; and
- (viii) Standard H4.6.15 Minimum dwelling size.

(c) Infrastructure and servicing.

(4) for buildings that do not comply with Standard H4.6.4 Building height; Standard H4.6.5 Height in relation to boundary; Standard H4.6.6 Alternative height in relation to boundary; Standard H4.6.7 Yards; Standard H4.6.8 Maximum impervious areas; Standard H4.6.9 Building coverage; Standard H4.6.10 Landscaped area; Standard H4.6.11 Outlook space; Standard H4.6.12 Daylight; Standard H4.6.13 Outdoor living space; Standard H4.6.14 Front, side and rear fences and walls; Standard H4.6.15 Minimum dwelling size:

- (a) any policy which is relevant to the standard;
- (b) the purpose of the standard;
- (c) the effects of the infringement of the standard;
- (d) the effects on the rural and coastal character of the zone;
- (e) the effects on the amenity of neighbouring sites;
- (f) the effects of any special or unusual characteristic of the site which is relevant to the standard;
- (g) the characteristics of the development;
- (h) any other matters specifically listed for the standard; and
- (i) where more than one standard will be infringed, the effects of all infringements.

(5) For buildings that use the Standard H4.6.6 Alternative height in relation to boundary:

- (a) Daylight and sunlight access and visual dominance effects.
- (b) Attractiveness and safety of the street

H4.8.2. Assessment criteria

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

- (1) for supported residential care accommodating greater than 10 people per site inclusive of staff and residents; boarding houses accommodating greater than 10 people per site inclusive of staff and residents; visitor accommodation accommodating greater than 10 people per site inclusive of staff and visitors; dairies up to 100m² gross floor area per site; care centres accommodating greater than 10 people per site excluding staff; community facilities; and healthcare facilities up to 200m² gross floor area per site:

(a) ~~wastewater capacity:~~ infrastructure and servicing:

(i) Whether there is adequate capacity in the existing stormwater and public reticulated water supply and wastewater network to service the proposed development.

~~(i) whether adequate wastewater capacity is provided within the on-site wastewater system based on the design occupancy to avoid significant adverse effects on public health, water quality and amenity values and to remedy or mitigate other adverse effects.~~

(b) building intensity, ... scale, location, form and appearance:

(i) whether the intensity and scale of the activity, the building location, form and appearance is compatible with the character and residential amenity provided for within the zone and compatible with the surrounding residential area.

(c) traffic:

(i) whether the activity avoids or mitigates high levels of additional non-residential traffic on local roads.

(d) design of parking and access:

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

(e) noise, lighting and hours of operation:

(i) whether noise and lighting and the hours of operation of the activity avoids, remedies or mitigates adverse effects on the residential amenity of surrounding properties, by:

- locating noisy activities away from neighbouring residential boundaries;
- screening or other design features; and
- controlling the hours of operation and operational measures.

(2) for ~~five~~ three or more dwellings on a site:

(a) the extent to which or whether the development achieves the purpose outlined in the following standards or what alternatives are provided that result in the same or a better outcome:

H4 Residential – Mixed Housing Suburban Zone

- (i) Standard H4.6.8 Maximum impervious areas;
- (ii) Standard H4.6.9 Building coverage;
- (iii) Standard H4.6.10 Landscaped area;
- (iv) Standard H4.6.11 Outlook space;
- (v) Standard H4.6.12 Daylight;
- (vi) Standard H4.6.13 Outdoor living space; and
- (vii) Standard H4.6.14 Front, side and rear fences and walls.

(b) refer to Policy H4.3(1);

(c) refer to Policy H4.3(2);

(d) refer to Policy H4.3(3);

(e) refer to Policy H4.3(4);

(f) refer to Policy H4.3(5); and

(g) refer to Policy H4.3(6);

(h) refer to Policy H4.3(7); and

(i) infrastructure and servicing:

(i) Whether there is adequate capacity in the existing stormwater and public reticulated water supply and wastewater network to service the proposed development.

(3) for integrated residential development:

(a) the extent to which or whether the development achieves the purpose outlined in the following standards or what alternatives are provided that result in the same or a better outcome:

(i) Standard H4.6.8 Maximum impervious areas;

(ii) Standard H4.6.9 Building coverage;

(iii) Standard H4.6.10 Landscaped area;

(iv) Standard H4.6.11 Outlook space;

(v) Standard H4.6.12 Daylight;

(vi) Standard H4.6.13 Outdoor living space; and

(vii) Standard H4.6.14 Front, side and rear fences and walls; and

(viii) Standard H4.6.15 Minimum dwelling size.

- (b) refer to Policy H4.3(1);
- (c) refer to Policy H4.3(2);
- (d) refer to Policy H4.3(3);
- (e) refer to Policy H4.3(4);
- (f) refer to Policy H4.3(5);
- (g) refer to Policy H4.3(6);
- (h) refer to Policy H4.3(7); and
- (i) refer to Policy H4.3(8);
- (j) refer to Policy H4.3(9); and

(k) infrastructure and servicing:

(i) Whether there is adequate capacity in the existing stormwater and public reticulated water supply and wastewater network to service the proposed development.

- (4) for building height:
 - (a) refer to Policy H4.3(2);
 - (b) refer to Policy H4.3(~~34~~);
 - (c) refer to Policy H4.3(~~45~~).
- (5) for height in relation to boundary:
 - (a) refer to Policy H4.3(2);
 - (b) refer to Policy H4.3(~~34~~); and
 - (c) refer to Policy H4.3(~~45~~).
- (6) for alternative height in relation to boundary:
 - (a) refer to Policy H4.3(2);
 - (b) refer to Policy H4.3(~~34~~); and
 - (c) refer to Policy H4.3(~~45~~).
- (7) for yards:
 - (a) refer to Policy H4.3(2); and
 - (b) refer to Policy H4.3(~~34~~).
- (8) for maximum impervious areas:
 - (c) refer to Policy H4.3(6).
- (9) for building coverage:

(a) refer to Policy H4.3(2); and

(b) refer to Policy H4.3(~~34~~).

(10) for landscaped area:

(a) refer to Policy H4.3(2);

(b) refer to Policy H4.3(~~34~~);

(c) refer to Policy H4.3(45); and

(d) refer to Policy H4.3(~~56~~).

(11) for outlook space:

(a) refer to Policy H4.3(2);

(b) refer to Policy H4.3(~~34~~);

(c) refer to Policy H4.3(45); and

(d) refer to Policy H4.3(~~56~~);

(12) for daylight:

(a) refer to Policy H4.3(2);

(b) refer to Policy H4.3(~~34~~); and

(c) refer to Policy H4.3(45).

(13) for outdoor living space:

(a) refer to Policy H4.3(2);

(b) refer to Policy H4.3(~~34~~);

(c) refer to Policy H4.3(45); and

(d) refer to Policy H4.3(~~56~~).

(14) for front, side and rear fences and walls:

(a) refer to Policy H4.3(2); and

(b) refer to Policy H4.3(4); and

(c) refer to Policy H4.3(4).

(15) for the use of Standard H4.6.6 Alternative height in relation to boundary as a non-notified restricted discretionary activity:

(a) Policy H4.3(3)

(b) Policy H4.3(4)

(16) For minimum dwelling size:

(a) Policy H4.3(5)

H4.9. Special information requirements

There are no special information requirements in this zone.

**AS Topic 059-063
H5 Residential - Mixed
Housing Urban Zone**

H5. Residential – Mixed Housing Urban Zone

H5.1. Zone description

The Residential ...

Up to ~~four~~ two dwellings are permitted as of right subject to compliance with the standards. This is to ensure a quality outcome for adjoining site and the neighbourhood, as well as residents within the development site.

Resource consent is required for ~~five~~ three or more dwellings and for other specified buildings in order to:

- achieve the planned urban built character of the zone;
- achieve attractive and safe streets and public open spaces;
- manage the ...

H5.3. Policies

(1) Enable a ...

(3) Encourage development to achieve attractive and safe streets and public open spaces including by:

- (a) providing for passive surveillance
- (b) optimising front yard landscaping
- (c) minimising visual dominance of garage doors.

~~(34)~~Require the height, bulk and location of development to maintain a reasonable standard of sunlight access and privacy and to minimise visual dominance effects to adjoining sites.

~~(45)~~Require accommodation to be designed to:

- (a) provide privacy and outlook; and
- (b) be functional, have access to daylight and sunlight, and provide the amenities necessary to meet the day-to-day needs of residents.

~~(56)~~Encourage accommodation ...

H5.4. Activity table

Table H5.4.1 Activity table specifies the activity status of land use and development activities in the Residential – Mixed Housing Urban Zone pursuant to section 9(3) of the Resource Management Act 1991.

Table H5.4.1 Activity table

| Activity | | Activity status | Standards to be complied with |
|--------------------|--|-----------------|--|
| Use | | | |
| (A1) | ... | | |
| Residential | | | |
| (A2) | ... | | |
| (A3) | Up to four two dwelli | P | Standard H5.6.4 Building height; ...; Standard H5.6.15 <u>Front</u> , side and rear fences and walls; |
| (A4) | Five Three or more dwellings per site | RD | Standard H5.6.4 Building height; Standard H5.6.5 Height in relation to boundary; Standard H5.6.6 Alternative height in relation to boundary; Standard H5.6.7 Height in relation to boundary adjoining lower intensity zones; Standard H5.6.8 Yards |
| (A5) | ... | | |
| (A9) | Supported residential care accommodating up to 10 people per site inclusive of staff and residents | P | Standard H5.6.4 Building height; ... Standard H5.6.15 <u>Front</u> , side and rear fences and walls |
| (A10) | ... | | |
| (A11) | Boarding houses accommodating up to 10 people per site inclusive of staff and residents | P | Standard H5.6.4 Building height; ... Standard H5.6.15 <u>Front</u> , side and rear fences and walls |
| (A12) | ... | | |
| (A13) | Visitor accommodation accommodating up to 10 people per site inclusive of staff and visitors | P | Standard H5.6.4 Building height; ... Standard H5.6.15 <u>Front</u> , side and rear fences and walls |
| (A14) | ... | | |
| Commerce | | | |
| (A15) | Dairies up to 100m2 gross floor area per site | RD | Standard H5.6.4 Building height; ... Standard H5.6.15 <u>Front</u> , side and rear fences and walls |
| (A16) | ... | | |
| Community | | | |
| (A18) | Care centres accommodating up to 10 people per site excluding staff | P | Standard H5.6.4 Building height; ... Standard H5.6.15 <u>Front</u> , side and rear fences and walls |

| | | | |
|-----------------------|--|-----------|---|
| (A19) | Care centres accommodating greater than 10 people per site excluding staff | RD | Standard H5.6.4 Building height; ... Standard H5.6.15 <u>Front</u> , side and rear fences and walls |
| (A20) | Community facilities | RD | Standard H5.6.4 Building height; ... Standard H5.6.15 <u>Front</u> , side and rear fences and walls |
| (A21) | ... | | |
| (A24) | Healthcare facilities up to 200m ² gross floor area per site | RD | Standard H5.6.4 Building height; ... Standard H5.6.15 <u>Front</u> , side and rear fences and walls |
| (A25) | ... | | |
| Development | | | |
| (A29) | ... | | |
| (A30) | Internal and external alterations to buildings | P | Standard H5.6.4 Building height; ... Standard H5.6.15 <u>Front</u> , side and rear fences and walls; <u>Standard H5.6.17 Minimum dwelling size.</u> |
| (A31) | ... | | |
| (A32) | Additions to an existing dwelling | P | Standard H5.6.4 Building height; ... Standard H5.6.15 <u>Front</u> , side and rear fences and walls; <u>Standard H5.6.17 Minimum dwelling size</u> |
| (A33) | <u>Development which does not comply with H5.6.5. Height in relation to boundary</u> | <u>RD</u> | <u>H5.6.6 Alternative height in relation to boundary</u> |
| (A33)- <u>A34)</u> | New buildings ... | | |

H5.5. Notification

- (1) Any application for resource consent for the following activities will be considered without public or limited notification or the need to obtain the written approval from affected parties unless the Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991:
- (a) ~~five~~ three or more dwellings per site that comply with all of the standards listed in Table H5.4.1 Activity table; ~~or~~
 - (b) an integrated residential development that complies with all of the standards listed in Table H5.4.1 Activity table; ~~or~~
 - (c) development which does not comply with H5.6.5 Height in relation to boundary, but complies with H5.6.6 Alternative height in relation to boundary;

- (d) development which does not comply with H5.6.15 Minimum dwelling size; and
- (e) development which does not comply with H5.6.16 (1a) Front, side and rear fences and walls.

(2) Any application ...

H5.6. Standards

H5.6.1. Activities listed in Table H5.4.1 Activity table

(1) Activities and ...

H5.6.6. Alternative height in relation to boundary

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

(1) This standard is an alternative to the permitted Standard H5.6.5 Height in relation to boundary and applies to development that is within 20m of the site frontage.

~~(1)~~ (2) Any buildings ...

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

Purpose: to manage the height and bulk of buildings at boundaries to maintain a reasonable level of sunlight access and minimise visual dominance effects to immediate neighbours within lower intensity zones and small public open spaces.

(1) Where a site in the Residential – Mixed Housing Urban Zone adjoins ~~or is across the road from~~:

- (a) a site in the Residential – Single House Zone; or
- (b) a site in the Residential – Mixed Housing Suburban Zone; or
- (c) sites less than 2,000m² in the Open Space – Conservation Zone; Open Space – Informal Recreation Zone; Open – Space Sports and Active Recreation Zone; Open Space – Civic Spaces Zone; or the Open Space – Community Zone;

then buildings must not project beyond a 45 degree recession plane measured from a point 2.5m vertically above ground level along the boundary of the site in the Residential – Mixed Housing Urban Zone with that ~~adjoins or is across the road from~~ the zone listed in Standard H5.6.7(1)(a) – (c) above.

H5.6.8. Yards

Purpose: ...

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

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

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

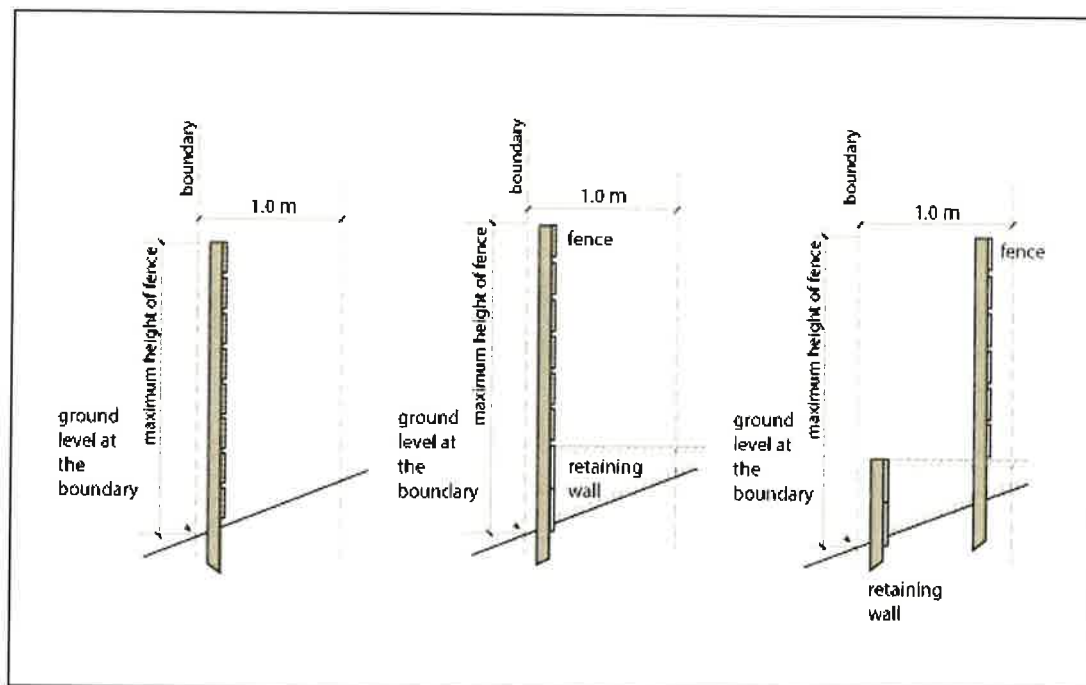
(1) Fences or walls or a combination of these structures (whether separate or joined together) on a side or rear boundary or within a side or rear yard must not exceed a height of 2m above ground level, the height specified below, measured from the ground level at the boundary:

(a) Within the front yard, either:

- 1.2m in height, or
- 1.8m in height for no more than 50 per cent of the site frontage and 1.2m for the remainder, or
- 1.8m in height if the fence is at least 50 per cent visually open.

(b) Within the side and rear yards: 2m.

Figure H.5.6.16.1 Measurement of fence height



H5.6.17 Minimum dwelling size

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

designed to accommodate.

1. Dwellings must have a minimum net internal floor area as follows:
 - a. 30m² for studio dwellings.
 - b. 45m² for one or more bedroom dwellings.

H5.7. Assessment – controlled activities

There are no controlled activities in this zone.

H5.8. Assessment – restricted discretionary

activities H5.8.1. Matters of discretion

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

(1) for supported residential care accommodating greater than 10 people per site inclusive of staff and residents; boarding houses accommodating greater than 10 people per site inclusive of staff and residents; visitor accommodation accommodating greater than 10 people per site inclusive of staff and visitors; dairies up to 100m² gross floor area per site; care centres accommodating greater than 10 people per site excluding staff; community facilities; and healthcare facilities up to 200m² gross floor area per site:

~~(a) the effects on wastewater capacity; and infrastructure and servicing~~

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

- (i) building intensity, scale, location, form and appearance;
- (ii) traffic;
- (iii) design of parking and access; and
- (iv) noise, lighting and hours of operation.

(2) for ~~five~~ three or more dwellings per site:

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

- (i) building intensity, scale, location, form and appearance;
- (ii) traffic; and
- (iii) design of parking and access.

(b) all of the following standards:

- (i) Standard H5.6.9 Maximum impervious areas;
- (ii) Standard H5.6.10 Building coverage;
- (iii) Standard H5.6.11 Landscaped area;
- (iv) Standard H5.6.12 Outlook space;

- (v) Standard H5.6.13 Daylight;
- (vi) Standard H5.6.14 Outdoor living space; ~~and~~
- (vii) Standard H5.6.15 Front, side and rear fences and walls; and
- (viii) Standard H5.6.17 Minimum dwelling size.

(c) Infrastructure and servicing

(3) for integrated residential development:

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

- (i) building intensity, scale, location, form and appearance;
- (ii) traffic;
- (iii) design of parking and access; and
- (iv) noise, lighting and hours of operation.

(b) all of the following standards:

- (i) Standard H5.6.9 Maximum impervious areas;
- (ii) Standard H5.6.10 Building coverage;
- (iii) Standard H5.6.11 Landscaped area;
- (iv) Standard H5.6.12 Outlook space;
- (v) Standard H5.6.13 Daylight;
- (vi) Standard H5.6.14 Outdoor living space; ~~and~~
- (vii) Standard H5.6.15 Front, side and rear fences and walls; and
- (viii) Standard H5.6.17 Minimum dwelling size;
and

(c) Infrastructure and servicing

(4) for buildings that do not comply with Standard H5.6.4 Building height; Standard H5.6.5 Height in relation to boundary; Standard H5.6.6 Alternative height in relation to boundary; Standard H5.6.7 Height in relation to boundary adjoining lower intensity zones; Standard H5.6.8 Yards; Standard H5.6.9 Maximum impervious areas; Standard H5.6.10 Building coverage; Standard H5.6.11 Landscaped area; Standard H5.6.12 Outlook space; Standard H5.6.13 Daylight; Standard H5.6.14 Outdoor living space; Standard H5.6.15 Front, side and rear fences and walls; Standard H5.6.17 Minimum dwelling size:

- (a) any policy which is relevant to the standard;
- (b) the purpose of the standard;
- (c) the effects of the infringement of the standard;
- (d) the effects on the rural and coastal character of the zone;
- (e) the effects on the amenity of neighbouring sites;
- (f) the effects of any special or unusual characteristic of the site which is relevant to the standard;
- (g) the characteristics of the development;
- (h) any other matters specifically listed for the standard; and
- (i) where more than one standard will be infringed, the effects of all infringements.

(5) For buildings that use the Standard H5.6.6 Alternative height in relation to boundary:

- (a) Daylight and sunlight access and visual dominance effects;
and
- (b) Attractiveness and safety of the street.

H5.8.2. Assessment criteria

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

- (1) for supported residential care accommodating greater than 10 people per site inclusive of staff and residents; boarding houses accommodating greater than 10 people per site inclusive of staff and residents; visitor accommodation accommodating greater than 10 people per site inclusive of staff and visitors; dairies up to 100m² gross floor area per site; care centres accommodating greater than 10 people per site excluding staff; community facilities; and healthcare facilities up to 200m² gross floor area per site:

~~(a) wastewater capacity, infrastructure and servicing:~~

(i) Whether there is adequate capacity in the existing stormwater and public reticulated water supply and wastewater network to service the proposed development.

~~(i) whether adequate wastewater capacity is provided within the on-site wastewater system based on the design occupancy to avoid significant adverse effects on public health, water quality and amenity values and to remedy or mitigate other adverse effects.~~

(b) building intensity, scale, location, form and appearance:

(i) whether the intensity and scale of the activity, the building location, form and appearance is compatible with the character and residential amenity provided for within the zone and compatible with the surrounding residential area.

(c) traffic:

(i) whether the activity avoids or mitigates high levels of additional non-residential traffic on local roads.

(d) design of parking and access:

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

(e) noise, lighting and hours of operation:

(i) whether noise and lighting and the hours of operation of the activity avoids, remedies or mitigates adverse effects on the residential amenity of surrounding properties, by:

- locating noisy activities away from neighbouring residential boundaries;
- screening or other design features; and
- controlling the hours of operation and operational measures.

(2) for ~~five~~ three or more dwellings on a site:

(a) the extent to which or whether the development achieves the purpose outlined in the following standards or what alternatives are provided that result in the same or a better outcome:

- (i) Standard H5.6.9 Maximum impervious areas;
- (ii) Standard H5.6.10 Building coverage;
- (iii) Standard H5.6.11 Landscaped area;
- (iv) Standard H5.6.12 Outlook space;
- (v) Standard H5.6.13 Daylight;
- (vi) Standard H5.6.14 Outdoor living space; ~~and~~
- (vii) Standard H5.6.15 Front, side and rear fences and walls; ~~and~~
- (viii) Standard H5.6.17 Minimum dwelling size.

(b) refer to Policy H5.3(1);

(c) refer to Policy H5.3(2);

(d) refer to Policy H5.3(3);

(e) refer to Policy H5.3(4);

(f) refer to Policy H5.3(5); ~~and~~

(g) refer to Policy H5.3(6);

(h) refer to Policy H5.3(7); and

(i) infrastructure and servicing:

(i) Whether there is adequate capacity in the existing stormwater and public reticulated water supply and wastewater network to service the proposed development.

(3) for integrated residential development:

(a) the extent to which or whether the development achieves the purpose outlined in the following standards or what alternatives are provided that result in the same or a better outcome:

(i) Standard H5.6.9 Maximum impervious areas;

(ii) Standard H5.6.10 Building coverage;

(iii) Standard H5.6.11 Landscaped area;

(iv) Standard H5.6.12 Outlook space;

(v) Standard H5.6.13 Daylight;

(vi) Standard H5.6.14 Outdoor living space; and

(vii) Standard H5.6.15 Front, side and rear fences and walls; and

(viii) Standard H5.6.17 Minimum dwelling size.

(b) refer to Policy H5.3(1);

(c) refer to Policy H5.3(2);

(d) refer to Policy H5.3(3);

(e) refer to Policy H5.3(4);

(f) refer to Policy H5.3(5);

(g) refer to Policy H5.3(6);

(h) refer to Policy H5.3(7); and

(i) refer to Policy H5.3(8);

(j) refer to Policy H5.3(9); and

(k) infrastructure and servicing:

(i) Whether there is adequate capacity in the existing stormwater and public reticulated water supply and wastewater network to service the proposed development.

(4) for building height:

(a) refer to Policy H5.3(2);

(b) refer to Policy H5.3(34).

(5) for height in relation to boundary:

(a) refer to Policy H5.3(2);

- (b) refer to Policy H5.3(~~34~~); and
 - (c) refer to Policy H5.3(~~45~~).
- (6) for alternative height in relation to boundary:
- (a) refer to Policy H5.3(2);
 - (b) refer to Policy H5.3(~~34~~); and
 - (c) refer to Policy H5.3(~~45~~).
- (7) for height in relation to boundary adjoining lower intensity zones:
- (a) refer to Policy H5.3(2);
 - (b) refer to Policy H5.3(~~34~~); and
 - (c) refer to Policy H5.3(~~45~~).
- (8) for yards:
- (a) refer to Policy H5.3(2);
 - (b) refer to Policy H5.3(~~34~~); and
 - (c) refer to Policy H5.3(~~45~~).
- (9) for maximum impervious areas:
- (a) refer to Policy H5.3(6);
- (10) for building coverage:
- (a) refer to Policy H5.3(2); and
 - (b) refer to Policy H5.3(~~34~~);
- (11) for landscaped area:
- (a) refer to Policy H5.3(2);
 - (b) refer to Policy H5.3(~~34~~); and
 - (c) refer to Policy H5.3(~~45~~).
- (12) for outlook space:
- (a) refer to Policy H5.3(2);
 - (b) refer to Policy H5.3(~~34~~); and
 - (c) refer to Policy H5.3(~~45~~).
- (13) for daylight:
- (a) refer to Policy H5.3(2);
 - (b) refer to Policy H5.3(~~34~~); and
 - (c) refer to Policy H5.3(~~45~~).

(14) for outdoor living space:

- (a) refer to Policy H5.3(2);
- (b) refer to Policy H5.3(34);
- (c) refer to Policy H5.3(45); and
- (d) refer to Policy H5.3(56).

(15) for front, side and rear fences and walls:

- (a) refer to Policy H5.3(2); and
- (b) refer to Policy H5.3(3); and
- (c) refer to Policy H5.3(4).

(16) for the use of Standard H5.6.6 Alternative height in relation to boundary as a non-notified restricted discretionary activity:

- (a) Policy H5.3(3); and
- (b) Policy H5.3(2A).

(17) For minimum dwelling size:

- (a) Policy H5.3(5)

H5.9. Special information requirements

There are no special information requirements in this zone.

ATTACHMENT C

**Copy of Submissions by
Mahi Properties to Council and Panel**

Submission to Proposed Auckland Unitary Plan**Submitter - Mahi Properties Limited****Address for Service - P.O. Box 254, Kumeu 0841.****Email – kathy.niblet@removalhomes.co.nz****28 February 2014****Introduction**

We are the owners of a number of properties in Riverhead including

- 9, 14, 15, 17, 19 Alexandra Street, Riverhead
- 12, 16, 18, 22 Arthur Street, Riverhead
- 15, 17 Edward Street, Riverhead
- 9, 11, 15, 17, 19 Cambridge Road, Riverhead
- 6, 8, 10 Alice Street, Riverhead (in the name of R Haines)

We wish to make a submission in relation to these properties. We also wish to make a submission on a range of other provisions in the Unitary Plan, mostly concerning the residential zones. We support many of the initiatives to intensify urban areas, make efficient use of land and improve housing affordability. Some of these are quite bold (for example the proposed alternative height in relation to boundary) and to ensure that these are retained and accepted by the community, we have proposed some additional permitted development controls to cover overshadowing and overlooking which we consider will be a key issue in retaining these initiatives.

1. Subdivision Rules*Minimum site size in the Single House zone*

- 1.1 Table 1 in Rule 5.2.3.1.1 (Site Size) includes a minimum net site area of 600m² in the Single House zone. We consider that this is too conservative and the Unitary Plan should retain the 500m² minimum site size proposed in the March Draft. 600m² is contrary to the strategic objectives in the Auckland Plan that seek to intensify urban areas and make efficient use of fully serviced land. There are many parts of Auckland that are zoned Single House, particularly within the Isthmus, that are accessible to urban facilities and services and can be subdivided without compromising the suburban character of the area. This is particularly the case with land that has been downzoned for heritage reasons or because the site is subject to flooding.

- ~~3. Within the Terraced Housing and Apartment Buildings zone no density limits apply for buildings up to four storeys and the site must be at least 25m wide at the road boundary and for at least 80 per cent of the length of its side boundaries~~
- ~~4. Within the Terraced Housing and Apartment Buildings zone no density limits apply for buildings greater than four storeys and the site must be at least 30m wide at the road boundary and for at least 80 per cent of the length of its side boundaries~~
5. Development that does not comply with clauses 1 to 4 is a discretionary activity.
6. Clauses 1 to 4 above do not apply where a dwelling is converted into two dwellings as a permitted activity.

Delete rule 9.6 Minimum frontage and site width in the Terraced Housing and Apartment Buildings zone.

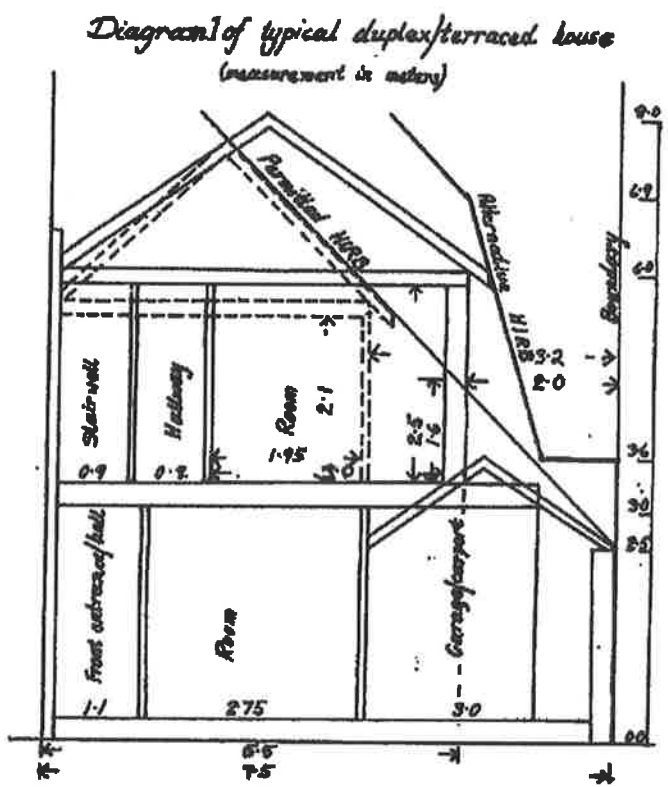
116

- 6. Height in relation to boundary in rules 7.3, 7.4, 8.3 and 8.4 Height of the mixed housing zones**
- 6.1 The permitted height in relation to boundary controls (HIRB) in rule 7.3 and 8.3 are too restrictive and will compromise the housing outcomes envisaged in the Auckland Plan and even the Unitary Plan. It will not allow the level of intensification anticipated in the mixed housing zones and it will discourage the type of housing the zone encourages (ie two storey semi detached and attached units/town houses, terraced houses and apartment developments). It will not allow the efficient use of land which is needed to reduce the cost of producing housing and improve housing affordability.
- 6.2 The Single House and the mixed housing zones use the traditional HIRB controls as the permitted control. The control is simple to use and effective in managing the effects of dwelling heights for detached housing on spacious suburban sites. However as cities intensify and site sizes become smaller, buildings will be closer together and there will be a need for greater floor space at first floor level so land can be used more efficiently. The permitted HIRB control forces buildings into the centre of the site and unnecessarily restricts the amount of floor space that can be constructed at first floor level. In particular it will limit room sizes, and/or ceiling heights which means a larger building footprint and site size will be required to achieve the same floor area.
- 6.3 Diagram 1 below is a cross section of a typical duplex/terraced house on a 7.5m wide site showing the maximum ceiling heights and room widths that will be allowed under the permitted HIRB in rule 7.3 compared to that allowed by the alternative HIRB in rule 7.4. It will be noted that the maximum room width at first floor level under the alternative HIRB is 3.0m whereas it is only

1.95m under permitted control HIRB. The ceiling height is under the alternative HIRB is 2.5m whereas it is only 2.1m under permitted control HIRB, clearly not acceptable to most home buyers. To accommodate a stairwell, hallway and a 3m wide room the first floor wall needs to be setback of 2m from the boundary (at eaves height). The equivalent setback under the permitted HIRB would be 3.2m.

6.4 The diagram demonstrates that the alternative HIRB in rule 7.4 is needed to accommodate a typical duplex/terraced housing typology on a 7.5m wide site. However, as this a restricted discretionary activity it is likely most developers will choose the permitted HIRB to avoid the need for resource consent. If this happens the housing outcomes envisaged for the mixed housing zones will not be achieved, nor will the levels of intensification expected in these zones.

6.5 It is submitted that the alternative height in relation to boundary control should be a permitted development control, but the exemptions for gable ends and dorma windows should not be allowed as the alternative HIRB is already generous in the extent to which it allows windows to be closer to the boundary at first floor level.



6.6 It is also submitted that s of the alternative HIRB should be a restricted discretionary activity (not a discretionary activity). It is unreasonable to impose a full blown assessment of this infringement against the objectives and policies as it is generally only affects an adjacent property and these effects can easily be managed through appropriate assessment criteria. It

is also considered that an infringement of this rule should require limited notification or the need to obtain the written approval from affected parties.

6.7 As the alternative HIRB will increase the potential for overlooking and overshadowing of adjacent properties it should also be subject to two additional development controls: one that will limit overlooking of habitable room windows and private outdoor living space; and another protect sunshine (solar access) to the private outdoor living space of an adjacent dwelling. (These controls are recommended in the section on overshadowing and solar access below).

6.8 Finally it is unclear whether rules 7.4 and 8.4 constitute a development control infringement for the purpose of rules 7.1 and 8.1, as the alternative HIRB technically infringes the permitted HIRB which is captured by rules 7.1 and 8.1. This needs to be clarified as it has implications for what needs to be included in the assessment criteria for development control infringements.

Proposed Relief

6.9 Amend rules 7.4 and 8.4 to make the alternative HIRB controls a permitted activity provided it complies with development controls designed to ensure that properties are not unreasonably overlooked or overshadowed. (See recommended wording in the section on privacy, overshadowing and solar access below).

117

6.10 Delete rules 7.4.2 and 8.4.2 that require the alternative HIRB to be processed as a restricted discretionary activity.

118

6.11 Amend rules 7.4.4 and 8.4.4 so that gable ends and dormer windows are not exempted.

119

6.12 Amend rules 7.4.5 and 8.4.5 to say that an application to infringe this control is a restricted discretionary activity and applicants will be required to obtain the written approval of adjacent properties.

120

6.13 Clarify whether 7.4 and 8.4 are a development control infringement of the permitted HIRB for the purpose of rules 7.1.1b and 8.1.1b (and whether additional assessment criteria should be included in the development control infringements).

121

~~7. Yard controls in rules Clause 7.5 and 8.6 of the mixed housing zones~~

~~7.1 The purpose of the yards controls does not adequately cover the intended outcomes. It considers streetscape character (which is an appropriate purpose relating to front yards setbacks) and it considers the need for setbacks to coastal areas, natural hazards etc. However there should also be a purpose or outcome for side and rear yard setbacks.~~

7.2 It is submitted that the key purpose of the side and rear yard setbacks is or should be:

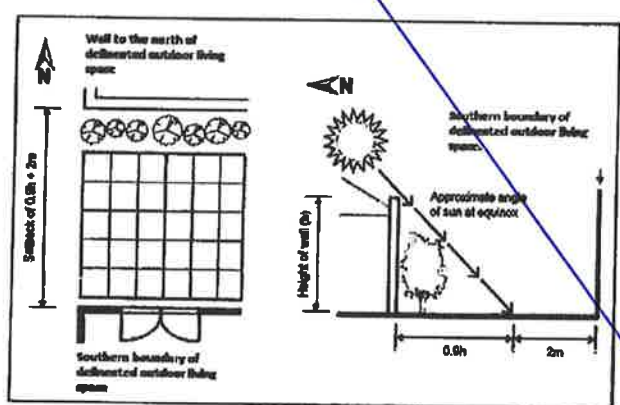
- *"Delineated outdoor living space is located on the north side of a dwelling or has a north facing aspect where practicable.*
- *Delineated outdoor living space on the south side of a dwelling is setback from the southern boundary to provide reasonable access to living.*
- *Dwellings are designed to maximise north facing habitable room windows."*

9.8 Include a new Rule

"Delineated outdoor living space must be located and designed to receive at least five hours of sunshine between 9am and 3pm on 22 March/September (Equinox)

"The southern boundary of any delineated outdoor living space must be setback from a wall on the north of the space at least $(2 + 0.9h)$ meters where 'h' is the height of the wall."

131



(Source of diagram Figure 1: Sunlight access to private outdoor living space in rule 4.5 Silverdale North Precinct of the Proposed Unitary Plan).

9.9 Amend or include the following Assessment Criteria for Development control infringements and RD activities

"Delineated outdoor living space should be located on the north side of the dwelling if practicable, and if not, should be oriented to the side or rear of the dwelling to maximise solar access and avoid unreasonable overshadowing from a wall on its northern boundary."

"Where delineated outdoor living space is on the southern side of a building, consideration will be given to the setback of the southern boundary from that wall and whether the orientation and layout of the development reduces fossil fuel energy use and makes appropriate use of daylight and solar access."

132

Protecting solar access to existing private outdoor living areas.

9.10 The controls for protecting solar access(or limited overshadowing of) existing outdoor living areas on adjacent properties are inadequate.

- 9.11 Overshadowing controls in most of the residential zones are bundled into the HIRB control (which is the current practice in most legacy plans). As noted in relation to the permitted HIRB for the Single House zone, this will generally limit overshadowing of dwellings on a site of 600m² or more. However the HIRB control is not outcome based and as previously noted is a very 'hit and miss' way of protecting the amenity of adjacent properties including. It will be important in the future to protect sunshine to the delineated area of outdoor living space required by rules 7.12 and 8.12 of the mixed housing zones. Given the levels of intensification anticipated in these two zones and depending on the orientation and slope of the site, there is a reasonable probability that this small area of outdoor living could be overshadowed in the future. This will particularly be the case if the alternative height in relation to boundary is used and even the assessment criteria for this restricted discretionary activity do not adequately address this issue.
- 9.12 It is submitted that the bundling of amenity outcomes such as privacy and overshadowing in the HIRB controls are an outdated and ineffective way of managing the potential adverse effects in more intense development. They rely on the philosophy of containing potential adverse effects within the boundary of a site, rather than considering what is developed on a neighbouring property. They may have been suitable for Auckland when planning controls were designed to encourage relatively low density detached housing on spacious suburban sites. However, as cities intensify and there is a need to make more efficient use of land, buildings will be closer together and the amenity impacts of development will be potentially greater than they have been in the past. It will not be enough to rely on simple easy to administer controls that do not consider the orientation of the site and the location of adjacent outdoor living space.
- 9.13 It would not be not difficult to carry out a site analysis to identify the location of existing outdoor living space on an adjacent property. There are already provisions in the legacy plans that require information to be provided on the location of adjoining windows and outdoor living space (eg rule 16.6.2.6 in the North Shore Plan and rule 7.8.2.6 in the Isthmus Plan). Whilst it may impose an increase in the cost of obtaining a building consent, it will be outweighed by the savings achieved in using the land efficiently and the capacity to achieve a 'tighter' or more flexible design without impacting on the adjacent property. This approach has been used in Victoria (Melbourne) for more than 20 years and has proved to be an effective way of achieving intensification whilst protecting the amenity of adjacent properties.
- 9.14 If Council and the Panel agree that the alternative HIRB should be a permitted activity, it should be subject to a further rule designed to limit overshadowing of the 20m² area of delineated outdoor living space that will be created in the future through rule 7.12 and 8.12. This control should prescribe a minimum number of hours of sunshine that must be received to the "delineated outdoor living space" of an adjacent property.

- 9.15 It is therefore recommended that a separate development control be drafted for overshadowing which is transparent in its outcome and gives specific direction on what is considered reasonable overshadowing and what is not. The recommended rule below also considers the situation where existing properties do not have a delineated area of outdoor living space required by rule 7.12 and 8.12.

Proposed Relief

- 9.16 Include a new definition of "Delineated outdoor living space" as recommended in section 3.1 above.
- 9.17 Include a new Purpose:
"Ensure that buildings do not unreasonably overshadow the delineated outdoor living space of an existing adjacent dwelling."
- 9.18 Include a new Rule:
"Where sunlight to private outdoor living space of an existing dwelling is reduced,
- *at least 40m² with a minimum dimension of 4m; or*
 - *the delineated outdoor living space required by rule 7.12 and 8.12 (whichever is the less), must receive a minimum of five hours of sunlight between 9am and 3pm on 22 March/September (Equinox)".*
- 9.19 Include new Assessment Criteria for Development control infringements and RD activities saying:
"The location of any wall or building on or adjacent to a boundary should not unreasonably overshadow north facing habitable room windows or the private outdoor living space of an adjacent property".

133

134

135

10. Rule 7.10 and 8.10 Outlook Space (Privacy) in the mixed housing zones.

10.1 Purpose and outcome of rule

- The name of these rules is not transparent and does not reflect the implied outcome of having an outlook. The term "outlook" suggests the rule is focussed on an amenity enjoyed from within the site, however there is no reference in the purpose statement or rules to 'outlook' per se. Rather the rules focus on the issue of privacy and overlooking.
- The purpose of the rule is not well worded and could be more specific about the intended outcomes. Instead of referring to "privacy of adjacent dwellings" and "avoiding overlooking of neighbouring properties" it should identify the specific things the control is designed to protect, eg overlooking of outdoor living space and habitable room windows of an adjacent dwelling (particularly the HRWs of the principle living room).

- Reference to passive surveillance is really a consequential outcome of requiring HRWs on a side boundary and should not (in this particular rule) limit the flexibility to have windows on a side facade. Passive surveillance should be (and already is) covered as a separate outcome requiring windows overlooking the street.
- The purpose should seek to "limit" rather than "avoid" overlooking of adjacent properties as it is impossible to avoid some overlooking.

10.2 The purpose of these rules should be clear and single purpose, to reduce any ambiguity for applicants and consent planners about the intended outcome. At the end of the day there are two key outcomes which are most important to neighbours: acceptable privacy from overlooking of their outdoor living space; and restricted overlooking of their habitable room windows, particularly the habitable room windows of their principle living room.

Rules

10.3 These rules focus on where habitable room windows should be placed on the facade of a dwelling to ensure privacy from overlooking. However they will not adequately achieve the intended purpose or outcomes and will compromise the provision of housing typologies envisaged in the mixed housing zones. In particular the discouragement of windows on a side facade will reduce design flexibility and compromise the efficient use of land. At the end of the day, they still provide no assurance that neighbours will be reasonably protected from overlooking of their outdoor living space and habitable room windows.

Design flexibility and the efficient use of land

10.4 If habitable room windows are required to face the front and rear of a site rather than a side boundary, this will severely limit how dwelling can be designed. It is reasonable to limit the placement of HRWs to limit overlooking but not to discourage locating habitable room windows on a side facade.

10.5 There will be many situations where the best design outcome necessitates the principle living room window facing a side boundary. For example it may be desirable to design a long narrow dwelling or an "L shaped" dwelling where the principle living room and/or main outdoor living space are orientated to the side boundary

- to optimise significant views
- to maximise solar access to because of the orientation of the site
- to locate the building close to the rear boundary because of slope, orientation or some other physical constraint.

10.6 If a principle living room faces a side boundary it must be setback 6m from that boundary. Further, if the principle living room opens onto a balcony or deck on the side boundary, then setback would be even greater as it must be applied from the edge of balcony or deck. In some cases it may be impossible to provide the outdoor living space as a deck (unless it is at

ground floor and screened by 1.6m high fence). In other cases the ability to use the site efficiently will be further compromised if it is desirable to locate the principle bedroom on other side of the dwelling requiring a 3m side yard setback from this boundary as well.

- 10.7 There are numerous examples of how the 6m and 3m depth requirements for principle living rooms, balconies and principle bedrooms will make it very difficult to design a dwelling to make best use of the site. The outcome will be unreasonable side yard setbacks, a waste of scarce land resources or poorly designed outdoor living space as a result of the slope, orientation or views from a site. It is also relevant that outlook space with a minimum rectangle of 6m by 4m for the principle living room effectively overrides the minimum area and dimension of the delineated outdoor living space required in rules 7.12 and 8.12.
- 10.8 Design flexibility should not be compromised when the desired outcomes can be achieved without being so prescriptive. It should be possible to design a dwelling to make best use of side yards when a development will not overlook adjacent HRWs or outdoor living space.
- 10.9 To achieve greater design flexibility and more efficient use of land, it is considered necessary that separation distances between habitable room windows, balconies and outdoor living space should take into consideration what has been developed on an adjacent site.
- 10.10 As in the case of the HIRB controls, the outlook controls are an arbitrary and 'hit and miss' way of managing privacy effects on an adjoining or adjacent property. They rely on the philosophy of containing potential adverse effects within the boundary of a site and in doing so are forcing floor space at first floor level towards the middle of the site and outdoor living space at the rear of the site which may not be the best location to maximum access to sunshine.
- 10.11 It is unreasonable to prevent HRWs on the first floor of a side boundary if they are not going to overlook a HRW or the private outdoor living space of an adjacent property. The rule proposed in the PAUP will work when designing a small dwelling with only two bedrooms at first floor level, but it will not work for more than two habitable rooms at first floor level, particular for duplex or terrace housing on long narrow sites (which are the key type of housing encouraged in the mixed housing zones).

Privacy from overlooking adjacent outdoor living space and habitable room windows

- 10.12 As previously noted, privacy from overlooking of outdoor living space and habitable room windows are the most valued amenities enjoyed by the occupant of a dwelling. It is considered that the rules will not achieve this outcome in many circumstances. For example, if a neighbour's outdoor living space is on the common boundary it would be only 6m away from a first floor living room window or edge of the balcony. If it is a window or balcony to the principle living room or another habitable room the separation distance would reduce to 3m and 1m respectively. This separation distance is inadequate and it is considered there

should be a 9m separation to any adjacent outdoor living space (as proposed in the March draft of the Unitary Plan) and 6m to any habitable room windows on an adjacent property.

- 10.13 It is appreciated that the permitted HIRB control will limit the location of first floor windows and balconies/decks, however if the alternative HIRB is used, the separation distances in the outlook controls will be inadequate. Even if Council or the panel considers that outlook controls should be retained, there will need to be associated privacy controls when the alternative HIRB control is used.
- 10.14 It is considered that the following separation distances should apply and that these should be able to extend over an adjoining site:
 - a 9m separation between any HRW, balcony or deck and the outdoor living space and principle bedroom of an adjacent dwelling
 - a 6m separation between any other HRW.
 - an exemption from this control for ground floor windows and decks (less than 0.8m above ground level) if there is a visual barrier at least 1.6m high (such as a side boundary fence)
 - an exemption from this control if mitigation measures are used such as obscure glazing or a 1.6m high window sills or screen on a balcony or deck .

Proposed Relief

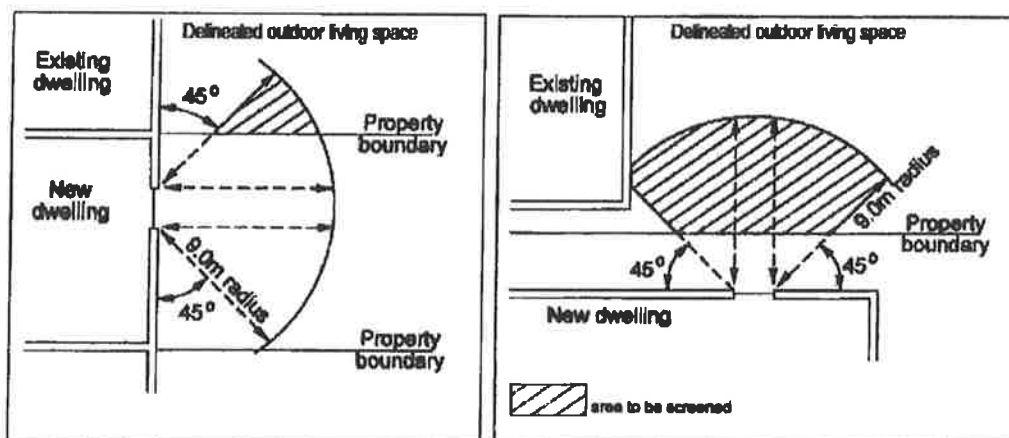
- 10.15 Delete rules 7.10 and 8.10.
- 10.16 Include a new rule 7.10 and 8.10 named "Privacy"
- 10.17 Include a new purpose for rules 7.10 and 8.10 to say:
 - "Limit overlooking of habitable room windows and the principle outdoor living space of proposed and adjacent properties"*
 - "Limit views into the outdoor living space and habitable room windows of a another dwelling on the same site"*
- 10.18 Include new rules 7.10 and 8.10 which says:
 - "7.10.1 and 8.10.1*
 - A new habitable room window and balcony, terrace, deck or patio must be located and designed to limit direct views into the delineated outdoor living space and habitable room windows of a proposed or existing adjacent dwelling within a horizontal distance of 9m (measured at ground level) of the new window, balcony, terrace, deck or patio. This distance may be reduced to 6m where the habitable room windows of an adjacent dwelling are not the principle living room".*
 - "Views are to be measured within a 45 degree angle from the plane of the new window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.6m above floor level".*
 - "This rule does not apply to a habitable room window that*

36

- *is offset a minimum of 1m (horizontally or vertically) from the edge of one window to the edge of the other; or*
- *has sill heights of 1.6m above floor level; or*
- *has fixed obscure glazing in any part of the window below 1.6m above floor level; or*
- *has a permanently fixed external screen to at least 1.6m above floor level and is no more than 25 per cent transparent. "*

"This rule does not apply to a new habitable room window, balcony, terrace, deck or patio which faces an existing or future site boundary where there is a visual barrier at least 1.8m high and the floor level of the new habitable room, balcony, terrace, deck or patio is less than 0.8m above ground level at the boundary."

10.19 Insert diagrams to accompany rules 7.10 and 8.10 as follows:



(Source of diagram Figure 7.10 from rule 7.8.2.6 Visual Privacy in Part 7 Residential Activity in Auckland Isthmus Plan)

"7.10.2 and 8.10.2

Windows and balconies should be designed to prevent overlooking of more than 50 per cent of the private outdoor living space of any other dwelling within the same development".

11. Outdoor Living Space in Rules 6.9, 7.12, 8.12 and 9.12 Single House, mixed housing and THAB zones

11.1 The following rules are supported and should be retained:

- *The minimum outdoor living space of 80m² in the Single House zone and 40m² in mixed housing zones*
- *The minimum dimension of 1m for any area defined as outdoor living space*

ATTACHMENT D

**Copy of Requested Standards/Rule as tracked changes to
rules H4.6.6 and H5.6.6 of Mixed Housing Suburban
and Mixed Housing Urban zones respectively**

PROPOSED TRACK CHANGES TO MIXED HOUSING SUBURBAN ZONE AND MIXED HOUSING URBAN ZONE

H4.6.6 AND H5.6.6 Alternative height in relation to boundary

Purpose:

- enable the efficient use of the site by providing design flexibility at the first floor of a dwelling
- ensure that the height and setback of a building from a boundary respects the existing or planned character of the neighbourhood and limits overlooking and overshadowing of an adjacent property

1. This development control is an alternative to the permitted height in relation to boundary control in clause 7.3 ~~above which may be used for and applies to~~ development that is ~~a density of one dwelling per 300m² or greater and complies with the land use controls in clause 3.1.2 above~~ within 20m of the site frontage.

2. It will be processed as a non notified restricted discretionary activity if it complies with clause ~~3-4~~ below.

~~3.~~ It will be processed as a permitted activity complies with clause 4, 5 and 6 below.

~~3.4.~~ Buildings must not exceed a height of 3.6m measured vertically above ground level at side and rear boundaries within 20m of the site frontage. Thereafter, buildings must be set back one metre and then 0.3m for every additional metre in height (73.3 degrees) up to 6.9m and then one metre for every additional metre in height (45 degrees) as shown in Figure 17 below.

5. Where sunlight to the secluded outdoor living space of an existing dwelling is reduced, at least 75 percent, or 40m² with a minimum dimension of 3m, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September (the Equinox). If existing sunlight to the secluded outdoor living space of an existing dwelling is less than the requirements in this rule, the amount of sunlight must not be further reduced.

6. A habitable room window, balcony, terrace, deck or patio with a direct view into a habitable room window of an existing dwelling within a horizontal distance of 9m (measure at ground level) of the window, balcony, terrace deck or patio must be either:

- Offset a minimum of 1.5m from the edge of one window to the edge of the other.
- Have sill heights of at least 1.7m above floor level.
- Have fixed, obscure glazing in any part of the window below 1.7m above floor level.
- Have permanently fixed external screens to at least 1.7m above floor level and be no more than 25 per cent transparent

as shown in Figure 18 below.

Obscure glazing in any part of the window below 1.7m above floor level may be openable provided that there are no direct views as specified in this rule. Screens used to obscure a view must be:

- Perforated panel or trellis with a maximum of 25 per cent openings or solid translucent panels.
- Permanent, fixed and durable
- Designed and coloured to blend in with the development.

This rule does not apply to a new habitable room window, balcony, terrace, deck or patio which faces a property boundary where there is a visual barrier at least 1.8m high and the floor level of the habitable room, balcony, terrace, deck or patio is less than 0.8m above ground level at the boundary.

47. The exceptions to the permitted height in relation to boundary control listed in clause 7.3 above apply.

58. A building that does not comply with this control is a discretionary activity.

69. The alternative height in relation to boundary rule does not apply to existing or proposed internal site boundaries within an application area.

Figure 8 17: Alternative height in relation to boundary

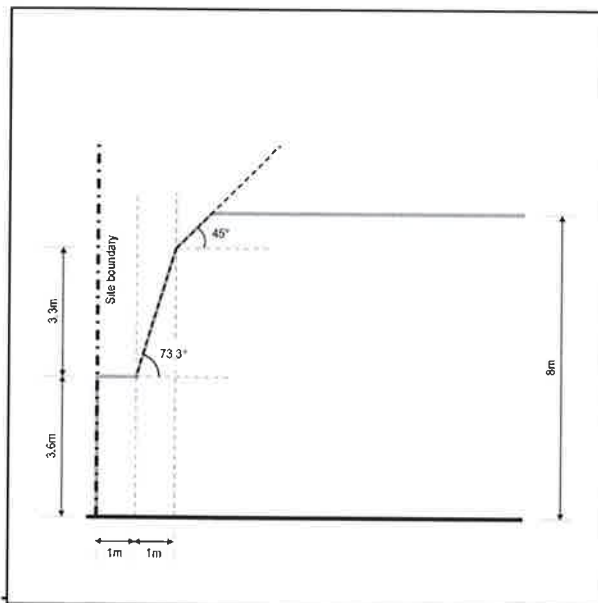
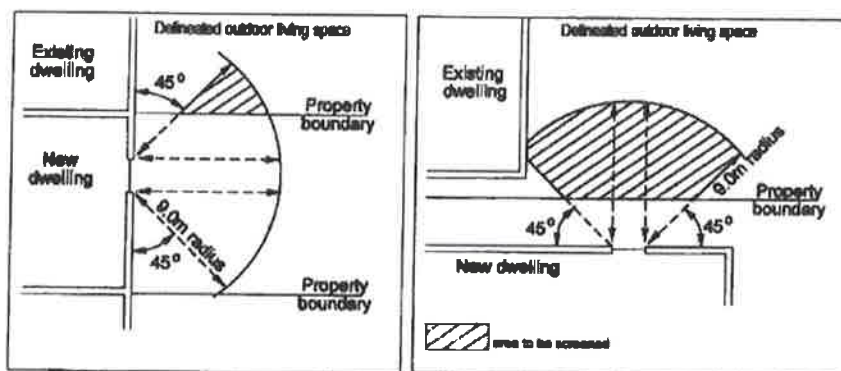


Figure 18 Required privacy separation



Proposed definition of “Secluded outdoor living space”.

Secluded outdoor living space is a delineated area of outdoor living space at the side or rear of a dwelling that receives at least five hours of sunshine between 9am and 3pm on 22nd of March and September (the Equinox).