

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

Report to Auckland Council
Hearing topic 028
Future Urban Zone
July 2016

Report to Auckland Council - Hearing topic 028 Future Urban Zone

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1. Hearing topic overview

1.1. Topic description

Topic 028 addresses the district plan provisions of the proposed Auckland Unitary Plan relating to:

| Topic | Proposed Auckland Unitary Plan reference | Independent Hearings Panel reference |
|------------------|---|---|
| 028 Future Urban | D4 Future Urban zone I5 Future Urban zone Indicative Roads and Open Space overlay Green Infrastructure Corridor Zone | H18 Future Urban Zone |

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

- i. The Future Urban Zone should be applied to land which does not have major constraints to urbanisation, although it may include areas with lesser constraints where those can be accommodated by appropriate subdivision and development.
- ii. Objectives and policies for the Future Urban Zone amended to make the transitional nature of the zone clear, enabling ongoing rural use while preventing subdivision, use and development which might prevent or hinder sustainable urbanisation at an appropriate time in the future.

- iii. Major constraints to urbanisation should be explicit in the Plan: that is, they should be mapped with clear boundaries and subject to clear controls on subdivision, use and development.
- iv. The rules for the Future Urban Zone are based closely on the corresponding rules for the Rural Production Zone, except intensive activities that will require substantial infrastructure and buildings to support are not provided for as such structures could prevent or hinder urbanisation.
- v. Additional subdivision controls for the Future Urban Zone to avoid pre-emptive urbanisation.
- vi. The primary method for managing the transition from rural to urban land use is to require careful planning of any substantial change, following the structure planning guidelines as set out in Appendix 1 to the Unitary Plan.
- vii. The Green Infrastructure Corridor Zone is deleted. Any such provision should be assessed during structure planning.
- viii. Deletion of indicative roads and open space overlays. Any such provision should be assessed during structure planning.

1.3. Overview

The Future Urban Zone is applied to over 11,000 ha of land on the periphery of existing urban areas. The most extensive areas are located on the edge of the metropolitan area:

- i. in the north along State Highway 1 at Dairy Flat, Silverdale and Wainui
- ii. in the northwest:
 - a. adjacent to the metropolitan area at Redhills, Westgate, Birdwood, Hobsonville and Whenuapai;
 - b. further out at Kumeu, Huapai and Riverhead;
- iii. in the south:
 - a. along the southern edge of Flat Bush
 - b. on the eastern side of Takanini;
 - c. to the south and west of Papakura and around Drury at Hingaia, Karaka and Runciman.

There are also significant areas around the satellite towns of Warkworth and Pukekohe (including Paerata). There are smaller areas adjacent to rural towns and settlements of Wellsford, Algies Beach, Helensville, Kingseat, Clark's Beach, Glenbrook Beach. There are some infill areas at Red Beach and Māngere.

For the areas at the edge of the metropolitan area and around the satellite towns, the outer boundary of the Future Urban Zone coincides with the Rural Urban Boundary. The smaller areas were notified without a Rural Urban Boundary and the infill areas do not require one.

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.

Matters considered by the Panel to be beyond the scope of submissions are:

- i. deletion of the Green Infrastructure Corridor Zone;
- ii. deletion of indicative roads and open space overlays.

For an explanation of the Panel's approach to scope see the Panel's 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 below in section 9 Reference documents.

2. Reasonable use

2.1. Statement of issue

The main purpose of the Future Urban Zone is to identify its transitional status. While its existing development and use is rural, it is applied to areas that are expected to become urban sometime in the next 30 years. It is the bulk of the greenfield (as defined in the Unitary Plan) land in the region. This transitional purpose creates a number of issues where the potentially conflicting interests of strategic planning and property rights meet:

- i. pre-emption of structure planning balanced against enabling reasonable use on an interim basis;
- ii. efficient development overall can be hindered by small-scale ad hoc developments;
- iii. end-use development can be disconnected from bulk infrastructure;
- iv. limited heritage/hazard assessment;
- v. urbanisation without full information.

2.2. Panel recommendation and reasons

During the period before urbanisation occurs (which may be as long as 30 years) the degree of restriction on the use and development of the land must not render it incapable of reasonable use (see section 85 Resource Management Act 1991). In broad terms, landowners and occupiers must still be able to use the land generally for rural purposes. In that sense, and notwithstanding the firm assertions of Mr Philip Brown, the Council's planning witness, the Future Urban Zone is really a rural zone: the land is not able to be used for urban purposes until an urban zone is applied to it.

The Panel considered a range of options to address the issues relating to the Future Urban Zone, including:

- i. delete the Future Urban Zone entirely and rely on the Rural Urban Boundary and zone changes to manage transition and urbanisation – requires amendment of rural zone activity and subdivision rules to create inside/outside Rural Urban Boundary differences;
- ii. use the Future Urban Zone together with the Rural Urban Boundary and zone changes to add transitional layer based on subdivision; and
- iii. use special housing area-type processes for all Future Urban Zone proposals (including business as well as residential areas).

The Panel's preferred option is the second: to use the Future Urban Zone together with the Rural Urban Boundary and zone changes. This method helps identify areas suitable for urbanisation, providing clear signals to landowners, infrastructure providers and developers. This approach is adaptable to circumstances where there is no Rural Urban Boundary. Clarification of objectives and policies for urban growth, together with structure planning guidelines, provide clear thresholds for rezoning proposals.

3. Capacity for urbanisation

3.1. Statement of issue

An essential characteristic of land zoned future urban is that it must be capable of being urbanised. This involves both the intrinsic capacity of the land itself to be developed for urban uses and its extrinsic capacity to fit into the existing urban form and to be efficiently provided with infrastructure.

3.2. Panel recommendation and reasons

The Future Urban Zone should be applied to land which does not have major constraints to urbanisation, although it may include areas with lesser constraints where those can be accommodated by appropriate subdivision and development. Such constraints should be explicit in the Plan: that is, they should be mapped with clear boundaries. For example, an intrinsic constraint may be identified by an existing overlay in the planning maps such as one of those used to show the location of an outstanding natural landscape or an area which is or is likely to be subject to coastal inundation as a result of sea level rise. Constraints at a major level should be avoided by not zoning the area Future Urban and leaving it with a rural or open space zoning.

Such avoidance will not normally extend to local constraints (e.g. significant ecological areas or minor floodplains) which could be addressed through structure planning and incorporated within the urban area albeit potentially with a zoning which reflected its lower capacity for development.

In relation to infrastructure, an extrinsic constraint may be identified in terms of connection or capacity constraints or economic feasibility in the Unitary Plan or in any spatial plan prepared in accordance with Part 6 of the Local Government (Auckland Council) Act 2009. In practical terms, the infrastructure providers themselves can determine areas to be urbanised by identifying areas of service or areas with constrained capacity.

4. Avoidance of pre-emptive urbanisation

4.1. Statement of issue

Uncoordinated small-scale or ad hoc subdivision and development for urban purposes are likely to create cumulative adverse effects on urban form, compromising its sustainability.

4.2. Panel recommendation and reasons

The objectives and policies for the Future Urban Zone are designed to make the transitional nature of the zone clear, enabling on-going rural use while preventing subdivision, use and development which might prevent or hinder sustainable urbanisation at an appropriate time in the future. The rules for the Future Urban Zone are based closely on the corresponding rules for the Rural - Rural Production Zone, with some restrictions on activities and subdivision to give effect to the policies as discussed above.

As a rural zone, the Future Urban Zone provides for rural uses on an interim basis. There is a limited range and extent of subdivision. While the range and extent of subdivision outside

the Rural Urban Boundary is limited, there are further restrictions proposed for the rural land inside the Rural Urban Boundary. The focus of these additional subdivision controls is on the avoidance of pre-emptive urbanisation: ad hoc creation of relatively small-scale urban development which would hinder larger-scale urban zoning.

The primary method for managing the transition from rural to urban land use is to require careful planning of any substantial change, with full assessment of both the most appropriate methods and the effects (both positive and adverse) of urbanisation in advance of urban zoning. The format of structure planning, as set out in Appendix 1 of the Panel's recommendation version of the Plan (Appendix 1 - Structure plan guidelines), is the recommended guideline for such a planning exercise.

In very broad terms the key control required is to avoid the pre-emption of sustainable urban form resulting from irreversible changes to the current rural environment before there has been a process of planning for urbanisation. In differentiating uses according to the degree of reversibility, it is also important to pay close attention to potential subdivision which may hinder future urbanisation by fragmenting parcels of land and creating roads (whether formed or not) in ways that can result in urban form with poor amenity values and low levels of efficiency. This method must be considered in terms of its relationship with other methods in the Plan, including the Rural Urban Boundary and zoning. It is also relevant to consider the Council's proposal to create a Future Urban Land Supply Strategy as a non-statutory planning document.

5. Contestable methods of managing growth

5.1. Statement of issue

Options for providing land for urban development should be generally contestable so as to enable choices and reassure people and communities that restrictions on urbanisation will not result in the undersupply of land for urban purposes.

5.2. Panel recommendation and reasons

The methods to manage transition from rural to urban discussed in section 4 above are closely related to the issue of managing Auckland's growth. On the evidence before it, the Panel is convinced it is essential that these methods be fully responsive to the effects they seek to address as well as to the effects which the methods themselves have on growth and on the environment overall. In that context a key issue for these related methods is whether they are generally contestable, that is, whether they are able to be initiated or challenged by any person with an interest in the management of urban growth, including not only the Council but also landowners, developers, infrastructure providers and people or groups with particular interests in the protection of matters of national importance and the maintenance and enhancement of the quality of the environment.

In considering the range of methods, one may question why more than one layer of regulation is required to achieve the objectives of the Plan? If the Rural Urban Boundary is an appropriate method for managing growth (and the Panel thinks it is for the reasons set out in relation to Topic 013) and is located appropriately in a manner that provides a

defensible boundary for urban growth and for protection of the rural environment, then why not simply manage the transition from rural to urban based on that boundary?

There appear to be two main reasons why the Rural Urban Boundary is insufficient by itself:

- i. because the rural environment must be managed differently depending on which side of the Rural Urban Boundary it is on – rural land outside Rural Urban Boundary is to remain rural in the longer term, but inside the Rural Urban Boundary is to change in the short to medium term;
- ii. because while the transition is identified now, the medium timeframe of up to 30 years is sufficiently long that an intermediate regime is appropriate to control decision-making pending a change of zoning.

It is therefore important to consider the Future Urban Zone and the Rural Urban Boundary as complementary methods of managing urban growth and the process of urbanisation. In other recommendations (see the Panel's Report to Auckland Council – Overview of recommendations July 2016 and Report to Auckland Council – Hearing topic 013 Urban growth July 2016), the Panel recommends making the Rural Urban Boundary a method in the district plan rather than keeping it as a policy in the regional policy statement. The Panel thinks this is the most appropriate place for it, to enable changes to the Rural Urban Boundary by changes to the district plan and therefore potentially by private plan change.

The Panel makes this recommendation notwithstanding the urgings of counsel for the Auckland Council and several witnesses called by her, most notably Dr Fairgray who argued strenuously against what he described as a 'soft' Rural Urban Boundary, that is, one that could be changed by private plan change. With great respect, the Panel does not accept that there is anything 'soft' about the requirements of demonstrating that the Rural Urban Boundary should be moved, no matter who proposes it, the need for a full evaluation of a proposed change in terms of section 32 of the Resource Management Act 1991 in a way that gives effect to the regional policy statement will ensure that any change is properly considered.

If the Council is concerned about poor proposals wasting its resources in processing private plan changes, the Panel thinks it has broad powers under clause 25 of Schedule 1 to the Resource Management Act 1991 to reject such applications. The Panel thinks it is far more important that the location of the Rural Urban Boundary be properly contestable so that one of the principal options for enabling greenfield land to be identified is available to anyone who can make a case for it, and not limited to the Council.

These considerations are also relevant in considering the Future Urban Land Supply Strategy. As it exists presently, this is a policy document created by the Council under the Local Government Act 2002. While adopted following a special consultative procedure, its creation was not contestable in the same way as a statutory planning document created under the Resource Management Act 1991. The Future Urban Land Supply Strategy has no regulatory effect, but does appear to describe, in very general terms, where and when greenfield areas will be urbanised.

The Panel thinks there is a danger that the description of the process of urbanisation in the Future Urban Land Supply Strategy will, over time, be treated as a method of controlling the process, effectively by directing when and how essential infrastructure will be provided. This

could inhibit or even prevent meritorious proposals for greenfield development without a full assessment of those merits. While the Future Urban Land Supply Strategy may be a relevant policy document for consideration in a structure planning process, the Panel does not think it should formally be treated at the same level as the Rural Urban Boundary and the Future Urban Zone because of its lack of contestability.

6. Green Infrastructure Corridor Zone

6.1. Statement of issue

The extent to which the Green Infrastructure Corridor Zone is an appropriate policy response and whether the outcome sought by this zone can best be achieved by other resource management means.

6.2. Panel recommendation and reasons

The Panel recommends the deletion of this zone. The purpose of this zone as notified applies to land that needs to be set aside from development and used primarily for stormwater and flood hazard mitigation purposes. The Panel recommends these matters should be addressed in the structure plan and a live zoning with less capacity could be applied to these areas. Hence, a Green Infrastructure Corridor Zone is not required.

While there are no submissions seeking to delete this zone, the Panel considers its deletion is a consequential change arising from the application of the Future Urban Zone and the Panel's growth management method.

7. Indicative roads and open space overlays

7.1. Statement of issue

Some submitters sought the deletion from the Future Urban Zone of indicative roads and open space overlays

7.2. Panel recommendation and reasons

The Panel supports the relief sought by these submitters and recommends the deletion of indicative roads and open space overlies from the Future Urban Zone on the grounds that these are not section 6 and 7 Resource Management Act 1991 matters.

The Panel finds that the inclusion of indicative roads and open space overlays is unhelpful and does not assist land owners to plan for future development of their land. Both indicative roads and open space overlays are unnecessary because during a structure plan process the location of indicative roads and open space will be identified and the appropriate open space zoning can be applied. The location and alignment of roads are usually further refined at time of subdivision.

8. Consequential changes

8.1. Changes to other parts of the plan

As a consequence of the Panel's recommendations on this topic, there are consequential changes to other parts of the Plan as listed below:

- i. deletion of the Green Infrastructure Corridor Zone as a result of application of the Future Urban Zone and the Panel's growth management method, see section 6 above.

8.2. Changes to provisions in this topic

There are no changes to provisions in this topic as a result of the Panel's recommendations on other hearing topics.

9. 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.

(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.)

9.1. General topic documents

Panel documents

[028 Submission Point Pathway Report \(8 December 2014\)](#) (8 December 2014)

[028 Parties and Issues Report \(17 February 2015\)](#) (5 March 2015)

[028 Joint Mediation Statement \(9 February 2015\)](#) (2 March 2015)

Auckland Council marked up version

[Markup Version of Green Infrastructure Zone](#) (4 February 2015)

[Markup Version of Objectives and Policies](#) (4 February 2015)

[Markup Version of Rules](#) (4 February 2015)

[Markup Version of Indicative Roads and Open Space Overlay - Objectives and Policies](#) (5 February 2015)

[Markup Version of Indicative Roads and Open Space Overlay - Rules](#) (5 February 2015)

Auckland Council closing statement

[Closing statement](#) (20 March 2015)

[Closing statement - Attachment A](#) (20 March 2015)

[LATE Closing statement - Indicative Roads](#) (23 April 2015)

9.2. Specific evidence

Auckland Council

[Hearing evidence \(Douglas Fairgray\) - Economic](#) (20 February 2015)

[Hearing evidence \(Philip Brown\) - Planning](#) (20 February 2015)