

BEFORE THE ENVIRONMENT COURT

Decision No. [2014] NZEnvC 23

IN THE MATTER of an appeal under Clause 29(6) of the First Schedule of the Resource Management Act 1991 (**the Act**)

BETWEEN MILFORD CENTRE LIMITED
(ENV-2013-AKL-000030)
Appellant

AND AUCKLAND COUNCIL
Respondent

AND AUCKLAND TRANSPORT
NATIONAL TRADING COMPANY
MILFORD RESIDENTS' ASSOCIATION
LIMITED & ORS
CASTOR BAY RATEPAYERS' &
RESIDENTS' ASSOCIATION
INCORPORATED
P CARTER
W & P MARTIN
W MCCANDLESS
D OGILVIE
M RUSELL
C & M SANDHAM
Section 274 parties

Hearing: In Auckland, 12 - 13 and 19 - 22 November 2013

Court: Environment Judge J A Smith
Environment Commissioner A Sutherland
Environment Commissioner J Illingsworth

Appearances: Ms B Carruthers and Ms B Kelly for Milford Centre Limited (**MCL**)
Mr B Loutit and Ms D Hartley for the Auckland Council (**the Council**)



Mr M Maclean for the Section 274 parties - Milford Residents' Association Incorporated and Ors (**the Residents**)
Ms M Batistich for Auckland Transport
Ms J van den Bergen for the National Trading Company
Mr W McCandless for himself
Mr P Carter for himself
No appearance for Castor Bay Ratepayers' & Residents' Association Incorporated
No appearance for W & P Martin
No appearance for D Ogilvie
No appearance for M Russell
No appearance for C & M Sandham

Date of Decision: 12 February 2014

Date of Issue: 12 February 2014

INTERIM DECISION OF THE ENVIRONMENT COURT

A. The parties are to file a Joint Memorandum within 20 working days of the date of this interim decision being issued setting out with respect to the final wording of Plan Change 34, based on Annexure C:

- a. Areas of agreement; and
- b. Areas of remaining disagreement and reasons.

The Court will then consider the Joint Memorandum and decide whether to finalise the decision on the papers or issue further directions.

B. Any applications for costs are to be filed within 20 working days of the issuing date; any replies within a further 10 working days; final reply, 5 working days thereafter.



REASONS FOR DECISION

INTRODUCTION

What maximum building height for the Milford Centre meets the need to provide for residential intensification while maintaining amenity and visual aspects?

[1] The Operative Plan allows a building height of 9m with a 2m variation as a discretionary activity in the Business 2 zoned application site known as the Milford Centre. Height is to be measured from the average ground level along the highest road frontage. In this case it is Milford Road along which the ground elevation (Reduced Level – RL) varies from approximately 10m to approximately 13m.¹ All buildings constructed to their maximum height would have the same roof elevation.

[2] We assume the average ground level along Milford Road to be at RL11.5m, and thus buildings on this road could rise to between RL20.5 and RL22.5 (with variation). Sections of Omana Road are at an elevation of RL3m, implying a building of height 17.5m could be constructed there. This amounts to some 5 storeys when one allows extra height for a retail floor and for some roof articulation.

[3] The proposed Unitary Plan (**the PUP**) provides for a 16.5m height, four or possibly five storeys, along Milford Road and for a 24.5m height, six to seven storeys, over the rest of the site. These values are *rolling values* and thus buildings constructed to their maximum height would mirror the ground levels.

[4] Under the PUP buildings along Milford Road could have roof elevations ranging from RL26.5m at the junction with Ihumata Road to RL29.5m at the junction with Kitchener Road. Over the rest of the site roof elevations could range from RL27.5m on Omana Road to RL37m behind the Milford Road frontage buildings.

¹ Reduced Levels in this decision are derived from those shown on Drawing DP01, Rev A of Appendix A to Mr Brewer's EIC.



[5] Milford Centre Limited is seeking building provisions over the Milford Centre that maximise the potential for retail and residential activity. The issues are:

[a] To what height?

[b] Over what area or areas?

THE APPLICATION

[6] Milford Centre Limited (MLC) applied for a Plan Change (PC34) which was heard and declined by commissioners. The essence of the change was to allow increased building heights across the Milford Town Centre.

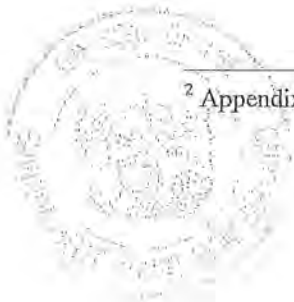
[7] The current proposal is for the same increases in building heights but contains more extensive plan change provisions. It is proposed to allow buildings to be constructed within Building Envelopes 1 – 9 up to the reference levels and in the positions shown on Annexure A² to this decision. Envelope 9 contains the existing Milford Town Centre buildings.

[8] This approach focuses building height into particular parts of the Centre while retaining lower heights over other areas. Envelope 1 extends upwards to RL63m allowing around 17 storeys, Envelope 5 extends up to RL59m allowing around 13 or 14 storeys and Envelope 3 extends up to RL38m allowing 8 or 9 storeys.

[9] It is the heights of these three envelopes that are the principal areas of disagreement between the parties. Heights of the other envelopes were not contested. We also understand that this means the concept of focussing height in particular areas of the centre is agreed.

[10] The applicant acknowledges that to achieve these heights, in an appropriate way, high quality design is essential. PC34 provisions are intended to achieve that outcome. Whether they do so is a matter of significant dispute between the parties.

² Appendix 15P Milford Intensive Residential Overlay from Appendix D to Reaburn Rebuttal



Issues on Appeal

[11] Unusually, the applicant advanced very extensive evidence (hundreds of pages) on matters that did not seem to be in contention in the hearing. The applicant filed an appeal on particular aspects of the decisions of the Commissioners.

[12] It is clear from [1.6] of the Notice of Appeal MCL did not appeal that:

- [a] Milford Town Centre was an acceptable location for growth;
- [b] MCL's approach to rezoning its site is appropriate;
- [c] The current height limits are out-of-date, and not aligned with intensification; and
- [d] The plan change provides an appropriate amount of detail and control.

[13] Certain other matters may or may not be matters on which MCL did not seek to appeal, i.e. [1.6][n] and [o], but [1.7] notes "*MCL takes no exceptions to the finding of the panel outlined in [1.6] above.*"

[14] Whether that could pre-determine the grounds of appeal is not of particular moment before us, given that the parties subsequently held a series of caucusing meetings. We note for example that the transportation traffic engineers' caucus statement eventually, following further mediation and adjustment of the proposed plan provisions, led to a full agreement. No evidence was contested before the Court, nor did the Court have any questions relating to this matter.

[15] We note, however, that the traffic generation of 141 vehicles in the busiest hour between 7 – 9am and 4 – 6pm was based upon an agreement that this was an acceptable total number of 250 residences on the Milford Centre.

[16] Other experts then sought to resile from this limit on the number of residences on site and suggested more residences could be accommodated in the Centre.

[17] This would appear to undermine the agreement of the traffic engineers. Nevertheless, counsel for the applicant did not seek to remove this provision, and



accordingly we have assumed that the limitation on the total number of residences is still proposed and discounted the applicant's evidence to the contrary.

[18] Other joint statements were signed or were entered into as follows:

- [a] urban design;
- [b] landscape architecture;
- [c] economics/commercial space; and
- [d] planners;

[19] Annexed hereto and marked **B** are copies of the relevant caucusing statements.

[20] In addition, there was also an agreement of Statement of Issues, which noted that the key issues were:

- [a] Whether the built form provided for in the proposed PC34 is appropriate on the site, subject to the plan change given the:
 - [i] policy direction identified in the *Auckland Regional Growth Strategy*,
 - [ii] effects of Intensive Residential Development.
- [b] Whether the plan change provides adequate guidance and control at the resource consent stage; and
- [c] Whether the Plan Change satisfies the purpose of the Act.

[21] As suggested by the applicant, it appeared that the only matter for consideration before this Court was the applicant's proposed change. Comparisons would then be between the decision of the Council, which upheld the status quo and existing provisions, and the applicant's proposal. However, the Council, supported by the Milford Residents Association (**MRA**) and some other residents proposed a modified form of PC34 involving lower building heights for the three highest buildings within the applicant's



proposal. Extensive evidence was prepared and filed for the Council and other witnesses on this matter.

[22] On questioning from the Court, Ms Carruthers accepted that if the Court was not minded to adopt PC34, it should consider the intermediate position proposed by the Council.

[23] Mr McCandless and Mr Carter still supported the existing provisions and/or substitution by the height limits in the PUP as alternatives.

[24] The parties appear to agree that the Court is to seek the optimum planning solution among the options available.

The evidence provided to this Court

[25] The Court received some 28 briefs; seven of the witnesses for the applicant filed both evidence-in-chief and rebuttal; only one provided a single statement – the traffic engineer.

[26] In over 600 pages of evidence for the applicant, that of the two urban designers totalled 177 pages: 110 pages plus 15 Appendices from Mr Munro, and a further 67 pages and two appendices from Mr McIndoe.

[27] Given that the issue of residential intensity had already been agreed, both as part of the appeal and as part of the witnessing statements, it is difficult to know why so much evidence was produced on an issue that was not relevant to the hearing. Although there were portions of this evidence that did bear relevance to the height, most appeared to be repetitious of the landscape architect's evidence in the case of Mr McIndoe, and consisted of assertions of the correctness of the applicant's building heights on the part of Mr Munro.

[28] More importantly, neither Mr Munro nor Mr McIndoe acknowledged that the appeal had been limited in the way we have described, or that there were joint witnessing statements entered into prior to the preparation of their evidence confirming agreement on residential intensity.



[29] The witnesses were given the opportunity by the Court to either retract or modify their evidence to points of relevance to the Court, but refused to do so. Given that the witnesses' evidence, particularly of Mr Munro, touched only marginally upon the issues before the Court, we consider that little if any weight should be given to this evidence, and that questions of costs be reserved in respect of the Court and parties' time involved in dealing with these irrelevant matters.

[30] Although Mr McIndoe's evidence did deal with privacy concerns, it is difficult to know what this added to the discussion of Mr Pryor. The Environment Court as a whole has discouraged the production of multiple witnesses on the same topic by the same party, and is unable to identify the failure in Mr Pryor's evidence that would lead to the production of further evidence on this same topic of privacy and visual matters by the same party.

[31] In fact, on all matters we would prefer the evidence of Mr Pryor over that of Mr Munro and Mr McIndoe.

What is agreed?

[32] It is clear that residential intensification is appropriate in Milford, and that a mixed use, including residential intensification, is appropriate at the Milford Centre and on the Applicant's site.

[33] MCL do not wish to redevelop the whole site, but rather sleeve existing development by building on undeveloped portions of the site and then integrating the new buildings with existing buildings. The issue before the Court was what level of intensification is appropriate, having regard to its impact on amenity issues for nearby residents and community as a whole.

[34] All parties, with the possible exception of Mr McCandless, acknowledge the inadequacy of the current limit of 9m – 11m, but then there were differing opinions as to what increase in building height should or needs to be allowed.

[35] Mr Carter considers that the PUP provisions would be reasonable in the circumstances, but it is clear that those would allow increases in height over the entire site.



[36] The applicant's position is that, within Envelope 9 the elevation of the top of the buildings would be RL21m with building heights ranging from about 9m on Milford Road and Ihumata Road to about 18m on Omana Road.

[37] The Council, the Residents, and MCL recognise that height would be better concentrated on designated footprints. This would split up the bulking of the building. There appears to be agreement that the RL21m should apply to the balance of the site outside those footprints, namely within Envelope 9.

[38] It appears that the Council has then proceeded to seek to ameliorate impacts upon amenity, privacy and visual impact by adopting a design with the same number of apartments, but with three blocks reduced in height.

Distinction between towers and blocks

[39] We see a distinction between a tower as suggested by some witnesses, and the proposed envelopes for which the extra height is sought. A tower, we consider, is either near square or circular in plan.

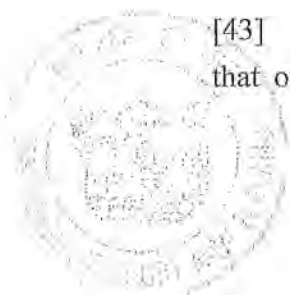
[40] It is clear from examining the bulk and location diagrams that the envelopes are neither near square nor circular in plan, but are large rectangular blocks rising from various footprints throughout the site.

[41] Envelope 8 has plan dimensions of 54.5m x 23.1m and even Envelope 2 has plan dimensions of 27.9m x 21.0m. Although a tower might be built within these footprints, we have proceeded on the assumption that a building would maximise floor space within its envelope.

Development Envelope for Plan Change

[42] There was much discussion by the applicant during the hearing of towers and high-rise development on other sites with the thought that high rise towers would be erected on the subject site. However, the Plan Change actually seeks varying heights over defined footprints or within envelopes over its entire site.

[43] The majority of the site, Envelope 9, is to be limited to RL21m which is similar to that of the existing mall development over much of the site. Where there is space



available for further development, the applicant has sought varying heights for Envelopes 1 – 8 and a continuation of the RL21m elevation limit over the area currently covered by a townhouse consent soon to lapse.

[44] New construction is intended within Envelopes 5, 6, 7 and 8 on the corner of Ihumata and Milford Roads. The intention is that a new retail floor will be installed with parking and residential above. In Envelopes 1, 2, 3, 4 and 9 the intention is that portions of land which have not been constructed on will have new residential complexes built onto them, integrating with the existing mall for purposes of parking and access.

The Environment of Milford

[45] It is quite clear from all the documents, including the Auckland Spatial Plan, the Unitary Plan and the current District Plan and Regional Policy Statements, that residential intensification is intended in and around Milford Town Centre.

[46] For current purposes, we accept Dr Fairgray's suggestion of an area with a radius of 600m – 650m based upon the Milford Mall would be appropriate for the Town Centre. Within that, we accept that it is intended there be a significant change in the number of houses.

[47] We think that Dr Fairgray's suggestion of a further 1,500 residential units over the next 40 years is not unreasonable, although we acknowledge that the final extent of that change is not yet settled.

[48] We also consider the Dr Fairgray's evidence clearly demonstrates that such intensification could be accommodated within the existing residential areas, although involving significant change in the number of apartments per site.

[49] Currently there is an average of 1.85 dwellings per site i.e. 1,850 residential units on 1,002 sites, and intensification to the year 2041 would see around 3,350 on 1,002 sites.

[50] As part of the Town Centre, it is clear that the Business zone could accommodate some of that growth. Any proportion of that growth borne within the Business centre would reduce the average intensity required over the Residential zones to achieve the suggested increase. In practice, we suspect it would mean the target density would be achieved more quickly.



[51] Given that the Milford Town Centre represents about 1/3 of the Business land available and the largest single site, reasonable intensification within the Business zones might see in the order of 500 – 600 further houses constructed i.e. around 1/3 of the growth, which proportional share for the MCL would be between 160 and 200.

[52] Nevertheless, we accept the submissions of Mr Loutit that any reasonable contribution to residential intensification from the business zoned land would be envisaged as within the terms of the Plan. Thus intensification of 100-200 residential units in Milford Centre is consistent with the Policy Documents. A higher degree of development might still be contemplated, but the Objectives and Policies do not require, or even suggest, excessive intensification in Milford Centre

[53] We accept that any residential use in the Milford Town Centre should not compromise its primary purpose for business/retail uses. No precise information was given as to the residential yield that could be accommodated without:

- [a] Comprising retail/business uses; or
- [b] Exceeding an RL21m limit on the site or RL23m as a further discretion.

[54] We acknowledge that any further buildings would need to avoid interference with the existing Mall and could only be constructed around the periphery or above it.

[55] There is already consent for 18 townhouses along Milford Road/Ihumata Road, but that consent has not been implemented and expires in February 2014. Nevertheless, houses could be built there. The Council is suggesting up to 18 could be constructed. With the addition of apartments in Blocks 2, 3, and 4 to 21m there is likely to be 100 apartments available. Mr McCandless suggested that this was a reasonable level of intensification on the site.

[56] However, we accept that the current Plan provisions were not designed with residential intensification in the Town Centre in mind, and that it was intended that buildings on this site be occupied to the maximum extent possible for retail and commercial purposes while having maximum roof elevations at or below RL21m.



[57] Although buildings on Omana Road are likely to be best suited to residential accommodation above the ground floor, we acknowledge that there would not be sufficient yield from that to categorise the site as high-density.

The Proposed Unitary Plan (the PUP)

[58] The provisions of the PUP are at an early stage and are not yet in force. The PUP envisages a maximum building height on Ihumata/Milford Roads frontages on this site of 16.5m above rolling ground level and a maximum building height of 24.5m above rolling ground level for the remainder of the site.

[59] Given the desire to maintain an active commercial frontage at least on Omana Road, we suspect that the number of storeys envisaged over most of the site under the PUP is in the region of seven storeys. On Milford and Ihumata Roads the 16.5m height limit over ground level would yield close to five storeys.

[60] We note however that the PUP is at a very early stage and cannot be regarded as binding on this Court. It does generate a significantly different outcome on Omana Road to that under the current Plan, which allows up to RL17.5m by allowing up to RL31.5m (since the RL at the northern portion of Omana Road is at least 7m).

[61] However, we are able to conclude from this that Mr McCandless' suggestion of maintaining the existing height on this site to accommodate high intensity residential is not appropriate, and that some change to the height limit over part of the site is justified.

[62] We note that the majority of the site would continue to be controlled by the current provision, and thus confirm the maximum roof elevation for buildings in Envelope 9 to be RL21m. To that extent, we agree with Mr McCandless.

[63] In respect of the PUP heights sought to be in place by Mr Carter, we consider there are several problems with this argument:

- [a] Firstly, the existing mall is already in place, and the adoption of a rolling height approach would give an incongruous result. The current roof elevation of the building is a little under RL21m. The building height limit of 16.5m on Milford Road could result in a building reaching to



RL27.5m, a significant increase over current levels. Similarly, the PUP would allow a roof elevation of RL31.5m on Omana Road;

- [b] Portions of Blocks 6, 7 and 8 would be able to reach an RL of 35.5m under the PUP. Thus, we consider Mr Carter's submission essentially accords with the building heights intended for these blocks, namely: RL33m for Block 6; RL27m for Block 7; and RL33m for Block 8;
- [c] Envelopes 2 and 4 with proposed building heights of 20m and 16m respectively would also meet the PUP rolling height limits.

[64] We have concluded Mr Carter's suggestion of maintaining the heights as in the PUP should not be supported for the following reasons:

- [a] The heights at this stage have not been through any hearing process and may change as a result of that process;
- [b] Any exceedance of that height simply means that the application is considered as limited discretionary application; and
- [c] The heights in the PUP apply over the entire site, not just to the block footprints.

Height and Amenity

[65] Shadowing effects were extensively investigated by the applicant and used to settle on the building heights in the proposal before us. In the applicant's view the building heights proposed create only acceptable shadowing effects.

[66] This appears to have been confirmed by other witnesses as there was no argument before us that the shadowing effects by any of the buildings at the heights proposed by the applicant, were unacceptable.

[67] We accept that with the heights proposed by the applicant, there is no significant impact from shadowing.



[68] We do however have some concerns relating to privacy, particularly that of the residents to the north and east of the site, and accept that some blocks may need to be modified in terms of height to avoid adverse impacts from this, particularly Blocks 1, 3, 5, 6, 7 and 8.

[69] These concerns were shared by all parties with disagreements evident over privacy as well as other amenity issues including over-dominance and visual intrusion, blockage of views and changes to village character. We took these to be in general terms over all aspects of amenity and visual impact. But we acknowledge the challenges identified by Mr McIndoe at [4.5] of his evidence-in-chief. We conclude that his list represents aspects of amenity that cannot fully encapsulate those issues.

[70] Issues of amenity include concepts of reaction to, and awareness of, one's environment and of its visual coherence. Some described this as a *sense of place* or the *character of Milford*. Even for plan changes, questions of adverse effect on amenity are relevant in the broader sense. More particularly, they are relevant because of the way in which the growth issues, and in particular, questions of residential intensity, are addressed by encouraging residential intensity, provided local character and amenity is maintained or enhanced.

Can impacts on amenity be addressed through design rules in a Plan?

[71] Fundamental to the arguments for all the applicant's witnesses, including Mr Pryor, the landscape architect for the applicant, was the concept that adverse impacts upon amenity and visual matters, including overlooking, could be addressed at final design stage of the buildings.

[72] We did not understand the witnesses to be suggesting that that control was such as to be able to reduce either the bulk or the size of the development envelope or the height of the building.

[73] Nevertheless, we acknowledge that there are situations where no matter what the quality of design, the articulation of surfaces, materials, colourings adopted, the building can still be dominant, interfere with visual coherence, have adverse visual impacts and adverse impact on amenity.



[74] Mr Pryor himself acknowledged that in a number of agreed viewpoints, impacts of the applicant's envelopes ranged from low to moderate to high. His response however was to suggest that those adverse effects could be addressed by the design of the buildings. In our view, this is to assume that adverse effects of height, bulk and location permitted by the development envelope can effectively be undone at the design stage.

[75] Ms Carruthers suggested that Council could refuse consent if it considered a building too bulky or not appropriate. We conclude that the creation of an envelope at a certain height and dimensions must suggest that it is possible that some building could be constructed within those dimensions which would be acceptable.

[76] Ms Carruthers also suggested the current rules of the Plan permit an unlimited height in Takapuna subject to a limited discretionary consent. We note that Takapuna is a metropolitan centre and thus it is clear that Takapuna is intended to have high-rise development.

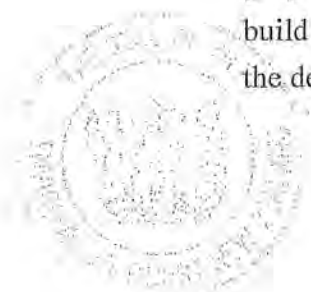
[77] Furthermore, it is not our place to judge whether provisions relating to metropolitan centres within the Plan would meet the tests of the Act. We examine the provisions before us on the basis that they relate to a Town Centre.

[78] In that regard it is particularly telling that the Council did not suggest that the *Urban Design Guidelines* and the Plan provisions suggested here would achieve outcomes of high quality design. For our part, we conclude such aspirational statements to be difficult in either articulation or quantification in any real sense.

[79] It seems to us that we must assume that a building which met the design criteria guidelines could be constructed within the envelope. The applicant has suggested one building typography that it thinks would do so.

[80] Tellingly, no party was able to point to a building which had gone through the current guideline rules and was regarded as a high quality development, with the possible exception of the Trinity Apartments in Parnell. Other examples, such as the Metropolis and the Sentinel were designed and built some time prior to those requirements.

[81] We have concluded that the development controls assume that it is possible to build a building meeting the Plan criteria within the parameters of the envelope, and that the design is essentially to mitigate adverse effects.



[82] Our view is that the development envelope itself should address questions of avoiding adverse effects from height overlooking, visual impacts, and upon amenity generally, except to the extent that those might be subject to design improvements. The MCL Proposed Change 34 wording was amended by the end of the hearing and there was agreement at a broad level, except as to heights. That wording is annexed hereto as **C**, and we proceed on the basis that this is the general approach subject to final agreement.

The Two Large Blocks

[83] There are two key blocks on the site. Block 5 is adjacent to the new entry to the Mall from Milford Road; the other, Block 1 on Omana Road around 100m from the intersection of Omana and Kitchener Road.

[84] Firstly, we note that Ms Carruthers suggested that Block 1 would form something of an entry point to the shopping centre. With respect, this is not correct. Block 1 is sited 100m along Omana Road from Kitchener Road, and simply depicts the limit on Omana Road of the ownership of the business land of MCL. There is block of shops facing Kitchener Road.

[85] We have concluded that Block 1 does not form any marker role for MCL in demonstrating either the main entry to the mall or the centre of the town.

[86] On the other hand, Block 5 does approximate a marker position for the village.

The Height of Block 5

[87] The MCL proposes a maximum roof elevation of RL59m while the Council proposal suggests RL45m as the maximum. The difference of 14m represents some four storeys.

[88] We have considered very carefully the evidence of the witnesses in relation to the height of these two blocks. Taking into account our view that the envelope needs to control the general mass and height of the building within it so as to avoid the majority of visual and amenity impacts, we have concluded that RL45m as suggested by the Council is more appropriate.

[89] There are several reasons why this Court reached that view, as follows:



- [a] The nearby ridge and escarpment rises to around RL35m. A 9m high building on this ridge would reach to around RL44m, an elevation similar to that suggested for Block 5;
- [b] Views from the Forrest Hill Park do not show Milford Centre, while the Hospital, Lake Pupuke and Takapuna Towers are in clear view. To have a block floating over the top of the escarpment from this viewpoint would, in our view, lead to confusion in respect of the landmarks visible from this important viewpoint;
- [c] We keep in mind the residential properties on the opposite side of Milford Road, and what is a reasonable relationship with that building height to their properties and views. We agree with Mr Brown that that is the level at which the buildings would not appear too overpowering, while still constituting a clear statement in respect of the centre itself; and
- [d] We do not consider that the height at which shadowing effects are reduced is necessarily the point at which amenity effects cease. In fact, no evidence showing a correlation between shadowing and amenity was produced to us. All experts agreed that amenity went well beyond shadowing.

The Height of Block 1

[90] Block 1 constitutes a difficult proposition for the Court. On the one hand we recognise the significant visual impact this block would have on people coming to the Town Centre from the north on East Coast Road. As drivers approach the Kitchener Road intersection, they will see a large block 60m high to their left fronting onto Omana Road.

[91] Nevertheless, the view of the building would be oblique and height is not likely to be the overall impression once the overbearing and dominance is noted. That is likely to also result with a relatively low height, in the order of 30m, because of proximity to Omana Road. There are issues as to how much of the block would be constructed as residential.



[92] We note also that it was considered by some parties that the impacts on the views of those in Rangitoto and Prospect Terraces would be overpowered by the proposed buildings and in particular by the presence of a block rising to RL63m.

[93] The Mall already constitutes a large and relatively unattractive part of the views for people in this area. We think that the construction of good quality residential accommodation is likely to improve that aspect, and given that it is generally viewed from well over 100m, it is unlikely to overpower, at least with a height at less than 60m. Whilst we struggle to accept that the RL63m proposed by the applicant would not overpower these residents, we consider that the Council's proposed reduction in height to 35m serves no particular visual or amenity purpose.

[94] Overall however, we conclude that a height of 60m has just too much impact on amenity and accordingly, the Court is reluctant to move too far away from the height of the Council of 35m. After considerable discussion, the maximum that can be agreed between the members of the Court is RL45m, the same elevation as that accepted for Block 5. The resultant building would thus be 42m in height.

[95] In reaching this maximum height, the Court's view was that the impact on the residents at Rangitoto and Prospect Terraces was less than suggested in the evidence of Mr Brown, and for the limited audience of pedestrians in the public reserve the impact was also over-estimated by the Council.

[96] Nevertheless, there was a point at which it was clear that the construction of dwellings so close to the road would begin to change the overall character of Milford and suggest a more metropolitan or central city aspect.

[97] Reaching an exact conclusion as to that range was difficult for the Court. In the end we concluded that it could go as high as Block 5, given that it would reinforce the pattern of that block and the limited and oblique views from public places. When viewed from a more distant position, it would simply appear at the same height as Block 5 and would appear more in relation to the roof of the Mall than in relation to road level.

[98] In reaching that conclusion, we also note an appropriate balance between the bulk of the other buildings and the overall height.



[99] It is not our intention to create a high-rise zone like Auckland Central or Takapuna, but rather to provide for intensification in a town centre by demarcating the difference in heights clearly.

[100] In doing so, we still recognise that there is significant room for intensification in local and suburban centres that does not achieve the type of heights that we have discussed in this case.

The Height of Block 3

[101] Block 3 is a sleeve on the curve of Omana Road, opposite the Wairau Estuary and Reserve.

[102] We understood Mr Brown's concept of stepping the building as it approached Ihumata Road, but in practical terms we were not convinced that there was any dominance or overlooking from Block 3 that would significantly affect residents' amenity on Omana Road. Envelope 2 is more directly related to those properties. Block 3 has an aspect looking more over the estuary and towards the marina.

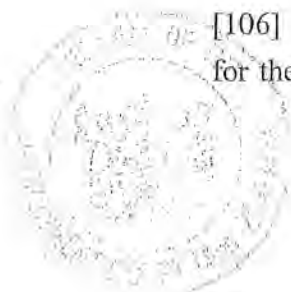
[103] The applicant's roof elevation for this building was RL38m, and that suggested by the Council was RL26.6m.

[104] Again, there was a great deal of searching by the Court to find an elevation at which all members could be satisfied that the amenity and character of Milford was retained. We did not see the introduction of a residential building of this style to a reasonable height as detracting from the character or amenity of Milford. It would simply be the point at which the building moved from representing a modern contribution to Milford to an impediment on its visual quality and amenity.

[105] In the end, our view was again different to that of Mr Brown, and we reached the conclusion that Block 3 could reach a maximum elevation of RL33m giving a building height of 28m.

The Heights of Envelopes 2, 4, 6, 7, 8 and 9

[106] The applicant's proposal and the Council's proposal agreed on accepted heights for these envelopes, all of which are less than the 24.5m set out in the PUP. The MRA



supported the Council's proposal. The Court has no basis for departing from these agreed values, and thus endorses them.

Conclusion on Heights

[107] We acknowledge that the heights we have provided for will overall allow a greater level of residential intensity than that envisaged under the current Plan, or even under the PUP.

[108] We recognise that as a large site, there is the potential for greater integration of such construction than on smaller sites.

[109] However, the actual yield and the economy of the project cannot be the focus of the Court's consideration when it comes to height.

[110] We are satisfied that at these levels, the enabling provisions of the Act are met, and that beyond this point, controls are necessary or desirable to meet the purposes of the Council's obligations under its District Plan.

[111] We note that as a non-complying activity, excess height buildings could still be constructed if the Council or Court can be satisfied that they are warranted under the Plan.

[112] Given the Plan's push towards residential intensity, the key issue will be whether or not any higher buildings are able in their particular design to satisfy issues of amenity or visual impact.

[113] Accordingly, when the Court looks at issues under Section 32 of the Act as to which is most appropriate, it must keep in mind that which is most appropriate would be that which meets the objectives of residential intensification and of maintaining or enhancing the amenity and character of Milford.

[114] It is that balance or integration which the Court needs to achieve in this decision. In doing so, it has considered both the proposal of the applicant and that of the Council.



[115] In the end, we have decided that the modifications which it proposes (which are between the positions of the applicant and the Council) represent the optimum planning outcome in this situation.

[116] In that regard, the Court has carefully measured the costs, both in terms of the cost to the developer in having to accept lower buildings, but more particularly, the cost in planning terms in achieving the objectives of the Plan and the benefits to be achieved by maintaining and enhancing character and amenity.

[117] We note in particular that all of these blocks are ones that can be constructed without impacting the existing Mall. We note the evidence of Mr Carter that many developers are simply seeking to sleeve existing development without involving themselves in the cost and complications of higher blocks.

[118] Those decisions are entirely for the applicant, and this Court has decided this matter based upon achieving an appropriate integration of residential intensification and the maintenance and enhancement of residential amenity.

Amenity and Visual in Milford

[119] We see the environment against which this will be judged as not only the environment as it exists today, but as it will be modified by the further intensification around the Town Centre as envisaged by Dr Fairgray.

[120] For practical purposes, we can see no proper basis to draw a distinction between the environment for the purpose of resource consent and a Plan Change, and accordingly, adopt the approach of *Queenstown Lakes District Council v Hawthorn* in the Court of Appeal.³ In this regard we suspect Mr Brown may have retained the existing environment in mind for residential, rather than the more intensive residential environment that will eventually predominate.

[121] In discussing the question of character, we keep in mind that Milford has a character distinct from other town centres. Although not based upon heritage or historical matters to any particular degree, there are nevertheless a number of features that mark out Milford from other areas, including:

³[2006] NZRMA 424



- [a] Its coastal proximity;
- [b] The marina;
- [c] The Wairau Estuary;
- [d] The mix of ages of buildings and residents; and
- [e] The proximity of residential to the shopping areas.

[122] We do not see that character changing simply by intensification of residential activity, either within the existing housing around the Town Centre or by the introduction of these apartments within the Town Centre.

[123] Rather, we see the increase in Town Centre residential activity as anchoring Milford and increasing its resilience and vitality.

[124] Population increases will assist in maintaining the viability of the Town Centre and its shops and emphasise its role as a focal point for the local community.

Costs and Benefits

[125] We do not understand the costs and benefits of Section 32 of the Act to relate only to economic matters, but it is clear that a reasonable number of apartments can be constructed on this site as a result of the Court's decision. Whether this constitutes 100 or 200 apartments will depend on decisions made by the owner as to the balance between commercial, retail and residential, and the size of units. We consider that the changes that will occur to the character of Milford as a result are ones that are acceptable and overall, will reinforce the role of the Town Centre and the amenity of Milford itself.

Section 290A of the Act

[126] We have essentially reached the same decision as the Council Commissioners on the applicant's proposal for much the same reasons.

[127] The Council Commissioners had no developed alternative to consider which could have led to a different outcome as it has for our decision. We commend the



Council's leadership in developing an alternative. We have modified that with respect to the three highest buildings, but overall, we consider the Council sought an appropriate solution which the MRA was prepared to support. We generally support Annexure C, subject to heights and other changes identified.

The Plan Change

[128] The applicant's plan change included a proposal that the potential for intensified residential activity in other town centres be recognised and provided for more explicitly.

[129] Such provision is already implicit, but we have seen no reason, nor received any significant evidence to convince us that there should be special provisions made in this Plan Change for other town centres.

[130] Although plan changes are one method to achieve such change, there are others. The clear preference for Council and this Court is for centre plans to be promoted and for wide consultation to reach a common view for the future of the area.

[131] We consider this to be more effective than the current approach.

[132] Accordingly, we would not include those provisions. Given our view that we are considering now the general bulk, orientation and height issues, we consider that the extra provisions suggested by the Council are not necessary at the heights we have decided.

[133] That being the case, it appears to us that the Plan Change otherwise is generally appropriate, but needs to be reworded to make it clear its application is only to the current site.

OUTCOME

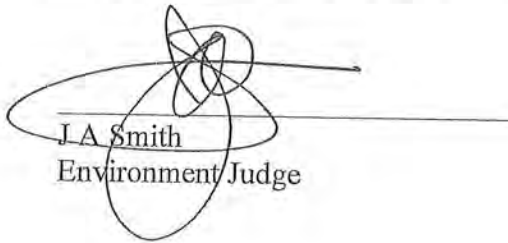
[134] Accordingly, we approve a modified Plan Change, as we have set out, in relation to heights, and changes to the Plan Change as sought by Ms Hardy in her evidence.

[135] Nevertheless, we wish to give the parties 20 working days from the issuing of this decision to discuss the final wording of the Plan Change, and either file a Joint Memorandum establishing agreement, or setting out the areas of difference for a final Court decision.



[136] Costs in this case are reserved. Any applications for costs are to be filed within 20 working days of the issuing date; any replies within a further 10 working days; final reply, 5 working days thereafter.

DATED at AUCKLAND this 12th day of February 2014


J A Smith
Environment Judge



Annexure A

APPENDIX 15P MILFORD INTENSIVE RESIDENTIAL DEVELOPMENT OVERLAY

| LEGEND | |
|--------------------|--|
| BUILDING ENVELOPES | REFERENCE LEVEL (RL) (MAXIMUM BUILDING HEIGHTS) |
| 1 | 63.0m |
| 2 | 28.0m |
| 3 | 38.0m |
| 4 | 25.0m |
| 5 | 59.0m |
| 6 | 33.0m |
| 7 | 27.0m |
| 8 | 33.0m |
| 9 | 21.0m |

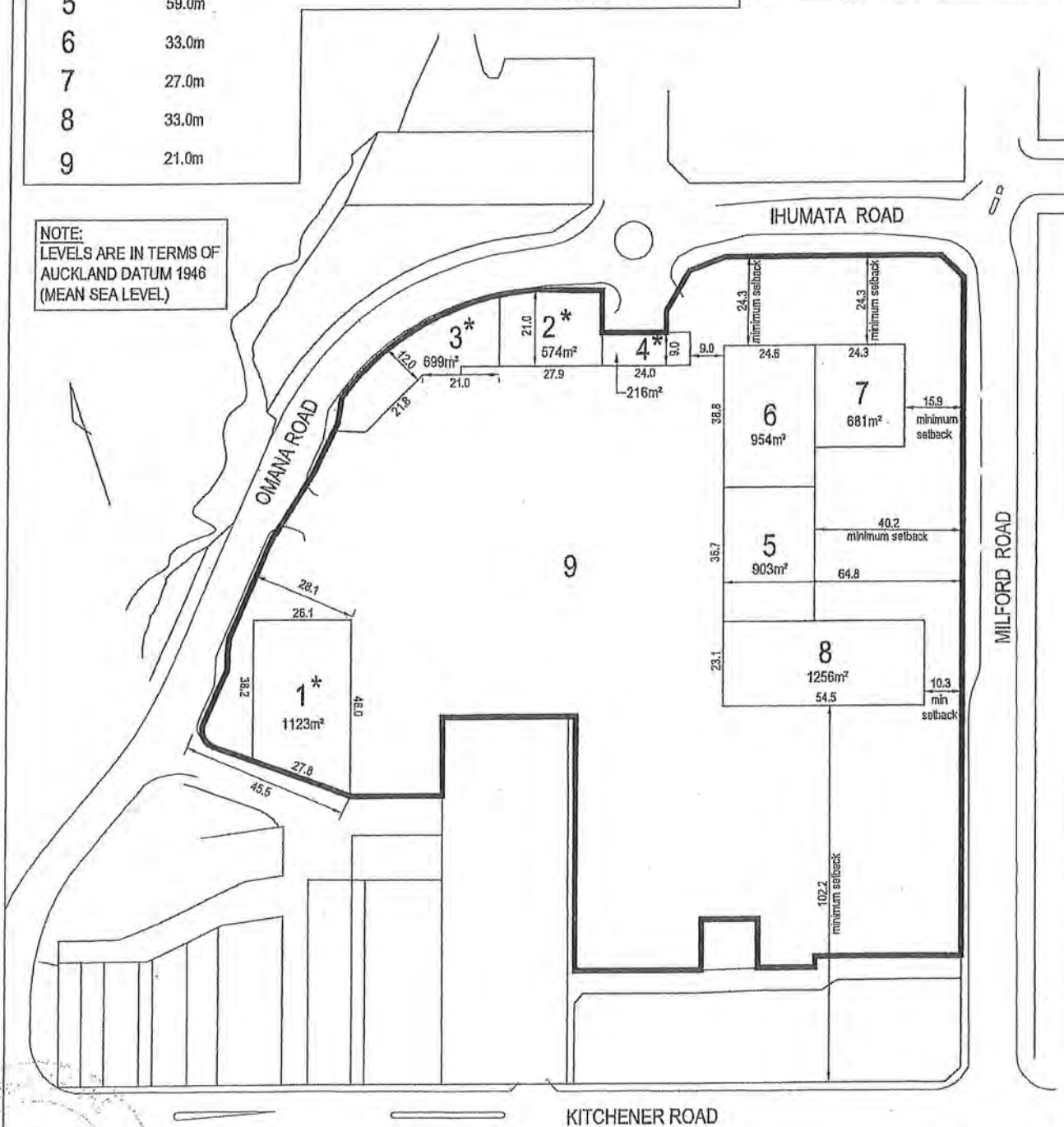
| | |
|---------------------------|---------|
| OMANA ROAD SOUTHERN TOWER | 1 |
| OMANA ROAD NORTHERN TOWER | 2 3 4 |
| MILFORD ROAD TOWER | 5 6 7 8 |

MILFORD INTENSIVE RESIDENTIAL DEVELOPMENT OVERLAY

BUILDING EXEMPTED FROM COMPLYING WITH RULE 15.6.2.3 AND APPENDIX 15C HEIGHT IN RELATION TO BOUNDARY CONTROLS B & C

*

NOTE:
LEVELS ARE IN TERMS OF AUCKLAND DATUM 1946 (MEAN SEA LEVEL)



Annexure B

JOINT STATEMENT BY TRANSPORTATION PLANNING AND

TRAFFIC ENGINEERING WITNESSES ON BEHALF OF VARIOUS PARTIES

TRANSPORT ISSUES RELATING TO THE MATTER OF PRIVATE PLAN CHANGE 34: MILFORD INTENSIVE RESIDENTIAL DEVELOPMENT AREA, 134 KITCHENER ROAD, MILFORD, AUCKLAND

1. This is a joint witness statement by the following transportation planning and traffic engineering expert witnesses related to the proposed Private Plan Change 34, (PPC34).

These experts are:

- i. Bronwyn Coomer-Smit of Flow Transportation Specialists Limited, (Flow) on behalf of the applicant, Milford Centre Limited.
 - ii. John Parlane of Parlane and Associates Limited on behalf of Auckland Council
 - iii. Mitra Prasad of Auckland Transport on behalf of Auckland Transport.
 - iv. Nigel Williams of Clearway Consulting Limited on behalf of the Milford Residents' Association.
2. Caucusing between the witnesses took place on Wednesday 14 August 2013 and Friday 16 August 2013 at the offices of Flow. This joint witness statement is intended to capture the salient points from the caucusing meetings.
 3. This joint witness statement sets out the extent of matters currently agreed between the above experts with respect to the transport effects and proposed mitigation related to PPC34. This joint witness statement also sets out matters where the transportation and traffic experts disagree.
 4. Ms Coomer-Smit, Mr Parlane and Mr Williams confirmed their earlier evidence as per the Auckland Council hearing. Auckland Transport's statement of evidence to the Auckland Council hearing was provided by Mr Scott Macarthur, that is, Mr Prasad did not present a statement of evidence on behalf of Auckland Transport to this hearing but Mr Prasad now appears for Auckland Transport.



KEY FACTS AND ASSUMPTIONS

PPC34 - AGREEMENT

5. All witnesses are in agreement that:

- a. They were discussing the PPC34 application as presented by the Applicant to the Council hearing on 2 October 2012. A copy of this document is attached as Annexure A.

Rule 12.5.1.3 - AGREEMENT

6. All witnesses are in agreement that:

- b. Section 12: Transportation of the Auckland Council District Plan – Operative North Shore Section 2011, 12.5.1.3 - Assessment Criteria for Limited Discretionary Activities is incorrectly formatted. Witnesses agree that bullet point three under 'b) Pedestrian access' being...*"The extent to which the establishment of the use or development will avoid, remedy or mitigate adverse effects upon the following measures, at peak and off-peak times and in close proximity to the site:..."* should be considered as the second substantive bullet point under 'a) Traffic considerations' and should therefore be referenced in the same manner as bullet point one under 'a) Traffic considerations' being *"...The accessibility of the site, including ingress to and egress from the site, and the ability to gain access to buildings and parking areas within the site for both pedestrians and vehicles..."*. A copy of this document is attached as Annexure B.

2009 Traffic Flows - AGREEMENT

7. All witnesses are in agreement that:

- a. Peak period traffic flow through Milford had been constant for five to six years prior to 2009. However, this agreement is subject to Mr Williams noting that the modelling did not include queuing further back from the Milford town centre.



8. Mr Prasad and Mr Williams accept that the traffic data was collected in 2009, but state that the data reflects traffic flows from 2009 only. They note that the situation in 2013 may be different.

2009 Traffic Flows - DISAGREEMENT

9. It is Mr Williams' view that it is not possible to validate the modelling as he considers the full extent of actual queues is not recorded.

Existing Parking Demand Data - AGREEMENT

10. All witnesses are in agreement that:
- Parking data presented in the Integrated Transport Assessment, (ITA) completed by Flow in 2011¹ is suitable for assessment in relation to parking assessment relating to PPC34.
 - The current situation is a significant under usage of parking provision associated with the retail activities of the Milford Shopping Centre.
 - Data from the 2006 Census, being the most up-to-date available Census data, is appropriate to reference with regard to existing parking demand in the Milford area. All witnesses are comfortable with the use of this data.

Existing Parking Demand Data - DISAGREEMENT

11. Mr Williams is of the view that the observed under-utilisation of parking at the Milford Shopping Centre is partly due to existing road capacity constraints, and that future improvements to the road network may ease these constraints, hence improving access for vehicles, thus allowing the demand for parking to increase beyond that currently observed.

Existing Parking Provision - AGREEMENT

12. All witnesses are in agreement that:

¹ Milford Plan Change 34, Updated Integrated Transport Assessment. Flow Transportation Specialists, 2011.

- a. The existing Milford Shopping Centre provides for around 805 existing parking space on the site.

Passenger Transport Provision - AGREEMENT

13. All witnesses are in agreement that:

- a. The draft Auckland Regional Public Transport Plan² includes the Milford town centre on the proposed Auckland Frequent Service Bus Network which will provide 15 minute frequency between the hours of 7 am and 7 pm, seven days a week.

Additional Consented Development - AGREEMENT

14. All witnesses are in agreement that:

- a. Resource consent has been approved for the development of 15 residential units on the subject site.
- b. No changes to the existing surrounding transport infrastructure in the Milford town centre are proposed as a result of these consented additions.

PROPOSED PRIVATE PLAN CHANGE 34

Extent of Development Assessed – AGREEMENT

15. All witnesses are in agreement that:

- a. The additional number of residential units that can be developed on the site as a result of PPC34 is 235 units³. As such, PPC34 allows for a total of 250 units made up of 15 residential units already consented and an additional 235 units.
- b. The modelling and the existing transport assessment which have been undertaken include the 15 residential units that have already received consent, plus an additional 250 residential units.

² Draft Auckland Regional Public Transport Plan. Auckland Transport, 2012.

³ PPC34 Milford. MCL Amendments, 2012, page 8.



- c. If the scale of the development enabled by PPC34 was to increase, an increase in traffic generation and traffic effects would occur.

16. Ms Coomer-Smit confirms that Flow has not assessed any other development scenarios which could be enabled by PPC34 other than the addition of 250 residential units. Mr Parlane states that he has not assessed any other development scenarios for the site other than that presented in Flow's ITA.

Extent of Development Assessed – DISAGREEMENT

17. Mr Williams states that it is his understanding that PPC34 could enable an alternative development scenario of at least 60,000 m² of 'other' landuse activities, (as presented in Table 2 of his evidence to the Council Hearing).⁴ That is, in terms of traffic assessment, he has reviewed what he considers enabled by the PPC34 rather than the additional 250 residential unit development scenario which has been modelled.

18. Witnesses do not agree as to the extent of development that could be enabled by PPC34.

Trip Generation – AGREEMENT

19. Ms Coomer-Smit and Mr Parlane state that they have not modelled or assessed a development scenario resulting in a trip generation figure of 1,854 additional peak hour trips.

20. All witnesses are in agreement that:

- a. If the potential development for the site as enabled by PPC34 is as assessed by Flow and Parlane and Associates Limited, that is, up to 250 residential units, the transport and traffic effects resulting from PPC34 are acceptable. However if an alternative development scenario could be enabled by PPC34, then the witnesses would review their stance.

⁴ Evidence of Mr Nigel Williams, Private Plan Change 34, 134 Kitchener Road, Milford. Clearway Consulting Limited, 7 August 2012. Table 2, pp 14



- b. If PPC34 enabled a development scenario, as suggested by Mr Williams, that is, at least 60,000 m² gross floor area, (as presented for example in Table 2⁵ of Mr Williams' evidence) the traffic effects would probably be considered significant and could require significant mitigation measures.

Trip Generation - DISAGREEMENT

21. Ms Coomer-Smit states that the expected peak hour trip generation, as a result of the implementation of PPC34, is 141 peak hour trips. Mr Williams is of the view that the expected peak hour trip generation enabled by PPC34 could reach or exceed 1,854 peak hour trips⁶ depending on the mix of activities established within the development envelope enabled by PPC34. Mr Williams' trip generation scenario is based on 125 residential units and a variety of other uses that he considers could be enabled by PPC34.
22. Ms Coomer-Smit, Mr Parlane and Mr Prasad are of the opinion that PPC34 does not appear to enable more development than what has been assessed and that the limited discretionary assessment criteria given under Rule 12.5.1.3 are sufficient to control the scale of the development.
23. Mr Williams is strongly of the view that PPC34 will enable a greater level of development and that the use of assessment criteria is not an effective way to evaluate and mitigate wider strategic transport network effects that can be readily predicted and provided for in the course of a plan change. He considers that the network effects, and the works required to mitigate these effects, are best attended to directly as part of a plan change.

Parking for Residents - Minimum provision – AGREEMENT

24. Witnesses are in agreement that a suitable minimum resident parking provision in association with PPC34 is as follows:
 - a. 1 space per single bedroom apartment.

⁵ Ibid

⁶ Evidence of Mr Nigel Williams, Private Plan Change 34, 134 Kitchener Road, Milford. Clearway Consulting Limited, 7 August 2012. Table 2, pp 14



b. 1.5 spaces per 2 bedroom apartment.

c. 2 spaces for every apartment with 3 or more bedrooms.

Parking for Residents – Maximum provision - DISAGREEMENT

25. Witnesses are not in agreement on the application of car parking maximums. Ms Coomer-Smit, Mr Parlane and Mr Williams agree that car parking maximums are not required for the residential units so long as car parking associated with PPC34 cannot be unbundled from the residents in the residential units, that is, that the parking required to support the residential units cannot be used to meet the parking requirements for any other landuse activity. Mr Prasad disagrees with this statement and states that he considers a maximum of two parking spaces per residential unit is required.

Parking for Visitors - DISAGREEMENT

26. Witnesses are not in agreement on the proposed provision of visitor parking. Ms Coomer-Smit, Mr Parlane and Mr Prasad agree that visitor parking needs associated with PPC34 can be met by sharing the existing onsite parking associated with retail activities in the Milford Shopping Centre.
27. Mr Williams considers visitor parking provision of one space per five residential units is desirable, (maximum) but he accepts one space per ten units as a minimum provision. He considers that this provision should not be able to be unbundled from the associated residential units. Mr Williams is of the opinion that visitor parking, required to support PPC34, should be calculated as 'stand alone' parking and should not be assessed alongside available car parking associated with the retail activities of the Milford Shopping Centre.

Pedestrian footpaths - DISAGREEMENT

28. Witnesses are not in agreement regarding the requirement under PPC34 for the applicant to construct a footpath on the Omana Road frontage to the site, where one does not currently exist. Mr Prasad and Mr Williams consider that a footpath is required at this location to support the higher levels of pedestrian and vehicle activity that will be



generated by PPC34. Ms Coomer-Smit and Mr Parlane consider that a footpath is desirable but not required.

Active Transport Access Plan - DISAGREEMENT


29. Witnesses are not in agreement regarding a specific pedestrian and cyclist access plan required to be undertaken as part of PPC34. Mr Prasad considers that an active transport access assessment is required. Ms Coomer-Smit, Mr Parlane and Mr Williams consider that an active transport access assessment is desirable but is not required.

Cycle Parking Provision - AGREEMENT

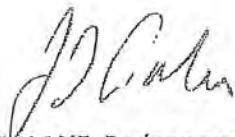
30. All witnesses agree that cycle parking provision should be one cycle park per residential unit for residents and one cycle park per 20 residential units for public/visitor cycle parking.



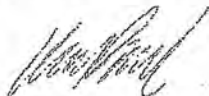
JOINTLY SIGNED ON 16 AUGUST 2013 BY:



BRONWYN COOMER-SMIT, Flow Transportation Specialists Limited for Milford Centre Limited



JOHN PARLANE, Parlane and Associates Limited for Auckland Council



MITRA PRASAD, Auckland Transport for Auckland Transport



NIGEL WILLIAMS, Clearway Consulting Limited for the Milford Residents' Association



ANNEXURE A



Proposed Plan Change 34

Milford Intensive Residential Development Overlay Area

Amendments by Milford Centre Limited 2 October 2012

Plan Change Provisions (as now proposed)

New text is shown as underlined and deleted text as ~~strike through~~.
Some existing text is shown to place the amendments in context.

Section 9 Subdivision and Development
9.4.1.3 Limited Discretionary Activities

Add an additional item to Section 9.4.1.3 as follows:

- y) Siteworks and subdivision within the Milford Intensive Residential Development Overlay Area.

Section 10 Pollution, Hazardous Substances and Waste Management

10.5 Noise: Rules

Insert additional text as follows:

- j) New buildings and alterations to existing buildings to be used for residential purposes in the Milford Shopping Centre High Density Residential Overlay must meet the following:
 - Noise received in all habitable rooms shall not exceed 35 dBA L10(15min) between 2300 hours and 0700 hours. If this cannot be achieved with ventilating windows open, the noise limit shall be complied with including the noise generated by any mechanical ventilation system.
 - The external noise level incident on the facade shall be based on the following spectrum:

| <i>Octave Band Centre Frequency</i> | | | | | | | |
|-------------------------------------|--------------|--------------|--------------|---------------|---------------|---------------|-------------------|
| <u>63Hz</u> | <u>125Hz</u> | <u>250Hz</u> | <u>500Hz</u> | <u>1000Hz</u> | <u>2000Hz</u> | <u>4000Hz</u> | <u>A-weighted</u> |
| <u>74dB</u> | <u>67dB</u> | <u>66dB</u> | <u>61dB</u> | <u>59dB</u> | <u>59dB</u> | <u>54dB</u> | <u>65dB</u> |

- An Acoustic Design Report shall be obtained from a suitably qualified Acoustic Expert confirming that the building will be constructed to meet the above requirements.

Section 12 Transportation
12.4.2.1 Parking Standards

Amend Table 12.1 as follows

| Table 12.1 Parking Standards | |
|--|---|
| Activity | Parking Spaces Required |
| **** Residential Units, Apartment Buildings, Intensive Housing and Minor Residential Units | ***** One for each residential unit with a gross floor area of 50m ² or less Two for each residential unit with a gross floor area in excess of 50m ² In the Milford Intensive Residential Development Overlay Area the total number of car parking spaces to be provided within the overlay area shall be calculated across the site by using the following standards: Minimum Car Parking Requirement – one space per residential unit Maximum Car Parking Requirement – two spaces per residential unit Minimum Cycle Parking Requirement – one cycle park per unit (private long stay parking) and one cycle park per 20 units (public/visitor parking) |
| Residential Units, Apartment Buildings, Intensive Housing, Terraced Housing and other similar forms of intensive residential development | Visitor parking spaces on-site at the rate of 0.5 spaces for each unit over 50 m ² gross floor area, such spaces to be in addition to those required for private use by unit occupiers (for assessment of applications see Rule 16.7.3.6 in addition to 12.5) In the Milford Intensive Residential Development Overlay Area there is no requirement for visitor parking spaces to be provided. |

Section 15 Business

15.3.4 Control of Adverse Effects

Objective

To ensure that the adverse environmental effects of business and other activities in business areas are avoided, remedied or mitigated.

Policies

1. By requiring that business activities and other activities in business areas avoid, remedy or mitigate adverse environmental effects.

15.3.7 Intensive Residential Development

The provisions of Section 16.3.8 Intensive residential development apply. The following Objective and policies apply, with the exception of the Business 11 zone.

Objective

To enable intensive residential development in the High Density Centres identified in Table 6.1 of the District Plan, where such development is designed to a high standard and integrates well with the High Density Centre and the wider neighbourhood.

Policies

1. By providing for and encouraging intensive residential development in centre planning and structure planning.
2. By establishing centre-specific design controls and methods through plan changes and/or resource consent processes, that are appropriate and relevant to the management of effects of intensive residential development having regard to the location and characteristics of each centre and its wider neighbourhood.
3. By assessing all applications for intensive residential development against the provisions of Section 15A, Urban Design Code and centre-specific policies, design controls and methods.

Methods

- Rules require most forms of intensive residential development to obtain resource consent, so the policies will also be implemented through the assessment of resource consent applications.
- Assessment criteria will provide further more focused guidance on particular design matters to be taken into account.
- Guidelines as to good developments and preferred design solutions, prepared to help developers and potential buyers, are available from the Council.

Explanation and Reasons

An important Strategic Objective of the Plan is to effectively manage growth and change by ensuring that a compact sustainable urban form is contained within the Metropolitan Urban Limits. One way of achieving this is to encourage, as part of a mixed use environment, appropriate forms of intensive residential development in Identified High Density Centres and Intensive Corridors. These locations generally offer favourable locations for intensive residential development.

The location, size, shape, and context of sites proposed for intensive residential development can be critical to the achievement of appropriate environmental outcomes. Particular areas or centres may also have infrastructural or other constraints making some sites or forms of development inappropriate. The siting and design, and in turn the assessment, of proposals will reflect both the opportunities and constraints that these locations offer. In addition, it is important that the form of intensive residential development provides a density, range and size of residential accommodation appropriate to the location and development site. Therefore, it is important that development design and the potential adverse effects of development be carefully

assessed, through standards incorporated into the Plan, through resource consent assessments, and through reference to the Plan's Urban Design Code.

Expected Environmental Results

- Intensive residential developments located within close proximity of community facilities, public transport and in areas with appropriate infrastructure capacity.
- Intensive residential developments designed in a manner that integrate well with surrounding development as measured by recognised urban design guidelines and site specific urban design assessments
- Intensive residential developments that exhibit a high standard of on-site amenity as measured by urban design assessments and resident perception surveys.

15.4 Zoning Framework: Objectives and Policies

15.4.2 Suburban 2 Zone

Insert additional text as follows (underlined):

Objective

To manage the effects of activities in suburban centres in a manner which:

- Helps to minimise average vehicle trip lengths, by recognising the shopping role that suburban centres serve or could potentially serve for existing suburbs or proposed suburbs
- Makes efficient use of natural and physical resources
- Avoids, remedies or mitigates the adverse effects of activities on the amenity of residential properties
- Requires new development to achieve a high quality design and built form, to integrate with the surrounding streetscape and buildings and to contribute to the centre's "sense of place"
- Encourages residential intensification in the High Density Centres identified in Table 6.1 of the District Plan

Policies

1. By enabling the retention of a substantial shopping role in suburban centres, including significant food retailing, and by enabling new suburban centres to serve new suburbs.
2. By enabling a wide range of business activities to establish in suburban centres in order to ensure that efficient use is made of the resource that they represent.
3. By ensuring that those potential adverse effects of activities in suburban centres on the amenity of adjoining residential areas are avoided, remedied or mitigated.
4. By requiring that new development achieves integration with existing development and the surrounding area, including any building of particular character, those heritage buildings listed in Schedule 11A, and any Notable Trees listed in Schedule 8C, of the District Plan .
5. By requiring that all new buildings and additions and alterations to existing buildings make a positive contribution to the surrounding amenity, and help to achieve high quality urban design outcomes, including a comprehensively planned, well integrated and attractive centre with an active, attractive, safe and convenient pedestrian environment. Additions and alterations to existing buildings should also be in character with the building being added to or altered.
6. By assessing Limited Discretionary activity applications for new buildings, most external alterations and those additions of more than 15m² to the footprint of existing buildings against detailed assessment criteria relating to building form and design.

7. By enabling residential intensification in the High Density Centres identified in Table 6.1 of the District Plan.

Methods

All policies will be implemented by rules.

Explanation and Reasons

This zone is applied to twelve existing suburban centres and to two proposed centres at Greville Road and Unsworth Drive. The zone is designed primarily for business activities with a high intensity of operation, although it is not restricted to the largely retail range of activities within this category.

Apart from the floor area controls in the Local 1 zone, the range of controls applied to activities in the Suburban 2 zone is almost identical with that in the Local 1 zone. However, in recognition of the size and significance of the suburban centres, the District Plan is seeking to achieve high quality urban design outcomes. High quality urban design will ensure that the particular qualities and characteristics associated with each centre, including sense of place, vibrancy, and amenity are protected and enhanced. New buildings, additions of greater than 15m², and significant external alterations to existing buildings will require consent as a Limited Discretionary activity, and will be assessed against detailed criteria related to design in the Section 15A, Urban Design Code. Where a site is adjoined or opposite land zoned Residential 3, or is in close proximity to a heritage commercial building, (Scheduled in Appendix 11A of the District Plan), any new building will be required to respond appropriately to the character of heritage commercial buildings (not residential buildings) through specifically targeted assessment criteria in Section 15A, Urban Design Code.

The larger size of centres to which this zoning is applied will mean that comparatively a smaller proportion of sites within each of the centres will be subject to the stricter Buffer Strip controls.

The expectation that Suburban 2 zoned areas will have some larger stores indicates a need for comprehensive design of buildings and sites, with emphasis on integration of development and access, and for landscaping.

Several suburban centres have been identified as suitable for residential intensification in the regional planning instruments and statutory and non-statutory North Shore City documents (see Chapter 6, Managing Urban Growth, Table 6.1). Where necessary, implementation will take place by the progressive amendment of the provisions of the District Plan.

Objective: Milford Intensive Residential Overlay Area

To enable intensive residential uses in high quality buildings a way that maintains the amenity of surrounding residential and business areas.

Policies: Milford Intensive Residential Overlay Area

- 1. By requiring taller building forms (above five storeys) to be set back into the site and away from Milford Road and Kitchener Road, to ensure a human scale on these streets and the protection of street character and amenity.**
- 2. By ensuring taller building forms (greater than five storeys) are located on the site so as to minimise effects on adjacent sites in terms of shading, dominance and loss of privacy.**
- 3. By enabling lower buildings (five storeys and below) to provide an appropriately scaled street edge with taller buildings (above five storeys) set back into the site.**

4. By ensuring where buildings are set back from the street that any spaces between the ground floor of the building/s and the street contribute positively to streetscape amenity.
5. By ensuring that public and private entrances, both pedestrian and vehicular, for all buildings are clearly legible including, where practicable, being clearly visible from the street.
6. By enabling apartments to be located within tall building forms where such structures are designed to high quality architectural standard.
7. By requiring apartment design to achieve a good standard of amenity for occupiers.
8. By requiring all new building development to achieve a high standard of building design.
9. By requiring parking that recognises the advantages of a town centre location while still providing for the use of private motor vehicles and cycles.
10. By ensuring any non-residential activity above RL 2.1m is related to or not incompatible with the primary purpose of the overlay to encourage residential intensification.

Explanation and Reasons

The Milford Intensive Residential Overlay Area allows buildings intended for residential use as apartments. Tall buildings may be erected in this area and it is important that they be designed in such a way as will ensure a human scale on the street and the protection of street character and amenity. In this regard the main street (Kitchener Road) and Milford Road are seen to be of particular importance.

The articulation and modulation of buildings and appropriate interfaces with the street is also important. A high quality of building design will be required through assessment processes conducted via required resource consents for all new development.

Parking standards reflect the accessibility of alternative modes of transport in Milford including buses, walking and cycling possibilities and the proximity to a range of services and facilities.

15.5 Rules: Business Activities

Amend Rule 15.5.1.4 as follows:

15.5.1.4 Limited Discretionary Activities

4. In the Business 1- 4 zones, or the Business 9 zone on Hinemoa Street, (between Rugby and Brasseley Roads only) and is:
 - a) Any new building,
 - b) Additions to an existing building, not provided for as a permitted activity,
 - c) Alterations to an existing building not provided for as either a permitted or controlled activity,

provided that any new building in the Milford Intensive Residential Development Overlay Area shall comply with the standards in Rule 15.2.6.12 in order to remain a Limited Discretionary activity.

Amend Rule 15.5.1.5 as follows:

15.5.1.5 Discretionary Activities

Any activity shall have Discretionary activity status provided that it:

- a) Is not listed as a Non-Complying activity in Section 15.5.1.6 of this Plan; and
- b) Can comply with the controls in Rule 15.6.1.5 to 15.6.1.17 inclusive; and
- c) Falls within any of the following circumstances:

...

- Any activity in the Milford Intensive Residential Development Overlay Area that does not comply with the standards in Rule 15.6.2.12, provided that any activity exceeding the maximum height standard is a non-complying activity.
- Non residential activity in the Milford Intensive Residential Development Overlay Area above RL 21.00 (see the map in Appendix 15P)

Amend Rule 15.5.1.6 as follows:

15.5.1.6 Non-Complying Activities

...

e) In the Milford Intensive Residential Development Overlay Area, any activity that exceeds the maximum heights stated in Rule 15.6.2.12.

...

15.6 Rules: Business Controls

15.6.1 Activity Controls

15.6.1.9 Residential Development

Amend Rule 15.6.1.9 as follows:

Rule 15.6.1.9 does not apply to the Milford Intensive Residential Development Overlay Area (see map in Appendix 15P, and Rule 15.6.2.12)

15.6.2 Development Controls for Permitted and Controlled Activities

Amend Rule 15.6.2.2 as follows:

15.6.2.1 Maximum Height and Floor Area Ratio

.....

| Table 15.3: Maximum Height and Floor Area Ratio Controls | | | |
|--|---|------------------|------------|
| Business Zone | Maximum Height | Floor Area Ratio | |
| | | Basic | With Bonus |
| ... | ... | | |
| 2 | 9m, except for Browns Bay, Highbury (refer to map Appendix 15B), Milford (refer to map Appendix 15P) and the Glenfield Mall Shopping Centre (Lot 1, DP61951) In relation to Browns Bay the maximum height shall be 12.5m. | | |

| | | | |
|--|--|--|--|
| | In relation to the Glenfield Mall Shopping Centre, those parts of the site which lie within 100m of the centre line of Glenfield Road shall have a height limit of 12m. For the remainder of the site the height limit shall be 9m | | |
|--|--|--|--|

Explanation and Reasons

Local 1 and Suburban 2 Zones

There is some scope for the development of landmarks and for residential and business activity to locate on upper levels. The Control Flexibility provisions can respond to difficult circumstances and to opportunities that do not adversely affect residential and open space amenity. Highbury has had relatively recent investigations into development height, and the resulting implementation of these specific height controls is continued with only minor modifications. To encourage intensification within the Milford town centre, specific height limits apply to the Milford Intensive Residential Development Overlay Area (see Rule 15.6.2.12). Centre Plans are expected to more specifically address building height in other areas.

Amend Rule 15.6.2.3 as follows:

15.6.2.3 Building Height in Relation to Boundary

.....

Explanation and Reasons

.....

Modified controls apply to the Milford Intensive Residential Development Overlay Area that enable buildings within the envelopes shown on the overlay plan to achieve an appropriate scale, bulk, location and street frontage, and provide enhanced opportunities for passive surveillance of the streetscape whilst still maintaining a good degree of amenity within adjacent residential areas.

Add a new Rule 15.6.2.12 as follows:

15.6.2.12 Requirements for Development in the Milford Intensive Residential Development Overlay Area

The following standards must be complied with in any application for a Limited Discretionary Activity for residential units / apartments in Building Envelopes 1-9 of the Milford Intensive Residential Development Overlay Area (See Appendix 15P):-

- (a) The total number of residential units shall not exceed 250 units
 - a. The maximum footprint of buildings shall be in accordance with Appendix 15P
- (b) The maximum height of buildings shall be in accordance with Appendix 15P.
- (c) The maximum height of buildings in relation to boundaries shall be in accordance with Appendix 15C, subject to the exemption specified in Appendix 15P.
- (d) Each residential unit in the Milford Intensive Residential Development Overlay Area (see map in Appendix 15P) shall provide:

- a) Balconies with:
- i) a minimum area of 4m² and a minimum dimension of 1.5 metres for units 55m² or less;
 - ii) a minimum area of 6m² and a minimum dimension of 1.8 metres for units 56m² - 70m²;
 - iii) a minimum area of 8m² and a minimum dimension of 1.8 metres for units over 70m²;
- b) The main glazing of each residential unit shall be provided with an outlook area of open space, unimpeded by buildings and immediately adjacent to that glazing. Any outlook area must have a minimum dimension of 10 metres, measured at right angles to the wall of the building within which the glazing is located. The outlook area may comprise the following components:
- i) An area of on-site space which must be kept free of structures.
 - ii) Areas of road reserve.
 - iii) Areas of public open space.
- c) The sizes of units / apartments shall be as follows:
- i) Studio = 40m²
 - ii) One bedroom unit = 45m²
 - iii) Two bedroom units = 70m²
 - iv) Three or more bedroom units = 90m²
- Provided that where a development contains 20 or more units, no more than 30% shall be one bedroom or studio units.

Explanation and Reasons

The standards for Limited Discretionary Activities within the Milford Intensive Residential Development Overlay Area are derived from an analysis of effects, including likely traffic generation and effects of building dominance and shading. These standards are a prerequisite to the activity status remaining Limited Discretionary.

Add new assessment rule as follows:

15.7.2.8 New Buildings located within the Milford Intensive Residential Development Overlay Area (see Appendix 15P)

When considering proposals for new buildings, applications will be assessed in terms of 15.7.2.7 and the following additional criteria:

- (a) Design of Buildings
- (i) Buildings shall be designed to provide a distinctive silhouette with the uppermost floors designed in a manner that integrates mechanical functions into the overall building so when viewed from within and around Milford they make a positive contribution to the collective skyline of the town centre.
 - (ii) Buildings shall avoid a boxy dominant massing with an appropriate scale at the street level to integrate with the adjacent buildings and open space.
 - (iii) Buildings(s) occupying Envelope 1 shall be designed to integrate with their context and enhance the landmark nature of the site, particularly when viewed along Shakespeare Road.
 - (iv) Buildings(s) occupying Envelope 1 shall provide an appropriate design response to their prominence and the adjacent landform of the East Coast ridge line.

- (v) The extent to which the design of apartments are consistent with the overall intentions for apartments as set out in *The Good Solutions Guide for Apartments* (ISBN 978-0-473-11999-7), and in particular, Part C of that Guide.
- (b) Pedestrians and Cycling
- (i) The extent to which pedestrian connections are provided through the site and in particular, the extent to which they provide mid-block connections between Kitchener Road and Milford Road.
Note: It is expected that connections through the site will be publicly accessible at least during the hours that the Milford Shopping Centre is open.
- (ii) The extent to which facilities are provided for cyclists (having regard to the ARTA Guidance Note for Cycle Parking Facilities 2007)
- (c) Privacy in respect of respect of Residential Activities:
- (i) The extent to which building layout and windows and balconies are designed to reduce overlooking of the private open space of other residential dwellings.
- (d) Daylight and Sunlight in respect of Residential Activities
- (i) The extent to which habitable rooms and outdoor spaces allow for solar admission and sun access during the shortest winter day (as a guide, habitable rooms for at least 70 percent of the units should receive sun access for a minimum of three hours between 9 am and 3 pm on the winter solstice (June 21)).
- (ii) The extent to which glazing is of sufficient size and appropriately located to allow natural light into rooms to allow daily activities to occur without the need for artificial lighting.
- (iii) The extent to which design devices such as overhangs, vertical screens, heat-absorbing materials (such as tiles) and reflective glass are used to help to regulate summer and winter solar gain and provide passive sources of heating.
- (iv) The extent to which apartments have adequate ceiling heights and appropriate depths to maintain apartment amenity by allowing daylight penetration.

Appendices

Amend the text of Appendix 15C as follows (underlined):

Appendix 15C: Sloping Height Planes, Building Height in Relation to Boundary for Business Zones

For all business zoned sites

No part of any building on a site zoned Business 1, 2, 3, 4, 5, 6, 7, 8, 9 shall exceed a height of 2.5 metres plus the horizontal distance between that part of the building & the nearest part of any residential zone boundary, or any land designated for a school at the time the Plan is notified (e.g. Birkenhead Primary School).

For sites zoned Business 1, 2 (except the Milford Intensive Residential Development Overlay Area), 7, 8, 9, 10

No part of any building on a site zoned Business 1, 2 (except the Milford Intensive Residential Development Overlay Area), 7, 8, 9, 10 shall exceed a height of 10 metres plus the horizontal distance between that part of the building and the nearest part of any recreation zone boundary.

[For sites zoned Business 2 (except the Milford Intensive Residential Development Overlay Area), Business 3 Areas A, B, D and Business 11

No part of any building on a site zoned Business 2 (except the Milford Intensive Residential Development Overlay Area) or 3 Area A, B or D shall exceed a height of 10 metres plus the horizontal distance between that part of the building and the nearest part of any road boundary.]

For Buildings within the Milford Intensive Residential Development Overlay Area

No Building Height in Relation to Boundary control with regard to the nearest part of any recreation zone boundary or road boundary shall apply to the buildings within the envelopes shown on the diagram in Appendix 15P that comply with the maximum permitted heights described at 15.6.3.4.

Amend the Height to Boundary exemption clause that applies by way of an asterisk (*) to read as follows:

" * BUILDING EXEMPTED FROM COMPLYING WITH OPERATIVE DISTRICT PLAN APPENDIX 15C HEIGHT IN RELATION TO BOUNDARY CONTROLS B AND C"

Amend Table 15A.1 (Urban Design Code) as follows

| <u>Town Centre</u> | <u>Exempted Street</u> | <u>Reason for Exemption</u> |
|--------------------|------------------------|-----------------------------|
| Milford | Omana Road | Topography |





APPENDIX 15P MILFORD INTENSIVE RESIDENTIAL DEVELOPMENT OVERLAY

LEGEND

| BUILDING ENVELOPES | REFERENCE LEVEL (RL) (MAXIMUM BUILDING HEIGHTS) |
|--------------------|--|
| 1 | 63.0m |
| 2 | 28.0m |
| 3 | 38.0m |
| 4 | 25.0m |
| 5 | 59.0m |
| 6 | 33.0m |
| 7 | 27.0m |
| 8 | 33.0m |
| 9 | 21.0m |

MILFORD INTENSIVE
RESIDENTIAL DEVELOPMENT
OVERLAY

*
BUILDING EXEMPTED FROM
COMPLYING WITH
RULE 15.6.2.3 AND
APPENDIX 15C HEIGHT IN
RELATION TO BOUNDARY
CONTROLS B & C

OMANA ROAD SOUTHERN TOWER

1

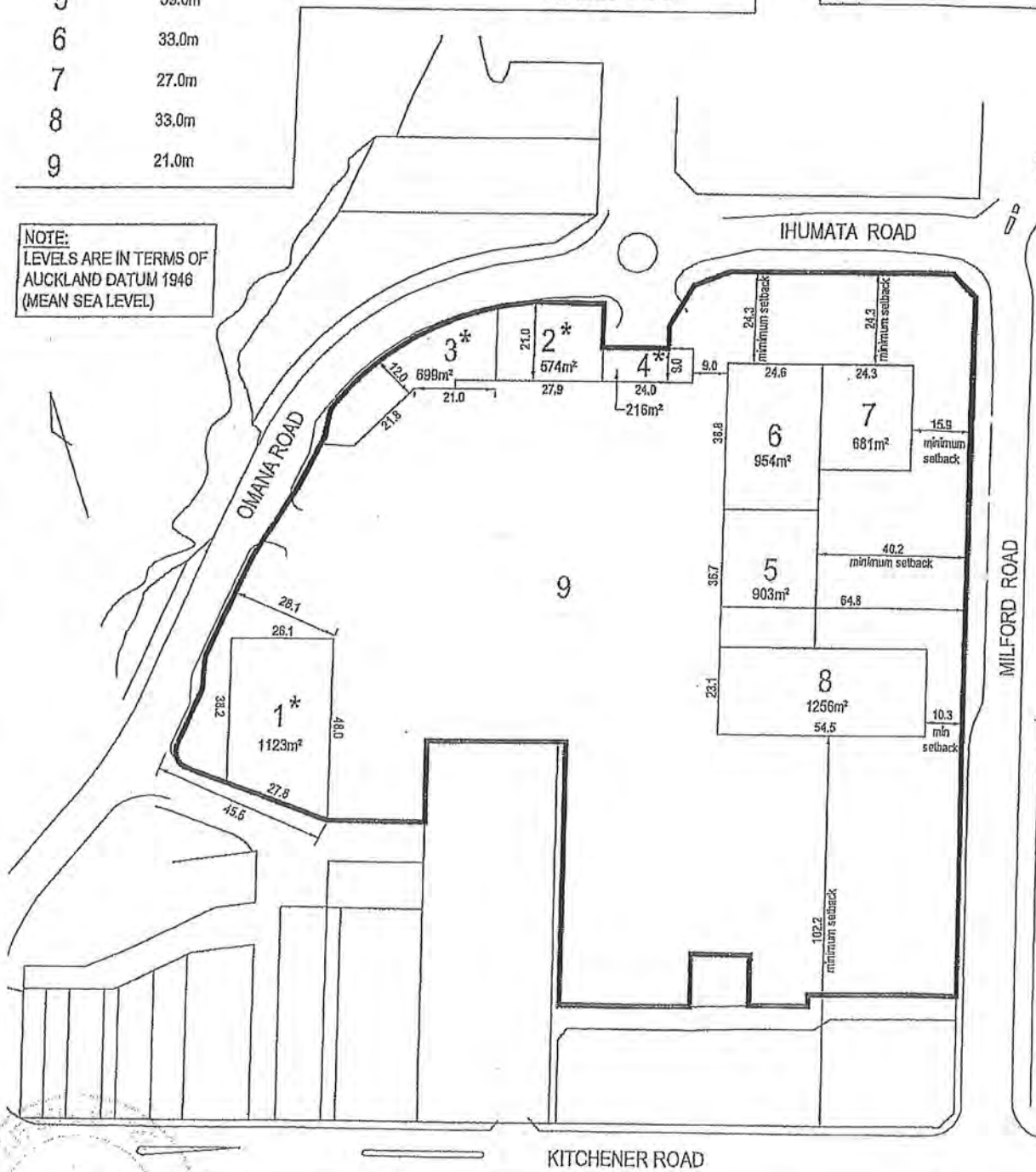
OMANA ROAD NORTHERN TOWER

2 3 4

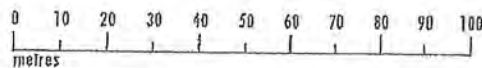
MILFORD ROAD TOWER

5 6 7 8

NOTE:
LEVELS ARE IN TERMS OF
AUCKLAND DATUM 1946
(MEAN SEA LEVEL)



Scale 1:1500 @A4



W29253 cad rcf:appendix 15P.dwg d:\fc\310712



Convert Assessment Criteria

ANNEXURE B

Section 12: Transportation

- The safe and easy movement of vehicles on the site.
- h) Reduction in the Standard of Gradients
An application to provide a lesser standard of gradients for carriageways, parking spaces and manoeuvring areas will be assessed against the following:
 - Compliance with NZS4121 for any required operations mobility car spaces, and associated access
 - The ability of vehicles to manoeuvre safely on-site without undue difficulty in any weather
 - The ability of the carriageways, parking spaces and manoeuvring areas to serve existing and future users of the site
 - That portion of residential carriageway which will be in excess of 1:5 is short in length, within a straight section of carriageway, and will not in any way preclude the safe passage of vehicles in any weather
 - The extent to which vehicles entering or exiting the site are able to see pedestrians, cyclists and other vehicles on the carriageway and roadway
 - The ability to cater for pedestrians and cyclists on the carriageway
 - The ability of the surface treatment to provide adequate traction at all times.

12.5.1.3 Assessment Criteria for Limited Discretionary Activities

Where any Permitted or Controlled activity is specified as a Limited Discretionary activity in Section 12.4.1.2, the Council may give consent to the activity as a Limited Discretionary activity, where it is satisfied that all the following criteria are met.

a) Traffic Considerations *12-13*

• The accessibility of the site, including ingress to and egress from the site, and the ability to gain access to buildings, activities and parking areas within the site for both pedestrians and vehicles. Specific criteria, for vehicles and pedestrians, are:

a) Vehicle access

- The design of the access and circulation provisions for a development should allow for the safe and efficient movement of vehicles and pedestrians onto, within and off the site. Design aspects include, gradients of all paved areas, building location, internal intersection design, pedestrian facilities and parking adequacy.
- Vehicle access design should ensure that:
 - Vehicles waiting to enter the site from the street do not unduly impede through traffic
 - Conflict between vehicle access and existing or potential major pedestrian movements is minimised. Where necessary adequate control mechanisms should be developed to ensure pedestrian safety
 - Access points are sufficiently remote from intersections and corners to ensure adequate sight distances and to minimise congestion caused by the ingress and egress of vehicles to and from the site.

b) Pedestrian access

- Connections to existing pedestrian areas should be maintained and enhanced if possible
- Safe pedestrian movements into, within, and from the site should be provided
- The extent to which the establishment of the use or development will avoid, remedy or mitigate adverse effects upon the following measures, at peak and off-peak times and in close proximity to the site:
 - Intersection performance

How it should read



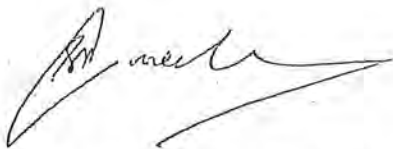
JOINT WITNESS STATEMENT

TRANSPORTATION PLANNING AND TRAFFIC ENGINEERING WITNESSES ON BEHALF OF VARIOUS PARTIES.

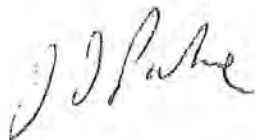
TRANSPORT ISSUES RELATING TO THE MATTER OF PRIVATE PLAN CHANGE 34:
MILFORD INTENSIVE RESIDENTIAL DEVELOPMENT AREA 134 KITCHENER ROAD,
MILFORD, AUCKLAND

1. This is a joint witness statement by the following transportation planning and traffic engineering expert witnesses related to the proposed Private Plan Change 34, (PPC34)
2. These traffic experts are:
 - i. Bronwyn Coomer-Smit of Flow Transportation Specialists Limited, on behalf of the applicant, Milford Centre Limited.
 - ii. John Parlane of Parlane and Associates Limited on behalf of Auckland Council.
 - iii. Mitra Prasad of Auckland Transport on behalf of Auckland Transport.
 - iv. Nigel Williams of Clearway Consulting Limited on behalf of the Milford Residents' Association.
3. This joint witness statement is to confirm that:-
 - i. The traffic experts are agreed that the traffic-related matters recorded in the latest version of PPC34 arising from the mediation conducted on 20 August 2013 are a proper record of the agreement reached between the traffic experts. (A copy of this version of PPC34 as presented in Appendix D of Mr Reaburn's evidence of 6 November 2013 is attached for reference).
 - ii. There are no remaining areas of disagreement between the traffic experts.

JOINTLY SIGNED ON 14 NOVEMBER 2013 BY:-




Bronwyn Coomer-Smit of Flow Transportation Specialists Limited,
on behalf of the applicant, Milford Centre Limited.



John Parlane of Parlane and Associates Limited
on behalf of Auckland Council.



Mitra Prasad of Auckland Transport
on behalf of Auckland Transport.



Nigel Williams of Clearway Consulting Limited
on behalf of the Milford Residents' Association.

~/~



APPENDIX D

Proposed Plan Change 34

Amendments from the Notified Version are shown **highlighted**

Further Amendments from the Post Mediation Version 27 August 2013 shown **highlighted**

Further Amendments in Response to Council and s274 party Evidence show **highlighted**

New text is shown as underlined and deleted text as ~~strikethrough~~.
Some existing text (not underlined) is shown to place the amendments in context.

Milford Intensive Residential Development Overlay Area

This is a privately initiated plan change

1. Add an additional item to Section 9.4.1.3 as follows:

Section 9 Subdivision and Development
9.4.1.3 Limited Discretionary Activities

- y) Siteworks and subdivision within the Milford Intensive Residential Development Overlay Area.

2. Insert additional text to Rule 10.5 as follows:

Section 10 Pollution, Hazardous Substances and Waste Management

10.5 Noise: Rules

- j) New buildings and alterations to existing buildings to be used for residential purposes in the Milford Shopping Centre High Density Residential Overlay Milford Intensive Residential Development Overlay Area must meet the following:

- Noise received in all habitable rooms shall not exceed 35 dBA L10(15min) between 2300 hours and 0700 hours. If this cannot be achieved with ventilating windows open, the noise limit shall be complied with including the noise generated by any mechanical ventilation system.
- The external noise level incident on the facade shall be based on the following spectrum:

| <u>Octave Band Centre Frequency</u> | | | | | | | |
|-------------------------------------|--------------|--------------|--------------|---------------|---------------|---------------|-------------------|
| <u>63Hz</u> | <u>125Hz</u> | <u>250Hz</u> | <u>500Hz</u> | <u>1000Hz</u> | <u>2000Hz</u> | <u>4000Hz</u> | <u>A-weighted</u> |
| <u>74dB</u> | <u>67dB</u> | <u>66dB</u> | <u>61dB</u> | <u>59dB</u> | <u>59dB</u> | <u>54dB</u> | <u>65dB</u> |

- An Acoustic Design Report shall be obtained from a suitably qualified Acoustic Expert confirming that the building will be constructed to meet the above requirements.



3. Amend Table 12.1 as follows:

Section 12 Transportation
12.4.2.1 Parking Standards

| Table 12.1 Parking Standards | |
|--|--|
| Activity | Parking Spaces Required |
| | |
| Residential Units, Apartment Buildings, Intensive Housing and Minor Residential Units | <p>One for each residential unit with a gross floor area of 50m² or less</p> <p>Two for each residential unit with a gross floor area in excess of 50m²</p> <p><u>In the Milford Intensive Residential Development Overlay Area the following parking is required: total number of car parking spaces shall be calculated by using the following standards and shall be dedicated for the residential use only:</u></p> <p>Studio/1 bedroom residential unit – 1 space 2 bedroom residential unit – 1.5 spaces 3 or more bedroom residential unit – 2 spaces</p> <p><u>Maximum Car Parking Requirement – an average of 2 spaces per residential unit</u></p> <p><u>Minimum Cycle Parking Requirement – one cycle park per unit</u></p> |
| Residential Units, Apartment Buildings, Intensive Housing, Terraced Housing and other similar forms of intensive residential development | <p>Visitor parking spaces on-site at the rate of 0.5 spaces for each unit over 50 m² gross floor area, such spaces to be in addition to those required for private use by unit occupiers (for assessment of applications see Rule 16.7.3.6 in addition to 12.5)</p> <p><u>In the Milford Intensive Residential Development Overlay Area there is no requirement for visitor parking spaces to be provided the requirement for visitor parking spaces to be provided shall be 0.1 spaces for each unit and be dedicated for visitor parking only.</u></p> |



Section 15 Business

4. Section 15.3.4 - Add/ delete text as follows (underlined, ~~struckthrough~~):

15.3.4 Control of Adverse Effects

Objective

To ensure that the adverse environmental effects of business and other activities in business areas are avoided, remedied or mitigated.

Policies

1. By requiring that business activities and other activities in business areas avoid, remedy or mitigate adverse environmental effects.

5. Section 15.3.7 - Add/ delete text as follows (underlined, ~~struckthrough~~):

15.3.7 Intensive Residential Development

~~The provisions of Section 16.3.8 Intensive residential development apply.~~ The following Objective and policies apply, with the exception of the Business 11 zone.

Objective

To enable intensive residential development in the High Density Centres identified in Table 6.1 of the District Plan, where such development is designed to a high standard and integrates well with the High Density Centre and the wider neighbourhood.

Policies

1. By providing for and encouraging intensive residential development in ~~the High Density Centres identified in Table 6.1 of the District Plan~~ ~~centres planning and structure planning, subject to centre-specific provisions being included in the District Plan~~
2. By ensuring plan changes to introduce centre-specific provisions relating to intensive residential development contain ~~By establishing centre-specific design controls and methods through plan changes and/or resource consent processes~~ that are appropriate and relevant to the management of effects of intensive residential development, having regard to the location and characteristics of each centre and its wider neighbourhood.
3. By assessing all applications for intensive residential development against the provisions of Section 15A, Urban Design Code and ~~the~~ centre-specific policies, design controls and methods.
4. By ensuring intensive residential development does not compromise the ability of existing non-residential activities to continue their legitimately established operations.

Methods

Where centre-specific provisions do not already exist in the district plan they may be introduced by way of plan change by Council or via private plan change. Plan changes may be confined to an individual site or a number of sites but must have regard to the context of the centre as a whole.



- Rules require most forms of intensive residential development to obtain resource consent, so the policies will also be implemented through the assessment of resource consent applications.
- Assessment criteria will provide further more focused guidance on particular design matters to be taken into account.
- Guidelines as to good developments and preferred design solutions, prepared to help developers and potential buyers, are available from the Council.
- Rules applying to the establishment of intensive residential development, including parking standards and Noise Rule 10.5.c(i), are designed to ensure intensive residential development does not compromise the ability of existing non-residential activities to continue their legitimately established operations.

Explanation and Reasons

An important Strategic Objective of the Plan is to effectively manage growth and change by ensuring that a compact sustainable urban form is contained within the Metropolitan Urban Limits. One way of achieving this is to encourage, as part of a mixed use environment, appropriate forms of intensive residential development in Identified High Density Centres and Intensive Corridors. These locations generally offer favourable locations for intensive residential development.

The location, size, shape, and context of sites proposed for intensive residential development can be critical to the achievement of appropriate environmental outcomes. Particular areas or centres may also have infrastructural or other constraints making some sites or forms of development inappropriate. The siting and design, and in turn the assessment, of proposals will reflect both the opportunities and constraints that these locations offer. In addition, it is important that the form of intensive residential development provides a density, range and size of residential accommodation appropriate to the location and development site. Therefore, it is important that development design and the potential adverse effects of development be carefully assessed, through standards incorporated into the Plan, through resource consent assessments, and through reference to the Plan's Urban Design Code.

It is important that intensive residential development does not compromise the ability of existing non-residential activities to continue their operations. Relevant performance standards, including those relating to the provision of parking and internal noise standards for habitable rooms, are designed to avoid the potential for reverse sensitivity effects on existing legitimate activities. Non compliance with those standards may require limited notification of adjacent properties.

Expected Environmental Results

- Intensive residential developments located within close proximity of community facilities, public transport and in areas with appropriate infrastructure capacity.
- Intensive residential developments designed in a manner that integrate well with surrounding development as measured by recognised urban design guidelines and site specific urban design assessments
- Intensive residential developments that exhibit a high standard of on-site amenity as measured by urban design assessments and resident perception surveys.



6. Section 15.4 - Add/ delete text as follows (underlined, struckthrough):

15.4 Zoning Framework: Objectives and Policies

15.4.2 Suburban 2 Zone

Objective

To manage the effects of activities in suburban centres in a manner which:

- Helps to minimise average vehicle trip lengths, by recognising the shopping role that suburban centres serve or could potentially serve for existing suburbs or proposed suburbs
- Makes efficient use of natural and physical resources
- Avoids, remedies or mitigates the adverse effects of activities on the amenity of residential properties
- Requires new development to achieve a high quality design and built form, to integrate with the surrounding streetscape and buildings and to contribute to the centre's "sense of place"
- Encourages residential intensification in the High Density Centres identified in Table 6.1 of the District Plan

Policies

1. By enabling the retention of a substantial shopping role in suburban centres, including significant food retailing, and by enabling new suburban centres to serve new suburbs.
2. By enabling a wide range of business activities to establish in suburban centres in order to ensure that efficient use is made of the resource that they represent.
3. By ensuring that those potential adverse effects of activities in suburban centres on the amenity of adjoining residential areas are avoided, remedied or mitigated.
4. By requiring that new development achieves integration with existing development and the surrounding area, including any building of particular character, those heritage buildings listed in Schedule 11A, and any Notable Trees listed in Schedule 8C, of the District Plan .
5. By requiring that all new buildings and additions and alterations to existing buildings make a positive contribution to the surrounding amenity, and help to achieve high quality urban design outcomes, including a comprehensively planned, well integrated and attractive centre with an active, attractive, safe and convenient pedestrian environment. Additions and alterations to existing buildings should also be in character with the building being added to or altered.
6. By assessing Limited Discretionary activity applications for new buildings, most external alterations and those additions of more than 15m² to the footprint of existing buildings against detailed assessment criteria relating to building form and design.
7. By enabling residential intensification in the High Density Centres identified in Table 6.1 of the District Plan

Methods

All policies will be implemented by rules.



Explanation and Reasons

This zone is applied to twelve existing suburban centres and to two proposed centres at Greville Road and Unsworth Drive. The zone is designed primarily for business activities with a high intensity of operation, although it is not restricted to the largely retail range of activities within this category.

Apart from the floor area controls in the Local 1 zone, the range of controls applied to activities in the Suburban 2 zone is almost identical with that in the Local 1 zone. However, in recognition of the size and significance of the suburban centres, the District Plan is seeking to achieve high quality urban design outcomes. High quality urban design will ensure that the particular qualities and characteristics associated with each centre, including sense of place, vibrancy, and amenity are protected and enhanced. New buildings, additions of greater than 15m², and significant external alterations to existing buildings will require consent as a Limited Discretionary activity, and will be assessed against detailed criteria related to design in the Section 15A, Urban Design Code. Where a site is adjoined or opposite land zoned Residential 3, or is in close proximity to a heritage commercial building, (Scheduled in Appendix 11A of the District Plan), any new building will be required to respond appropriately to the character of heritage commercial buildings (not residential buildings) through specifically targeted assessment criteria in Section 15A, Urban Design Code.

The larger size of centres to which this zoning is applied will mean that comparatively a smaller proportion of sites within each of the centres will be subject to the stricter Buffer Strip controls.

The expectation that Suburban 2 zoned areas will have some larger stores indicates a need for comprehensive design of buildings and sites, with emphasis on integration of development and access, and for landscaping.

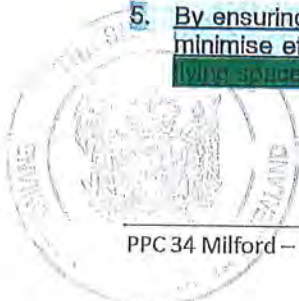
Several suburban centres have been identified as suitable for residential intensification in the regional planning instruments and statutory and non-statutory North Shore City documents (see Chapter 6, managing Urban Growth, Table 6.1). Where necessary, implementation will take place by the progressive amendment of the provisions of the District Plan.

15.4.2A Objective – Milford Intensive Residential Development Overlay Area

To enable intensive residential uses in high quality buildings a way that maintains the amenity of surrounding residential and business areas.

Policies – Milford Intensive Residential Development Overlay Area

1. By requiring high quality urban design that shows creativity, innovation and responsiveness to the local context in a way that contributes to the identity of Milford.
2. By requiring development to be designed within the building envelopes in Appendix 15P, with the final height and bulk of buildings to be determined by reference to the following policies, the standards in Rule 15.6.2.12 and the assessment criteria in Rule 15.7.2.6.
3. By providing for buildings of varying height and mass to promote a noticeable transition in building form and interest and variety to the building skyline.
4. By requiring taller building forms (above five six storeys) to be set back into the site and away from Milford Road, Kitchener Road to ensure a human scale on these streets and the protection of street character and amenity.
5. By ensuring taller building forms (greater than five six storeys) are located on the site so as to minimise effects on adjacent sites in terms of shading, dominance and loss of privacy to main living spaces and outdoor living courts.



6. By enabling requiring lower buildings (five six storeys and below) to provide an appropriately scaled street edge with taller buildings (above five six storeys) set back into the site.
7. By ensuring, where buildings are set back from the street, that any spaces between the ground floor of the building/s and the street contribute positively to streetscape amenity.
8. By ensuring that public and private entrances, both pedestrian and vehicular, to all buildings are clearly legible including, where practicable, being clearly visible from the street.
9. By enabling apartments to be located within tall building forms where such structures are designed to high quality architectural standard.
10. By requiring apartment design to achieve a good standard of amenity for occupiers.
11. By mitigating any adverse effects of outlook from main living areas, including any modification that may be required where the mall roof is a dominant component of outlook.
12. By requiring all new building development to achieve a high standard of building design.
13. By requiring parking that recognises the advantages of a town centre location while still providing for the use of private motor vehicles and cycles.
14. By ensuring any non-residential activity above RL 21m is related to or not incompatible with the primary purpose of the overlay to encourage residential intensification.

Explanation and Reasons

The Milford Intensive Residential Overlay Area allows buildings intended for residential use as apartments. Tall buildings may be erected in this area which will be seen from nearby and distant locations. These buildings will contribute to a changed character for the Milford town centre and it is important that they be designed in such a way as will ensure a human scale on the street and the protection of street character and amenity. In this regard the main street (Kitchener Road) and Milford Road are seen to be of particular importance.

The articulation and modulation of buildings, and appropriate interfaces with the street is also important. A high quality of building design will be required through assessment processes conducted via required resource consents for all new development.

Buildings should be located and designed to minimise effects on adjacent sites in terms of shading, dominance and loss of privacy to main living spaces and outdoor living courts.

Parking standards reflect the accessibility of alternative modes of transport in Milford, including buses, walking and cycling possibilities and the proximity to a range of services and facilities.

7. Section 15.5 - Add text as follows (underlined):

15.5 Rules: Business Activities

Amend Rule 15.5.1.4 as follows:

15.5.1.4 Limited Discretionary Activities

4. In the Business 1- 4 zones, or the Business 9 zone on Hinemoa Street, (between Rugby and Brassey Roads only) and is:
 - a) Any new building,

- b) Additions to an existing building, not provided for as a permitted activity,
- c) Alterations to an existing building not provided for as either a permitted or controlled activity,

provided that any new building in the Milford Intensive Residential Development Overlay Area shall comply with the standards in Rule 15.2.6.12 15.6.2.12 in order to remain a Limited Discretionary Activity.

Note: For the purpose of this rule, "Additions" excludes signs, signs being the subject of Section 13, Signs.

Provided that:-

- (a) in accordance with Section 95A(3) and 95B(2) of the RMA the Council shall, **except in the case of (b) below**, consider an application for resource consent under clause 4 above without public notification and without the need to obtain the written approval of, or serve notice on, affected parties. If the Council considers that special circumstances exist in relation to any such application, it may require the application to be publicly notified. Refer to Rule 3.3.2, Notification Processes for Resource Consents- Applications Requiring Multiple Resource Consents.
- (b) **the Council shall publicly notify any application for a new building in the Milford Intensive Residential Development Overlay Area which exceeds a height of RL 37m or six storeys (whichever is the lesser) to allow for public feedback on the design of taller buildings. The Council shall include the reason why consent is sought in the public notice and shall limit the scope of submissions to be considered to those matters identified in 15.7.2.8 (a).**

or

(b) in the case of the Milford Intensive Residential Development Overlay Area notification of a new building that exceeds a height of RL 37m or six storeys (whichever is the lesser) will be determined on a case by case basis in accordance with 95D of the RMA and Council shall limit the scope of submissions to be considered to those matters identified in 15.7.2.8(a).

Amend Rule 15.5.1.5 as follows:

15.5.1.5 Discretionary Activities

Any activity shall have Discretionary activity status provided that it:

- a) Is not listed as a Non-Complying activity in Section 15.5.1.6 of this Plan; and
- b) Can comply with the controls in Rule 15.6.1.5 to 15.6.1.17 inclusive; and
- c) Falls within any of the following circumstances:

...

- Any activity in the Milford Intensive Residential Development Overlay Area that does not comply with the standards in Rule 15.6.2.12, provided that any activity exceeding the maximum height standard is a non-complying activity.
- Non residential activity in the Milford Intensive Residential Development Overlay Area above RL 21.00 (see the map in Appendix 15P)



Amend Rule 15.5.1.6 as follows:

15.5.1.6 Non-Complying Activities

...

e) In the Milford Intensive Residential Development Overlay Area, any activity that exceeds the maximum heights stated in Rule 15.6.2.12.

...

8. Section 15.6 - Add text as follows (underlined):

15.6 Rules: Business Controls

15.6.1 Activity Controls

15.6.1.9 Residential Development

Rule 15.6.1.9 does not apply to the Milford Intensive Residential Development Overlay Area (see map in Appendix 15P, and Rule 15.6.2.12)

(NB notified PC34 amendments to this rule now not proposed here – they have been replaced by specific standards for the plan change land in 15.6.2.12)

15.6.2 Development Controls for Permitted and Controlled Activities

15.6.2.1 Maximum Height and Floor Area Ratio

.....

Table 15.3 Maximum Height and Floor Area Ratio Controls

| Business Zone | Maximum Height | Floor Area Ratio | |
|---------------|--|------------------|------------|
| | | Basic | With Bonus |
| ... | ... | | |
| 2 | 9m, except for Browns Bay, Highbury (refer to map Appendix 15B), Milford (refer to map Appendix 15P) and the Glenfield Mall Shopping Centre (Lot 1, DP61951) In relation to Browns Bay the maximum height shall be 12.5m. In relation to the Glenfield Mall Shopping Centre, those parts of the site which lie within 100m of the centre line of Glenfield Road shall have a height limit of 12m. For the remainder of the site the height limit shall be 9m | | |



Explanation and Reasons

Local 1 and Suburban 2 Zones

There is some scope for the development of landmarks and for residential and business activity to locate on upper levels. The Control Flexibility provisions can respond to difficult circumstances and to opportunities that do not adversely affect residential and open space amenity. Highbury has had relatively recent investigations into development height, and the resulting implementation of these specific height controls is continued with only minor modifications. To encourage intensification within the Milford town centre, specific height limits apply to the Milford Intensive Residential Development Overlay Area (see Rule 15.6.2.12). Centre Plans are expected to more specifically address building height in other areas.

15.6.2.3 Building Height in Relation to Boundary

.....

Explanation and Reasons

.....

Modified controls apply to the Milford Intensive Residential Development Overlay Area that enable buildings within the envelopes shown on the overlay plan to achieve an appropriate scale, bulk, location and street frontage, and provide enhanced opportunities for passive surveillance of the streetscape whilst still maintaining a good degree of amenity within adjacent residential areas.

15.6.2.12 Requirements for Development in the Milford Intensive Residential Development Overlay Area

The following standards shall apply to must be complied with in any application for a Limited Discretionary Activity for residential units / apartments in Building Envelopes 1 – 9 of the Milford Intensive Residential Development Overlay Area (See Appendix 15P):-

1. The total number of residential units shall not exceed ~~235~~ 250 units
2. The maximum footprint of buildings shall be in accordance with ~~the map in~~ Appendix 15P
3. The maximum height of buildings shall be in accordance with ~~the map in~~ Appendix 15P.
4. The maximum height of buildings in relation to boundaries shall be in accordance with Appendix 15C, subject to the exemption specified in Appendix 15P.
5. Each residential unit in the Milford Intensive Residential Development Overlay Area (see map in Appendix 15P) shall provide:
 - a) Balconies with:
 - i) a minimum area of 4m² and a minimum dimension of 1.5 metres for units 55m² or less.
 - ii) a minimum area of 6m² and a minimum dimension of 1.8 metres for units 56m² – 70m².



- iii) a minimum area of 8m² and a minimum dimension of 1.8 metres for units over 70m².
- b) The main glazing of each residential unit shall be provided with an outlook area of open space, unimpeded by buildings and immediately adjacent to that glazing. Any outlook area must have a minimum dimension of 10 metres, measured at right angles to the wall of the building within which the glazing is located, provided that there shall be a minimum separation distance of 20 metres between the main glazing of one unit and that of another unit situated either on the same or an adjoining site or delineated area unless the main glazing is offset so that it is not possible to draw a horizontal angle of less than 120° from one window to another.

The outlook area may comprise the following components:

- i) An area of on-site space which must be kept free of structures.
- ii) Areas of road reserve.
- iii) Areas of public open space.

c) The minimum sizes of units / apartments shall be as follows:

- i) Studio = 40m²
- ii) One bedroom unit = 45m²
- iii) Two bedroom units = 70m²
- iv) Three or more bedroom units = 90m²

Provided that where a development contains 20 or more units, no more than 30% shall be one bedroom or studio units.

- 6. Any application for resource consent which includes buildings fronting onto Omana Rd shall include a detailed design of a pedestrian footpath located along the full length of the site boundary with Omana Road. The design shall be in accordance with the Auckland Transport Code of Practice and shall be constructed prior to the occupation of any buildings fronting on onto Omana Rd.
- 7. Any application for resource consent shall be accompanied by a plan illustrating the provisions to be made for pedestrian and cycle access to the site, including an illustration of how this access is to be linked to bus stops, bus routes and the regional cycle network.
- 8. The peak hourly traffic flow generated by the residential units during the weekday peak periods of 7:00 to 9:00 am and 4:00 to 6:00 pm shall not exceed 141 vehicle trips.

Explanation and Reasons

The standards for Limited Discretionary Activities within the Milford Intensive Residential Development Overlay Area are derived from an analysis of effects, including likely traffic generation, and effects of building dominance and shading and the need to support and encourage active travel modes. These minimum standards will be supplemented by an assessment of Limited Discretionary Activity applications, including in relation to the Urban Design Code in Section 15A, are a prerequisite to the activity status remaining Limited Discretionary.



9. Section 15.7 - Add text as follows (underlined):

15.7.2.7 New buildings and Alterations to existing Buildings- Business 1, 2, 3 and 4 Zones, and Business 9 on Hinemoa Street (between Brassey and Rugby Roads only (included here for context only)

- a) When assessing an application for a Limited Discretionary activity in the Business 1, 2, 3 and 4 zones, and in the Business 9 zone in Hinemoa Street, (between Rugby and Brassey Roads only), the Council will consider the assessment criteria contained in Section 15A of the District Plan, Urban Design Code, and any other relevant assessment criteria in Section 15.
- b) Compliance with the Urban Design Code should be demonstrated in the Context Analysis and Design Statement required by Rule 15.6.2.11 submitted as part of the application for consent. In the Business 4 zone compliance with the Albany Structure Plan should also be demonstrated in the Context Analysis.
- c) Where a site is located within the Buffer Strip, the assessment criteria in Rule 15.7.1.6, "Buffer Strip Development" also apply.

15.7.2.8 New Buildings located within the Milford Intensive Residential Development Overlay Area (see Appendix 15P)

When considering proposals for new buildings as a Limited Discretionary Activity or a Discretionary Activity, applications will be assessed in terms of 15.6.2.11, 15.7.2.7 and the following additional criteria:

(a) Design of Buildings

- (i) Buildings shall be constructed within the building envelopes in Appendix 15P with the final height and bulk of buildings to be determined by reference to the Policies in 15.4.2A, the standards in Rule 15.6.2.12 and the following assessment criteria.
- (ii) Buildings shall be designed to provide a distinctive silhouette with the uppermost floors designed in a manner that integrates mechanical functions into the overall building so when viewed from within and around Milford they make a positive contribution to the collective skyline of the town centre.
- (iii) Buildings shall avoid a boxy dominant massing with an appropriate scale at the street level to integrate with the adjacent buildings and open space.
- (iv) The design of balustrades and the design and location of full height windows shall provide for at least partial screening of personal effects when viewed from the street or wider surrounds.
- (v) Buildings(s) occupying Envelope 1 shown on Appendix 15P shall be designed to integrate with their context and enhance the landmark nature of the site, particularly when viewed along Shakespeare Road.
- (vi) Buildings(s) occupying Envelope 1 shown on Appendix 15P shall provide an appropriate design response to their prominence and the adjacent landform of the East Coast ridgeline.
- (vii) Building(s) taller than RL21m in Envelopes 5, 6, 7 or 8 shown on Appendix 15P shall be accompanied by an appropriate development interface in the existing carpark area adjoining the corner of Milford Road and Ihumata Road.
- (viii) Where main living areas overlook the mall roof the mall roof shall be modified or screened as appropriate to avoid or mitigate any glare or unsightly components.
- (ix) The extent to which the design of apartments are consistent with the overall intentions for apartments as set out in *The Good Solutions Guide for Apartments* (ISBN 978-0-473-11999-7), and in particular, Part C of that Guide.

(b) Pedestrians and Cycling

- (i) The extent to which pedestrian connections are provided through the site and in particular, the extent to which they provide mid-block connections between Kitchener Road and Milford Road.

Note: It is expected that connections through the site will be publicly accessible at least during the hours that the Milford Shopping Centre is open.

- (ii) The extent to which facilities are provided for cyclists (having regard to the ARTA Guidance Note for Cycle Parking Facilities 2007)

(c) Privacy in respect of respect of Residential Activities:

- (i) The extent to which building layout and windows and balconies are designed to reduce overlooking of the private open space of other residential dwellings.

(d) Daylight and Sunlight in respect of Residential Activities

- (i) The extent to which habitable rooms and outdoor spaces allow for solar admission and sun access during the shortest winter day (as a guide, habitable rooms for at least 70 percent of the units should receive sun access for a minimum of three hours between 9 am and 3 pm on the winter solstice (June 21)).

- (ii) The extent to which glazing is of sufficient size and appropriately located to allow natural light into rooms to allow daily activities to occur without the need for artificial lighting.

- (iii) The extent to which design devices such as overhangs, vertical screens, heat-absorbing materials (such as tiles) and reflective glass are used to help to regulate summer and winter solar gain and provide passive sources of heating.

- (iv) The extent to which apartments have adequate ceiling heights and appropriate depths to maintain apartment amenity by allowing daylight penetration.

(e) Traffic Generation

Refer to the assessment criteria in Rule 12.5.1.3

Appendices

Appendix 15C: Sloping Height Planes, Building Height in Relation to Boundary for Business Zones *(Note, with these amendments the existing rule remains unchanged)*

For all business zoned sites

No part of any building on a site zoned Business 1, 2, 3, 4, 5, 6, 7, 8, 9 shall exceed a height of 2.5 metres plus the horizontal distance between that part of the building & the nearest part of any residential zone boundary, or any land designated for a school at the time the Plan is notified (e.g. Birkenhead Primary School).

For sites zoned Business 1, 2 ~~(except the Milford Intensive Residential Development Overlay Area)~~, 7, 8, 9, 10

No part of any building on a site zoned Business 1, 2 ~~(except the Milford Intensive Residential Development Overlay Area)~~, 7, 8, 9, 10 shall exceed a height of 10 metres plus the horizontal distance between that part of the building and the nearest part of any recreation zone boundary.

[For sites zoned Business 2 ~~(except the Milford Intensive Residential Development Overlay Area)~~, Business 3 Areas A, B, D and Business 11

No part of any building on a site zoned Business 2 ~~(except the Milford Intensive Residential Development Overlay Area)~~ or 3 Area A, B or D shall exceed a height of 10 metres plus the horizontal distance between that part of the building and the nearest part of any road boundary.]

~~For Buildings within the Milford Intensive Residential Development Overlay Area~~

~~No Building Height in Relation to Boundary control with regard to the nearest part of any recreation zone boundary or road boundary shall apply to the buildings within the envelopes shown on the diagram in Appendix 15P that comply with the maximum permitted heights described at 15.6.3.11~~



10. Amend Table 15A.1 (Urban Design Code) as follows:

| Town Centre | Exempted Street | Reason for Exemption |
|----------------|--------------------|----------------------|
| <u>Milford</u> | <u>Ormana Road</u> | <u>Topography</u> |

11. Add a new Appendix 15P (next page)

Note the amendment to the Height to Boundary exemption clause that applies by way of an asterisk (*), to read as follows:

“ * BUILDING EXEMPTED FROM COMPLYING WITH RULE 15.6.2.3 AND OPERATIVE DISTRICT PLAN APPENDIX 15C HEIGHT IN RELATION TO BOUNDARY CONTROLS B AND C”



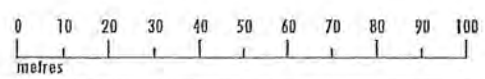
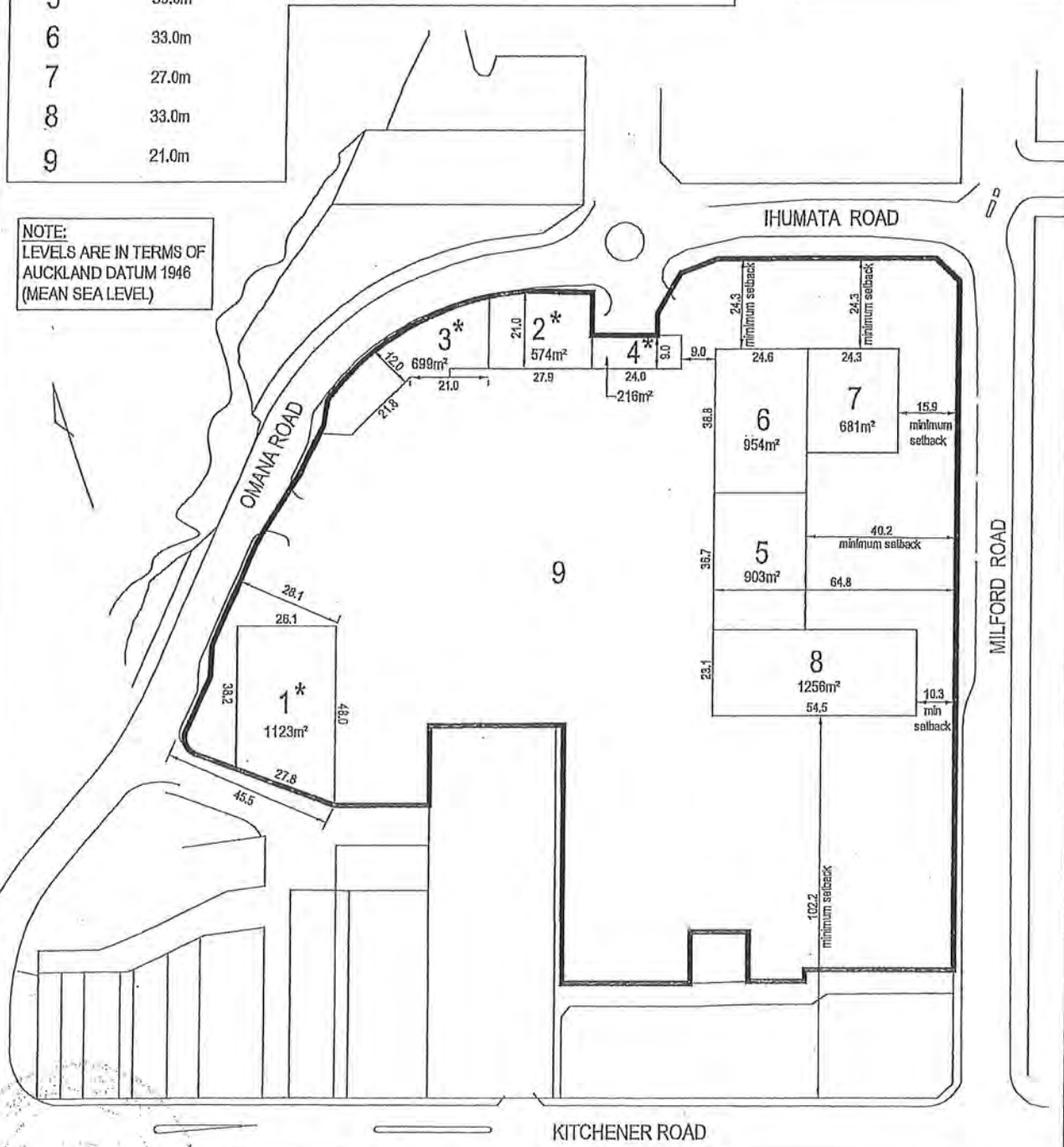
APPENDIX 15P MILFORD INTENSIVE RESIDENTIAL DEVELOPMENT OVERLAY

LEGEND

| BUILDING ENVELOPES | REFERENCE LEVEL (RL) (MAXIMUM BUILDING HEIGHTS) | MILFORD INTENSIVE RESIDENTIAL DEVELOPMENT OVERLAY |
|--------------------|--|---|
| 1 | 63.0m | MILFORD INTENSIVE RESIDENTIAL DEVELOPMENT OVERLAY BUILDING EXEMPTED FROM COMPLYING WITH RULE 15.6.2.3 AND APPENDIX 15C HEIGHT IN RELATION TO BOUNDARY CONTROLS B & C |
| 2 | 28.0m | |
| 3 | 38.0m | |
| 4 | 25.0m | |
| 5 | 59.0m | |
| 6 | 33.0m | |
| 7 | 27.0m | |
| 8 | 33.0m | |
| 9 | 21.0m | |

| |
|---------------------------|
| OMANA ROAD SOUTHERN TOWER |
| 1 |
| OMANA ROAD NORTHERN TOWER |
| 2 3 4 |
| MILFORD ROAD TOWER |
| 5 6 7 8 |

NOTE:
LEVELS ARE IN TERMS OF AUCKLAND DATUM 1946 (MEAN SEA LEVEL)



**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2013-AKL-000030

UNDER: the Resource Management Act 1991

AND

IN THE MATTER of an appeal pursuant to clause 29(6) of
Schedule 1 of the Act

BETWEEN **MILFORD CENTRE LIMITED**
Appellant

AND **AUCKLAND COUNCIL**
Respondent

AND **PARTIES LISTED IN ANNEXURE A**
Section 274 Parties

Joint Statement of Urban Design Witnesses

15 August 2013



1. INTRODUCTION

1.1 This Joint Statement is filed by:

- Kevin Brewer (Auckland Council)
- David Gibbs (Milford Residents' Association Inc.)
- Ian Munro (Milford Centre Limited)
- Graeme McIndoe (Milford Centre Limited)

1.2 In order to assist the Court, this Joint Statement identifies areas of agreement and disagreement, and has been prepared by the expert witnesses in caucusing sessions held on 15 August 2013.

2. ISSUE: GROWTH

2.1 We accept that Milford Town Centre and its environs as a whole have qualities that make the town centre suitable for intensification.

2.2 We agree the Milford Shopping Centre site is an appropriate location for residential intensification and should be efficiently used.

2.3 We accept that Milford Town Centre has been identified in various relevant policy documents as a location for growth. We agree that growth and intensification should occur. The non-binding targets for growth that could apply to Milford will require significant change. The key urban design issue is the balancing of local urban design effects against meeting these targets.

2.4 We are not confident that the current Operative Plan provisions will deliver those non-binding growth targets that are anticipated by the ARPS and Auckland Plan within the Operative Plan envelopes.

2.5 We agree the extent of growth that can be accommodated will be moderated by constraints such as fragmented land ownership, and the necessity for high standards of urban design. We expect that growth will not be distributed equally across the town centre area. Growth will be 'lumpy' and will vary within the town centre, depending on site availability and other constraints.

2.6 We agree that accommodating growth should be balanced with consideration of local amenity and character. We agree that for this application effects on local residential amenity are more important than effects on character.

2.7 In respect of Milford Town Centre's character, the main street is the major character determining element, including the activities undertaken within it.



3. ISSUE: QUALITY OF BUILT ENVIRONMENT

- 3.1 We agree that the proposition of sleeving of the existing shopping centre with residential is a good thing, and this achieves a positive urban design outcome. It eliminates the currently low quality street edges of the shopping centre.

4. ISSUE: DESCRIPTION OF VISUAL SIMULATIONS

- 4.1 We agree it is helpful that the Truescape simulations which show the 'permitted' envelopes should cover:
- The existing environment
 - The existing view with the PC34 envelope added
 - The above including the permitted envelope on all relevant sites.

5. ISSUE: SCALE OF DEVELOPMENT ALONG MILFORD AND IHUMATA ROADS

- 5.1 We agree that a scale of predominantly three storeys, potentially four would be appropriate along these street edges, contingent on high quality architectural and urban design. If this were to be four storeys it might include a habitable roof.

6. ISSUE: USE OF LOWER LEVELS ALONG OMANA ROAD

- 6.1 DG and KB consider that the podium base of the Envelope 1 fronting Omana Road should be residential at all levels above ground. IM and GM disagree, considering the above ground floors could be either residential or commercial within that part of the envelope already provided for in the Business 2 zone.
- 6.2 We agree the principle of massing towards the western side of the site (platforms 1, 2 and 3) is appropriate, due to this part of the site having a greater capacity to absorb new buildings.

7. ISSUE: WEIGHT PLACED ON CHARACTER VS AMENITY

- 7.1 We agree Milford Town Centre is an area of transition, and does not have a recognised heritage character such as, for example, Northcote Point and Devonport.

8. ISSUE: HEIGHT AND VIEWS

- 8.1 We do not agree on the maximum height limits proposed by PC34.
- 8.2 In considering visual (urban design) effects we agree that there are two broad contexts. One of these is for properties close to the periphery of the Milford Shopping Centre site, where issues such as overlooking and dominance are of greater significance. The other is the context of wider and longer range views from outside the town centre where the visual



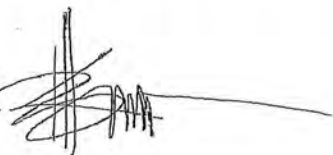
effects of building forms in the wider urban landscape are the major consideration.

8.3 We have considered a range of Truescape views in their developing but not complete form, and comment only on only two of these due to time limitations:

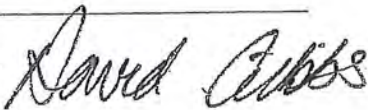
- Shakespeare Road in the context of view is a less sensitive environment given the diversity of building scales including mid-rise towers such as the hospital and extending to Smales Farm. A view of the centre here helps to identify the location of the Milford Town Centre.
- We agree that the envelope in distant views along East Coast Road is not especially prominent, with the nearby residential buildings instead prominent in these views.

Dated this 15th day of August 2013

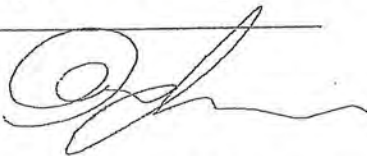
Kevin Brewer



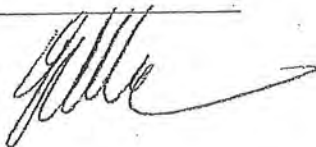
David Gibbs



Ian Munro



Graeme McIndoe



BEFORE THE ENVIRONMENT COURT ENV-2013-AKL-000030
IN THE MATTER of the Resource Management
 Act 1991

AND
IN THE MATTER of an appeal pursuant to clause
 29(6) of the First Schedule of
 the Act

BETWEEN MILFORD CENTRE LIMITED
 Appellant

AND AUCKLAND COUNCIL
 Respondent

AND PARTIES LISTED IN
 ANNEXURE A
 Section 274 Parties

JOINT WITNESS STATEMENT OF LANDSCAPE ARCHITECTURE
WITNESSES

15 AUGUST 2013



1. INTRODUCTION

1.1 The following experts attended a caucusing meeting on the 15th August 2013:

- Rob Pryor (RP); and
- Stephen Brown (SB).

1.2 The following statement firstly sets out the matters of agreement. It then provides a summary of the matters of disagreement and the reasons for disagreement.

2. MATTERS OF AGREEMENT

Intensification

2.1 Agree that the PC34 site is an appropriate location for residential intensification and intensification of the Milford Centre.

Form of development with the PC34 site

2.2 Agree that the form of development within the PC34 site should be of varied heights and provide a focal point from the surrounding area – i.e. development should not be of a uniform height across the entire site. SB considers that an appropriate mix of building heights would potentially be 4, 5, 6 and 8 levels (as modelled in the Truescape visual simulations).

Surrounding urban context

2.3 Agree that in terms of the surrounding urban context (i.e. outside of the site), that three to four levels of residential development is realistic and appropriate.

Viewpoints and visual catchment

2.4 Agree that the extent of the visual catchment affected by PC34 and a representative cross-section of viewpoints have been appropriately identified / located.



Visual simulations

- 2.6 Agree that both the U6 and Truescape visual simulations comply with NZ Institute of Landscape Architects Best Practice Guide 'Visual Simulations BPG 10.2' in terms of their coverage, extent and proportionality. Agree however that they also have limitations in that they focus on the broad landscape encompassing PC34 and do not address the viewer's eye being attracted to particular elements in the view. This reflects the limitations associated with all photomontages and simulations: they are not a surrogate for the environment as it is perceived through the human eye.
- 2.7 Agree that the U6 visual simulations are based on a conceptual architectural model reflecting potential development enabled by PC34 (i.e. one interpretation of what PC34 might deliver from an architectural standpoint), whereas the Truescape visual simulations have been modelled on the full extent of the building envelopes (building footprints) provided by PC34.

3. MATTERS OF DISAGREEMENT

Appropriate scale and height of development enabled by PC34

Buildings 2 and 3

- 3.1 SB – Concern at the scale and potential building dominance of Buildings 2 and 3 relative to the residential properties in Omana and Ihumata Roads. Considers that 4-5 levels would be more appropriate.
- 3.2 RP – the scale and height of Buildings 2 and 3 is offset by the expanse and openness of the Wairau Creek Reserve. Extensive vegetation is present on the northern side of Ihumata Road and along Omana Road, providing a suitable buffer to the residential properties.

Buildings 1 and 5

- 3.3 SB – Concern at the scale and bulk of Buildings 1 and 5 relative to the wider Milford residential catchment and separation of those building envelopes from the rest of the building matrix within the Milford Town Centre site. Concern that these buildings could be too monolithic and that the PC34 planning provisions do not provide sufficient safeguards against this possibility.
- 3.4 RP – the location of development within the building envelopes addresses the surrounding streets well and minimises potential adverse effects on

surrounding properties. Any adverse effects of development will be addressed through the provisions and assessment criteria relating to building form and appearance which enable conditions to be imposed to address effects.



Rob Pryor



Stephen Brown

15 August 2013



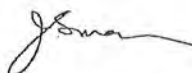
IN THE MATTER OF:
PROPOSED PLAN CHANGE 34 MILFORD INTENSIVE RESIDENTIAL
DEVELOPMENT OVERLAY AREA

Caucusing Report from John Small and Douglas Fairgray

1. John Small has come into this matter very recently whereas Douglas Fairgray was involved in the 2012 hearings and has supplied two statements of evidence to the court.
2. We caucused on Wednesday 14 August by phone, and subsequently drafted this joint report on August 16, 2013.
3. We agree that residential intensification at Milford, in line with both the operative Plan and the scheme of the Draft Unitary Plan, will involve increased building heights. We also agree that it is generally desirable and efficient for building heights and residential densities (dwellings/ha) to be greatest towards the centre of Milford, and reducing with increasing distance from the centre.
4. The PC34 proposal overlay is consistent with this general scheme.
5. The key economic question for Dr Small is whether it enables too much space. The total volume of space enabled in the development will influence the eventual market outcomes. Dr Small considers there may be insufficient demand for all of the commercial space enabled, which may lead to pressure in the future for extra housing (in excess of the 250 units proposed) to be provided. He notes that there appears to be no evidence on the total volume of space enabled and his own estimates based on the MCL map give him cause for concern.
6. Dr Fairgray notes that the proposed plan change caps the development at 250 residential units (15.6.2.12). He considers that, based on his market growth assessment, and also Council's anticipated employment growth, which both indicate demand growth considerably in excess of the additional capacity implied in the development, that there is very little likelihood of pressure to substitute additional residential units for commercial capacity.



J D M Fairgray
16 August 2013



J P Small
16 August 2013



BEFORE THE ENVIRONMENT COURT

ENV 2013 AKL 0000030

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of an appeal pursuant to clause 29(6) of Schedule 1 of the Act in relation to a change to the Auckland Council District Plan, North Shore Section to provide for a new Intensive Residential Development Overlay Area in Milford (Plan Change 34)

BETWEEN

MILFORD CENTRE LIMITED

Appellant

AND

AUCKLAND COUNCIL

Respondent

AND

MILFORD RESIDENTS ASSOCIATION
INCORPORATED

AUCKLAND TRANSPORT

CASTOR BAY RESIDENTS ASSOCIATION

NATIONAL TRADING COMPANY LIMITED

Section 274 Parties

JOINT WITNESS STATEMENT OF PLANNERS

Joint Witness Statement by Planners arising from Caucusing on Private Plan Change 34 to the Auckland District Plan (North Shore Section), conducted on Tuesday 20 August 2013 and Tuesday 27 August 2013.



Caucusing was undertaken in accordance with section 5.6.2 of the practice note for Expert Witness Caucusing.

Planning experts who caucused:

MILFORD CENTRE LIMITED

Peter Reaburn – Consultant Planner

AUCKLAND COUNCIL

Vijay Lala - Consultant Planner

MILFORD RESIDENTS ASSOCIATION (INC)

Kim Hardy – Consultant Planner

AUCKLAND TRANSPORT

Scott Macarthur - Senior Transport Planner

Scope of Experts Area of Interest

Scott Macarthur for Auckland Transport has a brief which is focused only on the traffic and transport implications of the appeals. All other planners have a broad planning interest in the issues raised by appeal.

1. Identification of material regarded by the experts as primary data

- Auckland Regional Policy Statement (September 2011 Operative Version)
- Auckland Council District Plan (North Shore Section) (August 2011 Version)
- The Auckland Plan
- New Zealand Coastal Policy Statement 2010
- The Local Government (Auckland Council) Act 2009
- The Land Transport Management Act 2003
- The "Long Bay Tests"
- Private Plan Change 34*
- The Plan Change 34 Statutory Assessment (Section 32 Report) and accompanying documents
- All documentation in the Agreed Bundle (yet to be agreed at the time of signing)
- The Council Hearings Panel Decision

* The planners note that a version of Private Plan Change 34 dated 27 August 2013 has been prepared that includes all amendments since notification. The planners all agree that it is appropriate to use this version as the basis for evidence. The amendments are highlighted although not necessarily agreed between all the parties.



2. Published standards or papers relied upon in coming to their Opinions

RMA Part 2

- Section 5 is relevant.
- Section 6 is not relevant.
- Sections 7 (b), (c) and (f) are relevant.
- Section 8 is not relevant.

NZCPS (2010)

- The NZCPS has limited relevance.

ARPS

- Chapters 2 and 4 are most relevant and in particular Part 2.6.1 Strategic Objectives, Part 2.6.2 Strategic Policies Urban Containment, Part 2.6.5 Strategic Policies Urban Structure, Part 2.6.6 Strategic Policies Urban Design, Part 2.6.11 Strategic Policies Land Use and Transport Integration, Part 4.4 and Appendix H.

Land Transport Management Act

- The Regional Public Transport Plan has relevance. However the relevant provisions are also adequately encapsulated in the ARPS and district plan provisions and require no further evaluation.

North Shore Section Operative District Plan

- The most relevant chapters are 6 (Managing Growth), 15 (Business) and 15A (Urban Design Code).
- Parts of Chapters 10 (in relation to noise) and 12 (in relation to parking) are relevant.
- Chapters 16 (Residential) and 19 (Recreation) are also relevant.

Devonport – Takapuna Local Board Plan, Northern and Western Sectors Agreement

- The Devonport – Takapuna Local Board Plan and the Northern and Western Sectors Agreement are relevant, however the relevant parts are adequately encapsulated in the ARPS and district plan provisions and require no further evaluation.

Auckland Plan

The Auckland Plan is relevant, in relation to its provisions seeking consolidation of future urban growth and quality urban design.

Draft Auckland Unitary Plan

All planners consider that the Auckland Unitary Plan had no statutory weight at the time this statement was prepared.



3. Identification of any methodology or standards used by the experts in arriving at their opinions and reasons for differences in methodology and standards (if any)

- Long Bay Tests and the broader framework of the RMA

4. The relevant categories of issue that are agreed or not agreed between the experts

- (a) Is Milford town centre a suitable location for residential intensification?

All planners agree that Milford is a suitable location for limited and defined residential intensification, provided significant adverse effects are adequately avoided, remedied or mitigated.

- (b) Should the existing planning provisions be amended to provide for residential intensification having regard to the wider planning framework?

Peter Reaburn and Scott Macarthur consider that the existing district planning Business Zone provisions generally and Business 2 Zone provisions in particular need to be amended to provide for an appropriate amount and scale of development on the Milford Town Centre site, if adequate regard is to be given to the wider planning framework, including the ARPS and Section 6 of the district plan.

Mr Reaburn considers, irrespective of whether there are changes to other provisions, that objective and policy amendments are required so that there is adequate alignment between the business zones and the wider regional and district strategies. Mr Reaburn further considers that the existing height requirements in the Business 2 Zone do not enable adequate or appropriate provision to be made for residential intensification of the Milford Centre site. Mr Reaburn is satisfied that the objective, policy and rules amendments proposed in Plan Change 34 are an appropriate response to these matters.

Vijay Lala considers that some amendment to the planning provisions are required, having regard to the wider planning framework. The higher level Business provisions are appropriate for amendment so that they align with the regional objectives and policies, however below this level (i.e. Business 2 and below) the Plan Change 34 provisions are not considered to be an appropriate response to this issue.

Kim Hardy considers that Plan Change 34 as proposed is not the appropriate response to residential intensification in Milford. Whilst some amendment to the Business 2 zone provisions is required to provide for residential intensification the amendments should be specific only to Milford and not apply to all the North Shore Business 2 zone locations. Any amendments as proposed by PC34 should consider all of the Milford Business 2 zone and the residential context.

- (c) Will the development provided for by the Plan Change have significant adverse effects that cannot be adequately avoided, remedied or mitigated, having regard to the height and bulk of buildings, visual and landscape effects, dominance,



shading, privacy, impacts on views and the character and amenity of Milford and the wider environment?

Peter Reaburn considers that the development provided for by the Plan Change should not have any significant adverse effects provided that the relevant standards and assessment criteria existing in the district plan and proposed in Plan Change 34 are met and appropriately administered. In particular, Mr Reaburn relies on a rigorous design and design assessment process being conducted for future proposed development.

Vijay Lala considers that the built form outcomes of Plan Change 34 will be out of context with the surrounding locality and will result in significant adverse effects that cannot be avoided, remedied or mitigated. The resulting built form will also challenge the role of Milford Town Centre within the regional hierarchy of metropolitan centres, sub regional centres and other centres. The development enabled by Plan Change 34 should be balanced with consideration of local amenity and character.

Kim Hardy considers that the height, bulk, scale and intensity of development provided for by Plan Change 34 will result in significant adverse effects on Milford. The acceptable height, bulk and scale of buildings is a matter for the urban design and landscape experts.

- (d) Will there be adverse transport and parking effects as a result of the development provided for by the Plan Change?

All planners agree that, subject to the transport and parking-related provisions of the existing district plan, as amended by the additional provisions in the version of Private Plan Change 34 dated 27 August 2013 (as agreed at mediation), transport and parking effects can be appropriately addressed.

Kim Hardy considers that the transport and parking effects for up to 250 residential units with 141 trips generated can be appropriately addressed (as agreed at mediation). The traffic and parking effects of any Plan Change 34 provisions that provide for more than 250 residential units and 141 trips has not been assessed.

- (e) Will there be adverse noise and reverse sensitivity effects as a result of the development provided for by the Plan Change?

All planners agree that, having regard to existing rules in the district plan and rules in the district plan provisions of the version of Private Plan Change 34 dated 27 August 2013, noise and reverse sensitivity effects are appropriately addressed.

Kim Hardy agrees that noise and reverse sensitivity is an issue. The proposed noise rule in section 10 appears to reasonably address this but that is a matter for the technical noise experts.

- (f) Is a site-specific plan change that attempts to address wider policy matters in Business Zones appropriate?

Mr Reaburn is satisfied that the objective, policy and rules amendments proposed in Plan Change 34 are an appropriate response to these matters.



Kim Hardy considers that a Milford specific plan change is an appropriate method but that the Plan Change 34 provisions are not appropriate. Plan Change 34 is proposed as a 'Milford Intensive Residential Development Overlay' and therefore should not attempt to change Business zone provisions beyond the Milford Business 2 zone.

Vijay Lala considers that in general planning terms it is appropriate for a site-specific plan change to amend wider policy matters. In the case of Plan Change 34 it is appropriate to amend the higher level Business policy issues within the District Plan to reflect intensification objectives, however at a more detailed level (Business 2 and below), the plan change should specifically address issues related to each centre as appropriate (in this instance Milford).

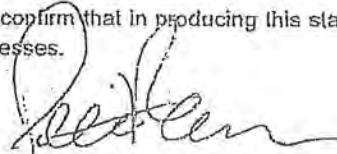
- (g) How should any further provision for residential intensification in Milford manifest itself in terms of the planning provisions in the district plan

Mr Reaburn is satisfied that the objective, policy and rules amendments proposed in Plan Change 34 are an appropriate response to these matters.

Vijay Lala considers that the objectives, policies, rules and criteria should be developed in a comprehensive and integrated manner to ensure the objectives and policies specifically address the built form outcomes envisaged. These provisions should be complementary to the local context and character of the locality in addition to the role of Milford in the regional hierarchy context.

Kim Hardy considers that any further provision for residential intensification in Milford must reflect both the planning framework and local context.


We confirm that in producing this statement we have complied with the Code of Conduct for expert witnesses.

 - 27/08/2013


Peter Reaburn - Consultant Planner

 28.08.13

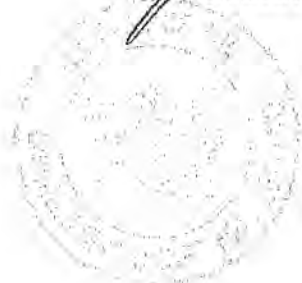
Vijay Lala - Consultant Planner

 28/8/2013

Kim Hardy - Consultant Planner

 28/8/2013

Scott Macarthur - Senior Transport Planner



Proposed Plan Change 34

Notified Plan Change New text is shown as underlined and deleted text as ~~strikethrough~~.
Some existing text (not underlined) is shown to place the amendments in context.

Reply Version 2 October 2012

Mediation version: 20 August 2013

Re-introduction of previously agreed provisions with National Trading Company and Auckland Transport

Milford Intensive Residential Development Overlay Area

This is a privately initiated plan change

1. *Add an additional item to Section 9.4.1.3 as follows:*

Section 9 Subdivision and Development 9.4.1.3 Limited Discretionary Activities

y) Siteworks and subdivision within the Milford Intensive Residential Development Overlay Area.

2. *Insert additional text to Rule 10.5 as follows:*

Section 10 Pollution, Hazardous Substances and Waste Management

10.5 Noise: Rules

i) New buildings and alterations to existing buildings to be used for residential purposes in the Milford Shopping Centre High Density Residential Overlay must meet the following:

- Noise received in all habitable rooms shall not exceed 35 dBA L10(15min) between 2300 hours and 0700 hours. If this cannot be achieved with ventilating windows open, the noise limit shall be complied with including the noise generated by any mechanical ventilation system.
- The external noise level incident on the facade shall be based on the following spectrum:

| <u>Octave Band Centre Frequency</u> | | | | | | | |
|-------------------------------------|--------------|--------------|--------------|---------------|---------------|---------------|-------------------|
| <u>63Hz</u> | <u>125Hz</u> | <u>250Hz</u> | <u>500Hz</u> | <u>1000Hz</u> | <u>2000Hz</u> | <u>4000Hz</u> | <u>A-weighted</u> |
| <u>74dB</u> | <u>67dB</u> | <u>66dB</u> | <u>61dB</u> | <u>59dB</u> | <u>59dB</u> | <u>54dB</u> | <u>65dB</u> |

- An Acoustic Design Report shall be obtained from a suitably qualified Acoustic Expert confirming that the building will be constructed to meet the above requirements.

3. Amend Table 12.1 as follows:

Section 12 Transportation
12.4.2.1 Parking Standards

| Table 12.1 Parking Standards | |
|--|--|
| Activity | Parking Spaces Required |
| | |
| Residential Units, Apartment Buildings, Intensive Housing and Minor Residential Units | <p>One for each residential unit with a gross floor area of 50m² or less</p> <p>Two for each residential unit with a gross floor area in excess of 50m²</p> <p><u>In the Milford Intensive Residential Development Overlay Area the following parking is required: total number of car parking spaces shall be calculated by using the following standards and shall be dedicated for the residential use only:</u></p> <p><u>Studio/1 bedroom residential unit – 1 space</u> <u>2 bedroom residential unit – 1.5 spaces</u> <u>3 or more bedroom residential unit – 2 spaces</u></p> <p><u>Minimum Car Parking Requirement – an average of one space per residential unit</u></p> <p><u>Maximum Car Parking Requirement – an average of 2 spaces per residential unit</u></p> <p><u>Minimum Cycle Parking Requirement – one cycle park per unit</u></p> |
| Residential Units, Apartment Buildings, Intensive Housing, Terraced Housing and other similar forms of intensive residential development | <p>Visitor parking spaces on-site at the rate of 0.5 spaces for each unit over 50 m² gross floor area, such spaces to be in addition to those required for private use by unit occupiers (for assessment of applications see Rule 16.7.3.6 in addition to 12.5)</p> <p><u>In the Milford Intensive Residential Development Overlay Area the requirement for visitor parking spaces to be provided shall be 0.1 spaces for each unit and be dedicated for visitor parking only.</u></p> <p><u>there is no requirement for visitor parking spaces to be provided</u></p> |

Comment [p1]: Reintroduced at mediation (was in the original notified PC34)



Section 15 Business

4. Section 15.3.4 - Add/ delete text as follows (underlined, struckthrough):

15.3.4 Control of Adverse Effects

Objective

To ensure that the adverse environmental effects of business and other activities in business areas are avoided, remedied or mitigated.

Policies

1. By requiring that business activities and other activities in business areas avoid, remedy or mitigate adverse environmental effects.

5. Section 15.3.7 - Add/ delete text as follows (underlined, struckthrough):

15.3.7 Intensive Residential Development

~~The provisions of Section 16.3.8 Intensive residential development apply. The following Objective and policies apply,~~ with the exception of the Business 11 zone.

Objective

To enable intensive residential development in the High Density Centres identified in Table 6.1 of the District Plan, where such development is designed to a high standard and integrates well with the High Density Centre and the wider neighbourhood.

Policies

1. By providing for and encouraging intensive residential development in centre planning and structure planning.
2. By establishing centre-specific design controls and methods, through plan changes and/or resource consent processes, that are appropriate and relevant to the management of effects of intensive residential development having regard to the location and characteristics of each centre and its wider neighbourhood.
3. By assessing all applications for intensive residential development against the provisions of Section 15A, Urban Design Code and centre-specific policies, design controls and methods.

4. By requiring intensive residential development does not compromise the ability of existing residential activities to continue their legitimate established operations.

Comment [p2]: Previously agreed with NTC

Methods

- Rules require most forms of intensive residential development to obtain resource consent, so the policies will also be implemented through the assessment of resource consent applications.
- Assessment criteria will provide further more focused guidance on particular design matters to be taken into account.

- Guidelines as to good developments and preferred design solutions, prepared to help developers and potential buyers, are available from the Council.

Rules applying to the establishment of intensive residential development, including parking standards and Noise Rule 10.5(c) are designed to ensure intensive residential development does not compromise the ability of existing non-residential activities to continue their legitimately established operations.

Comment [p3]: Previously agreed with NTC

Explanation and Reasons

An important Strategic Objective of the Plan is to effectively manage growth and change by ensuring that a compact sustainable urban form is contained within the Metropolitan Urban Limits. One way of achieving this is to encourage, as part of a mixed use environment, appropriate forms of intensive residential development in Identified High Density Centres and Intensive Corridors. These locations generally offer favourable locations for intensive residential development.

The location, size, shape, and context of sites proposed for intensive residential development can be critical to the achievement of appropriate environmental outcomes. Particular areas or centres may also have infrastructural or other constraints making some sites or forms of development inappropriate. The siting and design, and in turn the assessment, of proposals will reflect both the opportunities and constraints that these locations offer. In addition, it is important that the form of intensive residential development provides a density, range and size of residential accommodation appropriate to the location and development site. Therefore, it is important that development design and the potential adverse effects of development be carefully assessed, through standards incorporated into the Plan, through resource consent assessments, and through reference to the Plan's Urban Design Code.

It is important that intensive residential development does not compromise the ability of existing non-residential activities to continue their operations. Relevant performance standards, including those relating to the provision of parking and internal noise standards for habitable rooms, are designed to avoid the potential for reverse compatibility effects on existing legitimate activities. Non-compliance with those standards may require limited notification of adjacent properties.

Comment [p4]: Previously agreed with NTC

Expected Environmental Results

- Intensive residential developments located within close proximity of community facilities, public transport and in areas with appropriate infrastructure capacity.
- Intensive residential developments designed in a manner that integrate well with surrounding development as measured by recognised urban design guidelines and site specific urban design assessments
- Intensive residential developments that exhibit a high standard of on-site amenity as measured by urban design assessments and resident perception surveys.

6. Section 15.4 - Add/ delete text as follows (underlined, struckthrough):

15.4 Zoning Framework: Objectives and Policies

15.4.2 Suburban 2 Zone

Objective

To manage the effects of activities in suburban centres in a manner which:

- Helps to minimise average vehicle trip lengths, by recognising the shopping role that suburban centres serve or could potentially serve for existing suburbs or proposed suburbs
- Makes efficient use of natural and physical resources
- Avoids, remedies or mitigates the adverse effects of activities on the amenity of residential properties
- Requires new development to achieve a high quality design and built form, to integrate with the surrounding streetscape and buildings and to contribute to the centre's "sense of place"
- Encourages residential intensification in the High Density Centres identified in Table 6.1 of the District Plan

Policies

1. By enabling the retention of a substantial shopping role in suburban centres, including significant food retailing, and by enabling new suburban centres to serve new suburbs.
2. By enabling a wide range of business activities to establish in suburban centres in order to ensure that efficient use is made of the resource that they represent.
3. By ensuring that those potential adverse effects of activities in suburban centres on the amenity of adjoining residential areas are avoided, remedied or mitigated.
4. By requiring that new development achieves integration with existing development and the surrounding area, including any building of particular character, those heritage buildings listed in Schedule 11A, and any Notable Trees listed in Schedule 8C, of the District Plan .
5. By requiring that all new buildings and additions and alterations to existing buildings make a positive contribution to the surrounding amenity, and help to achieve high quality urban design outcomes, including a comprehensively planned, well integrated and attractive centre with an active, attractive, safe and convenient pedestrian environment. Additions and alterations to existing buildings should also be in character with the building being added to or altered.
6. By assessing Limited Discretionary activity applications for new buildings, most external alterations and those additions of more than 15m² to the footprint of existing buildings against detailed assessment criteria relating to building form and design.
7. By enabling residential intensification in the High Density Centres identified in Table 6.1 of the District Plan.

Methods

All policies will be implemented by rules.

Explanation and Reasons

This zone is applied to twelve existing suburban centres and to two proposed centres at Greville Road and Unsworth Drive. The zone is designed primarily for business activities with a high intensity of operation, although it is not restricted to the largely retail range of activities within this category.

Apart from the floor area controls in the Local 1 zone, the range of controls applied to activities in the Suburban 2 zone is almost identical with that in the Local 1 zone. However, in recognition of the size

and significance of the suburban centres, the District Plan is seeking to achieve high quality urban design outcomes. High quality urban design will ensure that the particular qualities and characteristics associated with each centre, including sense of place, vibrancy, and amenity are protected and enhanced. New buildings, additions of greater than 15m², and significant external alterations to existing buildings will require consent as a Limited Discretionary activity, and will be assessed against detailed criteria related to design in the Section 15A, Urban Design Code. Where a site is adjoined or opposite land zoned Residential 3, or is in close proximity to a heritage commercial building, (Scheduled in Appendix 11A of the District Plan), any new building will be required to respond appropriately to the character of heritage commercial buildings (not residential buildings) through specifically targeted assessment criteria in Section 15A, Urban Design Code.

The larger size of centres to which this zoning is applied will mean that comparatively a smaller proportion of sites within each of the centres will be subject to the stricter Buffer Strip controls.

The expectation that Suburban 2 zoned areas will have some larger stores indicates a need for comprehensive design of buildings and sites, with emphasis on integration of development and access, and for landscaping.

Several suburban centres have been identified as suitable for residential intensification in the regional planning instruments and statutory and non-statutory North Shore City documents (see Chapter 6, managing Urban Growth, Table 6.1). Where necessary, implementation will take place by the progressive amendment of the provisions of the District Plan.

Objective – Milford Intensive Residential Overlay Area

To enable intensive residential uses in high quality buildings a way that maintains the amenity of surrounding residential and business areas.

Policies – Milford Intensive Residential Overlay Area

1. By requiring taller building forms (above five storeys) to be set back into the site and away from Milford Road and Kitchener Road, to ensure a human scale on these streets and the protection of street character and amenity.
2. By ensuring taller building forms (greater than five storeys) are located on the site so as to minimise effects on adjacent sites in terms of shading, dominance and loss of privacy.
3. By enabling lower buildings (five storeys and below) to provide an appropriately-scaled street edge with taller buildings (above five storeys) set back into the site.
4. By ensuring, where buildings are set back from the street, that any spaces between the ground floor of the building/s and the street contribute positively to streetscape amenity.
5. By ensuring that public and private entrances, both pedestrian and vehicular, to all buildings are clearly legible including, where practicable, being clearly visible from the street.
6. By enabling apartments to be located within tall building forms where such structures are designed to high quality architectural standard.
7. By requiring apartment design to achieve a good standard of amenity for occupiers.
8. By requiring all new building development to achieve a high standard of building design.
9. By requiring parking that recognises the advantages of a town centre location while still providing for the use of private motor vehicles and cycles.



10. By ensuring any non-residential activity above RL 21m is related to or not incompatible with the primary purpose of the overlay to encourage residential intensification.

Explanation and Reasons

The Milford Intensive Residential Overlay Area allows buildings intended for residential use as apartments. Tall buildings may be erected in this area which will be seen from nearby and distant locations. These buildings will contribute to a changed character for the Milford town centre and it is important that they be designed in such a way as will ensure a human scale on the street and the protection of street character and amenity. In this regard the main street (Kitchener Road) and Milford Road are seen to be of particular importance.

The articulation and modulation of buildings, and appropriate interfaces with the street is also important. A high quality of building design will be required through assessment processes conducted via required resource consents for all new development.

Parking standards reflect the accessibility of alternative modes of transport in Milford, including buses, walking and cycling possibilities and the proximity to a range of services and facilities.

7. Section 15.5 - Add text as follows (underlined):

15.5 Rules: Business Activities

Amend Rule 15.5.1.4 as follows:

15.5.1.4 Limited Discretionary Activities

4. In the Business 1- 4 zones, or the Business 9 zone on Hinemoa Street, (between Rugby and Brassey Roads only) and is:
- a) Any new building,
 - b) Additions to an existing building, not provided for as a permitted activity,
 - c) Alterations to an existing building not provided for as either a permitted or controlled activity,

provided that any new building in the Milford Intensive Residential Development Overlay Area shall comply with the standards in Rule ~~15.2.6.12~~ in order to remain a Limited Discretionary Activity.

Comment [p5]: Typo (previously identified)

Amend Rule 15.5.1.5 as follows:

15.5.1.5 Discretionary Activities

Any activity shall have Discretionary activity status provided that it:

- a) Is not listed as a Non-Complying activity in Section 15.5.1.6 of this Plan; and
- b) Can comply with the controls in Rule 15.6.1.5 to 15.6.1.17 inclusive; and
- c) Falls within any of the following circumstances:

...

- Any activity in the Milford Intensive Residential Development Overlay Area that does not comply with the standards in Rule 15.6.2.12, provided that any activity exceeding the maximum height standard is a non-complying activity.
- Non residential activity in the Milford Intensive Residential Development Overlay Area above RL 21.00 (see the map in Appendix 15P)

Amend Rule 15.5.1.6 as follows:

15.5.1.6 Non-Complying Activities

e) In the Milford Intensive Residential Development Overlay Area, any activity that exceeds the maximum heights stated in Rule 15.6.2.12.

8. Section 15.6 - Add text as follows (underlined):

15.6 Rules: Business Controls

15.6.1 Activity Controls

15.6.1.9 Residential Development

Rule 15.6.1.9 does not apply to the Milford Intensive Residential Development Overlay Area (see map in Appendix 15P, and Rule 15.6.2.12)

(NB notified PC34 amendments to this rule now not proposed here – they have been replaced by specific standards for the plan change land in 15.6.2.12)

15.6.2 Development Controls for Permitted and Controlled Activities

15.6.2.1 Maximum Height and Floor Area Ratio

.....

| Business Zone | Maximum Height | Floor Area Ratio | |
|---------------|--|------------------|------------|
| | | Basic | With Bonus |
| ... | ... | | |
| 2 | 9m, except for Browns Bay, Highbury (refer to map Appendix 15B), Milford (refer to map Appendix 15P) and the Glenfield Mall Shopping Centre (Lot 1, DP61951) In relation to Browns Bay the maximum height shall be 12.5m. In relation to the Glenfield Mall Shopping Centre, those parts of the site which lie within 100m of the centre line of Glenfield Road shall have a height limit of 12m. For the remainder of the site the height limit shall be 9m | | |



Explanation and Reasons

Local 1 and Suburban 2 Zones

There is some scope for the development of landmarks and for residential and business activity to locate on upper levels. The Control Flexibility provisions can respond to difficult circumstances and to opportunities that do not adversely affect residential and open space amenity. Highbury has had relatively recent investigations into development height, and the resulting implementation of these specific height controls is continued with only minor modifications. To encourage intensification within the Milford town centre, specific height limits apply to the Milford Intensive Residential Development Overlay Area (see Rule 15.6.2.12). Centre Plans are expected to more specifically address building height in other areas.

15.6.2.3 Building Height in Relation to Boundary

Explanation and Reasons

Modified controls apply to the Milford Intensive Residential Development Overlay Area that enable buildings within the envelopes shown on the overlay plan to achieve an appropriate scale, bulk, location and street frontage, and provide enhanced opportunities for passive surveillance of the streetscape whilst still maintaining a good degree of amenity within adjacent residential areas.

15.6.2.12 Requirements for Development in the Milford Intensive Residential Development Overlay Area

Comment [p6]: Note: this rule has been internally renumbered

The following standards ~~shall apply to~~ must be complied with in any application for a Limited Discretionary Activity for residential units / apartments in Building Envelopes 1 – 9 of the Milford Intensive Residential Development Overlay Area (See Appendix 15P):-

1. The total number of residential units shall not exceed ~~235~~ 250 units
2. The maximum footprint of buildings shall be in accordance with ~~the map in~~ Appendix 15P
3. The maximum height of buildings shall be in accordance with ~~the map in~~ Appendix 15P.
4. The maximum height of buildings in relation to boundaries shall be in accordance with Appendix 15C, subject to the exemption specified in Appendix 15P.
5. Each residential unit in the Milford Intensive Residential Development Overlay Area (see map in Appendix 15P) shall provide:
 - a) Balconies with:
 - i) a minimum area of 4m² and a minimum dimension of 1.5 metres for units 55m² or less.
 - ii) a minimum area of 6m² and a minimum dimension of 1.8 metres for units 56m² – 70m².

- iii) a minimum area of 8m² and a minimum dimension of 1.8 metres for units over 70m².
- b) The main glazing of each residential unit shall be provided with an outlook area of open space, unimpeded by buildings and immediately adjacent to that glazing. Any outlook area must have a minimum dimension of 10 metres, measured at right angles to the wall of the building within which the glazing is located. The outlook area may comprise the following components:
 - i) An area of on-site space which must be kept free of structures.
 - ii) Areas of road reserve.
 - iii) Areas of public open space.
- c) The sizes of units / apartments shall be as follows:
 - i) Studio = 40m²
 - ii) One bedroom unit = 45m²
 - iii) Two bedroom units = 70m²
 - iv) Three or more bedroom units = 90m²

Provided that where a development contains 20 or more units, no more than 90% shall be one bedroom or studio units.

Any application for resource consent which includes buildings fronting onto Omara Rd shall include a detailed design of a pedestrian footpath located along the full length of the site boundary with Omara Road. The design shall be in accordance with the Auckland Transport Code of Practice and shall be constructed prior to the occupation of any buildings fronting on onto Omara Rd.

Comment [p7]: 6 & 7 previously agreed with AT

Any application for resource consent shall be accompanied by a plan illustrating the provisions to be made for pedestrian and cycle access to the site, including an illustration of how this access is to be linked to bus stops, bus routes, and the regional cycle network.

Comment [p8]: Previously agreed with AT

Explanation and Reasons

The standards for Limited Discretionary Activities within the Milford Intensive Residential Development Overlay Area are derived from an analysis of effects, including likely traffic generation, and effects of building dominance and shading and the need to support and encourage active travel modes. These minimum standards will be supplemented by an assessment of Limited Discretionary Activity applications, including in relation to the Urban Design Code in Section 15A, are a prerequisite to the activity status remaining Limited Discretionary.

9. Section 15.7 - Add text as follows (underlined):

15.7.2.7 New buildings and Alterations to existing Buildings- Business 1, 2, 3 and 4 Zones, and Business 9 on Hinemoa Street (between Brassey and Rugby Roads only (included here for context only)

- a) When assessing an application for a Limited Discretionary activity in the Business 1, 2, 3 and 4 zones, and in the Business 9 zone in Hinemoa Street, (between Rugby and Brassey Roads only), the Council will consider the assessment criteria contained in Section 15A of the District Plan, Urban Design Code, and any other relevant assessment criteria in Section 15.



- b) Compliance with the Urban Design Code should be demonstrated in the Context Analysis and Design Statement required by Rule 15.6.2.11 submitted as part of the application for consent. In the Business 4 zone compliance with the Albany Structure Plan should also be demonstrated in the Context Analysis.
- c) Where a site is located within the Buffer Strip, the assessment criteria in Rule 15.7.1.6, "Buffer Strip Development" also apply.

15.7.2.8 New Buildings located within the Milford Intensive Residential Development Overlay Area (see Appendix 15P)

When considering proposals for new buildings, applications will be assessed in terms of 15.7.2.7 and the following additional criteria:

- (a) **Design of Buildings**
 - (i) Buildings shall be designed to provide a distinctive silhouette with the uppermost floors designed in a manner that integrates mechanical functions into the overall building so when viewed from within and around Milford they make a positive contribution to the collective skyline of the town centre.
 - (ii) Buildings shall avoid a boxy dominant massing with an appropriate scale at the street level to integrate with the adjacent buildings and open space.
 - (iii) The design of balustrades and the design and location of full height windows shall provide for at least partial screening of personal effects when viewed from the street or wider surrounds.
 - (iv) Buildings(s) occupying Envelope 1 shown on Appendix 15P shall be designed to integrate with their context and enhance the landmark nature of the site, particularly when viewed along Shakespeare Road.
 - (v) Buildings(s) occupying Envelope 1 shown on Appendix 15P shall provide an appropriate design response to their prominence and the adjacent landform of the East Coast ridge line.
 - (vi) Building(s) taller than RL21m in Envelopes 5, 6, 7 or 8 shown on Appendix 15P shall be accompanied by an appropriate development interface in the existing carpark area adjoining the corner of Milford Road and Ihumata Road.
 - (vii) The extent to which the design of apartments are consistent with the overall intentions for apartments as set out in *The Good Solutions Guide for Apartments* (ISBN 978-0-473-11999-7), and in particular, Part C of that Guide.
- (b) **Pedestrians and Cycling**
 - (i) The extent to which pedestrian connections are provided through the site and in particular, the extent to which they provide mid-block connections between Kitchener Road and Milford Road.
Note: It is expected that connections through the site will be publicly accessible at least during the hours that the Milford Shopping Centre is open.
 - (ii) The extent to which facilities are provided for cyclists (having regard to the ARTA Guidance Note for Cycle Parking Facilities 2007).
- (c) **Privacy in respect of Residential Activities:**
 - (i) The extent to which building layout and windows and balconies are designed to reduce overlooking of the private open space of other residential dwellings.
- (d) **Daylight and Sunlight in respect of Residential Activities**
 - (i) The extent to which habitable rooms and outdoor spaces allow for solar admission and sun access during the shortest winter day (as a guide, habitable rooms for at least 70 percent of the units should receive sun access for a minimum of three hours between 9 am and 3 pm on the winter solstice (June 21)).
 - (ii) The extent to which glazing is of sufficient size and appropriately located to allow natural light into rooms to allow daily activities to occur without the need for artificial lighting.

- (iii) The extent to which design devices such as overhangs, vertical screens, heat-absorbing materials (such as tiles) and reflective glass are used to help to regulate summer and winter solar gain and provide passive sources of heating.
- (iv) The extent to which apartments have adequate ceiling heights and appropriate depths to maintain apartment amenity by allowing daylight penetration.

[REDACTED]

[REDACTED]

Appendices

Appendix 15C: Sloping Height Planes, Building Height in Relation to Boundary for Business Zones *(Note, with these amendments the existing rule remains unchanged)*

For all business zoned sites

No part of any building on a site zoned Business 1, 2, 3, 4, 5, 6, 7, 8, 9 shall exceed a height of 2.5 metres plus the horizontal distance between that part of the building & the nearest part of any residential zone boundary, or any land designated for a school at the time the Plan is notified (e.g. Birkenhead Primary School).

For sites zoned Business 1, 2 ~~(except the Milford Intensive Residential Development Overlay Area)~~, 7, 8, 9, 10

No part of any building on a site zoned Business 1, 2 ~~(except the Milford Intensive Residential Development Overlay Area)~~, 7, 8, 9, 10 shall exceed a height of 10 metres plus the horizontal distance between that part of the building and the nearest part of any recreation zone boundary.

[For sites zoned Business 2 ~~(except the Milford Intensive Residential Development Overlay Area)~~ Business 3 Areas A, B, D and Business 11

No part of any building on a site zoned Business 2 ~~(except the Milford Intensive Residential Development Overlay Area)~~ or 3 Area A, B or D shall exceed a height of 10 metres plus the horizontal distance between that part of the building and the nearest part of any road boundary.]

For Buildings within the Milford Intensive Residential Development Overlay Area

No Building Height in Relation to Boundary control with regard to the nearest part of any recreation zone boundary or road boundary shall apply to the buildings within the envelopes shown on the diagram in Appendix 15P that comply with the maximum permitted heights described at 15.6.2.11

10. Amend Table 15A.1 (Urban Design Code) as follows:

| Town Centre | Exempted Street | Reason for Exemption |
|-------------|-----------------|----------------------|
| Milford | Omana Road | Topography |

11. Add a new Appendix 15P (next page)

Note the amendment to the Height to Boundary exemption clause that applies by way of an asterisk (*), to read as follows:

“ * BUILDING EXEMPTED FROM COMPLYING WITH RULE 15.6.2.3 AND OPERATIVE DISTRICT PLAN APPENDIX 15C HEIGHT IN RELATION TO BOUNDARY CONTROLS B AND C”



mca 22/11/13.

REPLY VERSION OF PROPOSED PLAN CHANGE 34 BASED ON APPENDIX D TO MR REABURN'S REBUTTAL EVIDENCE

Proposed Plan Change 34

Amendments agreed between the parties at caucusing during the hearing are shown **highlighted**

Amendments agreed from the Council's version of the Plan Change (tabled 20 November 2013) are shown **highlighted**

Alternative amendments proposed by Mr Reaburn are shown **highlighted**

New text is shown as underlined and deleted text as ~~strikethrough~~.
Some existing text (not underlined) is shown to place the amendments in context.

Milford Intensive Residential Development Overlay Area

This is a privately initiated plan change

1. Add an additional item to Section 9.4.1.3 as follows:

Section 9 Subdivision and Development 9.4.1.3 Limited Discretionary Activities

y) Siteworks and subdivision within the Milford Intensive Residential Development Overlay Area.

2. Insert additional text to Rule 10.5 as follows:

Section 10 Pollution, Hazardous Substances and Waste Management

10.5 Noise: Rules

j) New buildings and alterations to existing buildings to be used for residential purposes in the Milford Shopping Centre High Density Residential Overlay Milford Intensive Residential Development Overlay Area must meet the following:

- Noise received in all habitable rooms shall not exceed 35 dBA L10(15min) between 2300 hours and 0700 hours. If this cannot be achieved with ventilating windows open, the noise limit shall be complied with including the noise generated by any mechanical ventilation system.
- The external noise level incident on the facade shall be based on the following spectrum:

| <i>Octave Band Centre Frequency</i> | | | | | | | |
|-------------------------------------|--------------|--------------|--------------|---------------|---------------|---------------|-------------------|
| <i>63Hz</i> | <i>125Hz</i> | <i>250Hz</i> | <i>500Hz</i> | <i>1000Hz</i> | <i>2000Hz</i> | <i>4000Hz</i> | <i>A-weighted</i> |
| <i>74dB</i> | <i>67dB</i> | <i>66dB</i> | <i>61dB</i> | <i>59dB</i> | <i>59dB</i> | <i>54dB</i> | <i>65dB</i> |

- An Acoustic Design Report shall be obtained from a suitably qualified Acoustic Expert confirming that the building will be constructed to meet the above requirements.

3. Amend Table 12.1 as follows:

Section 12 Transportation
12.4.2.1 Parking Standards

| Table 12.1 Parking Standards | |
|--|---|
| Activity | Parking Spaces Required |
| | |
| Residential Units, Apartment Buildings, Intensive Housing and Minor Residential Units | <p>One for each residential unit with a gross floor area of 50m² or less</p> <p>Two for each residential unit with a gross floor area in excess of 50m²</p> <p><u>In the Milford Intensive Residential Development Overlay Area the following parking is required: total number of car parking spaces shall be calculated by using the following standards and shall be dedicated for the residential use only:</u></p> <p><u>Studio/1 bedroom residential unit – 1 space</u> <u>2 bedroom residential unit – 1.5 spaces</u> <u>3 or more bedroom residential unit – 2 spaces</u></p> <p><u>Maximum Car Parking Requirement – an average of 2 spaces per residential unit</u></p> <p><u>Minimum Cycle Parking Requirement – one cycle park per unit</u></p> |
| Residential Units, Apartment Buildings, Intensive Housing, Terraced Housing and other similar forms of intensive residential development | <p>Visitor parking spaces on-site at the rate of 0.5 spaces for each unit over 50 m² gross floor area, such spaces to be in addition to those required for private use by unit occupiers (for assessment of applications see Rule 16.7.3.6 in addition to 12.5)</p> <p><u>In the Milford Intensive Residential Development Overlay Area there is no requirement for visitor parking spaces to be provided the requirement for visitor parking spaces to be provided shall be 0.1 spaces for each unit and be dedicated for visitor parking only.</u></p> |



Section 15 Business

4. Section 15.3.4 - Add/ delete text as follows (underlined, struckthrough):

15.3.4 Control of Adverse Effects

Objective

To ensure that the adverse environmental effects of business and other activities in business areas are avoided, remedied or mitigated.

Policies

1. By requiring that business activities and other activities in business areas avoid, remedy or mitigate adverse environmental effects.

5. Section 15.3.7 - Add/ delete text as follows (underlined, struckthrough):

15.3.7 Intensive Residential Development

~~The provisions of Section 16.3.8 Intensive residential development apply.~~ The following Objective and policies apply, with the exception of the Business 11 zone.

Objective

To enable intensive residential development in the High Density Centres identified in Table 6.1 of the District Plan, where such development is designed to a high standard and integrates well with the High Density Centre and the wider neighbourhood.

Policies

1. By providing for and encouraging intensive residential development in the High Density Centres identified in Table 6.1. ~~centre planning and structure planning, subject by requiring to~~ centre-specific provisions ~~being included~~ in the District Plan ~~by way of a plan change.~~
2. By ensuring plan changes to introduce centre-specific provisions relating to intensive residential development contain ~~By establishing centre-specific design controls, assessment criteria~~ and methods, ~~through plan changes and/or resource consent processes,~~ that are appropriate and relevant to the management of effects of intensive residential development, ~~having regard to the local character,~~ characteristics of each centre and its wider neighbourhood.
3. By assessing all applications for intensive residential development against the provisions of Section 15A, Urban Design Code and the centre-specific policies, design controls, ~~assessment criteria~~ and methods.
4. By ensuring intensive residential development does not compromise the ability of existing non-residential activities to continue their legitimately established operations.

Methods

- (i) Where centre-specific provisions do not already exist in the district plan they may be introduced by way of plan change by Council or via private plan change. Plan changes may be confined to an individual site or a number of sites but must have regard to the context of the centre as a whole.

- (ii) Rules require most forms of intensive residential development to obtain resource consent, so the policies will also be implemented through the assessment of resource consent applications.
- (iii) Assessment criteria will provide further more focused guidance on particular design matters to be taken into account.
- (iv) Guidelines as to good developments and preferred design solutions, prepared to help developers and potential buyers, are available from the Council.
- (v) Rules applying to the establishment of intensive residential development, including parking standards and Noise Rule 10.5.c(i), are designed to ensure intensive residential development does not compromise the ability of existing non-residential activities to continue their legitimately established operations.

Explanation and Reasons

An important Strategic Objective of the Plan is to effectively manage growth and change by ensuring that a compact sustainable urban form is contained within the Metropolitan Urban Limits. One way of achieving this is to encourage, as part of a mixed use environment, appropriate forms of intensive residential development in Identified High Density Centres and Intensive Corridors. These locations generally offer favourable locations for intensive residential development.

The location, size, shape, and context of sites proposed for intensive residential development can be critical to the achievement of appropriate environmental outcomes. Particular areas or centres may also have infrastructural or other constraints making some sites or forms of development inappropriate. The siting and design, and in turn the assessment, of proposals will reflect both the opportunities and constraints that these locations offer. In addition, it is important that the form of intensive residential development provides a density, range and size of residential accommodation appropriate to the location and development site. Therefore, it is important that development design and the potential adverse effects of development be carefully assessed, through standards incorporated into the Plan, through resource consent assessments, and through reference to the Plan's Urban Design Code.

It is important that intensive residential development does not compromise the ability of existing non-residential activities to continue their operations. Relevant performance standards, including those relating to the provision of parking and internal noise standards for habitable rooms, are designed to avoid the potential for reverse sensitivity effects on existing legitimate activities. Non compliance with those standards may require limited notification of adjacent properties.

Expected Environmental Results

- Intensive residential developments located within close proximity of community facilities, public transport and in areas with appropriate infrastructure capacity.
- Intensive residential developments designed in a manner that integrate well with surrounding development as measured by recognised urban design guidelines and site specific urban design assessments
- Intensive residential developments that exhibit a high standard of on-site amenity as measured by urban design assessments and resident perception surveys.

Section 15.4 - Add/ delete text as follows (underlined, struckthrough):

15.4 Zoning Framework: Objectives and Policies

15.4.2 Suburban 2 Zone

Objective

To manage the effects of activities in suburban centres in a manner which:

1. Helps to minimise average vehicle trip lengths, by recognising the shopping role that suburban centres serve or could potentially serve for existing suburbs or proposed suburbs
2. Makes efficient use of natural and physical resources
3. Avoids, remedies or mitigates the adverse effects of activities on the amenity of residential properties
4. Requires new development to achieve a high quality design and built form, to integrate with the surrounding streetscape and buildings and to contribute to the centre's "sense of place"
5. Encourages residential intensification in the High Density Centres identified in Table 6.1 of the District Plan, subject to centre-specific provisions being included in the District Plan by way of a plan change.

Policies

1. By enabling the retention of a substantial shopping role in suburban centres, including significant food retailing, and by enabling new suburban centres to serve new suburbs.
2. By enabling a wide range of business activities to establish in suburban centres in order to ensure that efficient use is made of the resource that they represent.
3. By ensuring that those potential adverse effects of activities in suburban centres on the amenity of adjoining residential areas are avoided, remedied or mitigated.
4. By requiring that new development achieves integration with existing development and the surrounding area, including any building of particular character, those heritage buildings listed in Schedule 11A, and any Notable Trees listed in Schedule 8C, of the District Plan.
5. By requiring that all new buildings and additions and alterations to existing buildings make a positive contribution to the surrounding amenity, and help to achieve high quality urban design outcomes, including a comprehensively planned, well integrated and attractive centre with an active, attractive, safe and convenient pedestrian environment. Additions and alterations to existing buildings should also be in character with the building being added to or altered.
6. By assessing Limited Discretionary activity applications for new buildings, most external alterations and those additions of more than 15m² to the footprint of existing buildings against detailed assessment criteria relating to building form and design.
7. By enabling residential intensification in the High Density Centres identified in Table 6.1 of the District Plan, subject to centre-specific provisions being included in the District Plan by way of a plan change.

Methods

All policies will be implemented by rules.

Explanation and Reasons

This zone is applied to twelve existing suburban centres and to two proposed centres at Greville Road and Unsworth Drive. The zone is designed primarily for business activities with a high intensity of operation, although it is not restricted to the largely retail range of activities within this category.

Apart from the floor area controls in the Local 1 zone, the range of controls applied to activities in the Suburban 2 zone is almost identical with that in the Local 1 zone. However, in recognition of the size and significance of the suburban centres, the District Plan is seeking to achieve high quality urban

design outcomes. High quality urban design will ensure that the particular qualities and characteristics associated with each centre, including sense of place, vibrancy, and amenity are protected and enhanced. New buildings, additions of greater than 15m², and significant external alterations to existing buildings will require consent as a Limited Discretionary activity, and will be assessed against detailed criteria related to design in the Section 15A, Urban Design Code. Where a site is adjoined or opposite land zoned Residential 3, or is in close proximity to a heritage commercial building, (Scheduled in Appendix 11A of the District Plan), any new building will be required to respond appropriately to the character of heritage commercial buildings (not residential buildings) through specifically targeted assessment criteria in Section 15A, Urban Design Code.

The larger size of centres to which this zoning is applied will mean that comparatively a smaller proportion of sites within each of the centres will be subject to the stricter Buffer Strip controls.

The expectation that Suburban 2 zoned areas will have some larger stores indicates a need for comprehensive design of buildings and sites, with emphasis on integration of development and access, and for landscaping.

Several suburban centres have been identified as suitable for residential intensification in the regional planning instruments and statutory and non-statutory North Shore City documents (see Chapter 6, managing Urban Growth, Table 6.1). Where necessary, implementation will take place by the progressive amendment of the provisions of the District Plan.

15.4.2A Objective – Milford Intensive Residential Development Overlay Area

To enable intensive residential uses in high quality buildings in a way that maintains the amenity of surrounding residential and business areas.

Policies – Milford Intensive Residential Development Overlay Area

1. By requiring high quality urban design that shows creativity, innovation and responsiveness to the local context in a way that contributes positively to the amenity and character of identity of Milford.
2. By requiring development to be designed contained within the building envelopes heights in Appendix 15P, with the final height and bulk of buildings to be determined by reference to the following policies, the standards in Rule 15.6.2-12 and the assessment criteria in Rule 15.7.2-8.
3. By providing for buildings of varying height and mass within the platforms and maximum heights of Appendix 15P, to promote a noticeable transition in built form and interest and variety to the building skyline.
4. By providing for requiring a built form outcome that enables an active built edge around the perimeter of the site with some provision for building height variances to avoid a monotonous street edge and within this framework provision be made for increased building height for envelopes 1 and 5, whilst taking into account local character and amenity.
5. By requiring taller building forms (above five-six storeys) to be set back into the site and away from Milford Road Kitchener Road to ensure a human scale on these streets and the protection of street character and amenity.
6. By ensuring taller buildings forms (greater than five-six storeys) are located on the site so as to minimise effects on adjacent sites in terms of shading, dominance and loss of privacy to main living spaces and outdoor living courts.
7. By requiring buildings within envelopes 1, 3, 5, and 8 to be designed to respond to their particular street context and s the character and amenity of relative to the affected residential catchments around Milford Town Centre.

8. By enabling requiring lower buildings (five six storeys and below) to provide an appropriately scaled street edge with taller buildings (above five six storeys) set back into the site

9.

9.

10.9. By ensuring, where buildings are set back from the street, that any spaces between the ground floor of the building/s and the street contribute positively to streetscape amenity.

11.10. By ensuring that public and private entrances, both pedestrian and vehicular, to all buildings are clearly legible including, where practicable, being clearly visible from the street.

12.11. By enabling apartments to be located within tall building forms within envelopes and maximum heights in Appendix 15P where such structures are designed to high quality architectural standard.

13.12. By requiring apartment design to achieve a good standard of amenity for occupiers.

14.13. By mitigating any adverse effects of outlook from main living areas, including any modification that may be required where the mall roof is a dominant component of outlook.

15.14. By requiring all new and alterations to existing building development to achieve a high standard of building design.

16.15. By requiring parking that recognises the advantages of a town centre location while still providing for the use of private motor vehicles and cycles.

17.16. By ensuring any non-residential activity above RL 21m is related to or not incompatible with the primary purpose of the overlay to encourage residential intensification.

Explanation and Reasons

The Milford Intensive Residential Overlay Area allows buildings intended for residential use as apartments. Tall buildings within the maximum heights and building envelopes in Appendix 15P may be erected in this area which will be seen from nearby and distant locations. These buildings will contribute to a changed character for the Milford town centre and it is important that they be designed in such a way as will ensure a human scale on the street and the protection of street character and amenity. In this regard the main street (Kitchener Road) and Milford Road are seen to be of particular importance.

The articulation and modulation of buildings, and appropriate interfaces with the street is also important. A high quality of building design and urban design will be required through assessment processes conducted via required resource consents for all new development and alterations to existing buildings.

~~Buildings should be located and designed to minimise effects on adjacent sites in terms of shading, dominance and loss of privacy to main living spaces and outdoor living courts~~

Parking standards reflect the accessibility of alternative modes of transport in Milford, including buses, walking and cycling possibilities and the proximity to a range of services and facilities.

6. Section 15.5 - Add text as follows (underlined):

15.5 Rules: Business Activities

Amend Rule 15.5.1.4 as follows:

15.5.1.4 Limited Discretionary Activities

4. In the Business 1- 4 zones, or the Business 9 zone on Hinemoa Street, (between Rugby and Brassey Roads only) and is:
- a) Any new building,
 - b) Additions to an existing building, not provided for as a permitted activity,
 - c) Alterations to an existing building not provided for as either a permitted or controlled activity,

provided that any new building or alteration to existing building in the Milford Intensive Residential Development Overlay Area shall comply with the standards in Rule 45.2.6.12 15.6.2.12 in order to remain a Limited Discretionary Activity.

Note: For the purpose of this rule, "Additions" excludes signs, signs being the subject of Section 13, Signs.

Provided that:-

- (a) in accordance with Section 95A(3) and 95B(2) of the RMA the Council shall, except in the case of (b) below, consider an application for resource consent under clause 4 above without public notification and without the need to obtain the written approval of, or serve notice on, affected parties. If the Council considers that special circumstances exist in relation to any such application, it may require the application to be publicly notified. Refer to Rule 3.3.2, Notification Processes for Resource Consents- Applications Requiring Multiple Resource Consents.

~~(b) the Council shall publicly notify any application for a new building in the Milford Intensive Residential Development Overlay Area which exceeds a height of RL 37m or six storeys (whichever is the lesser) to allow for public feedback on the design of taller buildings. The Council shall include the reason why consent is sought in the public notice and shall limit the scope of submissions to be considered to those matters identified in 15.7.2.8 (a).~~

or

- (b) in the case of the Milford Intensive Residential Development Overlay Area notification of a consent application for any new building that exceeds a height of RL 37m or six storeys above ground level (whichever is the lesser) will be determined on a case by case basis in accordance with ss 95A - 95D of the RMA and Council shall limit the scope of submissions to be considered to those matters identified in 15.7.2.8 (a).

Amend Rule 15.5.1.5 as follows:

15.5.1.5 Discretionary Activities

Any activity shall have Discretionary activity status provided that it:

- a) Is not listed as a Non-Complying activity in Section 15.5.1.6 of this Plan; and
- b) Can comply with the controls in Rule 15.6.1.5 to 15.6.1.17 inclusive; and
- c) Falls within any of the following circumstances:

- Any activity in the Milford Intensive Residential Development Overlay Area that does not comply with the standards in Rule 15.6.2.12, provided that any activity exceeding the maximum height standard is a non-complying activity.
- Non residential activity in the Milford Intensive Residential Development Overlay Area above RL 21.00 (see the map in Appendix 15P)

Amend Rule 15.5.1.6 as follows:

15.5.1.6 Non-Complying Activities

...

e) In the Milford Intensive Residential Development Overlay Area, any activity that exceeds the maximum heights stated in Rule 15.6.2.12.

...

7. Section 15.6 - Add text as follows (underlined):

15.6 Rules: Business Controls

15.6.1 Activity Controls

15.6.1.9 Residential Development

Rule 15.6.1.9 does not apply to the Milford Intensive Residential Development Overlay Area (see map in Appendix 15P, and Rule 15.6.2.12)

(NB notified PC34 amendments to this rule now not proposed here – they have been replaced by specific standards for the plan change land in 15.6.2.12)

15.6.2 Development Controls for Permitted and Controlled Activities

15.6.2.1 Maximum Height and Floor Area Ratio

.....

| Business Zone | Maximum Height | Floor Area Ratio | |
|---------------|---|------------------|------------|
| | | Basic | With Bonus |
| ... | ... | | |
| 2 | 9m, except for Browns Bay, Highbury (refer to map Appendix 15B), <u>Milford (refer to map Appendix 15P)</u> and the Glenfield Mall Shopping Centre (Lot 1, DP61951) In relation to Browns Bay the maximum height shall be 12.5m. In relation to the Glenfield Mall Shopping Centre, those parts of the site which lie within | | |

| | | | |
|--|--|--|--|
| | 100m of the centre line of Glenfield Road shall have a height limit of 12m. For the remainder of the site the height limit shall be 9m | | |
|--|--|--|--|

Explanation and Reasons

Local 1 and Suburban 2 Zones

There is some scope for the development of landmarks and for residential and business activity to locate on upper levels. The Control Flexibility provisions can respond to difficult circumstances and to opportunities that do not adversely affect residential and open space amenity. Highbury has had relatively recent investigations into development height, and the resulting implementation of these specific height controls is continued with only minor modifications. To encourage intensification within the Milford town centre, specific height limits apply to the Milford Intensive Residential Development Overlay Area (see Rule 15.6.2.12). Centre Plans are expected to more specifically address building height in other areas.

15.6.2.3 Building Height in Relation to Boundary

.....

Explanation and Reasons

.....

Modified controls apply to the Milford Intensive Residential Development Overlay Area that enable buildings within the envelopes shown on the overlay plan to achieve an appropriate scale, bulk, location and street frontage, and provide enhanced opportunities for passive surveillance of the streetscape whilst still maintaining a good degree of amenity within adjacent residential areas.

15.6.2.12 Requirements for Development in the Milford Intensive Residential Development Overlay Area

The following standards shall apply to must be complied with in any application for a Limited Discretionary Activity for residential units / apartments in Building Envelopes 1 – 9 of the Milford Intensive Residential Development Overlay Area (See Appendix 15P):-

1. The total number of residential units shall not exceed 235 250 units
2. The maximum footprint of buildings shall be in accordance with the map in Appendix 15P
3. The maximum height of buildings shall be in accordance with the map in Appendix 15P, ~~subject to meeting the assessment criteria set out below~~
4. The maximum height of buildings in relation to boundaries shall be in accordance with Appendix 15C, subject to the exemption specified in Appendix 15P.
5. Each residential unit in the Milford Intensive Residential Development Overlay Area (see map in Appendix 15P) shall provide:
 1. Balconies with:
 - a minimum area of 4m² and a minimum dimension of 1.5 metres for units 55m² or less.

- ii) a minimum area of 6m² and a minimum dimension of 1.8 metres for units 56m² – 70m².
 - iii) a minimum area of 8m² and a minimum dimension of 1.8 metres for units over 70m².
- a) The main glazing of each residential unit shall be provided with an outlook area of open space, unimpeded by buildings and immediately adjacent to that glazing. Any outlook area must have a minimum dimension of 10 metres, measured at right angles to the wall of the building within which the glazing is located, provided that there shall be a minimum separation distance of 20 metres between the main glazing of one unit and that of another unit situated on the same or on an adjoining site or delineated area unless the main glazing is offset so that it is not possible to draw a horizontal angle of less than 120 degrees from one window to another.

The outlook area may comprise the following components:

- i) An area of on-site space which must be kept free of structures.
 - ii) Areas of road reserve.
 - iii) Areas of public open space.
- b) The mini-mum sizes of units / apartments shall be as follows:
- i) Studio = 40m²
 - ii) One bedroom unit = 4550m²
 - iii) Two bedroom units = 705m²
 - iv) Three or more bedroom units = 905m²

Provided that where a development contains 20 or more units, no more than 30% shall be one bedroom or studio units.

- 6. Any application for resource consent which includes buildings fronting onto Omana Rd shall include a detailed design of a pedestrian footpath located along the full length of the site boundary with Omana Road. The design shall be in accordance with the Auckland Transport Code of Practice and shall be constructed prior to the occupation of any buildings fronting on onto Omana Rd.
- 7. Any application for resource consent shall be accompanied by a plan illustrating the provisions to be made for pedestrian and cycle access to the site, including an illustration of how this access is to be linked to bus stops, bus routes and the regional cycle network.
- 8. The peak hourly traffic flow generated by the residential units during the weekday peak periods of 7:00 to 9:00 am and 4:00 to 6:00 pm shall not exceed 141 vehicle trips.

Explanation and Reasons

The standards for Limited Discretionary Activities within the Milford Intensive Residential Development Overlay Area are derived from an analysis of effects, including likely traffic generation, and effects of building dominance and shading and the need to support and encourage active travel modes. These minimum standards will be supplemented by an assessment of Limited Discretionary Activity applications, including in relation to the Urban Design Code in Section 15A, are a prerequisite to the activity status remaining Limited Discretionary.

9. Section 15.7 - Add text as follows (underlined):

15.7.2.7 New buildings and Alterations to existing Buildings- Business 1, 2, 3 and 4 Zones, and Business 9 on Hinemoa Street (between Brassey and Rugby Roads only (included here for context only)

- a) When assessing an application for a Limited Discretionary activity in the Business 1, 2, 3 and 4 zones, and in the Business 9 zone in Hinemoa Street, (between Rugby and Brassey Roads only), the Council will consider the assessment criteria contained in Section 15A of the District Plan, Urban Design Code, and any other relevant assessment criteria in Section 15.
- b) Compliance with the Urban Design Code should be demonstrated in the Context Analysis and Design Statement required by Rule 15.6.2.11 submitted as part of the application for consent. In the Business 4 zone compliance with the Albany Structure Plan should also be demonstrated in the Context Analysis.
- c) Where a site is located within the Buffer Strip, the assessment criteria in Rule 15.7.1.6, "Buffer Strip Development" also apply.

15.7.2.8 New Buildings and alterations to existing buildings located within the Milford Intensive Residential Development Overlay Area (see Appendix 15P)

When considering proposals for new buildings and alterations to buildings as a Limited Discretionary Activity or a Discretionary Activity, applications will be assessed in terms of 15.6.2.11, 15.7.2.7, Appendix 15A and the following additional criteria:

(a) A context analysis is to be provided in accordance with Rule 15.6.2.11 for all Limited Discretionary and Discretionary Activity consent applications.

(b) Height and Bulk of Buildings

- i. Buildings shall not visually dominate their immediate or wider surrounding environment.
- ii. Building height shall be aesthetically coherent with the town centre, shopping mall and surrounding residential area.

For the avoidance of doubt, matters of appropriate height and bulk of buildings will be assessed on all applications and there should be no expectation that the building envelopes contained within Appendix 15P can be fully utilised.

(a)(b)(c) Design of Buildings

- i. Buildings shall be constructed within the building envelopes in Appendix 15P, with the final height and bulk of buildings to be determined by reference to the Policies in 15.4.2A, the standards in Rule 15.6.2.12 and the following assessment criteria.
- ii. Building design shall be of a high quality, provide variation and should be complementary to the local context including street, neighbourhood and centre.
- iii. Buildings shall be designed to provide a distinctive silhouette with the uppermost floors designed in a manner that integrates mechanical functions into the overall building so when viewed from within and around Milford they make a positive contribution to the collective skyline of the town centre.
- iv. Buildings shall avoid a boxy dominant massing by utilising creative architectural solutions that provide interest in the facade such as modulation, relief and surface detailing and avoiding blank walls facing the street.
- v. Buildings shall avoid a boxy dominant massing be designed with an appropriate scale at the street level to integrate with the adjacent buildings and open space.

- vi. The design of balustrades and the design and location of full height windows shall provide for at least partial screening of personal effects when viewed from the street or wider surrounds.
- vii. The height, bulk, streetscape frontage and external appearance of building(s) Buildings(s) occupying Envelope 1 shown on Appendix 15P shall be designed to integrate with their context and enhance the landmark nature of the site, particularly when viewed along Shakespeare Road.
- viii. The height, bulk, streetscape frontage and external appearance of building(s) Buildings(s) occupying Envelope 1 shown on Appendix 15P shall provide an appropriate design response to their prominence and the adjacent landform of the East Coast ridgeline. The upper level of buildings within envelopes 1, 3 and 5 (built form above adjoining envelopes) will be seen in the round and shall be architecturally articulated and modulated to acknowledge their exposure to public view and shall be designed and constructed from materials that will reduce their apparent visual bulk.
- ix. Building 1 shall be designed to respond to positively to the wider Omana Road context including proximity to the Milford Ridge and the Milford Estuary and visual and amenity effects of the building from the wider Milford context. Particular regard shall be had to the effects of:
 - a. Building dominance.
 - b. Neighbourhood privacy (see 15.7.2.8(e))
 - c. Milford character and amenity.
 - d. Connectivity between the existing residential neighbourhood and any new residential apartment buildings through the location and design of building access and pedestrian connections to and from that access.
 - e. Milford pedestrian amenity area (village square).
- x. Building 3 shall be designed to respond to the wider Omana Road context including proximity of the building to neighbouring residential zone and visual and amenity effects of the building from the wider Milford area. Particular regard shall be had to the effects of:
 - a. Building dominance.
 - b. Neighbourhood privacy (see 15.7.2.8(e))
 - c. Milford character and amenity.
 - d. Connectivity between the existing residential neighbourhood and any new residential apartment buildings through the location and design of building access and pedestrian connections to and from that access.
- xi. Building 5 shall be designed to respond to the wider Milford Road context including visual and amenity effects of the building on the residential neighbourhood. Particular regard shall be had to the effects of:
 - a. Building dominance.
 - b. Neighbourhood privacy (see 15.7.2.8(e))
 - c. Milford character and amenity.
 - d. Connectivity between the existing residential neighbourhood and any new residential apartment buildings through the location and design of building access and pedestrian connections to and from that access.
- xii. Building(s) taller than RL21m in Envelopes 5, 6, 7 and 8 shown on Appendix 15P shall be accompanied by an appropriate development interface in the existing carpark area adjoining the corner of Milford Road and Ihumata Road.
- xiii. Where main living areas overlook the mall roof the mall roof shall be modified or screened as appropriate to avoid or mitigate any glare or unsightly components.
- xiv. The extent to which The design of apartments are shall be consistent with the overall intentions for apartments as set out in *The Good Solutions Guide for Apartments* (ISBN 978-0-473-11999-7), and in particular, Part C of that Guide.

- xv. Buildings within Envelopes 5,6,7,8 and 9, shall be suitably sleeved along the Ihumata and Milford Road frontages to ensure that the total development achieves a positive interface with the streetscape.

~~(b)~~ ~~(c)~~ ~~(d)~~ Pedestrians and Cycling

- (i) ~~The extent to which~~ Pedestrian connections are to be provided through the site and in particular, ~~the extent to which they provide~~ mid-block connections between Kitchener Road and Milford Road.
Note: It is expected that connections through the site will be publicly accessible at least during the hours that the Milford Shopping Centre is open.
- (ii) ~~The extent to which~~ Facilities are to be provided for cyclists (~~having regard to in accordance with the ARTA Guidance Note for Cycle Parking Facilities 2007~~).
- (iii) The wind environment at pedestrian level shall be suitable for pedestrians and the applicant is to provide a wind assessment to confirm this.

~~(e)~~ ~~(d)~~ ~~(e)~~ Privacy in respect of Residential Activities:

- (i) ~~The extent to which~~ Building layout, orientation and windows and balconies are to be designed to ~~reduce-prevent~~ overlooking of the private open space of other residential dwellings (~~both within and outside the site~~).

~~(d)~~ ~~(e)~~ ~~(f)~~ Daylight and Sunlight in respect of Residential Activities

- (i) ~~The extent to which~~ Habitable rooms and outdoor spaces shall allow for solar admission and sun access during the shortest winter day (as a guide, habitable rooms for at least 70 percent of the units should receive sun access for a minimum of three hours between 9 am and 3 pm on the winter solstice (June 21)).
- (ii) ~~The extent to which~~ Glazing is to be of sufficient size and appropriately located to allow natural light into rooms to allow daily activities to occur without the need for artificial lighting.
- (iii) ~~The extent to which~~ Design devices such as overhangs, vertical screens, heat-absorbing materials (such as tiles) and reflective glass are to be used to help to regulate summer and winter solar gain and provide passive sources of heating.
- (iv) ~~The extent to which~~ Apartments are to have adequate ceiling heights and appropriate depths to maintain apartment amenity by allowing daylight penetration.
Appendix 15A

~~(f)~~ ~~(g)~~ Reverse Sensitivity

- i. Residential apartments shall be designed to avoid the effects of mall operations, including but not limited to issues such as mechanical ventilation, noise, traffic and loading.

~~(e)~~ ~~(g)~~ ~~(h)~~ Traffic Generation

Refer to the assessment criteria in Rule 12.5.1.3

Appendices

Appendix 15C: Sloping Height Planes, Building Height in Relation to Boundary for Business Zones *(Note, with these amendments the existing rule remains unchanged)*

For all business zoned sites

No part of any building on a site zoned Business 1, 2, 3, 4, 5, 6, 7, 8, 9 shall exceed a height of 2.5 metres plus the horizontal distance between that part of the building & the nearest part of any residential zone boundary, or any land designated for a school at the time the Plan is notified (e.g. Birkenhead Primary School).

For sites zoned Business 1, 2 (~~except the Milford Intensive Residential Development Overlay Area~~), 7, 8, 9, 10

No part of any building on a site zoned Business 1, 2 (~~except the Milford Intensive Residential Development Overlay Area~~), 7, 8, 9, 10 shall exceed a height of 10 metres plus the horizontal distance between that part of the building and the nearest part of any recreation zone boundary.

[For sites zoned Business 2 (~~except the Milford Intensive Residential Development Overlay Area~~), Business 3 Areas A, B, D and Business 11

No part of any building on a site zoned Business 2 (~~except the Milford Intensive Residential Development Overlay Area~~) or 3 Area A, B or D shall exceed a height of 10 metres plus the horizontal distance between that part of the building and the nearest part of any road boundary.]

For Buildings within the Milford Intensive Residential Development Overlay Area

~~No Building Height in Relation to Boundary control with regard to the nearest part of any recreation zone boundary or road boundary shall apply to the buildings within the envelopes shown on the diagram in Appendix 15P that comply with the maximum permitted heights described at 15.6.3.11~~

10. Amend Table 15A.1 (Urban Design Code) as follows:

| Town Centre | Exempted Street | Reason for Exemption |
|--------------------|------------------------|-----------------------------|
| Milford | Omana Road | Topography |

11. Add a new Appendix 15P (next page)

Note the amendment to the Height to Boundary exemption clause that applies by way of an asterisk (), to read as follows:*

“* BUILDING EXEMPTED FROM COMPLYING WITH RULE 15.6.2.3 AND OPERATIVE DISTRICT PLAN APPENDIX 15C HEIGHT IN RELATION TO BOUNDARY CONTROLS B AND C”

