

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

**Report to Auckland Council
Hearing topics 050-054**

City Centre and business zones

July 2016

Report to Auckland Council – Hearing topics -050-054 City Centre and business zones

Contents

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 5	
1.3. Overview.....	7
1.4. Scope	7
1.5. Documents relied on.....	8
2. Westhaven	8
2.1. Statement of issues	8
2.1.1. Zoning of Westhaven.....	8
2.1.2. Zoning and precinct provisions	9
2.2. Panel recommendation and reasons.....	9
3. Ports of Auckland	9
3.1. Statement of issues	9
3.2. Panel recommendation and reasons.....	10
3.2.1. The word ‘expansion’.....	10
3.2.2. Reclamation– policy and activity status	10
3.2.3. Boundary of Port Precinct- central wharves.....	12
3.2.4. Queens Wharf viewshaft	12
4. Framework plans.....	14
4.1. Statement of issue	14
4.2. Panel recommendation and reasons.....	14
5. Pre-1940 building demolition control.....	14
5.1. Statement of issue	14
5.2. Panel recommendation and reasons.....	14
6. Dilworth Terrace houses view protection plane	15
6.1. Statement of issue	15

6.2.	Panel recommendation and reasons.....	15
7.	Management of effects and control of building work.....	15
7.1.	Statement of issue	15
7.2.	Panel recommendation and reasons.....	16
8.	Identified growth corridors	16
8.1.	Statement of issue	16
8.2.	Panel recommendation and reasons.....	16
9.	Consequential changes.....	18
9.1.	Changes to other parts of the plan.....	18
9.2.	Changes to provisions in this topic.....	18
10.	Reference documents	19
10.1.	General topic documents.....	19
10.2.	Specific evidence	20

1. Hearing topic overview

1.1. Topic description

Topics 050 and 051-054 address the district plan provisions of the proposed Auckland Unitary Plan relating to:

Topic	Proposed Auckland Unitary Plan reference	Independent Hearings Panel reference
Hearing Topic 050 City Centre	D3.2 City Centre zone objectives and policies	H8 Business – City Centre Zone
	H3 City Centre zone	
	F3.1 Arts, Civic and Entertainment	I200 Arts, Civic and Entertainment Precinct
	F3.2 Britomart	I201 Britomart Precinct
	F3.3 Central Wharves	I202 Central Wharves Precinct
	F3.4 Cook Street Depot	I203 City Centre Residential Precinct
	F3.5 Downtown West	I204 Cook Street Depot Precinct
	F3.6 Karangahape Road	I205 Downtown West Precinct
	F3.7 Learning	I206 Karangahape Road Precinct
	F3.8 Port	I207 Learning Precinct
	F3.9 Quay Park	I208 Port Precinct
	F3.10 Queen Street Valley	I209 Quay Park Precinct
	F3.11 Residential	I210 Queen Street Valley Precinct
	F3.12 Viaduct Harbour	I211 Viaduct Harbour Precinct
	F3.13 Victoria Park Market	I212 Victoria Park Market Precinct
F3.14 Westhaven	I213 Westhaven - Tamaki Herenga Waka Precinct	
F3.15 Wynyard	I214 Wynyard Precinct	
F2.15 Old Government House precinct objectives and policies	Incorporated into the I207 Learning Precinct	
K2.15 Old Government		

	House precinct	
	Appendix 7 City Centre Zone	Appendix 9 Business – City Centre Zone sight lines Appendix 10 Business – City Centre Zone building in relation to boundary Appendix 11 Business – City Centre Zone sunlight admission into public places
	Non-statutory Documents – Attachment 2.2 Wynyard	Incorporated into the I214 Wynyard Precinct or deleted.
	Non-statutory Documents – Attachment 2 Urban design guidelines	Deleted from the Plan – available on Councils Auckland Design Manual website
Hearing Topics 051 – 054 Business	D3 Business zones objectives and policies I3 Business zones	H9 Business – Metropolitan Centre Zone H10 Business – Town Centre Zone H11 Business – Local Centre Zone H12 Business – Neighbourhood Centre Zone H13 Business – Mixed Use Zone H14 Business – General Business Zone H15 Business – Business Park Zone H16 Business – Heavy Industry Zone H17 Business – Light Industry Zone
	E4.4 City Centre Fringe Office objectives and policies J4.5 City Centre Fringe Office	Incorporated into the H11 Business – Local Centre Zone and H13 Business – Mixed Use Zone
	E4.5 Identified Growth Corridor	D22 Identified Growth Corridor Overlay

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

In the Business - City Centre Zone, the Panel recommends as follows.

- i. Remove Westhaven from the Business - City Centre Zone and rezone it Coastal - Marina Zone, with amendments to the Westhaven Precinct provisions to emphasise its role as a marina.
- ii. Do not add a viewshaft from the end of Queens Wharf.
- iii. Do not add the word 'expansion' to the objective relating to the Port Precinct, but retain the concept of consolidation, intensification, redevelopment and growth within the Port Precinct.
- iv. Delete the framework plan provisions (consequential) from City Works Depot, Downtown West, Quay Park and Wynyard Precincts.
- v. Amend the activity status of non-compliance with the building height standard from non-complying to restricted discretionary in the Wynyard Precinct. This is a consequential change due to the removal of the framework plan provisions. Non-compliance with the site intensity standard remains non-complying, acknowledging the effects on the transport network particularly Fanshawe Street.
- vi. Delete the pre-1940 building demolition control from Queen Street and Karangahape Road precincts – precincts remain, containing frontage standards;
- vii. Delete 83-85 Albert Street from Map 1 identified special character buildings;
- viii. Relocate the point of origin for the Dilworth Terrace Houses view protection plane from Quay Street to The Strand.
- ix. Add drive-through restaurants as a restricted discretionary activity in Sub-precinct A of the Quay Park Precinct.
- x. Add a new sub-precinct C to the Viaduct Harbour Precinct, with offices now a discretionary activity and convenience retail (dairies, hairdressers etc) as restricted discretionary activities.
- xi. Do not include a special height limit of 52m for the land at 115 Customs St West and leave the permitted height limit at 16.5m.

- xii. Delete standards in relation to building work and internal design matters addressed in the Building Code: minimum dwelling sizes, admission of daylight to dwellings, universal access to residential buildings.
- xiii. Delete prescriptive design-based standards and address design by matters of discretion for: ground floor and entrances at street frontage level, glazing and ground floor activities.

In the business zones, and further to amendments agreed between the Council and submitters, the Panel recommends as follows.

- i. Make structural changes so that provisions for each business zone are self-contained to enable users to see all zone provisions in one place.
- ii. Amend the status of drive-through restaurants from discretionary to restricted discretionary in the Business – Neighbourhood Centre Zone.
- iii. Amend the gross floor area limits for offices to be on a per tenancy basis rather than on a per site basis.
- iv. Amend the status of supermarkets exceeding 450m² and up to 2000m² gross floor area per tenancy from non-complying to restricted discretionary in the Business – Neighbourhood Centre Zone.
- v. Amend the status of supermarkets exceeding 2000m² per tenancy and up to 4000m² gross floor area per tenancy from non-complying to discretionary in the Business – Neighbourhood Centre Zone.
- vi. Amend the status of emergency services from discretionary to restricted discretionary in the Business – Neighbourhood Centre Zone.
- vii. Delete the rule which classified existing activities in the Business – Light Industry Zone as permitted.
- viii. Delete the rule restricting retail up to 200m² gross floor area per tenancy in the Business - Mixed Use Zone where more than 200m from a Centre Zone.
- ix. For new buildings classified as restricted discretionary, delete design-based standards and address design by matters of discretion for: buildings fronting the street, minimum floor to floor ceiling height, glazing, roller doors, verandas and building frontage height.
- x. For restricted discretionary activities, clarify the matters of discretion and amend the assessment criteria to refer directly to objectives and policies.
- xi. Amend the outlook space standard to address interface issues better.
- xii. Amend the height in relation to boundary and yard standards in the Business – Light Industry Zone and Business – Heavy Industry Zone.
- xiii. Restrict large-scale community facilities in the Business – Heavy Industry Zone.

- xiv. Provide four integrated growth corridors (at New North Road Kingsland, Ti Rakau Drive Burswood and Wairau Road Glenfield ,as well as at Lincoln Road Henderson).
- xv. Rezone some land zoned Business – Light Industry Zone to Business – General Business Zone to enable the rezoned areas to accommodate large format retail development.

1.3. Overview

The city centre hearing topic addressed a number of different areas with very different functions. The Unitary Plan identifies 16 of these as separate precincts, including:

Arts, Civic and Entertainment, Britomart, Central Wharves, Cook Street Depot, Downtown West, Karangahape Road, Learning, Port, Quay Park, Queen Street Valley, Residential, Viaduct Harbour, Victoria Park Market, Westhaven - Tamaki Herenga Waka Precinct, and Wynyard.

Particular issues arising in the Business – City Centre Zone or its precincts are addressed in the sections that follow.

The provisions for business zones were the subject of productive mediation, resulting in numerous issues being resolved in ways that the Panel considers were appropriate in the context of the objectives and policies and the approach in the Unitary Plan as a whole.

A number of rules imposing restrictions on the design and use of buildings in business zones are recommended to be deleted where they are overly restrictive, where they appear to address internal matters rather than external effects, and where they duplicate controls under the Building Act 2004.

Overall, the Plan's policy framework for the city centre and business zones continues a long-settled approach which the Panel supports. The zoning of centres and corridors and issues relating to the extent of light and heavy industry zones give effect to the business strategy (see the Panel's report to Auckland Council – Changes to the Rural Urban Boundary, rezoning and precincts July 2016).

The Panel's general recommendation to delete the provisions for framework plans/consents in the Unitary Plan results in a number of consequential changes to the Business - City Centre Zone and a number of business precincts.

Reference should be made to the Panel's Report to Auckland Council – Hearing topics 043-044 Transport July 2016, which addresses the changes recommended for accessory or on-site parking controls.

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 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 10 Reference documents.

2. Westhaven

2.1. Statement of issues

- i. The inclusion of Westhaven in the Business - City Centre Zone.
- ii. The appropriate zoning of Westhaven, both on land and in the coastal marine area.
- iii. The provisions of the Westhaven Precinct.

2.1.1. Zoning of Westhaven

The Westhaven Precinct's purpose is "to provide for the use and development of one of the largest marinas in the southern hemisphere."

In the proposed Auckland Unitary Plan, Westhaven forms part of, and the Westhaven Precinct sits under, the Business - City Centre Zone. It is also subject to the Coastal - General Coastal Marine Zone and the Coastal - Marina Zone provisions in that part of the Unitary Plan which forms the regional coastal plan.

The Council's position is that Westhaven forms part of the city centre and therefore the precinct should sit within the Business - City Centre Zone and be subject to the provisions of that zone. The Council also considered that the Coastal - General Coastal Marine Zone was the appropriate underlying zone for the Westhaven Marina as it applies to the coastal marine area.

A number of submitters (Westhaven Marina Users Association (1716), Royal New Zealand Yachting Squadron (6704) and Auckland Yachting and Boating Association (FS 3236)) sought that neither the Business - City Centre Zone nor the Coastal - General Coastal Marine Zone apply to Westhaven. These submitters sought that the Westhaven Precinct be extracted from the these zones and that the entire Westhaven Precinct be placed in the Coastal - Marina Zone, which would apply to both the land and the coastal marine area of the marina.

The submitters accept that Westhaven is connected to the city centre but contend it is not part of it. It sits of the edge of it but does not function as part of the city centre. The submitters' main concern about the zoning of Business - City Centre Zone is that this zoning fails to recognise that Westhaven is primarily a marina with a range of other marin-related activities, and that this is a significant and limited resource. They also consider that the Coastal - General Coastal Marine Zone is inappropriate and that the zoning of Coastal - Marina Zone, along with the precinct provisions, would provide the marina with an appropriate level of protection and marina development opportunity.

The objectives of the Business - City Centre Zone are focused on business, residential, educational and entertainment activities in intensive levels of built development with an

associated regional transport hub. They are clearly drafted in the context of the central business district and do not particularly reflect Westhaven Marina.

The Panel agrees with these submitters in relation rezoning Westhaven from Business - City Centre Zone to Coastal - Marina Zone. The Panel accepts that Westhaven is connected to the city centre but is not part of the city centre. Also the city centre objectives and policies have little overall relevance to Westhaven, and do not reflect in any meaningful way the predominant use of this area.

2.1.2. Zoning and precinct provisions

The Council provided, as part of its closing remarks, a marked up set of provisions. These included those matters agreed between the Council and submitters at mediation and changes it accepted as an outcome of the hearings process. The version recommended by the Panel is that version with further marked-up changes as a result of the Panel's findings on the evidence. The main changes stem from the Panel's finding that the Business - City Centre Zone not apply to Westhaven, but that the Coastal - Marina Zone apply as well as the Westhaven Precinct.

In this regard the Panel has amended the Westhaven Precinct provisions, including the precinct description, objectives, policies and the rules. The main thrust of these changes is to reinforce the role and function of the marina, while enabling a limited range of other activities that would not compromise the current or future operation and/or development of the marina.

The submitters also sought some very directive provisions, particularly to limit commercial activities which are not related to marina activities. The Panel's view is that a range of activities, but particularly those related to marine-based/related activities, should be enabled, provided that those activities do not compromise the current and future function and growth of the marina for recreational boating and accessory activities.

2.2. Panel recommendation and reasons

The Panel recommends that Westhaven be removed from the Business – City Centre Zone and rezoned Coastal – Marina Zone. The Panel recommends that the Westhaven - Tamaki Herenga Waka Precinct apply, with amendments as set out in the amended plan provisions. In recommending this the Panel is clearly of the view that with the recommended zoning and modified provisions Westhaven Marina will not undermine the overall strategic management or development of the Business - City Centre Zone.

3. Ports of Auckland

3.1. Statement of issues

- i. The use of the term 'expansion' in the ports objective;
- ii. The appropriate activity status for reclamations;
- iii. The appropriate boundary of the Central Wharves precincts; and
- iv. Whether it was appropriate to introduce a Queens Wharf viewshaft.

3.2. Panel recommendation and reasons

Many of the Plan's objectives, policies and rules relating to the waterfront and the commercial port part of the waterfront were well established and accepted as part of the operative Auckland Council Regional Policy Statement and the operative Auckland Council Regional Plan: Coastal. Ports of Auckland Limited sought to have greater policy recognition of the importance of the ports and its function as part of the proposed regional policy statement. The Panel agreed to this, and it is consistent with Policy 9 of the New Zealand Coastal Policy Statement 2010.

Notwithstanding Ports of Auckland Limited's position in relation to its submissions to the proposed Plan, a number of submitters, including Heart of the City, Urban Auckland, Ngati Whatua Orakei Whai Maia Limited, Ngati Whatua Orakei Whai Rawa Limited, and Parnell Community Committee Incorporated, sought greater public use and access to the waterfront area and/or additional restrictions on how the port could operate.

Many of the issues relating to port provisions were resolved between the Council and a number of submitters through the mediation and hearings process. These were set out in the Council's legal submissions and their closing remarks. Ports of Auckland Limited also set out those matters it was satisfied with in its legal submission and expert evidence as well as the matters that were outstanding.

Those matters agreed have not been addressed in any detail here; the focus being on those matters outstanding and the Panel's reasons and recommendations on those matters. However the Panel notes that the agreed activity statuses for reclamations between the Council and Ports of Auckland Limited, was not agreed to by the Panel. This matter is addressed below.

3.2.1. The word 'expansion'

Ports of Auckland Limited sought to add the word 'expansion' in Objective 1 for the Port Precinct, in addition to the word 'growth'. A number of submitters opposed this addition on the basis that 'expansion' indicated the possibility of the Port of Auckland extending outside of the precinct boundary. Legal counsel for Ports of Auckland Limited submitted that this was not the intent of seeking the use of the term 'expansion'.

While it was generally accepted by most submitters that the Port of Auckland may grow or intensify in terms of the through-put of cargo or the utilisation of existing port areas, this did not necessarily mean 'expand' in terms of making the precinct larger.

Having considered all of the submissions and evidence the Panel agrees with the reasons advanced on behalf of the Council and Ngati Whatua Orakei Whai Rawa Limited that the word 'expansion' should not be included in Policy 1 for the Port Precinct. However consolidation, intensification, redevelopment and growth within the Port Precinct is provided for.

3.2.2. Reclamation– policy and activity status

Associated with the issue of expansion and development addressed above, the issue of reclamation in the Port Precinct was raised. Extensive legal submissions, expert evidence and statements by lay submitters addressed the appropriate policy wording and activity status for reclamation in the Port Precinct.

The focus of the debate was on whether the words 'provide for' or 'avoid unless' should be used to frame Policy 10 (of the proposed unitary plan) for the Port Precinct on reclamation. Ports of Auckland Limited sought 'provide for' to enable the port as significant infrastructure to function and to operate efficiently in terms of policies 6 and 9 of the New Zealand Coastal Policy Statement 2010. Ports of Auckland Limited argued that 'provide for' was appropriate, as the requirement to 'avoid' had already been taken into account in the wider coastal marine area of Auckland, and the 'unless' provisions were met in the Port Precinct where it is expected that there may be reclamation to enable the efficient functioning and operation of the port.

The Council, Parnell Community Committee Incorporated, Heart of the City, Urban Auckland, Ngati Whatua Orakei Whai Maia Limited, Ngati Whatua Orakei Whai Rawa Limited and others sought 'avoid unless' in terms of policy 10 of the New Zealand Coastal Policy Statement and to be more consistent with the provisions as contained in the regional policy statement of the proposed Auckland Unitary Plan as notified. These submitters contended that this wording is necessary to give effect to the New Zealand Coastal Policy Statement and to address the resource management issues arising from the extent of reclamation in the Waitematā harbour.

The Panel recommends that the policy for the Port Precinct use the words 'avoid unless'. This is consistent with the New Zealand Coastal Policy Statement 2010.

In relation to the activity status for reclamation in the Port Precinct there was also considerable debate, with extensive legal submissions, expert evidence and statements from lay submitters. There was agreement among some parties (the Council, Ports of Auckland Limited, Ngati Whatua Orakei Whai Maia Limited and Ngati Whatua Orakei Whai Rawa Limited) that a tiered approach be taken, while others (including Heart of the City, Urban Auckland, and the Parnell Community Committee Incorporated) considered that any further reclamation was inappropriate and should therefore be classified as a non-complying activity.

In terms of the tiered approach, this consisted of:

- i. minor reclamation for the purpose of repairs and maintenance (including remedial or rehabilitation work) in Area A of Precinct map A (to a maximum of 0.6 hectares per year with no greater total area than two hectares over the 10-year period)– restricted discretionary;
- ii. reclamation in area B - discretionary; and
- iii. reclamation in Area C - non-complying.

It is noted that while the Council, Ports of Auckland Limited, Ngati Whatua Orakei Whai Maia Limited and Ngati Whatua Orakei Whai Rawa Limited agreed on the tiered approach, they presented plans showing different areas as A, B and C.

Having heard all of the submissions and evidence, and notwithstanding that there had been some agreement to the tiered approach, the Panel recommends that all reclamation, other than minor reclamation for the purpose of repairs and maintenance (including remedial or rehabilitation work), be a discretionary activity. The reasons for this are:

- i. this is consistent with the activity status in the other port precinct areas;
- ii. The New Zealand Coastal Policy Statement 2010 sets out a policy approach of avoiding further reclamations unless a number of criteria can be satisfied;
- iii. the regional policy statement gives effect to the New Zealand Coastal Policy Statement and similarly seeks to avoid further reclamation, but accepting that this may be appropriate in some circumstance;,,
- iv. the areas shown as A, B and C in Precinct 4 are arbitrary regardless of which party was suggesting the area;
- v. that reclamations are a significant activity and can have both positive and adverse effects, such that a full assessment under section 104 of the Resource Management Act 1991 should be able to be carried out for any application;
- vi. that the matters of discretion retained for the restricted discretionary activity reclamation were very broad and of little difference to discretionary activities; and
- vii. the Plan no longer has a general non-notification default for restricted discretionary activities.

The Panel considers that for the reasons set out above, reclamations should be a discretionary activity, where a full assessment of effects, both positive and adverse, can be undertaken.

3.2.3. Boundary of Port Precinct- central wharves

The main issue the Panel needed to address was the eastern boundary of the Central Wharves Precinct adjacent to the Port Precinct.

The Panel agrees with Ports of Auckland Limited for the reasons set out in their legal submissions and expert planning evidence that Captain Cook Wharf should stay in the Central Wharves precinct and recommends that the precinct boundary be set accordingly.

3.2.4. Queens Wharf viewshaft

Heart of the City, Urban Auckland, Ngati Whatua Orakei Whai Maia Limited and Ngati Whatua Orakei Whai Rawa Limited proposed or supported a new viewshaft from the end of Queens Wharf. This was supported by the Council. It was opposed by Ports of Auckland Limited. Extensive legal submissions and expert evidence was presented on this topic.

Ports of Auckland Limited opposed the new viewshaft for a number of reasons. These included that:

- i. it was not introduced as part of a city-wide analysis of all potentially relevant views;
- ii. it would effectively prevent port development north of Bledisloe Wharf; and
- iii. it would be contrary to the objectives and policies of the Plan seeking public activities for the benefit of the people of Auckland, while also enabling the

efficient operation, growth, and intensification of marine and port activities and marine and port facilities within the Port Precinct.

In relation to this matter Heart of the City and Urban Auckland presented expert landscape and urban design evidence from Mr Gibb (evidence in chief and evidence in rebuttal). Ngati Whatua Orakei Whai Maia Limited and Ngati Whatua Orakei Whai Rawa Limited presented expert landscape and urban design evidence from Mr Lister (evidence in chief and evidence in rebuttal).

Ports of Auckland Limited presented expert landscape evidence from Mr Goodwin. The Council presented expert landscape evidence in rebuttal from Ms Gilbert.

In relation to the first point above the Panel notes that the viewshaft was not proposed by the Council in the draft Unitary Plan, nor in the notified version of the proposed Auckland Unitary Plan. The Panel was advised it was not raised at mediation, nor in the Council's primary evidence. It was addressed in the Council's rebuttal evidence - Ms Gilbert's expert landscape evidence in rebuttal and the evidence in rebuttal of Mr Roberts and Ms Coombes (joint planning statement).

The Council set out in its closing remarks that its support for the new viewshaft was in response to specific submissions and evidence lodged by Heart of the City and Urban Auckland. It was also stated that the Council considered it "entirely appropriate to consider such submissions and evidence on their merits" (paragraph 21.8 of the closing remarks).

Mr Arbuthnot, expert planner for the Ports of Auckland Limited, set out in his rebuttal evidence that the protection of views from the Central Wharves Precinct to the outer Waitematā Harbour is not an objective of the Unitary Plan. He considered that the imposition of the proposed viewshaft from Queens Wharf would be contrary to the objectives of the Unitary Plan for the central wharves and port precincts, which are to, amongst other things, develop public wharf space within the Central Wharves Precinct predominantly for public activities for the benefit of the people of Auckland, while also enabling marine and port activities, and to enable the efficient operation, growth, and intensification of marine and port activities and marine and port facilities within the Port Precinct.

Ports of Auckland Limited also considered that the imposition of the suggested viewshaft from Queens Wharf would have the effect of restricting marine and port activities and marine and port facilities within the Central Wharves Precinct, and preventing the efficient operation, growth, and intensification of the Port Precinct.

The Panel considers that introducing the viewshaft as proposed would be a significant policy shift in terms of the Plan's approach to the use and development of the port area as set out in the proposed Plan, much of the Council's expert evidence in relation to the port provisions and in Ports of Auckland's legal submissions and expert planning evidence. The viewshaft would also have significant implications for the operation of the port. Moreover the Panel does not consider it appropriate that such a significant issue should be presented to it essentially through rebuttal evidence.

If the Council wishes to pursue the viewshaft, this should be addressed by a plan change, with a robust section 32 analysis setting out the relative costs and benefits. Ports of Auckland, Mana Whenua and other stakeholders should be consulted as part of any

proposal. The Plan Change process would enable the public and all affected persons to be involved through the Schedule 1 process of the Resource Management Act 1991.

4. Framework plans

4.1. Statement of issue

Use of framework plans.

4.2. Panel recommendation and reasons

The Panel recommends deleting provisions for framework plans/consents throughout the Unitary Plan. This issue is discussed in detail in the Panel's Report to Auckland Council – Overview of recommendations July 2016 and repeated in the Report to Auckland Council – Hearing topic 004 – General rules July 2016.

The deletion of framework plans in the Business - City Centre Zone (where they formed part of the provisions for the City Works Depot, Downtown West, Quay Park and Wynyard Precincts) and in the business zones is a consequential amendment resulting from that overall decision.

The Panel appreciates that the provisions for framework plans were a significant element in the City Centre precincts, especially in the Wynyard Precinct. However, for the reasons set out in the Panel's Overview of recommendations and report on Topic 004 (as referenced above), the Panel does not consider such provisions to be appropriate in the Unitary Plan. In particular, the Panel cannot see any basis on which to apply different standards to the same activity on the basis of whether a resource consent exists or not.

5. Pre-1940 building demolition control

5.1. Statement of issue

Application of the pre-1940 building demolition control.

5.2. Panel recommendation and reasons

The Panel recommends deleting the pre-1940 building demolition control from the Queen Street and Karangahape Road precincts. While the cut-off year is different, the reasons for this recommendation are the same as for the deletion of the pre-1944 building demolition control elsewhere in Auckland. This is discussed in the Panel's Overview of recommendations and in the report to Auckland Council – Hearing topics 010, 029,030,079 Heritage, special character, pre-1944.

There is now a Karangahape Road Historic Area (see Schedule 14.2 Historic Heritage Areas – Maps and statements of significance, and the Panel's Report to Auckland Council – hearing topic 032 Historic heritage schedules July 2016).

6. Dilworth Terrace houses view protection plane

6.1. Statement of issue

Location of the origin point of the viewshaft to the Dilworth Terrace houses.

6.2. Panel recommendation and reasons

The Dilworth Terrace houses are a row of heritage buildings located at the top of an escarpment above The Strand, with access from Augustus Terrace. The protection of a viewshaft to the Dilworth Terrace houses was confirmed by the Planning Tribunal in its decision in *Body Corporate 97010 v Auckland City Council* (1992) 2 NZRMA 257 (PT). The location of the origin point of that viewshaft is on Quay Street just west of the intersection of The Strand and Tamaki Drive. The viewshaft has formed a part of the relevant district plan provisions since then. The viewshaft provision was included as part of the proposed Auckland Unitary Plan.

In the intervening years, development of the land between Quay Street and The Strand has reduced the extent to which people on Quay Street can obtain a view of the houses.

Ngati Whatua Whai Rawa Limited, which owns most of the land under the viewshaft, lodged a submission seeking that the viewshaft be reviewed, and that an alternative origin location on The Strand be explored. A number of other submitters, including the Dilworth Body Corporate and Heritage New Zealand Pouhere Taonga, sought retention of the existing viewshaft.

Detailed evidence was presented on this issue, both reviewing the existing viewshaft and exploring alternative locations.

Having considered all of the evidence and the submissions of the parties, the Panel considers that the existing viewshaft no longer serves its original purpose of providing a view of the historic Dilworth Terrace houses from Quay Street. Given the nature and extent of development along Quay Street, the Panel does not consider that moving the viewshaft along Quay Street would improve it. Instead, the Panel prefers the evidence presented by Ngati Whatua Whai Rawa Ltd's witness, Mr Gavin Lister, showing how a viewshaft with its origin relocated to The Strand would better serve the purpose of enabling people to see the frontages of the houses from a public place.

The Panel therefore recommends that the origin point of the viewshaft be relocated on The Strand, as shown in the revised viewshaft diagram accompanying the text of the Unitary Plan.

7. Management of effects and control of building work

7.1. Statement of issue

Control of building work and interior design by Unitary Plan provisions.

7.2. Panel recommendation and reasons

The Panel's approach to the management of effects, including the control of internal matters or matters affecting building work that are directly controlled under the Building Code and the Building Act 2004, are addressed in detail in the Panel's Overview of recommendations (as referenced above). The same approach is applied to this issue.

The Unitary Plan as notified included controls on minimum dwelling size, daylight to dwellings and universal access for residential buildings. These controls overlap, to a greater or lesser extent, with controls in the Building Code and cover the same aspects of building work. They are not limited to matters affecting the location of buildings or activities which might otherwise establish a purposive difference on which the relevant case law depends. To the extent that they require the achievement of performance criteria that are additional to or more restrictive than the Building Code, they appear to be contrary to section 18 of the Building Act 2004.

Even without any consideration of that jurisdictional point, the Panel does not consider that these matters should be the subject of rules in the Unitary Plan when other methods are available. The inconsistency between the proposed Plan provisions and those in the Building Code should be addressed directly by the Council as the largest resource consent and building consent authority in New Zealand. The existence of two different sets of controls is inefficient for developers and applicants for consents.

With regard to minimum dwelling size, the Council's website includes a practice note ([AC2219](#)) setting out general guidelines for minimum dwelling size. This makes specific reference to the Building Code.

It is notable that the Council withdrew its proposed provisions for sustainable development for commercial buildings in Topic 077 Sustainable design on the basis that there was no need for regulation given widespread implementation of the principles of sustainable design by the market. This evidence is important and should inform decisions about the appropriate scope and extent of using Unitary Plan rules for matters of design that may be better and more sustainably achieved by other methods.

For these reasons the Panel recommends the deletion of the rules relating to building work and internal design.

8. Identified growth corridors

8.1. Statement of issue

Identification of additional identified growth corridors.

8.2. Panel recommendation and reasons

In the proposed Auckland Unitary Plan as notified, the Council provided for identified growth corridors by way of a Built Environment Overlay. The objectives for this were:

- i. a mix of compatible commercial activities that may not be appropriate for, or are not able to locate in centres, is provided for that will not have a significant adverse effect on the vitality and viability of centres;
- ii. an improved amenity and street environment that integrates with the transport network;
- iii. a range of commercial activities that minimises adverse effects on existing development in the surrounding area.

The policies required that the overlay only be applied to sites with a direct frontage to the corridor (i.e. be a front site) and that applications for consent for commercial activities be assessed against Policy 7 for commercial and industrial growth in the regional policy statement. That policy, as notified, read:

- 7. New commercial activities are, where appropriate, to be enabled on identified growth corridors:
 - a. in business and mixed use zones, having regard to:
 - i. any strategic or significant adverse effects, including cumulative effects, of non-centre commercial activities on the functions and roles of the city centre, metropolitan and town centres
 - ii. community social and economic well-being and accessibility
 - iii. the efficient use and provision of land and infrastructure so that the effects of commercial development do not undermine the infrastructural capacity for other development provided for in the area
 - iv. impacts on transport efficiency, including public transport and the road network
 - v. the impacts of the development on the efficient use of any scarce industrial land, in particular opportunities for employment for land extensive industrial activities
 - vi. avoiding conflicts between incompatible activities
 - vii. the effects on residential activity.
 - b. in residential zones, having regard to:
 - i. those matters listed in (a)
 - ii. the need to be of a form and scale compatible with residential character.

The only such corridor identified in the Unitary Plan was Lincoln Road Henderson.

At the hearing, the Council explained that these identified growth corridors were a work in progress and that discussions and mediation had led to a number of others being identified at Wairau Road Glenfield, New North Road Kingsland and Stoddard Road Mt Roskill, which were agreed by all parties. There was disagreement over Lincoln Road Henderson and Ti Rakau Drive Burswood. A number of further corridors were advanced by the Key Retailers

Group at Constellation Drive Albany, Great North Road Arch Hill, Lunn Avenue Mt Wellington, Ellerslie-Panmure Highway Mt Wellington and two at Great South Road Takanini (one west of Walters Road and one east of that road).

The larger issues behind this are that large format retail is not provided for in the Business – Light Industry Zone, both to protect that zone for light industry and be a buffer for heavy industry, and also to protect centres from large-scale out-of-centre retail development. In this context an identified growth corridor is intended to provide some additional capacity in a limited range of locations.

What became apparent in the hearing was that in some areas the issue might be better addressed by rezoning some land notified as Business – Light Industry Zone to a more flexible business zone, usually Business – General Business Zone or, where the amenity values were suitable for residential activity, Business – Mixed Use Zone. As noted in the overview in relation to commercial capacity, this must be done in a way that does not exacerbate the potential for a shortage of industrial land.

A further method to address issues of supply and demand for large format sites is to enable supermarkets to a greater extent in the Business – Neighbourhood Centre zone.

Bringing these strands together, the Panel recommends that the following areas are presently appropriate for identified growth corridors:

- i. Lincoln Road Henderson;
- ii. New North Road Kingsland;
- iii. Ti Rakau Drive Burswood;
- iv. Wairau Road Glenfield.

The area at Stoddard Road Mt Roskill is recommended to be rezoned to enable large format retail, which should meet the concerns of the Council and submitters. The Panel agrees with the Council that further corridors would not be appropriate at this stage.

9. Consequential changes

9.1. 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.

9.2. 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. The deletion of framework plans generally throughout the Unitary Plan results in consequential changes to these topics.

- ii. The deletion of the pre-1944 building demolition overlay in the Unitary Plan results in a consequential change to delete the pre-1940 building demolition overlay in the Queen Street and Karangahape Road precincts.

10. 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.)

10.1. General topic documents

Panel documents

[050 Submission Point Pathway Report \(19 March 2015\)](#)

[051 - Submission Point Pathway - Centre Zones - 13 August 2015](#)

[052 - Submission Point Pathway - Business park and industries zones - 19 March 2015](#)

[053 - Submission Point Pathway - Business Activities - 19 March 2015](#)

[054 - Submission Point Pathway - Business Controls - 12 August 2015](#)

[050 Parties and Issues Report \(19 March 2015\)](#)

[051 - 054 - Parties and Issues Report - 19 March 2015](#)

Mediation statements

[050 - Joint Mediation Statement - Central Wharves Precinct - 3 March 2015 \(3 March 2015\)](#)

[050 Joint Mediation Statement - Arts, Civic and Entertainment - 27 February 2015 \(3 March 2015\)](#)

[050 Joint Mediation Statement - Britomart - 26 February 2015 \(3 March 2015\)](#)

[050 Joint Mediation Statement - City Centre Zone and Maps - 9 March 2015 \(10 March 2015\)](#)

[050 Joint Mediation Statement - Cook Street Depot - 26 February 2015 \(3 March 2015\)](#)

[050 Joint Mediation Statement - Downtown West - 26 February 2015 \(27 February 2015\)](#)

[050 Joint Mediation Statement - Karangahape Road - 27 February 2015 \(3 March 2015\)](#)

[050 Joint Mediation Statement - Learning and Old Government House - 26 February 2015](#) (27 February 2015)

[050 Joint Mediation Statement - Port Precinct - 2 March 2015](#) (4 March 2015)

[050 Joint Mediation Statement - Quay Park - 27 February 2015](#) (3 March 2015)

[050 Joint Mediation Statement - Queen Street Valley - 26 February 2015](#) (26 February 2015)

[050 Joint Mediation Statement - Viaduct Harbour - 26 February 2015](#) (3 March 2015)

[050 Joint Mediation Statement - Westhaven Precinct - 27 February 2015](#) (4 March 2015)

[050 Joint Mediation Statement - Wynyard Precinct - 27 February 2015](#) (4 March 2015)

[Joint Mediation Statement - City Centre Zone \(5 February 2015\)](#) (9 February 2015)

[051-054 - Mediation Joint Statement \(Activity Tables\) - 17 July 2015](#) (17 July 2015)

[051-054 - Mediation Joint Statement \(Identified Growth Corridors\) - 17 July 2015](#) (17 July 2015)

[051-054 - Mediation Joint Statement \(Objectives and Policies\) - 17 July 2015](#) (17 July 2015)

[051-054 - Mediation Joint Statement \(Rules\) - 17 July 2015](#) (17 July 2015)

Auckland Council closing remarks

[050 Closing comments](#) (25 May 2015)

[050 Closing comments - Annexure A](#) (25 May 2015)

[050 Closing comments - Annexure B](#) (25 May 2015)

[051-054 Hrg - Auckland Council - CLOSING REMARKS](#) (29 September 2015)

[051-054 Hrg - Auckland Council - CLOSING REMARKS - Annexure A](#) (29 September 2015)

[051-054 Hrg - Auckland Council - CLOSING REMARKS - Annexure B](#) (29 September 2015)

[051-054 Hrg - Auckland Council - CLOSING REMARKS - Supplementary joint memo between Ak Cncl and Samson Corporation](#) (29 September 2015)

Panel additional documents

[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)

[013, 051-054, 059-063 - Panel Further Request for Demand and Supply Estimates](#) (19 November 2015)

10.2. Specific evidence

Auckland Council

[050 - Hearing Evidence - legal submissions \(updated\)](#) (7 May 2015)

050 - Hearing Evidence - legal submissions - Attachment (updated) (7 May 2015)

051-054 Hrg - Auckland Council - Legal submissions (7 September 2015)

050 - Rebuttal Evidence - Bridget Gilbert (Landscape and Visual Effects) (30 April 2015)

050 - Rebuttal Evidence - Joint Statement of Kathryn Coombes and Nicholas Roberts (Planning - Waterfront Precincts) - LATE (30 April 2015)

050 - Rebuttal Evidence - Joint Statement of Kathryn Coombes and Nicholas Roberts (Attachment 1) 30 April 2015 - LATE (30 Aril 2015)

Rebuttal Evidence - Joint Statement of Kathryn Coombes and Nicholas Roberts (Attachment 2) - LATE (30 April 2015)

Ports of Auckland Limited

050 Hearing evidence - legal submissions (12 May 2015)

050 Hearing evidence - legal submissions (Attachment 1) (12 May 2015)

050 Hearing evidence - Mark Arbuthnot (17 April 2015)

050 Hearing evidence - Mark Arbuthnot (Annexure A) (17 April 2015)

050 Hearing evidence - Mark Arbuthnot (Annexure B) (17 April 2015)

050 Hearing evidence - John Goodwin (17 April 2015)

050 Rebuttal evidence (Mark Arbuthnot) - Planning (30 April 2015)

051-054 Hrg - POAL - Tabled statement (28 August 2015)