

Report

# Enabling Growth - Urban Zones Research: Key Observations, Findings and Recommendations

Prepared for the Ministry for the Environment

Prepared by Beca Limited





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## Executive Summary

This report presents a review and analysis of key urban zoning provisions within district plans for selected 'high growth' Councils. The purpose of the report is to investigate the extent to which those district plan provisions either enable or constrain urban growth and intensification to occur. The majority of the reviewed district plans have clear policy direction that seeks to enable additional housing supply, as well as the promotion of quality urban environments. Auckland and Christchurch, in particular have recently included policy direction seeking the delivery of improved housing affordability across a range of price points. This was generally not a matter addressed across the other district plans reviewed.

The Auckland and Christchurch Plans, and to a lesser extent Hamilton, have also included specific policy direction seeking that new residential development achieves consistency with a planned / anticipated future residential character and built form amenity which the residential zones are aiming to achieve over time. This is an important consideration in the context of section 7(c) of the Resource Management Act 1991 (RMA), which seeks the "maintenance and enhancement of amenity values". It was found that typically this assessment would relate to those values which already exist.

Key themes that have been identified from the analysis are:

1. There is a tension evident between seeking to achieve greater housing intensification, and seeking to achieve consistency with section 7(c) of the RMA that seeks to maintain and enhance amenity values, particularly where developments or intensification may be opposed by communities wishing to maintain the existing amenity values of a particular area. This is the only specific reference of amenity presently in the RMA and therefore removing or amending section 7(c) or related definitions may be problematic.
2. The barriers to facilitating development appear to be from the emphasis Councils put on the "present state" and built form of amenity, rather than any future environment that would result in an area, and the social and physical infrastructure parts of amenity. More specifically, the desired 'future amenity' of higher density growth is typically not clearly described in district plans. There is therefore a need to describe the amenity outcomes desired in areas where growth is encouraged and to include those expectations in district plans and design guidelines for ease of implementation.
3. There is great variation across the district plans studied in terms of residential density provisions and how urban intensification is provided for and managed through district plan rules, irrespective of the stated policy of enabling greater intensification within these district plans. Some consistency in approach would be desirable to provide certainty to developers and plan-users.
4. The Christchurch and Auckland Plans were generally the more enabling, (with some good innovative provisions in the Hamilton Plan). This outcome is likely to be due to these Plans being prepared under specific legislation outside of the RMA that encouraged, if not required urban development to be provided for. The introduction of the National Policy statement on Urban Development Capacity has since been introduced which will provide more requirements for plans prepared in the future to provide for housing. Therefore measures are in place to assist Plans to better provide for housing.
5. On the whole the objectives and policies within the district plans tend to be enabling, and clearly seek to provide for a range of housing typologies and densities. This is not necessarily followed through in the rules and in the frameworks for the assessment of applications however.
6. The implementation of plan rules may not align with the enabling growth objectives and policies that exist due to the number and inflexible application of rules, the consenting process of requiring neighbour's approval if rules are breached without detailed analysis, and the priority given to maintaining the existing characteristics of a neighbourhood as this is construed to be 'amenity' in the absence of any clear picture of a desired future amenity for higher growth.
7. Objectives and policies do focus on enabling development and providing for housing intensification, but frequently the Restricted Discretionary assessment criteria focus on effects on existing built

environment/ neighbourhood character, and do not have criteria to assess the impacts on the social and economic aspect of the environment.

8. 'Quality built environments' is difficult to define, and more work needs to be undertaken to describe what that looks like for locations where different densities are provided for. More needs to be done, including researching international examples, to define future growth amenity outcomes and expectations. Some Councils have attempted to do so, and non-statutory approaches such as urban design panels can also provide some assistance.
9. District plans include overlays that contain constraining elements, considered necessary to achieve a particular resource management purpose (heritage protection, natural hazard avoidance etc.) for the geographical area they cover. We did not specifically assess whether constraining overlays such as special character and heritage protection overlapped with areas identified for urban growth, however broadly the use of overlays were typical in urban areas.
10. Assessment criteria tend to be broad and do not clearly provide for the proper consideration of planned future growth in specified zones and the higher density amenity that follows; i.e. the assessment of amenity effects falls back on effects on existing environment, as noted above.
11. Councils should monitor the uptake of consents under key enabling provisions such as Integrated Residential Developments or Comprehensive Residential Developments. The results of monitoring needs to be fed back into plan reviews as appropriate, for example amending rules to better facilitate their use. This may include such things as reducing the qualifying land size or improving the incentives.
12. District plans have recently been amended to include more tools for enabling residential developments. Examples of this include:
  - The ability for more than four units in several zones within the Auckland Unitary Plan to be non-notified if they comply with key development controls;
  - An 'Enhanced Development Mechanism' introduced through a Recovery Plan in the context of Christchurch enables higher densities of development where specific criteria are met, namely locations in proximity to services and amenities. A 'Community Redevelopment Housing Mechanism' introduced through the same recovery plan is effectively an overlay providing for higher density of community and social housing as a means of enabling the redevelopment of areas for a mix of housing including affordable.
  - A certification regime also introduced through the Christchurch District Plan process enables the review and certifying of designs for new development by an external expert approved by Council. Thereafter, resource consent is required as a controlled activity for Council with Council's discretion limited to the building being built in accordance with the urban design certification.

These more enabling tools are new and will take some time to be proven in practice. The monitoring of the uptake of these rules and the quality of the built environments that result needs to occur.

13. Council section 32 reports need to assess the impact of development control rules such as car parking and height in relation to boundary rules (i.e. the true costs and benefits which includes what kind of development would occur without the rule), and not simply carry them over from previous district plans without a comprehensive consideration of future growth needs and opportunities.
14. There are various tools that address matters related to urban density and urban design matters, including the National Policy Statement Urban Development Capacity, the National Planning Standards and provisions within district plans. While all seek to enable growth and good urban design outcomes, there is not necessarily alignment among them yet (noting that the NPS UDC and National Planning Standards are new) as to how or in what form.

On the basis that districts need to be able to more effectively provide for housing intensification at different price points, and cognisant of achieving quality-built environments, a number of recommendations have been identified to assist in addressing the issues identified through this research. These include:

- Consideration and potential review of the existing terminology in section 7(c) of the RMA, with regard to the current wording of the section and outcomes that are derived from that (“the maintenance and enhancement of amenity values”).
- Consider the development of national guidance on achieving quality urban environments. Having this set as a priority in a national policy statement will assist to manage the identified tension between section 7(c) of the RMA and creating denser urban environments to increase housing supply, as it would establish the national importance of achieving quality urban intensification and managing urban change (and not avoiding urban change). This will assist Councils to promote an outcome for a future community that do not yet live there, which is often in the face of opposition from an existing community that do.
- Investigate ways to encourage Council's to issue Building consents for dwelling types so that a pre-consented building can be established on sites.
- Investigate if Development Contributions can be used as a way for intensification and growth to bring benefit to existing communities in terms of contribution to roads, reserves, public spaces and community facilities. This will require new residents to contribute to the local urban infrastructure in a way that is equal to that of the existing residents, will better enable quality urban environments and may remove some of the local opposition to intensification.
- Investigate ways that the District and Regional Plan Submission and hearing process can be altered to change the emphasis away from the current predominance of discussion on protecting property rights (and therefore often existing amenity), to be more weighted towards assessing overall community costs and benefits of provisions.

National guidance on achieving quality urban environments could contain and address the following key matters:

- Consideration of the need to better define what is meant in respect of terminology such as ‘amenity’, ‘quality intensification’, ‘quality built environments’ and other related terms.
- Consideration of whether and the extent to which positive effects of proposals could be taken into account when assessing whether an application should be publicly notified or not. This should include the positive economic and social impacts of a development proposal. Guidance on how this should be undertaken may need to be prepared.
- Investigate how different housing typologies, particular small one or two bedroom units, could be encouraged within residential zones, while seeking to achieve the overall amenity outcomes anticipated by district plans. This may include allowing smaller site sizes and less outdoor area for these typologies.
- Require regional policy statements to set out required density targets for key parts of the region, to demonstrate where and how projected housing supply will be met within a city, district or sub-region. This has assisted Hamilton and Christchurch City to better provide for density in their district plan reviews by relying on the regional policy statement, and as a key plank in their ‘defence’ against opposition parties through hearing and appeal processes. Clear direction in regional policy statements can be critical to local authorities then responding through district plans as they are required to “give effect to” the regional policy statement.
- Review of the range of development controls included in district plans to test which ones are required to manage effects on the residential amenity of adjoining sites and develop a consistent national standard / approach for these.

- Further guidance as to how the development of district plan provisions, particularly through the plan-making process (such as section 32 assessments), should have regard to section 7(c) and section 7(f) of the RMA given imperatives to provide for housing intensification.
- Provision of guidance as to a consistent, best practice methodology (which could be universally applied) on providing for medium and high density urban development opportunities.
- Encourage 'secondary units' as a pathway to affordability and to encourage smaller housing typologies.
- Provide guidance to ensure Councils assess intensification applications against the proposed future state of the residential environment, rather than priority to the impact of proposals on the amenity of an existing environment. National Guidance should also outline how proposals should take into account the social and economic benefits of a proposal, as they are also included in the definition of 'environment'.
- If restricted discretionary status is required to be applied to proposed developments, more work can be done to improve the certainty and clarity of matters of discretion.
- Promoting a non-notified process for developments subject to resource consent for an assessment of urban design may assist in enabling development. A notified process is typically viewed as not being enabling because of the uncertainty of process and associated cost and time. Debates on such developments should be undertaken during the plan-making phase, and not repeatedly re-litigated within resource consent processes.



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# 1 Introduction

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## 1.1 Purpose of our Research

The Government is advancing an ambitious housing and urban development policy programme sitting across multiple ministerial portfolios and agencies. The programme seeks to end homelessness, improve housing affordability, make room for growth in urban centres and help create thriving communities.

Beca Limited ('Beca') has been commissioned by the Ministry for the Environment ('the Ministry') to undertake research to assist in better understanding the impacts that Resource Management Act 1991 (RMA) plans and practices have on the ability of New Zealand's fastest growing urban areas to enable plentiful opportunities for commercially feasible development capacity to provide for a range of housing types, at a variety of price points, and in locations which allow people to meet their housing needs.

As part of this research, the Ministry seek to examine how planning rules, methods and planning practice are potentially impacting – either positively or negatively – the delivery of a diverse range of housing at a variety of price points. In particular our research looks at how the direction set out in Part 2, especially section 7(c) ("the maintenance and enhancement of amenity values") of the RMA has influenced the creation of district plan provisions through plan-making process, and the extent to which section 7(c) matters may be enabling or constraining urban growth and the delivery of housing.

This piece of research is just one part of a wider urban policy programme currently being progressed by the Government which is also considering alternative approaches to infrastructure delivery to support growth, as well as spatial planning, quality built environments and other associated matters.

## 1.2 Our Approach and Scope of Research Undertaken

The scope of our research task has been to undertake a review and analysis of key urban zoning provisions of district plans for the following local authorities, all of which are defined as 'high growth councils' in accordance with the National Policy Statement on Urban Development Capacity 2016 (NPS:UDC):

- Auckland Council;
- Hamilton City Council;
- Tauranga City Council;
- Christchurch City Council;
- Queenstown Lakes District Council.

In collaboration with the Ministry, the following 'key urban zones' were selected for review from the District / Unitary Plans of the local authorities noted above as they are the key residential zones for each area:

### Auckland Council (Auckland Unitary Plan: Operative in Part, November 2016)

- Single House zone;
- Mixed Housing Suburban (MHS) zone;
- Mixed Housing Urban (MHU) zone;
- Terrace Housing and Apartment Buildings (THAB) zone;
- Mixed Use zone;
- Town Centre zone.

### Hamilton City Council (Operative District Plan, 2017)

- General Residential zone;
- Medium Density Residential (MDR) zone;
- Residential Intensification zone;
- Business 5 (Suburban Centre) zone;
- Central City zone.

Tauranga City Council (Operative City Plan, 2013)

- Suburban Residential zone;
- City Living zone;
- High Density Residential (HDR) zone;
- Commercial zone;
- City Centre zone.

Christchurch City Council (Operative District Plan, 2017)

- Residential Suburban zone;
- Residential Medium Density (RMD) zone;
- Residential Central City (RCC) zone;
- Residential New Neighbourhood (RNN) zone;
- Central City Mixed Use (CCMU) zone;
- Commercial Core zone.

Queenstown Lakes District Council (District Plan Stage 1 Review Decisions Version, May 2018)

- Low Density Suburban Residential (LDSR) zone;
- Medium Density Residential (MDR) zone;
- High Density Residential (HDR) zone;
- Town Centre zone.

For each of these zones we considered the performance standards including density, height and 'height in relation to boundary', private open space, outlook space / privacy, and daylight 'development standards / controls' that have the potential to enable or constrain urban growth. Our research has also considered car parking and subdivision provisions as they relate to the identified key urban zones.

Our research has also touched on additional provisions which may have impacts on the degree to which district plan provisions enable or constrain the enablement and provision for urban growth and intensification. These are provisions such as overlays which may relate to stormwater management, the identification and management of specifically identified natural or physical resource values such as historic heritage, volcanic viewshafts, or special character to name just a few. We have included summary observations on these provisions, particularly as they relate to the management of amenity considerations and their impacts on enabling urban growth.

To fully understand just how constraining these overlay provisions are, we recommend that future research be undertaken by the Ministry to assess the actual extent to which these wider district plan provisions actually constrain housing opportunities and the ongoing delivery of a diverse range of housing at a variety of price points.

While our review has sought to analyse and compare themes across the five different district plans, it is important to remember that not all these plans are directly comparable. For instance:

- Each district plan represents a different geographical location around the country, each of which have faced differing residential and urban growth pressures – both at differing times and scales;
- The plan-making process which have led to the creation and finalisation of the district plan provisions have been undertaken at different times, and taking into account differing regulatory requirements;
  - The Tauranga Plan is the oldest ‘operative’ plan, (operative in 2013, and is only now beginning to embark on a plan-review process;
  - Auckland (operative in part 2016), Hamilton (operative in 2017), and Christchurch (operative in part 2017) have either recently completed plan-review processes, or are continuing with current plan-review processes;
  - Queenstown is in the midst of its plan review, with the Proposed Plan notified in 2015 and Stage 1 decisions released in 2018; and
  - The introduction of the National Policy Statement on Urban Development Capacity 2016 came into effect either after, or very late in, the recent plan-review processes in relation to Auckland, Hamilton and Christchurch, and as such have had little impact on the development of District Plan provision through these plan review processes.

## 1.3 Previous Research Undertaken

### 1.3.1 The 4Sight Urban Zones Research (2015)

In 2015 4Sight Consulting were commissioned by the Ministry to undertake research into urban zone provisions within district plans throughout New Zealand. The objectives of this research were to:

- Understand the most commonly used provisions and key differences in provisions in the ‘core urban zones’ through reviewing a range of plans that are representative of the urban areas within New Zealand.
- Identify the most common provisions within each urban zone to determine what can be categorised as the ‘common core content’ and the main benefits, costs and issues identified with this common core content.
- Document key trends and finding at each stage of the research and identify future research opportunities.

The research was intended to help provide an evidence base to inform further work and the development of a ‘national planning standards’ which could be utilised for all RMA plans.

### 1.3.2 How our Research Relates to the 4Sight 2015 Research Process

The 4Sight research of district plans (including their provisions as they relate to the ‘core urban zones’ noted above) is now some three years old. Our research has therefore looked to undertake an update of the summary of district plan provisions for the local authority RMA plans which are the focus of our research. Our update has also been necessary as the plan-making process for a number of local authorities (e.g. Auckland Council, Christchurch City Council and Queenstown Lakes District Council) has evolved, at times to a significant degree, since the 2015 4Sight research was completed.

In addition to undertaking a number of updates to the background information which informed the 4Sight 2015 research, our research has looked to examine the plan-making processes which have led to the development of the district plan provisions summarised in this report. In particular, we have looked to examine and highlight how Part 2 RMA, and specifically section 7(c) ‘maintenance and enhancement of amenity values’, matters were considered and balanced against wider RMA matters through the decision making processes which created the final provisions adopted within district plans.

## 1.4 Enabling Growth in the Context of Part 2 of the RMA

Amenity values are defined in Section 2 of the RMA as follows:

*“**amenity values** means those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes”.*

Section 7 of the RMA states that in achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to

(c) the maintenance and enhancement of amenity values:

...

(f) maintenance and enhancement of the quality of the environment:

A key issue is how district plans balance the successful delivery and implementation of a policy direction which is seeking to achieve a new, more varied and more intensive urban built form with the requirement in section 7(c) that ‘particular regard’ be had to the maintenance and enhancement of amenity values, which by definition includes ‘amenity’. This requirement to have regard to these in all functions can give rise to a tendency to favour the arrangement of effects that typically already exist on the ground in relation to the current residential character and amenity. Such an approach then becomes a constraint to communities in situations where change is sought to the nature of a part of the built environment that no longer meets the needs of the community.

There is clearly considerable tension between the changes that occur when housing is intensified, and the section 7(c) objective to maintain the amenity value of an area, particularly when Councils focus on the preservation or maintenance of amenity at the expense of other matters that should also be balanced in the decision making process.

This tension is reinforced by the definition of “Environment” in section 2 of the RMA which is:

**environment includes—**

- (a) *ecosystems and their constituent parts, including people and communities; and*
- (b) *all natural and physical resources; and*
- (c) *amenity values; and*
- (d) *the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters*

This tension is particularly obvious when amenity is interpreted as built character and form, and matters affected by this such as access to sunlight and traffic movements, an interpretation seemingly favoured by Councils to date. This tension may be reduced if the aspects of amenity such as access to services and facilities (such as public open space, places of employment and education) was emphasised.

Despite this apparent tension there is limited case law dealing with amenity matters under section 7(c), and these mostly relate to reverse sensitivity concerns and activities within rural environments, not urban environments. There has been limited discussion in the Courts of the application of section 7(c) in an urban growth context. As a general principle, the Court has held that the function of section 7(c) is to direct particular regard to the maintenance or enhancement of amenity values, without imposing a duty that amenity values be maintained or enhanced<sup>1</sup>. In addition, the Court has held that people have different and

<sup>1</sup> *Hood v Dunedin City Council* [2017] NZEnvC 190 at [23].

potentially competing amenity values, to which a plan will provide an “important objective lens” by indicating the intended outcomes for an area<sup>2</sup>.

The Court of Appeal has interpreted section 7(c) to include provision for proposals that neither enhance nor maintain amenity values, by looking through the wider effects assessment framework of the RMA<sup>3</sup>.

In the urban growth context, the Court has restricted residential intensification where there has been a potential conflict with activities that create an impact on the amenity of the proposed housing activity. For example, the Court refused a land use consent application for a residential development in Manukau as the proposal to construct apartment towers, terraced houses and studio units was located in an area affected by high levels of aircraft noise in the approach path to Auckland International Airport. Arguments in support of the proposal included that residents were likely to have chosen a predominantly indoor lifestyle, in a noisy environment, and were not reliant on access to outdoor living areas to have high standards of amenity<sup>4</sup>. The Court reasoned that the proposal design included a range of open space areas, which residents would expect to enjoy, as well as their outdoor balconies and other facilities of the site<sup>5</sup>. The Court held that there would be an adverse effect on occupants of the premises from aircraft noise, and that overall the likely reverse sensitivity effects outweighed the positive effects of the development<sup>6</sup>.

In the Auckland Unitary Plan context, the Independent Hearings Panel recommended that the Unitary Plan should be explicit as to the areas and values to be protected by the district plan (such as viewshafts and outstanding natural landscape) and otherwise enable development and change, erring on the side of over-enabling growth<sup>7</sup>. This indicates a preference of the Panel for aspects of amenity the community deems worthy of protection above the priority for housing, should be clearly articulated in the district plan. Overlays are one method for doing this.

Amenity reasons were also used in the AUP hearings by numerous residents associations to oppose urban growth. Their concerns were described by relating to the specific amenity values and character of their respective areas that would be impacted on by housing intensification<sup>8,8</sup>.

It is also noted that section 7(c) is one of a number of matters that require balancing in the overall application of Part 2 of the RMA. Relying heavily on the requirement to maintain amenity at the expense of other matters could indicate that part is being incorrectly applied at the plan-making stage.

## 1.5 Report Structure

The report is structured as follows:

### ■ Part One Review: Summary Overview:

- Section 2 – provides a summary of our key findings and recommendations regarding the extent to which District Plans provisions constrain or enable residential growth and promote quality built environments
- Section 3 – provides a summary of our recommendations in relation to alternate strategies and approaches which would be explored to assist in resolving housing affordability issues and to better encourage the delivery of a range of housing types.

<sup>2</sup> *Hood v Dunedin City Council* [2017] NZEnvC 190 at [23]-[24].

<sup>3</sup> *Shell New Zealand Limited v Auckland City Council* [1996] NZRMA 189 (CA), (1996) 2 ELRNZ 173 at 174.

<sup>4</sup> *Independent News Auckland Limited v Manukau City Council* (2003) 10 ELRNZ 16 at [76] and [84].

<sup>5</sup> *Independent News Auckland Limited v Manukau City Council* (2003) 10 ELRNZ 16 at [78] and [85].

<sup>6</sup> *Independent News Auckland Limited v Manukau City Council* (2003) 10 ELRNZ 16 at [125].

<sup>7</sup> Auckland Unitary Plan Independent Hearings Panel Report to Auckland Council topic 013 Urban growth, July 2016, at 7.

<sup>8</sup> See evidence on Topic 013 on behalf of Point Chevalier Residents Against THABs Incorporated, Milford Residents Association and Howick Ratepayers and Residents Association Inc as examples.

- Part Two Review: Detailed Analysis:
  - Section 4 – provides an analysis of the objectives and policies of the 'key urban zones' across the reviewed District Plans
  - Section 5 – provides an analysis of the activity tables / activity status of the 'key urban zones' across the reviewed District Plans
  - Section 6 – provides an analysis of the notification provisions of the 'key urban zones' across the reviewed District Plans
  - Section 7 – provides an analysis of the development / performance standards of the 'key urban zones' across the reviewed District Plans
  - Section 8 – provides an analysis of the 'assessment frameworks' (e.g. matters of control / discretion as well as assessment criteria) of the 'key urban zones' across the reviewed District Plans.



## PART ONE REVIEW: Summary Overview

## 2 The Key Elements of District Plans That Constrain / Enable Growth and Promote Quality Built Environments

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### 2.1 Summary of Provisions

#### 2.1.1 Objectives and Policies

***The majority of the reviewed Plans generally have clear policy directions seeking the enablement of additional housing supply, including across a variety of housing typologies, as well as the promotion of quality urban environments and built form outcomes.*** While Auckland and Christchurch (being more recent Plan review processes) have also included policy direction seeking the delivery of improved housing affordability across a range of price points, this was generally not a matter addressed across the other Plans.

A number of the Plans (notably Auckland and Christchurch, and to a lesser extent Hamilton) have also included specific policy direction seeking that new residential development achieves consistency with a planned / anticipated future residential character and built form amenity which the residential zones are aiming to achieve over time. This is an important consideration in the context of section 7(c) of the RMA, which seeks the “maintenance and enhancement amenity values” (typically those values which already exist).

#### 2.1.2 Activity Tables / Activity Status

***The principal matter in relation to activity tables and the identification of an activity status for each identified ‘land use’, is the philosophy of how activity status is used, particularly in relation to encouraging or discouraging particular types of activities.*** The key issue is whether Discretionary or Non-complying activity status is applied as a means of discouraging such activities and/or to manage the effects of activities where there is uncertainty of their effects or the nature of the activity.

An example is the use of the Non-Complying activity status for any proposal to develop a second dwelling in the ‘Single House’ zone under the Auckland plan. Such a proposal appears to be listed as a Non-Complying Activity, not because it is unclear as to the matters which such a proposal would need to be assessed against, but because multi-unit development is specifically sought to be discouraged in the ‘Single House’ zone.

Across the majority of reviewed Plans, multi-unit medium / higher density residential development requires resource consent approval as a Restricted Discretionary activity subject to compliance with standards. The extent to which Plans enable and provide for residential development as Permitted (‘as of right’) is generally limited to the development of single dwellings on a site – or in some instances infill development up to three dwellings per site – subject to compliance with a range of development standards / rules.

#### 2.1.3 Notification

***A number of the reviewed Plans (notably Auckland, Hamilton, Christchurch and Queenstown) utilise notification rules as a means to enable the delivery of residential development.*** This is typically via a Controlled Activity or Restricted Discretionary Activity resource consent process, where specified development (such as multi-unit dwellings) can be processed on a non-notified basis (and without the need

to obtain affected party approvals) where particular identified rules or standards can be complied with. These are usually those that could impact on amenity of the adjoining site. The incentive of non-notification generally provides greater certainty for developers / applicants as to the likely timeframes and costs associated with the resource consent approval process. This is clearly an enabling process.

Our consenting experience shows that developers will amend designs until they can submit an application that will not require the written approval of neighbours. While the potential time and cost risks associated with the RMA notification process (either limited, or full public notification) is anecdotally considered to be an impediment to deliver growth and development, there is little in the way of a robust evidence base to quantify the exact degree to which the risks associated with notification may be constraining the enablement and delivery of residential growth and development.

The approach adopted across the majority of the reviewed Plans is to apply the normal RMA notification tests to residential development proposals which include one or more infringements of relevant rules or development standards.

Whether or not an application is publicly notified or not depends on the outcome of the application of the section 95 provisions. At present there is no provision in section 95 that would allow the notification decision to be influenced by the positive effects of a proposal. Positive effects are only considered as part of the substantive section 104 assessment. We understand it has been suggested to some local authorities that the inability to consider positive effects at the section 95 stage is a barrier to facilitating development.

There may be some merit in further investigation into the practicality and appropriateness of amending the section 95 process to enable consideration of positive effects. However, the obvious risks of doing so includes introducing a balancing exercise into the notification decision making process (i.e. at what point do the adverse effects outweigh the positive effects thereby triggering notification) and potentially confusing the subsequent substantive assessment process.

## 2.1.4 Development Standards

### 2.1.4.1 General Comments

***In a general sense, the majority of Plans do not specifically discuss and identify the role and purpose of particular rules and development standards, including the outcomes they are seeking in relation to managing residential amenity and quality built form outcomes.*** Auckland is one exception, where 'purpose' statements are identified for each of the residential zone development standards, and these 'purpose' statements also play a role through the assessment framework ('matters of discretion' and 'assessment criteria') when considering consent applications which include infringements of such standards.

An observation in relation to the identified 'purpose' statements in the Auckland Unitary Plan is that there is at times a duplication of 'purpose' across multiple development standards. This gives rise to the need to better consider what rules / regulations are indeed required in Plans to manage particular residential amenity outcomes, as well as whether it is appropriate for Plans to include multiple, potentially duplicitous rules / regulations to manage the same identified outcome.

As an example, the Auckland Unitary Plan applies 'Height in Relation to Boundary' (HiRB), 'Outlook Space' and 'Daylight' controls, to have a similar 'purpose' to ensure adequate daylight access to sites / dwellings, and minimising visual dominance effects to adjoining properties. The triggering of an infringement of any one of these is likely to require the written approval of the adjoining property owner. Detailed consideration of whether all of these controls are required to achieve appropriate urban quality is recommended.

#### 2.1.4.2 Density and Subdivision standards

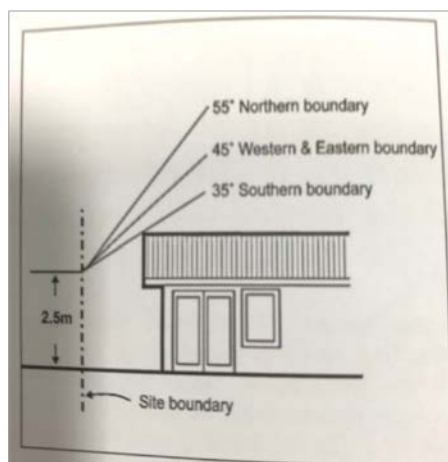
**The reviewed Plans differ in their approaches as to their use of density and subdivision standards**, – typically reflecting the differing timeframes of when the Plan provisions were created (or reviewed through more recent plan-making processes), as well as the varying urban / residential growth pressures which each location has experienced.

The traditional approach of applying 'land use density' rules (e.g. a maximum of one dwelling per an identified site size) continues to be applied across most Plans. The Auckland Unitary Plan is the one example whereby the recent plan-making process gave extensive consideration to the RMA purpose and need for 'land use density' controls, and whether or not such controls enable and provide for the most efficient use of urban land to provide for residential growth and intensification. The decision was made to remove 'land use density' controls from the Plan (with the exception of the 'Single House' zone), instead relying on the use of identified 'bulk and location' standards to primarily manage matters of residential amenity and character, in particular potential amenity effects on adjoining properties. Early assessment by Auckland Council has indicated that there has been a significant increase in the number of building consents granted within the urban area and within transport corridors since the Unitary Plan was made operative which indicates these tools have been effective.

Changes to the residential density provisions in Hamilton, Christchurch and Queenstown have in some instances significantly changed from those in the previous Operative Plans, and in some cases enable the amount of infill housing and creation of small typologies. Examples of this include Hamilton (requires one unit/ 400m<sup>2</sup> but only 200m<sup>2</sup> / duplex unit), and Queenstown which enables greater densities by providing for residential flats (essentially a small secondary dwelling per site as well).

#### 2.1.4.3 Height and Height in Relation to Boundary (HiRB) Standards

In general, the reviewed Plans typically apply both 'maximum height' and 'height in relation to boundary' (HiRB) controls to residential development across all the reviewed zones. The Plans generally utilise one, generalised 'HiRB' control per zone. **An exception to this approach is the Auckland Unitary Plan which has adopted a range of HiRB controls, as various options, in the higher-density residential zones (being the MHU and THAB zones).** This considers the variety in housing / built form typologies which these zones are seeking to achieve and is considered to better enable the delivery of different housing types – given the traditional use of one generalised HiRB control per zone has typically favoured or encouraged the delivery of stand-alone, single dwellings.



Restrictive controls discourage small scale vertical redevelopment on existing sites where a slight relaxation of HiRB controls could better enable this. The diagram above indicates how a slight increase in the permitted angles could encourage more vertical development. When combined with the ability to have two units in one home or on a site in the key residential zones, a relaxation of the HiRB control could facilitate a greater level of development on a site and enable additional units to be established.

#### 2.1.4.4 Private Outdoor Living Space standards

***The controls requiring the provision of on-site private outdoor living space on residential sites varies across all the reviewed Plans – particularly in relation to the identified minimum space / size requirements.*** This is certainly a matter which could be considered through the National Planning Standards process, where greater guidance could be provided as to a consistent approach to how private open space can be provided, specific to differing housing types / densities (e.g. opportunity for a consistent approach for ground-floor provision for single dwellings; for ground-floor provision for multi-unit development; consistent size requirements for balconies / roof terraces for upper-floor dwellings in higher density zones etc.). It is difficult to see why the outdoor living space requirement should vary in different parts of the country.

Key to encouraging smaller housing typologies would be requiring smaller outdoor living spaces for smaller units (along with smaller net site densities). This has been introduced in Dunedin, for example, where only 25m<sup>2</sup> of outdoor living area is required for a one bedroom as opposed to the usual 60m<sup>2</sup>.

***The Plans also appear to have not considered / provided for alternate approaches, such as provision of communal on-site open space for multi-unit / apartment typologies (with the exception of Christchurch and Hamilton), or the ability for on-site open space provision to be waived in full or reduced*** – for example where off-site public open space may be available within close proximity to an application site. On-site outdoor living space provision is a key matter to consider when balancing the need to provide for appropriate residential amenity, while also ensuring residential land is used efficiently to provide for residential growth and intensification. Not providing or enabling flexibility and optionality in how outdoor living spaces can be provided has the potential to unnecessarily limit the developable footprint (and therefore the developable capacity) of land zoned for residential development.

#### 2.1.4.5 Outlook Space / Privacy / Building Setback and Daylight standards

Similar to the comments noted above in relation to private outdoor living space, ***the use and application of these standards varies across the reviewed Plans. In the Auckland and Christchurch examples, the standards themselves also tend to be quite technical and detailed, which can lead to some difficulty for plan users to interpret and apply.***

There is an opportunity to consider the degree to which such controls are effective in achieving quality built form outcomes. In the Auckland context, a focus of the 'purpose' of these standards has been to achieve appropriate residential amenity outcomes internal to the application site. In this instance, it may be worthwhile to consider whether these on-site amenity outcomes could be better achieved through a design-assessment process rather than requiring compliance with an identified development standard – particularly:

- For multi-unit, higher density residential developments where residential development proposals requiring resource consent could be assessed against the extent to which they are able to achieve an identified outcome.
- Where the standard is potentially complex to interpret and apply, or where (due to various site size and topography constraints) such standards may be regularly infringed (due to a lack of flexibility / optionality in its application). Investigation into whether the desired outcomes can be achieved through the use of vegetation should also be considered.

#### 2.1.4.6 Car Parking standards

Car parking is another example of where standards vary across the different Plans – and where consideration could be given through the National Planning Standards process or other tools to provide consistent provisions for parking requirements, specific to the size of the proposed dwelling, as well as proximity to public transport facilities and networks.

***In the Auckland context, the approach to the provision of car parking associated with new residential development, typically requiring either no car park (in the higher density zones) or the provision of a minimum of one park (in the lower density zones), is enabling a more efficient use of Auckland's residential land resource.*** While this represented a 'philosophical shift' in the approach to how car parking was to be provided for residential development in Auckland (when compared to the more traditional approach applied through the previous 'legacy District Plans'), this same 'shift' has not yet taken place across the other Plans. In general, the more traditional approach of seeking a provision of a minimum of two car parks for each new dwelling (other than for high-density development in some instances) in lower-density / suburban residential zones continues to apply.

***There is also potential to further consider alternatives and incentives, such as opportunities for shared parking, off-site parking provision as well as reductions in car parking requirements – particularly for higher-density residential development which is located in close proximity to public transport facilities and networks.***

#### 2.1.4.7 Yard Setbacks

Front yard setbacks are used to control streetscape and character of an area and are usually between 3 and 6 metres depending on the zone. Rear yards are usually the next largest, commonly 3 metres and provide key privacy between dwellings and outdoor living areas. The most questionable is the continued use of the side yard requirement which is usually between 2 and 3 metres. Removing the side yard requirement should be investigated so that connected dwellings are encouraged and the use of this small area of land between sites can be utilised without neighbours' approval. Fire rating requirements would still apply under the Building Act for buildings located closer than 1m to the boundary.

#### 2.1.5 Assessment Frameworks

***Assessment frameworks also differ across all the Plans in terms of their structure, level of detail and the particular matters identified as specific focuses for the assessment of development proposals.***

While Auckland has a strong policy focus on seeking that new residential development can achieve and be consistent with the 'planned built character' which each zone is seeking to achieve over time, there is an apparent disconnect through the associated 'assessment framework', which focuses more on considering the effects of proposed building intensity, scale, location, form and appearance on 'neighbourhood character, residential amenity, safety and the surrounding residential area'. ***This highlights the issue of a policy direction seeking to achieve a 'future state', but with an assessment framework which assesses development proposals against what already exists.***

Christchurch, however, does provide a more enabling assessment framework in this regard. The Plan sets out both policy direction and an assessment framework which is aligned and clear in its intent to enable residential development that reflects the 'context, character and scale of buildings anticipated in the neighbourhood' – rather than reflecting existing character.

***The assessment frameworks are relatively consistent across the Plans in relation to how specific guidance regarding urban design / quality design matters have been considered and incorporated. Through the recent plan-review processes for Auckland, Christchurch and Queenstown, attempts to***

**include specific urban design related guidance through the inclusion of assessment criteria were generally unsuccessful.** On one hand, the absence of such design-related assessment details could be considered 'enabling' – by not being overly directive in stating potentially numerous, and quite specific, design-related expectation and outcomes, which is considered to then provide more flexibility and, in theory, enable more innovative design responses. However, the lack of inclusion of such design-related specifics through the assessment frameworks can in fact have the opposite effect. Without such guidance, there is a risk that the specific outcomes being sought in relation to quality built form / urban environments are not well articulated nor understood – and as such there is little certainty provided to users of the plan (both applicants, as well as Council staff and decision makers) as to what the desired outcomes are for a zone or location, and what specific outcomes a development proposal will be assessed against. Without such certainty, this has the potential to cause delays in the processing of resource consents for residential development, where disagreements may be had between applicants and Council as to what level of design-related detail / information is relevant, as well as which specific matters are to be considered and assessed for particular development proposals.

There is the alternative view that the market and designers should have freedom to determine these outcomes within the parameters of external effects set by the Plan rules. In the situation of shortage of supply this position has the potential to result in poorer quality on site outcomes. An overall high standard of urban environment may still be able to be achieved where high quality public spaces are provided along with good connections for residents between home, recreation, education and work spaces. The tools for these are not currently introduced in District and Regional Plans.

A discussion of urban design guidelines that are referred to in plans and links to them for your information can be found in section 2.4 of this report.

## 2.1.6 Other District Plan Provisions / Tools

### 2.1.6.1 Overlays

A tool that is becoming more commonly used to assist in the balancing of priorities by identifying values is the use of constraining overlays that are placed over areas of zones where there are special characteristics that the community has indicated it would prefer to see protected. Examples of these constraining overlays are:

- Where views to volcanic cones are to be protected.
- In areas where older buildings exist and are sought to be retained by the community for character reasons (e.g. 'Special Character' Overlays).
- Where infrastructure is sought to be protected from inappropriate subdivision and development or where specific amenity / nuisance matters are managed (e.g. aircraft noise contours and National Grid corridor protections).
- Areas subject to flooding and therefore require higher floor levels.

These overlays are put in place where these characteristics exist and development can only occur if effects on these aspects are avoided or managed. The capacity for housing development is therefore reduced in these areas, but the constraining overlays exist for the good reason of protecting values the community has identified as high value.

It is noted that the section 32 reports for these overlay mechanisms do not accurately assess the impact of imposing these overlays in that the quantity of homes that are prevented from being developed by these rules are not assessed. Where this is not done, the full opportunity cost of imposing these constraints is not known and not therefore balanced. If the full cost of these is quantified, the community may come up with a different preference in terms of the level of protection afforded to these values. A way of enabling more



capacity may be revisiting the application of these constraining overlays and reducing the impact of them in some areas.

#### 2.1.6.2 Integrated / Comprehensive Residential Developments and 'Enhanced Development / Community Housing Mechanism

A key enabling provision in District Plans is intended to be the ability to develop "Integrated Residential Development" or "Comprehensive Residential Developments"<sup>9</sup>. This is where there is a relaxing of the development controls or the density requirements to enable more houses on the site to be consented than would otherwise be the case based on the theory that when designed together on a large site, houses can be designed and positioned so that a better onsite amenity is achieved amongst them than if the houses were designed on individual vacant sites. These types of provisions are different across all plans and they are summarised in a series of tables within Appendix 1.

We have heard anecdotally that these provisions are not well utilised, suggesting perhaps that Councils may not be undertaking regular reviews under section 35 of the RMA despite its importance, and subsequently not utilising the findings of the section 35 reviews to inform their plan review processes. It is suggested that the degree to which these provisions are enabling should be investigated by researching with Councils how many resource consents had been applied for under these rules. This would indicate whether these key provision intended to enable more intensive and varied housing typologies were actually able to be used.

Our assessment is that key components of these rules reduce them from being utilised. The necessity to utilise these provisions is reduced in the case of Auckland where the requirement for a minimum site density has been removed from most zones. These components are:

- The large site area required to qualify to use this rule (2,000m<sup>2</sup> would require more than 3 lots of 600m<sup>2</sup> to be acquired adjoining each other
- These consents are usually Restricted Discretionary and can usually be considered without written approval of adjoining property owners if the controls relating to effects on adjoining properties are met (such as HiRB, outlook, setbacks).

Suggested solutions to increase the uptake of the use of this rule to enable greater housing intensification include:

- Reduce the number of controls that must be complied with for an activity to be considered as a Restricted Discretionary activity to only key neighbouring amenity controls. These are height to boundary, setbacks and site coverage.
- Reduce the qualifying site size for this rule so that it can be used on only two adjoining standard sites (800m<sup>2</sup>).
- Increase benefits of using this rule, e.g. increase the reduction in site size per unit to a greater than 30% increase.

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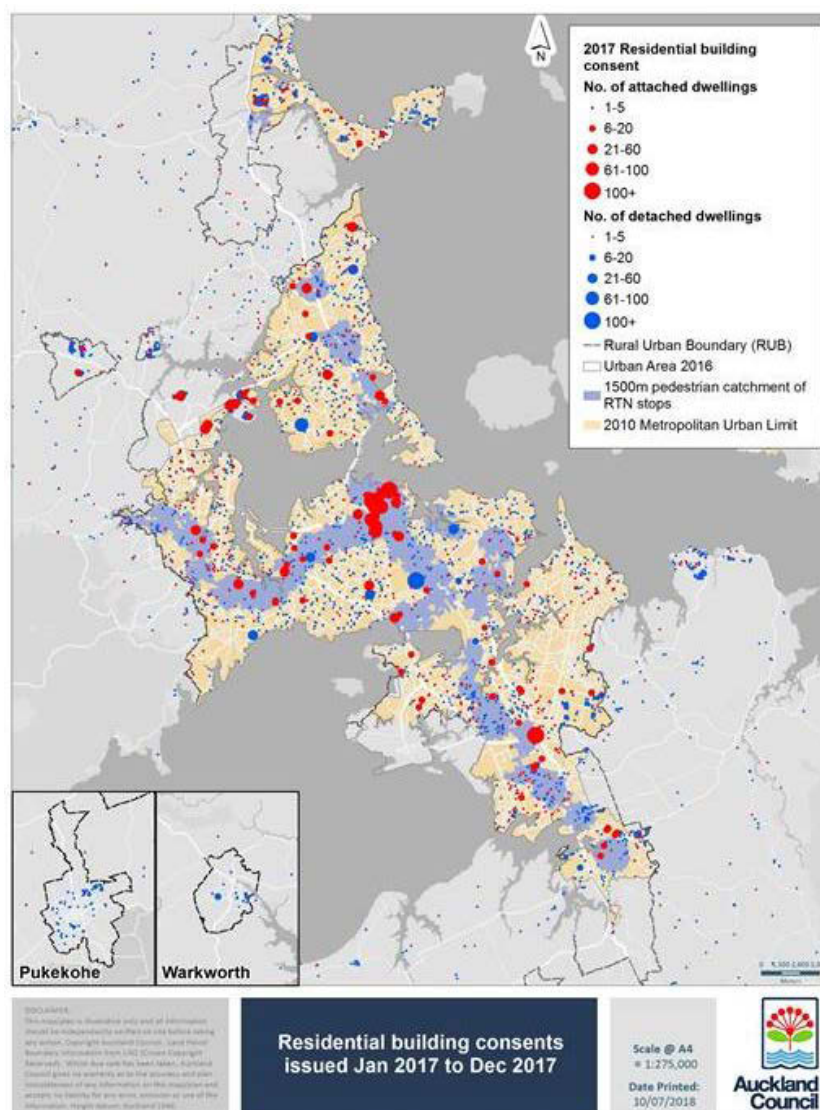
<sup>9</sup> Integrated Residential Development or Comprehensive Residential Development refers to the ability for a landowner/developer is able to develop one or more contiguous sites for residential purpose in an integrated manner.



### 2.1.7 Has the recent Auckland Unitary Plan process helped to enable growth and the delivery of increased housing provision, increased housing choice, improved affordability and quality built environments?

The AUP introduced key changes to the planning provisions that influence growth in urban areas. As these have only been implemented since 2017 it is essential to ascertain how successful these provisions are being before determining the need and detail of new provisions. The following information describes the location of new development and the change in pace at which this has occurred since the AUP was made operative.

The below map illustrates where building consents have been delivered in the year to December 2017. This shows where growth is happening, particularly larger projects, and multi-unit (attached) projects. The AUP was made operative<sup>10</sup> in October 2017, and an updated map of this nature from Council would demonstrate any impact the AUP has had on the location and scale of development.



<sup>10</sup> Information received from David Norman, Chief Economist Auckland Council, email dated 12 July 2018 to the Ministry for the Environment.

Decisions on the AUP were released in August 2016 and the Plan was made Operative in Part in September 2016. The number of new dwellings consented in the 10 months from August 2017 to May 2018 increased by 27% over the same 10 months the year before, despite a tighter regulatory regime resulting from the 2005 Building Code and the leaky homes issue. Council's Chief Economist outlined the following points as indicating that this growth was a result of the altered provisions of the AUP:

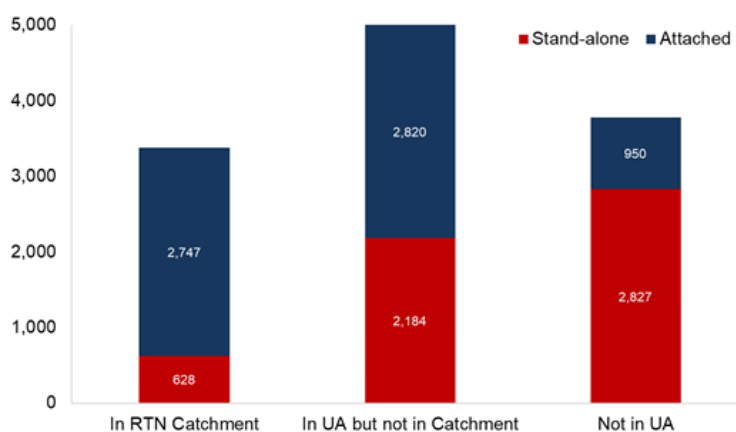
- 90% of **all growth** in new dwellings consented in the 10 months to May 2018 is in brownfield areas where greater intensity has been allowed by the AUP.
- Total brownfields share of new dwellings consented in these 10 months of growth has, as a result, increased from 62% to 69% (remembering that the target of numerous Auckland planning documents is for around 2/3 of growth to be in brownfield areas), completely reversing a trend of brownfields accounting for a declining share of building consents over the previous four years.
- More intensive multi-unit (terraces and apartments) are now about 53% of new dwellings consented (with roughly equal split between apartments and terraces), while houses are only 47% across all of Auckland.
- In the urban area (2016 definition) around 66% of new dwellings are multi-units, precisely what the AUP aimed to deliver

This indicates people are increasingly preferring to build in brownfield areas even though land there costs much more, as people want to live near amenities such as public transport, swimming pools, good schools, infrastructure services and coffee shops.

Council's Chief Economist also provides the following information to demonstrate that a large number of dwellings are being consented in catchment areas for rapid transit networks (RTN), indicating people value rapid transit access, and development – enabled by the AUP – is responding to this:

- Only 2.6% of Auckland's entire land area falls within a 1.5 km walk of an RTN station – the train or northern busway. 42% of all multi-unit developments consented in the last 12 months were in the RTN catchments. This share of multi-unit consents is 16 times higher than the RTN catchment's share of Auckland's land.
- 11% of stand-alone homes were consented in the RTN catchments, 4 times more than the catchments' share of land area.
- 81% of all dwellings consented in RTN catchments in the last year were multi-unit, delivering the kind of densities we want around transport nodes.
- Overall, 40% of all dwellings consented in the 2016-defined urban area were in the RTN catchments, even though those catchments only account for 25% of Auckland's urban area.

Dwellings consented by type and area, 12 months to May 2018



Source: Chief Economist Unit, Auckland Council

## 2.2 Observations and findings in relation to District Plan provisions and their implications for promoting quality built environments and the delivery of a greater diversity of housing at a range of price points

### 2.2.1 Urban Zone Objectives and Policies

Territorial Authority / Plan	Obj and pols seeking to promote / require quality built outcomes / quality urban environments	Obj and pols seeking to enable / deliver additional housing supply	Obj and pols seeking to enable / deliver greater diversity of housing types	Obj and pols seeking to enable / deliver improved housing affordability at a range of price points
Auckland Unitary Plan (2017)	✓	✓	✓	✓
Hamilton City District Plan (2017)	✓	✓	✓	✗
Tauranga City Plan (2013)	✗	✗	✗	✗
Christchurch City District Plan (2016)	✓	✓	✓	✓
Queenstown Lakes District Plan (2017)	✓	✓	✓	✗

Summary Table One: How Objectives and Policies have addressed design quality, housing capacity, choice and affordability

#### 2.2.1.1 In the Auckland context:

- The Plan sets out specific policy direction within the MHS, MHU, THAB, Mixed Use and Town Centre zone provisions which seek to enable the delivery of a variety of housing types at a range of densities – as well as an ‘assessment criteria’ framework which requires development proposals to be assessed against the extent to which such an outcome is being achieved.
- ***The key enabling feature of the Unitary Plan’s policy framework (for those residential zones which seek to provide for residential growth and intensification) is a clear and deliberate policy direction which seeks that any new development is able to achieve and be consistent with the planned built character which each zone is seeking to achieve over time.*** This is a fundamentally different approach to that which was set out in the ‘legacy district plans’, which typically sought that development was consistent with or did not adversely affect the existing amenity or character of adjoining residential sites or areas. This was a key aspect which was considered and addressed through the plan-making process, which recognised that Auckland needed to achieve urban growth and intensification over time, in appropriate locations, but that such intensification and growth aspirations could be compromised or undermined if proposals for new residential development would be assessed against existing, ‘status quo’ neighbourhood / surrounding amenity and character – rather than the urban amenity and character which the zone was specifically seeking to achieve.

### 2.2.1.2 In the Hamilton context:

- **The objectives and policies applying to the residential zones are considered to be enabling in nature, rather than simply seeking the maintenance of existing amenity (i.e. preserving the ‘status quo’).** They seek to deliver a range of housing types and densities available to the market; the efficient use of land and infrastructure through consolidation and a compact urban form; residential development producing good onsite amenity and contributing to good neighbourhood amenity (but not outright preservation of existing amenity); residential activity remaining the dominant land use (as opposed to commercial and other land uses ‘spilling out’ from commercial locations); and management of the interface with development in adjacent zones.
- **They are considered to be delivered reasonably effectively (through their associated ‘methods’), particularly by the provision for duplexes and apartments at differing densities from the more traditional built form of detached dwellings.** In addition, the Residential Intensification Zone also provides a useful mechanism for achieving greater densities, and has a large enough spatial extent to have a significant impact on enabling redevelopment of existing residential properties in the city.

### 2.2.1.3 In the Tauranga context:

- **The objectives and policies applying to the residential zones are considered to be constraining in nature.** The Plan sets out objectives and policies that largely seek to retain the existing character and amenity of the parts of the city that the provisions relate to. There is also considered to be a general absence of a coherent strategy running through the provisions. This largely reflects the age of the document (operative in 2013 and drafted / notified much earlier) and that it is about to be reviewed. The expectation would be that the district plan review process will adopt some clear strategic direction more enabling for residential intensification that then ‘flows through’ the various provisions in an explicit manner.
- Wording within the framework of objectives uses phrases such as ‘maintain existing residential character’, ‘balance of bulk and scale of development with natural landscape and historic heritage values’, and ‘built form to deliver appropriate amenity levels’.

### 2.2.1.4 In the Christchurch context:

- The higher-order objectives, which other objectives of the plan are to be consistent with, include a clear direction of enabling an expedited recovery, and meeting the community’s immediate and long term needs for housing amongst other matters. In this context, objectives seek that an additional 23,700 dwellings are enabled through a range of housing opportunities, including types, densities and locations, while also meeting different needs (affordable, community and social housing).
- A consolidated urban form and high quality urban environment is also sought that is attractive, well-designed with a high level of amenity. **Policy seeks that developments reflect the ‘context, character, and scale of building anticipated in the neighbourhood’.** In respect of the existing character of residential areas, a targeted approach is applied of seeking to maintain and enhance the “identified special character values of residential areas”.
- **In the context of medium density housing, (which is more intensive than most plans at one unit per 205m<sup>2</sup>) the Panel’s decision recognised the trade-off in enabling and providing for intensification within established neighbourhoods, and noted some loss of amenity values with change.** In balancing intensification and amenity, the Panel concluded that “...increasing densities impacts on residential character, but intensification should be given priority” as reflected in the following policy wording (Underlining is my emphasis):

#### 14.2.4.2 Policy - High quality, medium density residential development

*Encourage innovative approaches to comprehensively designed, high quality, medium density residential development, which is attractive to residents, responsive to housing demands, and provides a positive*

*contribution to its environment (while acknowledging the need for increased densities and changes in residential character), through*

...

*vi. recognising that built form standards may not always support the best design and efficient use of a site for medium density development, particularly for larger sites.*

- The rules and other methods provide for the outcomes described above with special provisions providing for short term recovery needs and long-term outcomes, including rules enabling of conversion of an existing residential unit to two units, the Enhanced Development Mechanism and Community Housing Redevelopment Mechanism as examples.

#### 2.2.1.5 In the Queenstown context:

- The Plan sets out specific policy direction within the LDS, MD, HD and Town Centre zone provisions. ***These seek to enable the delivery of a variety of housing types at a range of densities, based around the established zoning framework.*** There are no specific ‘assessment criteria’ in the Plan apart from listed matters of discretion within specific rules.
- The Hearing panel identified that there is a serious housing issue facing the District and that there is a reasonably urgent need for more houses of all types, with a particular need for more affordable houses.
- ***The Panel identified that a land use density control was desirable and necessary to implement the objectives and policies determined as the most appropriate.***<sup>11</sup> The panel also considered that *“changing the planning basis on which the majority of the population had already adapted to and make significant household investment decisions on should be approached with some caution as we see the section 5 goal of helping people to provide for their social and economic wellbeing. One could liken it to the principle of pulling the rug from under one’s feet”*.<sup>12</sup>
- The objectives and policies applying to the residential zones therefore seek to strike a balance between maintaining amenity values and providing for intensification subject to achieving good design outcomes. ***The Panel decisions noted that the approach to density is similar to the approach in the Operative Plan and “enjoys a high level of familiarity with the community”.***
- The Panel decisions noted the use of the term ‘protect’ relative to neighbours’ amenity values is not compatible with the overall provisions which seek to enable additional development to that which currently exists; the zones (and particular the LDSR zone) plainly promote change across the zone. ***In many cases the Panel preferred to use ‘maintain’ instead of ‘protect’ as there was concern that ‘protect’ implies that new development will have limited or no adverse effects on the amenity of neighbours.***
- In respect of the tension between providing for intensification and maintaining amenity the Panel noted that *“...the principal argument in support of limiting intensification within existing developed areas relates to a loss of amenity values for existing residents, as well as various other adverse environmental effects including noise, shading, traffic and a loss of openness or views. We accept that these adverse effects could at times be substantial on those residents. The principal argument in support of enabling intensification within existing developed areas relates to the needs of new residents; the efficiencies of concentrating development in well serviced and located areas; the inferiority of alternative locations to accommodate new growth; and the adverse effects that could eventuate from such an alternative settlement pattern (landscape effects, transport effects, social dislocation amongst others). We accept that the adverse effects of not enabling appropriate intensification could also be substantial on new residents and the environment. Although our above summary risks oversimplifying many nuances of the*

<sup>11</sup> QLDC Hearing Panel Decision 9A – para 496

<sup>12</sup> QLDC Hearing Panel Decision 9A – para 47



arguments on each side, we do find that there is an inevitable need to balance the interests of current residents against those of new and future residents when considering urban intensification. “

It is how this balance is struck that will determine how enabling of development plans are. While objectives and policies may signal support for intensification and growth, it is the rules of the plan, the activity status and notification provisions that determine how or if, intensive developments are put forward by land owners.

The King Salmon decision indicates that more emphasis is placed on objectives and policies when assessing applications and there is less need to go back to Part 2. This does not have a large impact on housing applications as the objectives and policies relating to these are generally enabling and therefore this decision will not alter the weight or impact of these.

## 2.2.2 Activity Tables / Activity Status for Residential Development

### 2.2.2.1 Overall comments regarding utilisation of activity status as an enabling / constraining element:

- ***A key matter to consider, in relation to activity tables and the identification of an activity status for each identified ‘land use’, is the philosophy of how activity status is used / utilised – particularly in relation to encouraging or discouraging particular types of activities;***
- The activity status is used to signal what intensity of development is considered appropriate in each zone. This occurs largely to the fact that consents for Discretionary or Non-complying activity tend to require affected parties approval or they will follow the limited notified consent process. This became an issue of debate during the Auckland Unitary Plan plan-making process. The key issue being – ***should activity status be applied primarily in relation to which activities a Plan seeks to encourage / discourage, or should the Discretionary / Non-Complying Activity status be applied primarily in those circumstances where it is difficult or unclear as to what matters / issues Council would wish to assess an application against?***
- For instance, the Auckland Unitary Plan often utilises the Discretionary activity status for small amounts of earthworks (for instance between 5m<sup>2</sup> and 50m<sup>2</sup> per site) where a site is impacted a ‘Special Character’ Overlay. Earthwork, generally, are a straight forward type of activity undertaken on a regular basis, where it is relatively simple to clearly identify the matters which Council would want to assess any such earthworks proposal against. Rather than listing this activity as ‘Restricted Discretionary’, and then clearly identifying (as ‘matters of discretion’) the key matters which Council would assess the application against, a full Discretionary activity status has been applied – more as a means to discourage such an activity from taking place.
- In relation to residential activities and development, ***an example would be the use of the Non-Complying activity status for any proposal to develop a second dwelling in the ‘Single House’ zone. Such a proposal appears to be listed as a Non-Complying activity, not because it is unclear as to the matters which such a proposal would need to be assessed against, but because multi-unit development is specifically sought to be discouraged in the ‘Single House’ zone.***
- It is worth noting that a plan does not necessarily need to provide for activities as Permitted in order to be a permissive plan. The absence of appropriate controls can result in suboptimal outcomes. The consent pathway can be considered to be permissive, in our view, when there is certainty and clarity. This can be achieved, for example, through a Restricted Discretionary consent process, where Council’s discretion is restricted where necessary to clearly defined matters, and there is no requirement for neighbours’ approvals.

#### 2.2.2.2 In the Auckland context:

- ***Within the MHS and MHU zones, providing for up to three dwellings per site as a Permitted activity ('permitted threshold'), subject to compliance with identified standards, is a more enabling approach than that which previously existed in the various 'legacy' district plans.*** This outcome was fought through the Court where appellants sought to overturn the Council's decision which was to permit only two dwellings per site. An important point to note here however, is that this 'permitted threshold' was finalised through a recent Environment Court appeal (by HNZN) process in early 2018. The Independent Hearings Panel (IHP) had recommended a 'permitted threshold' of four dwellings per unit; however the Council's 'decision version' of the plan disagreed with the IHP recommendation, instead applying a 'permitted threshold' of two dwellings per site. During the Environment Court appeal process evidence and legal submissions were presented as to the extent to which the 'Permitted threshold' provision could be considered to appropriately respond to the NPS:UDC and the Auckland Council's recently published 'National Policy Statement on Urban Development Capacity 2016: Housing and business development capacity assessment for Auckland' Report (dated December 2017). ***While the appeals process was successful in raising the permitted threshold from two (the Council's preference) to three dwellings per site, this threshold still represented a reduction from the threshold of four dwellings per site, which the IHP had initially recommended and considered to be appropriate.***
- ***The lack of enablement / provision in the THAB zone with regard to small-scale infill development could be seen as a constraint to the delivery of a range of housing types in this zone.*** While the MHS and MHU zones provide for up to three dwellings per site as a Permitted activity, any residential development in the THAB zone requires resource consent as a Restricted Discretionary activity. This approach could have the potential to lead to a delayed / underutilised uptake of development potential within this zone. By way of an example, if the current typology on a THAB-zoned site is a single, two storey house, and the site area is say between 700 – 1,000m<sup>2</sup>, there may be limited ability to design and deliver an apartment / terrace typology on the site. Where such a land owner might wish to provide an additional dwelling on such a site, the requirement for a Restricted Discretionary activity approval for the one additional dwelling may act as a barrier to seeing such sites redeveloped to provide for additional housing.
- ***On the flip side, the consideration of this specific example as a 'constraint' must also be balanced against the need to ensure that the limited extent of land area zoned as THAB is not predominantly redeveloped in an infill, lower-density manner*** – and thereby forgoing the anticipated level of intensification which the zone is seeking to achieve (e.g. not enabling infill or small redevelopment of these sites to provide for one or two additional dwellings could be considered a 'constraint' but, at the same time, ensuring a limited land resource which has been identified to enable high-density development is not under-developed with lower density forms of housing can also be considered 'enabling' for the provision of higher-density residential typologies in the THAB zone). ***The key issue being – if development of THAB zoned sites was a Permitted activity up to three dwellings per site, in the same way as this is enabled in the MHU and MHS zones, then there is a risk that the relatively small area of land zoned for higher-density residential typologies could be predominantly taken up by lower density residential development, which will typically be an easier and cheaper form of residential redevelopment to undertake on these sites.***

#### 2.2.2.3 In the Hamilton context:

- ***The provisions for duplex dwellings effectively enabled a doubling of density in the General Residential zone, which is the majority of the residential area of the city,*** including being applied to many of the greenfield areas. The uptake of duplex developments throughout the city, both greenfield and redevelopment of existing sites, has been strong – clearly indicating that both the market for such development is robust, and that the plan provisions are enabling the delivery of this residential typology.



- **Duplex dwellings both increase housing supply, and serve to address housing choice.** The duplex dwelling provisions allow for a density of one dwelling per 200m<sup>2</sup> in the General Residential zone, which by its nature encourages smaller dwelling size (due to land size constraints). The market is responding to the duplex provisions by constructing smaller typically single level duplex dwellings that provide a new housing choice for the Hamilton market.
- **The use of the Restricted Discretionary activity status for many activities and for non-compliance with standards provides a greater level of certainty for plan-users and applicants as to the matters to be assessed.** Clear statements of what those assessment matters are, and the tidy organisation of objectives and policies under broad topic headings to be applied regardless of zones, provides a clear and predictable evaluation framework. Alongside the notification preclusions within the zones, this provides a powerful set of tools to enable greater densities in the city's residential areas.
- **The extensive enablement of 'apartment buildings' in large areas of the city, provides ample locations for apartment development at higher densities to occur.** Apartments have a Permitted activity status in the Central City zone, and have Restricted Discretionary activity status within the Residential Intensification zone. This latter zone covers relatively significant areas of the city around suburban centres and significant employment hubs (Waikato Hospital and University of Waikato).
- **The Discretionary activity status is not widely used, to provide high levels of certainty to developers, and to reduce risk.** Restricted Discretionary activities status has been consistently favoured, rather than Discretionary activity status as a means of encouragement for specific forms of development in particular zones. Where Council has sought to discourage a particular land use within a zone, and/or has considered that effects are unable to be anticipated with any certainty, the Non-Complying activity status has been used as an explicit means of 'flagging' that discouragement.

#### 2.2.2.4 In the Tauranga context:

- **Reliance on Permitted activity status subject to development controls, and Controlled and Restricted Discretionary activity status.** The Tauranga Operative District Plan has a fairly typical first and second generation RMA plan style of a heavy reliance on development controls to achieve outcomes, with activities generally provided for as Permitted, Controlled or Restricted Discretionary. Any activities to be discouraged (for example industrial land uses in residential zones) have a Discretionary or Non-Complying activity status.
- **Activity status has not been creatively used to encourage increased housing densities or particular outcomes within specific zones.** It is considered evident that more recent district plans (such as the others evaluated within this report) have used activity status and notification preclusions to actively encourage or discourage particular outcomes. The Operative Plan is a more 'traditional' style of district plan and tends to assign activity status based on the extent of certainty around the anticipated effects of particular activities, rather than being explicitly outcome-focused and market-aware of how developers will react or not to particular activity status and provisions. The Operative Plan lacks any coherent strategy in this regard.

#### 2.2.2.5 In the Christchurch context:

- Provisions are generally enabling of residential activity (up to 6 bedrooms). Residential developments with 3 or more units (amongst other thresholds) and retirement villages in the Residential Medium Density zone require Controlled or Restricted Discretionary resource consent for the purpose of assessing design. This reflected a plan change made operative prior to the District Plan Review and it was not a matter of significant challenge by parties contesting provisions as part of the District Plan Review. Notwithstanding this, the Panel noted that **"it is important that restricted discretionary activities are properly targeted, in type and scale, to those requiring residential design assessment. It is also important that the criteria specified to direct discretionary judgment in such assessment are clear and precise"**.

### 2.2.2.6 In the Queenstown context:

- **The Queenstown Plan largely represents the continuation of the status quo in terms of residential density.** Permitted density increases throughout the zones, with the LDS remaining as the zone with the expectation of a lower density to maintain amenity values.
- Rules in the LDSR zone have been relaxed to enable greater intensification, with the panel noting that *the basic rule of permitting one unit per 450 square metres of site area is a compatible fit with the existing developed part of the zone, and development down to 300 square metres can be appropriately managed as a restricted discretionary activity*<sup>13</sup>. The panel further noted that *“in reaching this decision, ... a density of 1 (independently disposable) unit per 300 square metres, with an independent habitable flat as well, will deliver a maximum effective household density of 1 unit per 150 square metres. We find that this is approaching the absolute limit of what can be described by the lower density, suburban residential character that the zone objectives and policies enable”*.
- The use of the Restricted Discretionary activity status for many activities and for non-compliance with standards provides a greater level of certainty for plan-users and applicants as to the matters to be assessed.
- Greater densities are enabled in the Medium and High Density zone with a reliance on built form standards as opposed to a required net area minimum.
- To reveal which, if any of these provisions are the most enabling of development we suggest a review of the number of consents sought and granted in each Council is undertaken.

### 2.2.3 Notification Provisions

#### 2.2.3.1 In the Auckland context:

- **The notification rule in MHS, MHU and THAB zones**, providing for multi-unit developments (4 or more dwellings per site, as well as ‘Integrated Residential Development’) as a Restricted Discretionary activity which can be processed on a non-notified basis providing ‘core controls’ (maximum building height, height in relation to boundary and yard setbacks) can be complied with **is a key enabling element**.
- Applicants generally have certainty that, providing their development proposal complies with the identified ‘core controls’ in the Plan, there will be a low risk of their proposal being notified (can only be notified where ‘special circumstances’ are deemed to exist). Removing or reducing as far as practicable the risk for notification to occur is a key incentive for urban development, as the potential for a proposal to be held up through a notification process can have time and cost risks and implications for developers.
- **Within the Mixed Use and Town Centre zones, this incentivised approach to notification (tied to compliance with specifically identified key Permitted Standards) has not been provided for** – it is an approach provided for through the Unitary Plan for the residential zones only. Given these zones are seeking similar high density and quality built form outcomes to that sought in the THAB zone, **this appears to be an example of where the notification provisions could better enable the delivery of these development outcomes in the Mixed Use and Town Centre zones, in the same they are being enabled in the THAB zone**.
- In a general sense, proposals for new development in the SH, Mixed Use and Town Centre zones, which infringe one or more of the relevant Permitted Standards, will be subject to the normal tests for notification under the RMA;
- The comparative extent of each zone will also impact on how influential these provisions are in enabling development.

<sup>13</sup> QLDC Report 9A – Report and Recommendations of Independent Hearing Commissioners Regarding Chapters 7 – 11, para 427

### 2.2.3.2 In the Hamilton context:

- **Notification exclusions are explicitly strategic in nature, designed to achieve stated outcomes.** The Operative Plan relies heavily on the use of Restricted Discretionary activity status to achieve good urban design outcomes without relying on development controls to achieve outcomes. The quid pro quo is that notification exclusions have been used for these activities to provide certainty to the market and to reduce risk (in terms of time and consenting costs). This dual activity status/notification exclusion approach replaced an entirely different approach in the previous district plan which was highly permissive and based on development controls to achieve reasonable design and streetscape outcomes (and was largely viewed as failing this).
- **'High risk' activities in certain zones have received 'protection' in the form of notification exclusions.** It is apparent that certain activities are excluded from notification to encourage uptake of that particular form of development in a specific zone. For example duplex developments in the General Residential zone were not a characteristic built form in that zone (which is dominated by detached dwellings), but Council identified that encouragement of greater density in the zone in the form of duplex dwellings was a key means of achieving housing supply to meet the sub-regional growth strategy FutureProof demand projections. As otherwise the risk was that limited notification would occur frequently on amenity grounds, with consequent costs and uncertainty for developers preventing this form of development occurring (as had appeared to happen under the previous district plan). The notification exclusion was a means through which uptake of this form of development could be encouraged.
- **Notification exclusions can create unintended consequences.** A paradox of this targeted approach is that other land uses, such as apartments in the Residential Intensification zone, do not have a notification exclusion and are subject to the usual RMA notification tests. Yet they are more characteristic in an amenity sense of housing development within the zone. Council should evaluate the effectiveness of the notification exclusion approach, and consider applying it more widely for the sake of consistency.

### 2.2.3.3 In the Tauranga context:

- **Exclusions from notification are not used as a 'tool' to achieve outcomes.** There are some notification exclusions included within the district plan, but with no clear strategy evident and no explicit statements about the purpose of those exclusions. Nor are these exclusions particularly enabling of increasing housing densities or increasing housing supply. It is apparent that the district plan does not use notification exclusions as an implementation tool to achieve housing outcomes, or any other strategic outcome, but merely as a means to administer the notification provisions of the RMA.

### 2.2.3.4 In the Christchurch context:

- Reflecting the Statement of Expectations and Objective 3.3.2 of the Strategic Directions chapter, which seeks to 'minimise' the requirements for notification and written approval, the Plan includes non-notification provisions, providing greater certainty and reducing the risk of additional costs/ time. **Notwithstanding this, it was recognised that it does not "give licence to arbitrarily dispense with notification. As s76 makes clear, the rules must ultimately serve the relevant functions and achieve the applicable objectives and policies"**<sup>14</sup>.
- The Panel in their decision set out their philosophy to notification provisions which is consistent across other chapters of the plan.

*(a) There is a presumption that applications for controlled activities will be processed on a non-notified basis, and that adverse effects can be appropriately managed by way of conditions.*

<sup>14</sup> <http://www.chchplan.ihp.govt.nz/wp-content/uploads/2015/03/Residential-Stage-1-decision.pdf> paragraph 81.

*(b) Where the effects of the activity relate to streetscape or effects on the public realm, applications are identified as being not subject to public notification or limited notification. This is on the basis that adverse effects can be considered wholly at the discretion of the Council in its role as the consent authority.*

*(c) Where effects are likely to impact on immediate neighbours, and are of a limited scale, public notification is dispensed with, but limited notification (or a requirement for written approval from affected parties) is provided for.*

*(d) Where effects from an activity are of a wider or strategic significance, the determination with regard to notification is according to what is specified in ss 95A–95E of the RMA.*

- By setting out their philosophy, there was transparency to the logic of when notification provisions are applied. In describing this approach, it reinforced what effects the rules are seeking to manage and who is potentially affected.

#### 2.2.3.5 In the Queenstown context:

- An enabling element in the MD and HD Zones in particular, and the LDSR to a lesser extent, is the provision for multiple units on a site to be processed as a Restricted Discretionary activity subject to density requirements which can be processed on a non-notified basis providing compliance with performance standards including maximum building height, height in relation to boundary and landscaped areas can be complied with.
- In a general sense, proposals for new development in the Residential and Town Centre zones, which infringe one or more of the relevant permitted standards, will be subject to the normal tests for notification under the RMA;
- Apart from the specified examples, proposals for new development in the LDSR, MD, HD and Town Centre zones, which infringe one or more of the relevant permitted standards, will be subject to the normal tests for notification under the RMA.

### 2.2.4 Key Urban Zone Rules and ‘Development Standards’

#### 2.2.4.1 Density and Subdivision standards

##### a. In the Auckland Context:

- ***The proposed and adopted removal from the Plan of any ‘land use density’ rules (e.g. rules / standards relating to a maximum number of dwellings permitted per square metre of site area) was a key, and potentially transformational, shift from earlier planning frameworks which existed in the various ‘legacy District Plans’ for Auckland.*** This shift is not generally evidenced elsewhere as other Councils remain reliant upon density requirements as a key tool for managing development intensity.
- Fundamentally, land use density controls were considered to be a potential constraint on the ability of the Plan to appropriately enable and provide for increased housing supply, through a variety of types and sizes, and at a range of price points. Density controls were considered to potentially pre-determine the development of predominant typologies (most likely single dwellings), with little positive amenity benefit or outcome being gained by applying such controls through the residential zone provisions. Instead, the most appropriate means of managing potential residential amenity effects was considered to be through focussing the application of rules (e.g. prescriptive development controls / standards) in the Plan to only those matters which could affect immediately adjoining properties. Matters of internal, ‘on-site’ amenity were then considered to best be managed through a more flexible design-assessment process – with an aim and focus on achieving high quality built outcomes – rather than through applying prescriptive rules or controls to manage such matters.

- ***There is a current disconnect / misalignment in how the subdivision provisions link with the 'land use' provisions for the development of new dwellings.*** The subdivision rules appear to have not anticipated / provided for a simplified consent approval and assessment process where a residential development proposal can comply with all the relevant zone provisions, and as such no land use consent approval is required. This can create a situation whereby a proposal to develop an additional dwelling on a site (for instance in the MHS or MHU zones) could require resource consent approval, as a full Discretionary activity, to undertake and formalise a subdivision for such a proposal;

b. In the Hamilton context:

- ***Provision for duplex development in the residential zones is potentially transformative.*** The duplex provisions have effectively doubled the maximum density control relative to previous district plans, and the subdivision provisions allow for fee simple titles consistent with the duplex density provisions. The uptake of the duplex provisions has been strong, with fee simple titles being created at 200m<sup>2</sup> in area within the General Residential zone (and 150m<sup>2</sup> in the Residential Intensification zone), being much smaller than the 'traditional' 350-400m<sup>2</sup> fee simple minimum lot size that existing in previous district plans. The consistency between land use (density) and subdivision (minimum lot sizes) is an important enabling feature (see above in terms of the Auckland Unitary Plan).
- ***The use of minimum density targets in commercial zones, as opposed to maximum density controls is strongly enabling.*** Within the City Centre zone and Business 5 zone the approach has shifted to setting minimum residential density targets to encourage more intensive forms of apartment development. This is a substantial shift from the maximum controls that existed in previous district plans that appeared to discourage residential intensification.

c. In the Tauranga context:

- ***The lack of density / minimum lot size provisions acting as a housing enabler is evident.*** The density controls are fairly 'traditional' in nature and do not particularly enable housing supply, but rather focus on ensuring a minimum level of amenity is achieved in new neighbourhoods, and maintained in older neighbourhoods. The most innovative feature of the provisions is that the City Centre zone has no maximum density controls.
- ***Consistency achieved between density and subdivision controls.*** Whilst the density/minimum lot size controls are not particularly enabling, the consistency between the two sets of controls is important for ease of plan administration.

d. In the Christchurch context:

- The approach of mixed densities or removal of a low density suburban zone (equivalent to no site density rule) to provide greater flexibility was considered through Council's section 32 report. It was found that there is no need for such an approach, having regard to other mechanisms in the plan i.e. Enhanced Development Mechanism, and the Community Housing Redevelopment Mechanism. ***While an overarching objective is one of enabling recovery, the approach of different zones providing for different densities was seen as important in providing for a range of housing opportunities.***
- The approach to enabling additional housing at higher densities was tailored according to the environment with additional areas considered through the hearings process for 'up-zoning' to Residential Medium Density and which led to notification of new areas for intensification.
- The minimum density requirements generally align with subdivision provisions. However, ***there is a disconnect between density and subdivision provisions in some residential zones.*** A non-compliance with the Residential site density rules in the Residential Suburban or Residential Suburban Density Transition zone (Transition between the RS and Residential Medium Density zone) is a Restricted Discretionary activity where the lot size proposed is 400-450m<sup>2</sup> in the RS zone / 300-330m<sup>2</sup> in the RSDT zone while subdivision would be non-complying.



e. In the Queenstown Context

- ***The land use and density controls are a continuation of the status quo, with the Hearing panel noting there were few submissions on this matter, which was generally identified as community support for the approach.***
- Greater flexibility has been introduced in the LDSR zone by enabling density at a rate of 1 unit per 300m<sup>2</sup> as a Restricted Discretionary activity, with the permitted activity of 1 residential flat per unit effectively enabling a density of 1:150m<sup>2</sup> on sites where the matters of discretion were satisfied.  
This flexibility is reflected in the LDSR Zone purpose, which states that: *“The overall range of net household densities (including residential flats could be as high as 1 unit per 150 square metres or as low as 1 unit per 1,000 square metres (or even less). The Zone will help to provide a more diverse and affordable housing stock within the District”.*
- The MD and HD zones have greater flexibility introduced by way of amendments to the parking requirements, with a movement away from a standard one or two parks per unit to spaces proportional to the number of bedrooms and units. This is an enabling tool in that it will reduce the amount of space to be given over on any particular site for car parking.
- Despite enabling greater intensification (albeit through the consent process) in some zones, the bulk and location standards still provide constraints, and are aimed at maintaining the general amenity values of a particular zone. For example, a 40% maximum coverage in the LDSR in combination with other controls will limit the potential for greater intensification or a development that could replace a 5 bedroom house with 5 individual 1 bedroom units, for example.  
This point is reinforced in Residential Objective 7.2.5m, which is to: *“Encourage higher density development where it responds sensitively to the context and character of the locality and is designed to maintain local amenity values.”*  
There is a balance to be struck between maintain the amenity values of the locality and Policy 4.2.2.8 of the Urban Development Chapter, which is: *“In applying plan provisions, have regard to the extent to which the minimum site size, density, height, building coverage and other quality controls have disproportionate adverse effects on housing affordability”.*

#### 2.2.4.2 Height and Height in Relation to Boundary (HiRB) Standards

a. In the Auckland context:

- ***A range of ‘height in relation to boundary’ (HiRB) controls are provided for in the MHS, MHU and THAB zones, which seek to recognise the need for – and assist in the delivery of – a variety in the range of housing typologies (e.g. stand-alone dwellings, terraces as well as apartments) which are anticipated in these zones.***
- This provision of variety in the HiRB controls / approaches has been mindful of wanting to achieve a range of varying built form / typology outcomes and not have one standardised / generic control determine or lead the potential delivery of one predominant residential typology (e.g. traditional application of one standardised HiRB control for each residential zone generally favoured and encouraged two-storey, stand-alone dwellings in favour of enabling a range of typologies). ***Providing optionality in the application of these HiRB controls is considered to better enable and provide for the delivery of a range of different housing types in these zones.***

b. In the Hamilton context:

- ***Height and height in relation to boundary controls are relatively enabling, but reflect untested amenity assumptions.*** In many respects the provisions have been ‘rolled over’ from the previous district plan with few changes. The broad approach is that whilst the density allowed has doubled in residential zones through the duplex provisions, that the scale of buildings as defined by height/height in relation to boundary should remain the same given the community’s amenity expectations. Effectively this allows

smaller residential units within the same sized buildings. This does reflect demographic changes with smaller household size and does respond to the need for more affordable housing. There remains an opportunity for the height/height in relation to boundary standards (and the amenity expectations that sit behind them) to be more fully reviewed than appears the case in the last plan review. In general the height limits are relatively generous relative to the predominant built form that exists in the various zones.

- ***Innovation through including locational aspects to the provisions.*** An innovative feature of the provisions is that for the Residential Intensification zone that height in relation to boundary is only applicable for boundaries with certain other zones, and not applied within the zone itself. This serves to better enable larger built form, and reflects differing built form expectations.

c. In the Tauranga context:

- Similar to the Hamilton context, the height / height in relation to boundary standards are fairly characteristic of provisions in many district plans, and reflect the predominant built form without being particularly enabling of intensification. There is an opportunity to review these fully in the upcoming district plan review.

d. In the Christchurch context:

- ***The provisions for managing height and HiRB were carried over from the previously operative City Plan, based on the position that they reflect the built form and density anticipated for each zone.*** The rules enable a range of housing typologies and any non-compliance is assessed as a Restricted Discretionary activity.
- A number of overlays apply in the Residential Medium Density zone enabling greater height in defined areas up to 30m in height. ***While the permitted height limit is 11m, a non-compliance of 3m (up to a total height of 14m) is treated as a Restricted Discretionary activity.***
- The recession plane requirements provide greater flexibility for different housing typologies in the Residential Medium Density zone, reflecting its purpose, with more acute angles applying in the lower density Residential Suburban zone. In addition to this, the recession plane for the RMD zone continues at the prescribed angle to 11m, above which it becomes vertical.
- Flexibility is introduced into the proposed plan with an exemption for breaches, including gutters and eaves up to 200mm vertically, and where the recession plane is measured in Flood Management areas.
- The matters of discretion for a breach in height or the recession plane are focussed on the effects of a non-compliance without reference to the balancing with other outcomes i.e. enabling housing.

e. In the Queenstown context:

- ***The HiRB rules differ from the Operative Plan, which applied the same angle from all boundaries.***
- Differentiating between flat sites (i.e. up to 6 degree slope) and sloping sites allows buildings to be more responsive to topography.
- In the MDR Zone and HDR Zone in particular, although greater densities are enabled, uptake on sites may be limited somewhat by the maximum height and HiRB controls. ***Although the Zones are intended to facilitate higher density development, the performance standards could work to effectively reduce a greater yield on site.***

#### 2.2.4.3 Private Outdoor Living Space standards

a. In the Auckland context:

- A consistent approach is applied across the MHS, MHU and THAB zones, where ground level open space provision is required for a minimum area of 20m<sup>2</sup> (with no dimension less than 1.8m). For dwellings above ground floor, there is a requirement for provision (via either a balcony, patio or roof



terrace) for a minimum of 5m<sup>2</sup> – 8m<sup>2</sup> (based on size of dwelling). These requirements for on-site provision of open space are not considered to be a constraint or problematic to achieve in residential developments – given their relatively small size.

- **A key element which is missing from the Plan could be how the provision could better anticipate and enable the delivery of shared on-site open space (as opposed to individual unit provision) for high-density multi-unit developments.**
- In addition, the current provisions do provide the ability for the on-site provision to be waived – but only in the MHU and THAB zones – with such waivers directly linked to the proposed size of the internal floor areas of the dwelling. **Further consideration could be given to how the provisions could provide for on-site reductions or ‘waivers in full’ – with such reductions / waivers being linked to the existing provision / availability of off-site, public open spaces within close proximity to the application site.**

b. In the Hamilton context:

- The provisions are considered to be reasonably effective in ensuring a minimum level of on-site open space remains, and that it is likely to be easily accessible and usable. The provisions need to also be seen alongside minimum permeable area controls and maximum building coverage controls, as they effectively manage the outdoor space around the buildings. **In the Hamilton context there are minimal changes relative to previous district plans, with largely a ‘roll over’ of the previous provisions.** The provisions provide for communal open space also, and did not appear to be strongly challenged through the plan-making process, either by Council or submitters.
- As above, these provisions are not considered to be particularly onerous, and similar to minimum apartment floor areas, seek to ensure avoidance of unacceptable levels of on-site amenity with the aim of providing for the well-being of occupants.

c. In the Tauranga context:

- Similar to Hamilton, the provisions are likely to be effective in ensuring a minimum level of on-site open space is provided. **Opportunities for innovation lie with exploring communal provision of open space**, and with looking at locational aspects where perhaps standards could be varied to achieve outcomes or to reflect local characteristics (such as being in close proximity to large open space areas or the coastline). It would be expected that the upcoming plan review process would consider these issues.

d. In the Christchurch context:

- **Flexibility is provided for outdoor living space to be provided in either private or communal areas.** Notwithstanding this, the rules for the RNN zone specify the minimum area that is to be private.
- **There is some variation across the rules for different zones, which may not enable ease of the use of the plan.** In particular, there are different sized areas required even between the Residential Suburban and Residential New Neighbourhood zones, the latter being more comparable in terms of requirements to the Residential Medium Density zone despite different outcomes sought.
- **Variation is also apparent in terms of requirements by the size of unit.** A tiered approach is applied in the Commercial Core zone (studio/ 1 bedroom up to 3 bedroom units) while a distinction is made between requirements for 1 bedroom units, and units with 2 or more bedrooms in the Residential Medium Density and Residential New Neighbourhood zones. The different requirements reflects the argument that previously operative standards were not proportional to the size of the units. An argument could be made in the future that there is also a need to distinguish requirements between 2 and 3 bedroom units, with varying occupancy levels and potentially different needs.
- In the context of the Residential Central City and Residential Medium Density zones, there is added flexibility for communal space to be located indoors “*provided its use is explicitly for a recreation activity for the exclusive use of the residents of, and guests to the units on the site*” (RCC zone rule). This may

appear to counter the objective of it being ‘outside’ space but recognises that communal areas may offer the same qualities sought in an outdoor space.

- The format and wording of the rules varies and in some instances, it is not clearly articulated what the requirements are.

e. In the Queenstown context:

- ***The plan has moved away from requiring dedicated open space per unit, instead relying upon controls such as the minimum permeable landscaped area and other controls to provide outdoor space.***
- There is no control in the Town Centre zones for open space, whether at ground level or above ground level.
- ***The Operative Plan makes provision for minimum area and dimensions of amenity open space per unit. This has not been carried through into the Proposed District plan, which instead relies upon controls such as a minimum permeable landscaped area and other controls to provide outdoor space.***
- Although moving away from such a requirement could be seen as an enabling move, the end result is the same in that open space is provided through an amalgamation of the site coverage and minimum permeable surface requirements.

#### 2.2.4.4 Outlook Space / Privacy / Building Setback and Daylight standards

a. In the Auckland context:

- A key point to note is, ***while the residential zone provisions typically sought to apply the ‘philosophical approach’ of applying a suite of ‘core development controls’ which specifically sought to manage the potential for adverse amenity effects to immediately adjoining properties – both the Outlook Space and Daylight standards included in the Plan have (as a focus of their stated ‘purpose’) a desire to ‘manage visual dominance effects within a site’.*** This generally runs counter to the wider ‘philosophical approach’ adopted for the wider residential zone provisions, where it was considered and determined that, generally, on-site amenity effects could be better managed through a more flexible design assessment process (through the assessment framework), than through the application of prescribed standards.
- Both the Outlook Space and Daylight Standards are quite detailed and technical, creating potential difficulties (for those unfamiliar with planning and/or architecture) with how to interpret and apply these standards. ***Given their technical nature, as well as their inability to provide for flexibility (as is often required for sites of different sizes, shapes and topographies), further consideration could be given as to whether achieving the outcomes sought by these standards (as noted in their ‘purpose’ statements) could be better enable through an ‘assessment framework’ approach,*** where proposals could be assessed against identified assessment criteria which seek to manage matters such as maintaining privacy and managing the potential for visual dominance effects. Furthermore, particularly for the Daylight standard (or other standards which seek to manage issue of privacy), these types of standards appear to anticipate a scenario where windows are unstructured / completely open – without consideration of how people generally manage such issues on a day-to-day basis in their homes (e.g. via the common use of blinds or curtains, which can have wider benefits such as for energy / heating efficiency, as well as for managing privacy between windows of adjoining dwellings / buildings).

b. In the Hamilton context:

- The privacy provisions are relatively simple and apply both within a property where there are multiple detached dwellings, and with adjoining sites. The impact of the provisions tends to be in respect of upper level balconies and windows from habitable rooms, which are fairly detailed design matters. ***The***

**provisions do not appear to inhibit density from occurring and do promote consideration of privacy impacts on nearby dwellings.** The privacy provisions are largely unchanged from previous district plans, and in that sense are well settled and well understood amongst the local development community.

- There are no daylight/sunlight controls within the Hamilton district plan, but effectively height in relation to boundary standards, building setback standards, and height standards collectively do achieve maintenance of daylight levels in a de facto manner.

c. In the Tauranga context:

- Privacy standards and daylight controls do not feature greatly, particularly in the residential zones. The standards as they apply to the City Living zone are relatively complex and difficult to administer. The upcoming district plan review provides an opportunity to re-consider the purpose of these rules and the detail of the provisions, including where they do not currently exist for some of the zones.

d. In the Christchurch context:

- The Council in its section 32 report noted that **setbacks of balconies and living space windows from internal boundaries were effective in maintaining amenity, outlook and privacy, which would otherwise be compromised due to the high level of detail that is potentially visible across boundaries.**
- **Controls on privacy were considered in a review of provisions while noting that the status quo was retained due to the short timeframe for the consideration of alternatives.** A plan change prior to the district plan review had considered the appropriate means of managing effects on privacy and proposed a distance of 12m separating two adjoining buildings. However, this was not supported due to the concern of Council/ commissioners over the potential reduction in density.
- Rules for managing effects on privacy are generally consistent across the residential zones reviewed. **Like Auckland, the rules can be perceived as complex and difficult to interpret,** an example being the following for the Residential Central City zone: *“Parts of a balcony or any window of a living area at first floor level or above shall not be located within 4 metres of an internal boundary of a site, except that this shall not apply to a window at an angle of 90° or greater to the boundary, or a window or balcony which begins within 1.2 metres of ground level (such as above a garage which is partly below ground level).”*

e. In the Queenstown Context

- Only the LDSR zone contains a rule requiring a minimum separation between buildings on the same site. This directly relates to the scale, intensity and character of buildings within the zone and the identified priority of maintaining a suburban level of amenity values in the zone, and **the Panel considered that the requirement for separation should be equivalent to what would be required for buildings separated by a legal boundary.**

#### 2.2.4.5 Car Parking standards

a. In the Auckland context:

- The Unitary Plan adopted a new philosophical approach with regards to how car parking was to be provided for particular activities, in particular more intensive residential activities, when compared to the previous approach adopted through the various ‘legacy’ District Plans.
- The traditional approach had typically required the provision of a ‘minimum parking requirement’ for new development (e.g. a minimum of two off-street carparks to be provided for each new residential unit). The Unitary Plan sought to adopt a more flexible approach to the provision of carparks associated with

particular activities, with a focus on the provision of parking which would support urban growth and a quality compact urban form, as well as the efficient use of land.

- ***The approach to the provision of car parking associated with new residential development, typically requiring either no car park (in the higher density zones) or the provision of a minimum of one park (in the lower density zones), is enabling a more efficient use of Auckland's residential land resource*** – essentially to encourage the provision of additional dwellings on a site, rather than requiring that valuable space to be used for on-site car parking provision.
- ***One potential aspect of the approach to parking provision set out in the Plan which could be further enhanced is how the provisions could better enable options and opportunities for off-site / communal / shared parking spaces – in particular in higher density areas.*** This approach has been adopted in the Mt Cardrona Special zone in Queenstown but has not yet been implemented. Currently the Plan lists the provision of 'off-site parking' as a full Discretionary activity. This has the potential to discourage, or add potential unnecessary risk, to the consideration and assessment of such a proposal.

b. In the Hamilton context:

- ***The parking provisions are based on a simple activity-based structure, irrespective of zones.*** Either one or two spaces are required for residential activity based on the form of dwelling it is. This system is simple to administer and applies on a city-wide basis (except for the Central City zone).
- ***There is a strongly enabling approach to car parking in the central city.*** There is no requirement for on-site car parking provision within the Central City zone. This reflects the presence of public transport throughout the central city, the space constraints inherent within central cities, the presence of multi-storey parking buildings, and a clear policy position to seek to encourage inner city residential intensification to support the central city.
- ***Any provision for communal car parking or off-site parking provision is managed through the consenting process.*** There are no rule provisions regarding this. This is not considered to be a flaw given the absence of any car parking requirements in the central city anyway, which is primarily where such arrangements are likely to be promoted.

c. In the Tauranga context:

- ***The car parking provisions are based on a per-bedroom basis primarily.*** Whilst the Suburban Residential zone has a requirement for two spaces per detached dwelling, the zones providing for more intensive residential activity zones are on a per-bedroom basis, seeking to match parking supply with demand. This contrasts to the Hamilton context above and is an alternative approach that is worth considering more widely.
- ***There is a strongly enabling approach to car parking in the central city.*** There is no requirement for on-site car parking provision within the City Centre zone. As above, this reflects the presence of public transport throughout the central city, the space constraints inherent within central cities, the presence of multi-storey parking buildings, and a policy position to encourage inner city residential intensification.
- ***Any provision for communal car parking or off-site parking provision is managed through the consenting process.*** There are no rule provisions regarding this, however given the absence of any car parking requirements in the central city anyway, where such arrangements are likely to be promoted, this does not appear overly problematic.

d. In the Christchurch context:

- ***The approach of a 'minimum parking requirement' for new residential development has been carried over from the previously operative City Plan while noting that consideration was given through Council's section 32 to alternative approaches, including maximum car parking standards.***

- The plan review included a reduction in the requirement for car parking for residential units less than 150m<sup>2</sup> relative to the previously operative City Plan i.e. 1 rather than 2 spaces
- Council introduced through the plan review an approach of **discounting the minimum car parking required, having regard to different factors including proximity to public transport, off-street public parking, a commercial centre and major cycle route**. In doing so, the requirement for car parking has regard to the location of development and may enable the more efficient use of space on a site. Notwithstanding this, the discounting factors may be interpreted as complex.
- Unlike the balance of provisions for car parking, **the car parking requirements for activities in the Central City reflect a Recovery Plan prepared under the Canterbury Earthquake Recovery Act 2011. In doing so, a different approach was taken of there being no requirement for car parking associated with residential activity in the Central City**, including mobility parking. Like the reduction factors, this is understood to reflect the level of accessibility by public transport and active modes and proximity to amenities/ services.

e. In the Queenstown Context

- The car parking rules introduce a lesser requirement in the High and Medium Density Zones in particular, and will reduce the area to be given over for parking spaces on sites.
- Parking in the LDSR maintains the status quo, i.e. two parks per unit, plus one for a residential flat. **This requirement could constrain the infill intended by the density provisions on smaller sites or if a density of one unit per 300m<sup>2</sup> plus a flat is sought.**

## 2.2.5 Urban Zone 'Assessment Frameworks'

Territorial Authority / Plan	Matters of Discretion and/or Assessment Criteria seeking to promote / require quality built outcomes / quality urban environments	Matters of Discretion and/or Assessment Criteria seeking to enable / deliver additional housing supply	Matters of Discretion and/or Assessment Criteria seeking to enable / deliver greater diversity of housing types	Matters of Discretion and/or Assessment Criteria seeking to enable / deliver improved housing affordability at a range of price points
Auckland Unitary Plan	✓	✗	✗	✗
Hamilton City District Plan	✓	✓	✓	✗
Tauranga City Plan	✗	✗	✗	✗
Christchurch City District Plan	✓	✓	✓	✗
Queenstown Lakes District Plan	✗	✗	✓	✗

Summary Table Two: How the 'Assessment Frameworks' relate / link to the Objectives and Policies across the Plans

### 2.2.5.1 In the Auckland context:

- The structure and format of the assessment framework (both 'matters of discretion' as well as 'assessment criteria') follows a general pattern whereby the 'matters of discretion' do identify and list the specific matters which Council will restrict their discretion to when considering development proposals. The 'assessment criteria' then rely heavily on a structure which simply provides cross-reference linkages back to specific policies relevant to the zone / specific standards being infringed as well as to the identified 'purpose' statements in the Plan relevant to each standard being infringed.
- The general philosophy applied through this framework is to avoid or reduce unnecessary duplication of text within the Plan. Having development proposals assessed against the extent to which the proposal is consistent with policy direction / the 'purpose' of specific controls seeks to align the resource consent assessment process with the specific outcomes being sought in the zone (as set out through the policies etc), without the need to repeat these matters within the 'assessment criteria' of the zone provisions.
- ***There is an apparent disconnect between how the zone (as well as wider RPS policies) policies seek to enable and provide for increased housing supply, across a range of typologies, and across a variety of price points – and how the assessment of specific proposals (particularly as a Restricted Discretionary activity) are able to focus or consider the ability to achieve these outcomes:***
  - Firstly, ***while the policies have a strong focus on new development achieving consistency with the planned built character which each zone is seeking to achieve over time, the 'assessment framework' (through the identified 'matters of discretion' and 'assessment criteria') instead has a focus on considering 'the effects on the neighbourhood character, residential amenity, safety and the surrounding residential area' of matters such as building intensity, scale, location, form and appearance.*** The same explicit reference (which is included in the policy direction) seeking development is consistent with and can achieve the 'planned built character' of the zone ought to be better reflected and identified through the assessment framework. The current risk is that while the policy framework looks to focus on achieving the planned, future built form and character of the zone – the assessment frameworks still has a focus on considering and assessing the potential effects of development proposals on neighbourhood character and residential amenity of the surrounding residential areas (which can be interpreted as an assessment against existing, 'status quo' residential character and amenity);
  - Secondly, ***the assessment framework focuses almost entirely on seeking to assess the effects of development proposals with regard to quality built form and residential character and amenity issues – with no specific reference through the assessment framework as to how proposals are achieving the delivery of a range of different housing types, across a range of price points.*** A monitoring and feedback loop is required to ascertain this.

#### 2.2.5.2 In the Hamilton context:

- ***Assessment matters and design guides are designed to work in a complementary manner, and are provided on a district-wide approach.*** The approach is quite unique, with a 'district plan administration' chapter with supporting appendix providing a 'one-stop shop' location for all assessment matters, design guidelines and related material. Within each zone or rule chapter there is simply a statement as to which assessment matter topics are to be considered. This serves to achieve shorter zone and rule chapters, and a general consolidation of assessment matters in one location within the document. This sits alongside the plan approach of the majority of activities having Restricted Discretionary activity status, regardless of rule compliance. The 'matters of discretion' therefore perform a crucial role in plan administration. The assessment matters are highly outcome-focused in approach, and reflect the general approach of the plan of seeking to achieve much better design outcomes for the city, and less reliance on development controls to achieve this. Unlike previous district plans in Hamilton, the focus of assessment matters has moved away from a 'maintain or enhance' amenity style characteristic of many RMA district plan in previous years.



- **Evaluations of ‘compliance’ with design guides are prompted by the assessment matters.** Design guides perform an important role in the district plan as a source of information for plan-users and developers, particularly in pre-application discussions. During the consenting process the design guides are effectively used as a checklist to measure proposals against outcomes sought, but are an assessment matter and not a rule. This serves to move the discussion away from a complied with / not complied with focus, to a discussion around the extent of compliance and opportunities to improve design outcomes.
- **The assessment matters relating to residential activity are strongly enabling.** Also importantly the assessment matters are based on enablement of the city to achieve housing supply to meet the sub-regional growth strategy FutureProof housing demand projections, as part of a wider strategy that runs through the district plan. The assessment matters do not seek to simply maintain existing amenity, unless in a special character overlay area or similar where heritage or other important values predominate.

#### 2.2.5.3 In the Tauranga context:

- **Assessment matters and matters of control are amenity-centric in that they seek to maintain or enhance existing amenity.** Given that the entire district plan is about to be reviewed and that the provisions are somewhat dated in approach, there is limited merit in analysing them in detail. The assessment matters are zone-based, rather than being topic-based as they are in Hamilton, resulting in fairly large amounts of repetition and a lengthier district plan in general. There is also a lack of any focus on housing supply, affordability, or promotion of housing type diversity apparent within the assessment matters. All of these characteristics are typical of first and second generation RMA district plans, with an apparent ‘sharpening’ of assessment matters occurring in more recently reviewed district plans around the country.

#### 2.2.5.4 In the Christchurch context:

- The philosophy in the context of Residential and Commercial zones is that Assessment matters are not specified for Discretionary activities, with the plan only having matters of control and discretion (for Controlled and Restricted Discretionary activities respectively).
- In the context of the matters for assessment for design, a range of views were expressed through submissions and evidence on what the Panel described as “*a more simplified, reductionist approach focussing on outcomes*” through to a “*suitably comprehensive*” approach. A concern with the latter approach was the level of prescription and uncertainty in their application.<sup>15</sup> In the context of the Plan’s objectives of expediting recovery and processes to support it, ***the Panel made the following comment on the importance of assessment matters as follows:***  
*“...the primary concerns were as to a lack of proper targeting in the controls and uncertainties about how discretionary judgement would be exercised in consenting processes. As was revealed through testing of the expert witnesses, urban design is a discipline prone to differing subjective perceptions and fashions. Hence, poorly targeted assessment criteria and other plan controls are a recipe for significant uncertainty and unjustified cost. While the extent of rebuilding and urban renewal underway and anticipated in residential areas of Christchurch makes good urban design essential, so also is it imperative that the CRDP gives the lead and direction for how expert judgment is to be applied.”*
- Furthermore, the matters of discretion for design are intended to be targeted and not perceived as a checklist. In this regard the Panel introduced introductory statements to the matters for assessment including: “*Each residential design principle is accompanied by relevant considerations which are a guide*

<sup>15</sup> <http://www.chchplan.ihp.govt.nz/wp-content/uploads/2015/03/381-Oakvale-Farm-and-377-Maurice-R-Carter-Ltd-Jeremy-Phillips-20-3-151.pdf>

to applicants and consent officers...” and “The relevance of the considerations under each residential design principle will vary from site to site, and in some circumstances, some of the considerations may not be relevant at all.”

- **The matters of control and discretion align with the policy framework to the extent that the focus is on design that reflects the “context, character, and scale of buildings anticipated in the neighbourhood”, rather than existing character.** Examples in the matters for assessment include:

“Whether the design of the development is in keeping with, or complements, the scale and character of development anticipated for the surrounding area”; and

“Whether the balance of open space and buildings will maintain the character anticipated for the zone.”

- The assessment framework is generally structured around the rules/ built form standards, which was intended to provide clarity on those matters to consider where an activity does not comply with a built form standard.
- Matters for assessment are not explicit in seeking to enable housing or a diversity of types, the exception being a matter in the context of the minimum site density achieved for development in the Central City as follows: “The extent to which residential activity in the Central City is restored and enhanced through a variety of housing types suitable for a range of individual housing needs, while providing for a progressive increase in residential population” (14.15.34 Minimum site density from development and redevelopment of residential units in the Residential Central City Zone).
- Across the balance of the matters to be assessed, a number such as matters for assessment of non-compliance with the road boundary setback included: “The extent to which the breach is necessary to enable more efficient, cost effective and/or practical use of the remainder of the site.”
- Beyond this, there was found to be no reference to the extent to which development is enabling of housing, a range of types or affordability. This is despite the direction in the Strategic Directions chapter and Statement of Expectations to this effect.

#### 2.2.5.5 In the Queenstown Context

- **The Hearing Panel elected to remove provisions relating to urban design/design guidelines, indicating that they may be included in the Plan by way of future variation.** The Panel noted that while there was support for design guidelines, they stated “the inability of any advocate of design guidelines to coherently advise us exactly how the PDP was deficient, or what the guidelines would contain, how they would be administered (including weighting compared to other provisions), what specific objectives or policies they would implement, how they were superior to other methods (such as the retention of assessment matters such as are within the ODP), and what costs and benefits they may bring with them, proved fatal to us finding support of the various relief sought”. **They ultimately noted that the district’s design community lacked a shared or majority position on what constitutes good or successful design.** The panel did not necessarily identify that this was a result of a lack of consultation, but rather a recognition of the fact that there were disparate views and that further work was needed to arrive at a consensus.
- Similar to the Auckland Plan the assessment framework focuses almost entirely on seeking to assess the effects of development proposals with regard to quality built form and residential character and amenity issues – with no specific reference through the assessment framework as to how proposals are achieving the delivery of a range of different housing types, across a range of price points.

#### 2.2.6 Other District Plan Provisions and Tools (e.g. ‘Overlays’)

- In addition to the provisions and rules contained in the reviewed ‘key urban zones’ which have formed the basis of this research, Plans also at times contain other additional provisions (including various methods), such as ‘overlays’ or ‘variation control’ layers which apply often location-specific provisions which also seek to address and manage specific amenity outcomes. While these have not been reviewed in full as part of this research, Auckland examples of such provisions can include:

- **Identification of ‘Special Character’ areas or zones:** in the Auckland context, the Unitary Plan applies the ‘Special Character’ Overlay across various residential and business / town centre zoned areas. The Overlay seeks to retain and manage identified special character values (which can include “distinctive aesthetic, physical and visual qualities of an area and community associations”). In order to manage such values, the Overlay applies controls in relation to additions and alterations to existing dwellings, as well as development of new dwellings (e.g. Restricted Discretionary activity to construct a new dwelling), as well as building height, HiRB, yards, building coverage and landscaped area controls which apply in addition to, and on top of, the rules and standards which already apply in the underlying residential zone;
- **Identification of Volcanic Viewshafts and associated height sensitive areas:** the Auckland Unitary Plan applies the ‘Volcanic Viewshafts and Blanket Height Sensitive Areas’ Overlay across various locations of Auckland’s urban area. The purpose of this Overlay is to protect significant views of Auckland’s volcanic cones through the use of viewshafts, as well as identified ‘height sensitive areas’ (located around the base of various volcanic cones). The viewshafts apply location specific building heights within identified view corridors (as shown on the Unitary Plan GIS maps). In addition, the ‘blanket height sensitive areas’ apply a standard 9m height limit to all properties located within these areas. The development of a new dwelling located within a ‘blanket height sensitive area’ which infringed the 9m height limit would be a Non-Complying activity;
- **Identification of ‘Local Public Views’:** again the Auckland Unitary Plan applies a ‘Local Public Views’ Overlay for specifically identified ‘local views’ which are considered to contribute to a sense of identity and unique character at a local, neighbourhood level. The development of a new dwelling which would intrude into a ‘local public viewshaft’ is a Restricted Discretionary activity;
- **Identification of specific provisions to manage amenity and nuisance matters relating to infrastructure:** the Auckland Unitary Plans applies an ‘Aircraft Noise Overlay’ (for various airports / airfields across the region, most notably for the Auckland International Airport) as well as a ‘National Grid Corridor Overlay’ (in relation to the national grid infrastructure own and operated by Transpower). The ‘Aircraft Noise Overlay’ seeks to manage subdivision and development associated with residential activities which are considered to be sensitive to aircraft noise, so that the continued operation of airports is not compromised and reverse sensitivity issues are addressed. In relation to the Auckland International Airport, as an example, the Overlay applies controls which make any new residential development within the identified ‘High Aircraft Noise Area’ (HANA noise contour) a Prohibited Activity (e.g. a resource consent application could not be received or processed by Council) and any new dwellings in the ‘Moderate Aircraft Noise Area’ (MANA noise contour) which would exceed an average density limit of one dwelling per 400m<sup>2</sup> of site area would be a Restricted Discretionary activity (an example of where the Overlay would apply a density control to residential zones, when the zones themselves may not have any density control). Transpower’s ‘National Grid Corridor’ Overlay applies a corridor which extends either side of the national grid lines, in order to avoid locating ‘sensitive activities’ (e.g. dwellings) within the corridor and to manage adverse effects of other activities on the national grid. Proposals to build a new dwelling, or extend existing dwellings, in the ‘National Grid Yard’ are a Non-Complying activity, as is any subdivision proposal to create lots involving new building platforms for residential activities;
- **Identification of location specific ‘Variation Controls’:** the Auckland Unitary Plan applies both building height as well as subdivision ‘Variation Controls’ in specific locations (identified on the Unitary Plan GIS viewer). The ‘height variation controls’ are utilised to either increase, in some instances, or decrease on other instances the permitted height limits which apply within the underlying zones. These ‘height variation controls’ are typically applied across the higher density zones such as THAB, Mixed Use as well as Town Centres. The ‘subdivision variation controls’ apply additional minimum lot size requirements, beyond the general subdivision standards for residential zones, often requiring larger minimum lot sizes in particular areas to recognise and manage their identified special character and neighbourhood amenity values.

- The Operative Hamilton District Plan does rely on various ‘areas’ that are effectively overlays. These relate to hazard areas, special character areas, some structure plan areas where particular outcomes are sought, and to some specific locations within the Industrial Zone, reflecting locational characteristics. Specific rules apply to these ‘areas’ that are typically more restrictive than the general zoning, and reflect the particular matter being addressed. Whilst they add complexity to the district plan, they are not considered to be particularly relevant to whether the district plan is effective in terms of housing supply and affordability issues, as they relate to fairly contained geographical areas only.
- The Operative Tauranga District Plan likewise relies on various ‘high rise areas’ and other ‘areas and overlays that seek location-specific outcomes different from the underlying zone. These will all be reviewed as part of the upcoming district plan review.
- Overlays in the Queenstown Lakes District plan relate primarily to the Town Centre and there are few, if any, that have a direct impact on the nature of development in the residential zones.

## 2.3 Observations and findings in relation to the how plan-making processes, and Government imperatives influenced the Key Urban Zone provisions

### 2.3.1 Auckland

- Through the Unitary Plans hearing process, ***the influence and direction of the Auckland Plan (in terms of identifying the need for an additional 400,000 new homes in Auckland through to 2040, in order to accommodate a further 1 million people), as well as the expert working group who were involved in the ongoing development of the Auckland Council Development Capacity (ACDC) model, was the primary driver for how the Plan proposed to address the issue of housing capacity, supply and affordability.*** There was generally little specific reference through the plan-making process as to how Central Government imperatives / direction with regard to housing capacity had influenced the development of the plan provisions, including the final recommendations made by the IHP.
- ***The influence of Special Housing Areas, and the associated legislation (the Housing Accords and Special Housing Areas Act 2013), also provided direction through the plan-making process*** with regard to the growing need to be able to provide for an increased supply of dwellings, including the provision of affordable dwellings (noting that the Proposed Auckland Unitary Plan did contain rules in relation to the provision of ‘affordable housing’ – which have since been deleted from the AUP:OP – and development within identified Special Housing Areas was required to comply with the provisions of the PAUP at the time).
- Council evidence presented during the Unitary Plan hearings process generally made only brief and often general references as to how Part 2 RMA, and specifically Section 7(c) matters, were being considered and balanced, and how such considerations were influencing the amenity and bulk and location rules and controls being proposed in the key urban zones (both residential and commercial).
- An exception to this was the planning evidence of Mr Nick Roberts (presented on behalf of Council) which did discuss and consider this matter directly. As an example, a specific excerpt from Mr Roberts’ planning evidence (from paragraph 6.6, pg 23) is noted below:

*“In my view, amenity values occur over all scales, and include the character of a neighbourhood (including the built character) as well as localised amenity attributes such as daylight access, and degree of quiet. Not all aspects of amenity values are addressed within the Residential zones provisions of the PAUP. Indeed, any provision in the PAUP that affects the use and development of land will potentially contribute or detract from amenity values. Other sections of the PAUP which will contribute to maintaining or enhancing amenity values in residential areas include the Auckland-wide lighting, noise and vibration, and signage rules and the overlays protecting particular values relating to historic heritage, historic character, built environment (including local views), sites or places of significance or value to mana*

whenua, and natural heritage (including volcanic viewshafts). In my view, when considering whether the PAUP's residential provisions are adequately taking into account amenity values, this needs to be in the context of the broader purpose of the RMA, and the other methods of the plan."

- **The above excerpt highlights the wide-ranging reach and application of RMA Section 7(c) matters, and how these have influenced the development of a variety of provisions throughout the entirety of the Auckland Unitary Plan.**
- Submitter evidence and legal submissions primarily focussed on the details of the proposed zone provisions, and extent to which the provisions gave effect to the RPS, as well as achieving the outcomes being sought in the Auckland Plan. There was little to no discussion by submitters in relation to the specific consideration of section 7(c) matters and how these were balanced with other RMA considerations.
- With regard to residential amenity matters generally, submitter evidence – in particular evidence presented by submitters who were party to the expert working group who prepared a joint statement of evidence (which also included Auckland Council) with regard to the proposed Residential Zones provisions and rules – did discuss the philosophical approach (been proposed through the provisions) as to which amenity matters were considered to warrant management and control through the application of 'core development standards' in the residential zones, and which amenity matters could be better addressed and managed through a design-assessment review process (rather than through the requirement to comply with prescriptive standards or rules).
- **This 'philosophical approach' being proposed and promoted by the expert working group at the time was to include a suite of 'core development controls' as specific rules to be complied with (e.g. building height, HiRB, yard setbacks, building coverage, outlook space, daylight and landscaping controls) – being those specific controls which would assist to manage amenity effects external to an application site (i.e. how would the proposed development potentially effect the amenity values of immediately adjoining properties?). As these matters weren't specifically considered, the impact of these rules was not specifically considered in the assessment of whether to incorporate them. Matters relating primarily to on-site amenity effects (e.g. glazing (in respect of glare), minimum dimensions of bedrooms and living rooms etc) were considered to be better addressed through a design assessment process, rather than by the application of generalised standards in the Plan which development proposals would be required to comply with.**
- This 'on-site' / 'external to site' amenity effects approach which was proposed and advanced through the plan-making process for the residential zone provisions was a key example of where Council and many submitters were prepared to abandon or 'trade-away' the need to have 'land-use density' rules, so long as compliance would still be required with the specified suite of 'core development controls' which sought to manage bulk and location and associated residential amenity effects.
- **The proposed and adopted removal from the Plan of any 'land use density' rules (e.g. rules / standards relating to a maximum number of dwellings permitted per square metre of site area) was a key, and potentially transformational, shift from earlier planning frameworks which existed in the various 'legacy District Plans' for Auckland.** Fundamentally, land use density controls were considered to be a potential constraint on the ability of the Plan to appropriately enable and provide for increased housing supply, through a variety of types and sizes, and at a range of price points. Instead, the most appropriate means of managing potential residential amenity effects was considered to be through focussing the application of rules (e.g. prescriptive development controls / standards) in the Plan to only those matters which could affect immediately adjoining properties. Matters of internal, 'on-site' amenity were then considered to best be managed through a more flexible design-assessment process – with an aim and focus on achieving high quality built outcomes – rather than through applying prescriptive rules or controls to manage such matters.
- The IHP 'Overview' recommendations report, while not specifically discussing the requirements of Part 2 of the RMA, did discuss how the Panel, in considering the evidence and submissions presented through the hearings process, needed to balance varying, and sometimes competing, considerations and factors



in order produce a Plan which could continue to provide for urban growth and intensification which enabled people to live their lives and meet their daily needs while also protecting the natural and physical resources that support life and make it worth living.

- The Overview Report provides a summary discussion of the IHP's recommendations relating to the overall theme of 'Enabling Growth' (Section 6 of the IHP's Overview of Recommendations Report, page 47). In this regard, the IHP noted that **"a central theme in the Panel's work has been to enable greater residential capacity, and to a lesser extent greater commercial and industrial capacity, while promoting the centres and corridors strategy, greater housing choice and more affordable housing"**.
- Key approaches recommended by the Panel to achieve this outcome included:
  - Providing significant rezoning, with increased residential intensification around centres, transport nodes and along transport corridors;
  - Amending residential and business zone provisions to be more enabling of providing growth capacity, such as increased building heights in some 'centres' as well as removing density controls in the residential zones;
  - Removing or amending parking controls to allow the supply of parking to respond to specific user requirements as well as to anticipated improvements in the level of public transport and changes in transport technologies, and to enable greater flexibility in how parking is supplied and traded;
  - Be more explicit as to the areas and values to be protected by the Plan (such as volcanic viewshafts, significant ecological areas etc) and otherwise enable development and change.

### 2.3.2 Hamilton

- **The district plan review had several strategic focus areas, being to improve urban design outcomes throughout the city; to insert a centres hierarchy into the district plan; and to ensure that sufficient housing supply was available with a clear strategy as to how housing capacity would be provided.** These focal areas were adopted in response to recognition of the failure of the previous district plan to achieve good design outcomes, the proliferation of retail and office developments throughout industrial areas of the city with an obvious detrimental impact on the central city, and the need for a response to the FutureProof sub-regional growth strategy in respect of housing supply.
- **In response the review process adopted a clear strategy to address these focal areas.** The previous approach of Permitted activities subject to development controls was replaced with a heavy reliance on Restricted Discretionary activity status, supported by city-wide assessment matters, design guides and enhanced objectives and policies with much clearer statements of outcomes to be achieved. A centres hierarchy was adopted with future commercial development focused on these centres, with residential intensification to support the success of the centres. In respect of housing supply, the spatial extent of the Residential Intensification zone was reviewed and expanded; duplex developments were provided for within the General Residential zone to effectively double the density provided for; infrastructure capacity was reviewed to ensure that the networks could accommodate this 'up-zoning'; and notification exclusions were adopted to support the uptake of certain activities in specified zones where otherwise there was concern that market uptake would be constrained (de-risking such forms of development such as duplex developments in the General Residential zone).
- **In respect of government imperatives, this was an evolving aspect of the plan-making process, given that initially the plan review process was responding to FutureProof drivers.** FutureProof demanded of the local authorities within the sub-region that clear strategies be in place as to how sufficient housing and business land would be made available, both in terms of zoning and infrastructure capacity. This was in response to population projections and analysis of demand for business and residential land. This had the effect of ensuring that Hamilton was well-placed to then respond to central government imperatives as government became active in the housing supply space. Accordingly a key driver of the district plan review process during 2010-2012 was to ensure that the growth projections and



housing demand anticipated through the FutureProof sub-regional growth strategy were able to be delivered through the district plan.

- **Council sought to strongly align the zoning provisions** (to ensure delivery of sufficient additional houses), with infrastructure provision, and achieving the strategic aims of Council. A key feature of the Operative District Plan is that the intent expressed through objectives and policies aligns with FutureProof, and then that the intent clearly flows through the district plan with a clear implementation strategy through the plan provisions. This included consideration of the role notification exclusions perform, adopting enabling provisions (for example the duplex provisions), expanding the Residential Intensification zone, and modelling the housing supply outcome to ensure that Council understood was adequate.
- **Observations on the plan-making process were that section 32 reporting obligations are not effective, and if anything stifle innovation.** In particular section 32 reporting is considered onerous, time-intensive, largely ineffective as a tool, and tends to stifle innovation as maintaining the status quo is commonly perceived as being neutral, whereas introducing a new approach is commonly perceived as requiring a set of justifications and supporting evidence. This is both reflective of planning practice, but also the specific requirements of section 32 RMA. If other plan-making processes identify that section 32 obligations tends to encourage maintenance of the status quo, then this is highly problematic to local authorities resolving housing supply or urban quality outcomes being achieved through planning documents. Consideration of changes to section 32 should therefore be part of the mix of considerations for Ministry for the Environment moving forward.
- **Council adopted a clear stated position that increasing housing supply was a core element of the district plan, and that except in specified locations where heritage or amenity predominates, that amenity was effectively traded-off with enabling increased housing supply.** This position was clearly stated within supporting documents during the plan-making process, and the Operative District Plan itself. The vast majority of the residential areas of the city are not within heritage overlays or recognised as having particular amenity features worthy of preservation, with Council explicitly seeking to increase housing supply through intensification within these areas (General Residential zone and Residential Intensification zone). This does not represent an abdication of section 7(c) RMA matters, but rather a recognition that maintaining the existing amenity of such areas does not require an absence of change or a complete avoidance of housing intensification. In addition that if this position was not adopted that the same extent of housing supply would have to be provided elsewhere within the city, which of itself has Part 2 RMA implications, and represents a less efficient use of a scarce natural resource, being zoned and serviced urban land.
- Increasingly the central government imperatives have given local authorities 'permission' to prioritise incorporating housing supply strategy (such as FutureProof in the Waikato, and Smart Growth in the Bay of Plenty) implementation measures into district plans to demonstrate how and where housing demand projections will be met.
- **The plan-making process has also highlighted that non-plan factors have a strong influence on the uptake of planning provisions.** The Hamilton experience has strongly indicated that market uptake of new forms of housing development where the predominant built form is different, requires a multi-faceted strategy to be in place. It also requires a sophisticated understanding of the local property market and the infrastructure network capacity. Examples of non-plan / non-rule factors of significance influencing the market uptake of a particular housing typology in a specific zone or locality include: the easy availability of city fringe greenfield land and the extent that this might undermine the market for inner city apartment development; the impact that development contribution remissions or differentiation between greenfield vs brownfield has on development feasibility; the impact that on-site car parking requirements have on development feasibility (and the linkage to wider central city parking strategies); notification exclusions; infrastructure capacity; whether mechanisms exist for out-of-sequence development ahead of Council's infrastructure programme; and whether other Council-led enabling processes are complete or not such as structure plans and integrated catchment management plans.

### 2.3.3 Tauranga

- ***The Operative District Plan is not considered to be delivering quality built environments or delivering a range of housing types at different pricing points. This largely reflects the age of the district plan as it is about to be reviewed and eventually replaced.*** The Operative District Plan relies heavily on rules to provide urban outcomes in the form of Permitted activities being subject to development controls. This is in contrast to the Hamilton Operative District Plan which has moved from that type of framework to a framework based on Restricted Discretionary activities and evaluation against assessment criteria. ***This evolving approach is a response to a recognised inability to achieve quality urban outcomes through imposition of rules, and rule compliance.***
- ***The limited extent of the City Living zone and the High Density Residential zone appears to strongly be undermining the ability for those zones to make an impact on delivering a range of housing types at differing pricing points.*** The provisions themselves are considered fairly effective, but are too geographically constrained in their application.
- ***Somewhat perversely a land supply scarcity may actually be an important factor in encouraging uptake of different housing forms.*** Tauranga appears to be a useful case study in this regard. Whilst the City Centre zone and Commercial zone provisions are highly permissive in terms of an absence of car parking standard and density controls, the easy supply of greenfield land for suburban style residential development on the city fringe would appear to be a strong factor in the lack of apparent uptake of inner city apartment development. A strategic approach to understanding how housing supply will be delivered, and understanding how the market is responding to enabling plan provisions, are both important. The inability for the Operative Tauranga District Plan to result in large-scale apartment development in the central city in the past 5-10 years, despite a generally strong economy and very strong population growth, and despite enabling district plan provisions, would tend to highlight the significance of market factors (or non-plan factors) in ensuring housing supply.
- There are also few apparent mechanisms to deliver quality built environments within the existing provisions. The upcoming review will no doubt address these shortcomings, and will need to look at other non-district plan mechanisms (such as development contribution exemptions for apartments in the central city) to enhance the limited uptake of apartment developments in the central city and city fringe areas.

### 2.3.4 Christchurch

- ***The framework of the Christchurch District Plan is enabling and reflects a direction of expediting recovery and supporting long term growth of the City in a unique statutory context.*** As stated by the Panel, “The evidence we heard and accept demonstrated the correctness of Mr Eman’s concession during questioning, that the challenges facing Christchurch in post-earthquake recovery “marks Christchurch out as an exception from the pack” of other large cities in New Zealand. In an overall sense, we consider that the OIC Statement of Expectations, the LURP and the CRPS (especially Chapter 6) effectively ask for a new sort of plan to meet the unique circumstances of Christchurch.”<sup>16</sup>
- ***The influence of government direction was arguably more significant, reflecting the Statement of Expectations of an Order in Council established for the Christchurch Replacement District Plan process.*** The expectations of the Minister for Canterbury Earthquake Recovery and the Minister for the Environment on the outcomes to be achieved through the District Plan, were reflected in the Crown’s submissions, legal submissions and evidence through the process. ***This included facilitating an increase in supply of housing (and a wide range of housing types and locations), reducing reliance on consent processes, development controls, and requirements for notification amongst other matters.***

<sup>16</sup> <http://www.chchplan.ihp.govt.nz/wp-content/uploads/2015/03/Strategic-Directions-and-Strategic-Outcomes-Decision.pdf>

- The framework extends to include a 'process objective' initially opposed by Council but subsequently agreed through expert conferencing. The version as decided by the Panel is as follows and reflected the position that the manner in which provisions are reviewed and interpreted (beyond the District Plan Review) influences the extent to which the outcome of an expedited recovery and long term growth is achieved.
 

***The District Plan, through its preparation, change, interpretation and implementation:***

  - (a) Minimises:***
    - (i) transaction costs and reliance on resource consent processes; and***
    - (ii) the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and***
    - (iii) the requirements for notification and written approval; and***
  - (b) Sets objectives and policies that clearly state the outcomes intended; and***
  - (c) Uses clear, concise language so that the District Plan is easy to understand and use.***
- The policy direction is reflected in rules that provide for activities in expediting the recovery including (but not limited to):
  - Extension of the timeframe for temporary earthquake related activities to locate in zones that they would not otherwise be permitted in;
  - Provisions introduced by the Land Use Recovery Plan including the Enhanced Development Mechanism and Community Housing Redevelopment Mechanism;
  - Provision for additional areas for medium density housing around commercial centres;
  - Rules enabling of the repair and rebuild of multi-unit complexes; and
  - Conversion/ replacement of a residential unit into two units, conversion of elderly persons housing units into a residential unit or family flat into a residential unit.
- Council's section 32 report describes the rolling over of a number of provisions to maintain and enhance amenity based on their effectiveness to date and identified and considered changes to rules that were triggering a number of resource consents. However, ***the extent to which the provisions were robustly tested as to whether they were enabling/constraining of residential activity was not considered through an assessment of costs and benefits.***
- Evidence presented during the hearings process made limited references to Part 2 of the RMA, and specifically section 7(c) matters, with a greater focus on the recovery framework and statement of expectations.

### 2.3.5 Queenstown

- As with Auckland, there was little specific reference through the plan-making process as to how Central Government imperatives / direction with regard to housing capacity had influenced the development of the plan provisions.
- The influence of Special Housing Areas, and the associated legislation (the Housing Accords and Special Housing Areas Act 2013), appeared to have no influence or mention through the plan-making process in relation to the residential zones.
- ***The Panel decisions and evidence presented during the hearings process made only brief and often general references to Part 2 RMA and amenity values. Although section 7(c) was not specifically mentioned, the panel made various observations about the tension between maintaining amenity of existing areas and providing for greater intensification, recognising that it did generate effects.***
- The Proposed District Plan follows the zoning and density framework established by the Operative Plan, but in recognition of the District's housing demand, the proposed Plan provides for greater intensification in the LDSR and provides for higher density development in the MD and HD Zones. A relaxation of some standards, including car parking, will provide more site area to be used for development.

- ***The Plan maintains reliance upon built form standards to control the level of development on a site in order to maintain amenity values.*** These standards will provide for the existing amenity to be maintained, given the panel's view that a wholesale shift from the established and accepted pattern would have negative impacts on the community. The panel has nonetheless adopted an approach that enables greater intensification in the LDSR zone in particular provided that amenity values are not adversely affected. The Plan also seeks to ensure a mix of housing opportunities including access to housing that is more affordable for residents to live in (Objective 3.2.2.1(f))
- ***Although good outcomes are a desired output, Design Guidelines have been removed from the Plan in advance of a potential future plan change to include them. The panel noted that a lack of agreement among the parties, and particularly the design community, signalled that the provisions were not the most effective or efficient way in which to achieve the purpose of the Act.***
- The effective reliance on traditional zoning and density controls does not provide flexibility for a range of housing typologies, particularly in the LDSR zone. One or two bedroom units, for example, will be left with large areas of open space on a site. ***Further work could be undertaken that investigates how different typologies, particular small 1 or 2 bedroom units, could be provided for the existing zones while seeking to achieve the overall amenity outcomes anticipated by the Plan.***
- The MD and HD areas, and the Town Centre zones, have a more limited spatial extent than the most common LDSR zone. ***The limited spatial extent of the City Living Zone and the High Density Residential Zone appears to strongly be undermining the ability for those zones to make an impact on delivering a range of housing types at differing pricing points. The provisions themselves are considered fairly effective, but are too geographically constrained in their application.***
- The Town Centre Zones are highly permissive as there are few controls over residential activities.

### 2.3.6 Discussion

We conclude that the Plan processes have a key impact on how enabling or constraining the provisions are in terms of housing. The Christchurch and Auckland Plan are the most enabling, with Hamilton having a lot of innovative provisions as well. The Christchurch Plan was heard and prepared under the Earthquake Recovery Act, with the imperatives set by this to deliver more housing having an impact. The Auckland Plan was also prepared under the specific Auckland Unitary Plan Process legislation and in addition had a submission from All of Government requesting that more housing be provided for. This indicates that the standard RMA Plan process does not provide the necessary incentives for housing. However since the other plans were prepared the NPS-UDC has been introduced which will greatly assist Councils in providing for housing through Plan processes.

The key constraining parts of existing Plan processes are thought to be that the existing submission process is weighted towards the protection of property rights as every land owner has the right to lodge a submission and appeal. This appears to overweight the discussion in terms of enhancing independent property values or protecting existing amenity. There is little incentive for submissions to be lodged and followed through that protect public good matters. This is usually left to groups like Forest and Bird, or the Upper Clutha Environmental Society or Housing New Zealand. Examining how the submission process could be altered so that every person can still have a voice but the process more quickly funnels property right and value issues through so that a more equal discussion between public and quality issues can be had alongside property right and amenity issues.

There are aspects of Auckland's plan which appear to be more constraining than the other plans, for example it has no option allowing for communal space or daylight/ sunlight rules (additional to recession planes) and no ability to provide reduced outdoor living areas for smaller units. However, there are other aspects where Christchurch may be more restrictive, such as the transparency of fencing in the Residential Medium Density zone.

The Queenstown Plan appears to have fewer rules than Auckland and relies upon the traditional bulk and location rules such as height, HiRB, site coverage and setbacks to manage built form. This results in a regime that is easily understood and is consistent with the Panel's view that the community largely accepts the established planning zoning and rule framework. Fewer rules result in less complicated design responses. Queenstown does have an overlay of strict design guidelines for the town centre which is likely to be contributing to the recent high standard of amenity (in terms of connections to and experience on public land). It is important to note that good design guidelines on their own will not result in the desired quality outcomes but it is the interface of these with bulk and location controls that will achieve these.

Design Guidelines that are assessment criteria would be an effective way to elevate the importance of and achieve good outcomes for improving the aspect of amenity that is connections to spaces and the experience on public land, not just private land.

### 2.3.7 Do All Plans Provide for Increased Density Around Transport Nodes and Town Centres?

The AUP has made a clear move towards providing for intensification around town centres and transport corridors and nodes. This was signalled in the 1999 Growth Strategy for Auckland, but the actualisation of this was not actually seen until the recent AUP provisions were made operative.

Christchurch provides for medium density (which is 1/200m<sup>2</sup>) housing around the Central City and commercial centres in the operative plan (by zoning and an Enhanced Development Mechanism), which gives effect to a strong direction in the RPS and a key theme of the Greater Christchurch Urban Development Strategy (UDS). The intensification targets sought through both the RPS and UDS are provided for by this method.

The alternative of providing for a mix of densities in suburban areas was considered through Council's s32 report and discounted. This was on the basis that it would draw intensification away from the Central City and Key Activity Centres, thereby not supporting the viability and growth of commercial areas. Other reasons documented include certainty in where investment is targeted and efficiencies of servicing a greater concentration in a smaller area.

The Queenstown town centre does not have a density control, and there are in fact very few direct controls on residential activity in the Town Centre. There is not a focus on density around transport nodes, probably due to the physical constraints of Queenstown and housing areas not being able to be that far from the main road links in any event and the density provisions are implemented equally within a zone. While the Objectives and Policies may include references to activity centres and transportation routes, there are no rules that simplify development proposals in their vicinity.

Neither Hamilton nor Tauranga provide for specific intensification around transport nodes and routes. Both provide for intensification around town centres, via zoning.

## 2.4 Other Processes that Encourage Quality Urban Design Outcomes

### 2.4.1 Urban Design Panels

A key process that is used by some Councils to assist in achieving quality urban environments is the Urban Design Panel. MFE have commissioned the following report on the use of these.

<https://www.mfe.govt.nz/sites/default/files/urban-design-panels.pdf>

A summary how each of the Councils researched make use of the Urban Design Panels to assist achieve urban quality is outlined below.



## Auckland

- After the amalgamation of its Councils, Auckland has operated an urban design panel over the last decade outside of the formal resource consent process. The Auckland Urban Design Panel is an independent group of design and development experts comprising of almost 40 individuals and provides advice to Auckland Council's urban designers and planners and the individuals and organisations proposing development projects within the city.
- The key focus of the urban design panel is to add value to achieve the best urban design outcome. When assessing applications, because there is no statutory weighting, the panel will usually consider and refer to the ADM and MFE guidelines. They will less likely refer to the assessment matters in the AUP-OP for that particular zone. When assessing applications the panel will largely consider the relationship between the face and edges of the development in relation to the public realm. They are less concerned with the interior of a building, unless it relates to a public/semi-public space (i.e. laneways) which they will likely consider.
- Good urban design adds economic value to projects and the areas that they are located in. Design review panels bring an additional source of design expertise to a scheme and help to identify urban design improvements. The panel process can help to minimise time delays in the consenting process by resolving complex issues early on in the design process.
- The panel's advice can range from concept design through to detailed design decisions. As an independent body, the panel operates with the freedom critiquing from a professional best practice perspective, in a forum where their advice and opinions can be free and frank. As a result the urban design panel not only identifies any areas of a development proposal that will create a risk or weakness to the project, its surroundings and its future users but panel members are also able to challenge the applicant and their design and development team, as their professional peers, to strive to deliver the absolute best outcome possible for the development.

## Hamilton

- Hamilton has operated an urban design panel for a decade on a voluntary basis outside of the formal resource consent process. Attendance at the panel for a project is entirely voluntary, and has a similar status to pre-application meetings (i.e. a forum for discussion and provision of advice to the applicant). There is no specific trigger as the panel is voluntary, but generally larger and more significant proposals are encouraged to be presented to the panel for consideration. In general any large project or residential project involving more than four units, will be recommended to go before the panel.
- The panel rely on a document titled 'Vista', the city's urban design guide, and in particular the six design elements described in that document. A link to Vista is here:

<https://www.hamilton.govt.nz/our-services/planningguidanceandresourceconsents/urban-design-advisory-panel/Documents/Vista>

- Whilst the panel does have a focus on aesthetics, there is also a focus on the performance of the building in terms of function for its occupants, and streetscape effect (i.e. urban quality). The panel's operation is non-statutory, and the advice given is used to inform the consenting process, and the panel's comments are usually included in the consenting documentation including commentary from the applicant in terms of their response to the panel's recommendations. As a result, the impact of the panel's involvement varies between little to no impact, to wholesale changes to the design, to a proposal being withdrawn completely.
- An advantage of an urban design panel is that the focus is on 'big picture' urban outcomes, rather than a rules-based compliance determination. This is considered to be the value of a panel. The Hamilton context is a positively viewed panel, although this may reflect the non-statutory nature of the panel.

## Tauranga



- There is currently no operation of an urban design panel in Tauranga. There has been some recent discussion with Council planners regarding the possibility of instituting a panel, but the absence of any city-wide urban design guide or design guides within the Operative District Plan is considered to be a flaw in doing so. This is as there would be no baseline statement of urban design outcomes sought within the context of Tauranga. It is likely that as part of the upcoming district plan review that there will be a much greater focus on achieving enhanced urban design outcomes. An urban design panel may well be part of that work programme.

## Christchurch

- Christchurch City Council operates an Urban Design Panel to provide a free, independent design review for public and private applications. This Panel is also not a decision making body and only makes recommendations on design aspects of a proposal. However, the recommendations that the panel makes will be considered by the planner processing an application. It is the planner's role to balance quality outcomes with the need for housing under the economic and social benefits or impacts of a proposal. Our experience is that this is not done well in the assessment of most applications and any future guidance documents are recommended to provide guidance and encouragement for this to be done.
- Whether an application is identified as requiring or benefiting from an UDP review is determined by the following factors:
  - If the application is for a residential, commercial or community activity that meets one or more of the following:
    - A residential development with eight or more residential units;
    - A mixed – use development with three or more residential units
    - A new building or an extension to a building that includes substantive changes to a key building façade within the Commercial Central City, Commercial Core or Commercial Local Zones.
  - Proposals that are “considered to be of significance by a Principal Urban Designer or Urban Design Team leader in respect of a proposal’s scale and potential effects on either users or the activities taking place on a site; the location and potential adverse effects on surrounding areas or public spaces or the environment; or potential adverse effects on the local community or the public”;
  - Council capital projects with a value of \$2.5 million or greater and/or any major infrastructure project intended for public use.
- The Urban Design Panel provides advice on the urban design elements of a project and is intended to identify outcomes that will improve a proposal. The Council encourages private developers to discuss their projects with the Panel prior to lodgement of consents to provide greater certainty at consent stage.
- There are benefits associated with the Urban Design panel approach. They offer an independent review of a proposal with a view to offering recommendations to improve or address issues. Recommendations are not binding, and the Panel has no regulatory decision making functions, but their recommendations are taken into consideration at the consent assessment stage as part of the overall balancing of effects. If an application is accompanied by a positive report from the Urban Design panel then the processing of a consent will be smoother in respect of design issues.
- The Urban Design panel can also be a barrier to development. Should the Panel not agree with an applicant’s design, recommendations may result in an applicant having to consider expensive and time consuming design changes, or face a more contentious pathway through the consent process. The Panel, although independent, raises the risk of design preferences being argued rather than the effects of the applicant’s design on urban amenity.
- The Panel process also creates some uncertainty, related to the role of urban design staff. In many cases the reasons an application should be referred to the Urban Design panel are clear, being based upon development thresholds or particular activities in specified zones. There is, however, also an element of uncertainty or subjectivity in allowing specified Council officers to also send applications to the

panel based upon their view of a proposal's significance, as opposed to a set of criteria being established in the plan.

- It is noted that the plan also provides for new buildings or alterations to buildings in the Commercial Central City Business Zone that have been reviewed and approved by an appropriate person to be considered as a controlled activity as opposed to a discretionary activity. In the current provisions, the Council's discretion is limited to whether the activity is in accordance with what has been certified, precluding re-assessment by the Council and consideration of the views of the Urban Design Panel. To enable the Urban Design Panel's review to be considered in the consent process would require a broadening of the scope of discretion but it could add value to and act as a 'check' of what has been certified by an expert outside Council. In the absence of discretion, there is not an incentive for applicants to have their proposal assessed by the panel. It is unclear whether Council yet has a list of approved persons to provide such certification.

### Queenstown

- The Wanaka and Queenstown Urban Design panels were formed in 2004, and provide urban design advice on Council capital projects and private developments, including proposals for which resource consent applications have been made, and for proposals that are at concept or working drawing stages. Reports prepared by the panel provide recommendations to improve the urban design outcome of projects.
- This panel is also advisory and does not have a decision making role. They can only provide recommendations on projects, any advice and/or recommendations are considered by the Council to carry similar weight as technical assessments (such as engineering) provided as part of the processing of an application. **It is then up to the planner to balance these inputs in accordance with the requirements of Part 2 of the Act.** Better guidance on how this can be done taking into account the social and economic aspects of the environment is recommended.
- The panel meet fortnightly, and applications are generally required to be submitted to the Panel at least 6 working days prior to the meeting. The panel then provides its comments within 5 working days.
- The Urban Design Panel provides advice on the urban design elements of a project and is intended to identify outcomes that will improve a proposal. The Council encourages private developers to discuss their projects with the Panel prior to lodgement of consents to provide greater certainty at consent stage.

### Analysis

There are benefits associated with the Urban Design panel approach. They offer an independent review of a proposal with a view to offering recommendations to improve or address issues. The Panel, although independent, raises the risk of design preferences being argued rather than the effects of the applicant's design on urban amenity. The Panel process also creates some uncertainty, related to the role of processing planners. There is, however, also an element of uncertainty or subjectivity in allowing specified Council officers to also send applications to the panel based upon their view of a proposal's significance, as opposed to a set of criteria being established in the plan.

For Urban Design Panel reviews to have more weight in the consent process would require a broadening of the scope of discretion specified by plans to include whether the activity is in accordance with what has been certified by the panel. This would then preclude reassessment by the Council and increase the weight of this interactive assessment process. The risks of this is that this non-statutory process determines the form of buildings.

## 2.4.2 Urban Design Guidelines

### Queenstown

The Queenstown Urban Design Strategy promotes the importance of urban design in achieving attractive living spaces. It notes, however, that

*“Adapting existing neighbourhoods to higher density living, and/or the introduction of more affordable accommodation is often poorly received by local residents. The fear is higher densities lead to lowered property values and reduced amenity. Quality of design of both built form and the public amenity provided is therefore critical to community acceptance of these types of development”.*

Links to QT design guidelines:

<https://www.qldc.govt.nz/council-online/council-documents/strategies-and-publications/urban-design-strategy/>

(This link contains links to the Overall Urban Design Strategy and specific design guidelines, including Mount Cardrona, Cardrona Village, Arrowtown and Town Centre Design Guidelines).

### Christchurch

The Christchurch plan has design guidelines both within and outside the District Plan. Those within the plan (In the Commercial chapter, specific to Commercial zones in Lyttelton and Akaroa) are referenced as matters of discretion for Restricted Discretionary activities subject to an assessment of urban design. The notified version of the Commercial chapter included a matter of discretion that “design has drawn upon any specific design guidelines for the area” but this was removed in subsequent versions through the hearings and decisions process.

Below is a link to the guidelines outside the District Plan, which are specific to

- locations (e.g. Sumner Village);
- zones (‘Large buildings in Lower Density Living Zones’, ‘New Housing in Living 3 Zones’, ‘Residential New Neighbourhood Zone’); and
- types of development.

<https://www.ccc.govt.nz/the-council/plans-strategies-policies-and-bylaws/urbandesign/urbandesignguides>

While a benefit of guidelines sitting outside the plan is flexibility to amend them, they have no statutory weight unless referenced in matters of discretion. Case law has determined that external documents (such as Urban Design Guidelines) can be referenced in a plan but there are requirements around having them easily available and notifying parties of those documents.

<http://www.qualityplanning.org.nz/index.php/plan-steps/writing-plans/external-documents-and-appendices>

### Tauranga

Tauranga does not have design guidelines, a major flaw currently which the Council has recognised.

### Hamilton

There are several topic based guidelines for Hamilton. These are generally well regarded and appear to be fairly effective.

<https://www.hamilton.govt.nz/our-council/council-publications/districtplans/ODP/appendix1/Pages/Appendix-1-4-Design-Guides-and-Design-Assessment-Criteria.aspx>

## **Analysis**

There are two key aspects relating to how design guidelines enable growth and achieve quality urban environments. First is their content. The guidelines that are emerging recently are generally high-quality documents that focus on things that will genuinely make a difference to streetscape and context. The more important aspect however is how the design guidelines fit into the consenting process. If they sit outside plans, they will not have much impact. As is the case in Hamilton, including design guidelines as key aspects of the Restricted Discretionary consent process, by making them key matters of listed discretion, ensures that they are taken account of.

### 3 Recommendations for Improvement

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Below are a series of recommendations regarding RMA strategies to be explored to assist in resolving the current housing affordability issues, and to better encourage a range of housing typologies and quality urban environments.

#### 3.1 Opportunities to provide further guidance at a national level

- **Consideration and potential review of the existing terminology in section 7(c) of the RMA with regard to the “the maintenance and enhancement of amenity values”, as well as potentially reviewing section 7(f) with regard to “the maintenance and enhancement of the quality of the environment”.**
  - It is considered that, given the ‘transformational shift’ required in particular locations which are facing housing capacity and affordability challenges, clearer direction and guidance may be necessary at a national level to better articulate how new development should have regard to achieving a future, potentially more intensive, built environment (along with its associated amenity values) where this is an identified outcome in particular locations. The current terminology in s7(c) and (f) typically focuses on having regard to maintaining or enhancing what already exists – without the need to have regard to what may be an identified future growth / urban form outcome.
  - A National Policy Statement on Quality Urban Intensification will assist to manage the tension between section 7(c) and creating denser urban environments to increase housing supply by establishing the national importance of achieving quality urban intensification and managing urban change (and not avoiding urban change).
- **Consideration of the need to better define what is meant in respect of terminology such as ‘amenity’, ‘quality intensification’, ‘quality built environments’ and other related terms.**
  - The RMA currently defines ‘amenity values’ as meaning “those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes”. There are currently no definitions in the RMA with regard to defining what constitutes ‘quality intensification’ or what characteristics would define a ‘quality built environment’.
  - There could be need for review and refinement of the existing RMA ‘amenity values’ definition, in order to better articulate and identify particular elements or matters which contribute to ‘amenity’ generally, as well as to also potentially define what specific matters constitute ‘residential’ and/or ‘urban amenity’.
- **Provide National Guidance on Quality Urban Environments and what these should contain**  
 ‘Quality intensification’ / ‘quality built environments’ are terms often used widely throughout district plans – yet there is no RMA definition or guidance to provide clarity as to what such terms mean or relate to. This detail is left to be contained in each district plan in assessment criteria and achieved through Urban Design Panel assessments, which is probably the most appropriate place for this detail as it allows for local character to be taken into account. Considerable benefit could however be achieved in terms of National Guidance document that elevates the consideration of access to services, facilities and public open space when considering amenity values. Any guidance prepared should provide methods to assist Councils equally consider the impact of activities on the social and economic aspects of amenity, as well as the aesthetic, as is currently required in the definition of environment but does not regularly occur in practice.
- **Further guidance as to how the development of District Plan provisions, in particular through the plan-making process (such as section 32 assessments), are to have regard to section 7(c) and section 7(f) RMA matters.**

In considering, as is required under the National Policy Statement for Urban Development Capacity, how territorial authorities and decision makers can provide for the necessary residential and business land and development capacity to meet their short, medium and long-term needs, there may be a need for further guidance as to how to assess and consider the level and degree of regulation which is required through District Plans in relation to residential development. Our review has typically shown that, through recent plan-review processes, there was little direct reference or discussion through the section 32 assessments as to the degree to which numerous development standards were tested in relation to their costs and benefits for potentially enabling or constraining residential growth and intensification. If a development standard / rule was applied through the existing/previous Plan, there was often a tendency to 'roll over' such a standard / rule – without reassessing whether or not the continued use of such a standard / rule was even required, or even assessing the specific costs and benefits associated with applying specific rules / standards.

- **Investigate the role and use of Urban Design Panels to provide input at the Pre-application stage of developments.**

The discussion on the use of Urban Design Panels by various Councils above, illustrates that this is an existing process used by Councils to assist in achieving Urban Quality outcomes. Time lags, input being provided late in the process and recommendations having no binding requirements has been raised as impediments to the effectiveness of this process. Requiring specified types of applications to be discussed with a panel at the early stage could be investigated as well as ensuring that any panels give priority to assessing how proposals can better provide connections to services and facilities. Meaningful outcomes may not however be achieved from this unless incentives to provide this are provided in District Plan rules without triggering a notified process.

- **National Guidance on Urban Quality Environments to also include guidance on how to include impacts on the social and economic impacts of a proposal**

Any National Guidance for Quality Urban Environments will need to provide guidance for how processing planners and Councils are to better balance quality outcomes with the need for housing under the economic and social benefits or impacts of a proposal. The recommendations from Urban Design Panels will identify how proposals should best be modified to ensure Quality physical outcomes, and with guidance this should also include how they can also achieve good connections to facilities and services. Our experience is that this is not done well in the assessment of most applications and any future guidance documents are recommended to provide guidance and encouragement for this to be done. This is currently required under the definition of "Environment" in the RMA.

- **Require Spatial Planning and Follow up with Appropriate Funding of Infrastructure**

A key factor restraining development has been the lack of infrastructure (roading, wastewater and stormwater). True spatial planning is required in order to provide for infrastructure and this has not occurred historically in New Zealand. Requiring Councils to do this, as is occurring as a result of the NPS-UDC will assist. Ways to fund the infrastructure identified as required by these processes will need to occur.

### 3.2 Opportunities to consider in relation to 'National Planning Standards'

- ***Review of Development Controls to test which ones are required to management effects on the residential amenity of adjoining sites and developing a consistent National Standard / approach for these.*** At present there are many different controls that, once investigated, may be found to be trying to achieve the same 'purpose'. One example could be to consider whether both maximum building height as well as HiRB / recession plane controls are required to manage effects of building dominance (e.g. could building height be effectively managed simply through the use of a recession plane method?). Some potential approaches to consider for this may be;



- The removal of side and rear yard requirements (where building dominance could be managed by HiRB controls and where privacy can be achieved by the planting of boundary vegetation, or through use of curtains / blinds etc.);
  - The introduction of a HiRB requirement to ensure the same level of sunlight is achieved to all homes across the country (eg 3m + 55 degrees on northern boundaries and 3m + 45 degrees on all other boundaries.) What the specific standard is needs to be set taking into account its impact on the ability to develop multi-storey homes. However increasing setbacks will achieve compliance on large enough sites. In addition, adopting a similar approach to that for the MHU and THAB zones in the Auckland Unitary Plan, which provides various HiRB control options – recognising and better enabling the delivery of a variety of built forms and housing typologies;
  - Identifying consistent private outdoor living space requirements, specific to different housing densities / typologies, as well as providing for reductions or waivers in on-site provision (particularly for higher-density residential development) where adequate public open space is already available in close proximity;
  - Identifying consistent car parking standards, again tailored to specific residential densities / typologies, as well as the ability for shared / communal parking, off-site provision, as well as parking reductions / waivers where sites are well serviced by public transport facilities and networks. Again, consideration could be given to a wider application of the approach recently adopted in Auckland, which would require only a minimum provision of one car park per dwelling (or no minimum requirement at all for higher-density development), and enable the ability for local markets to determine whether greater on-site provision is desired or needed.
- **Tools that Enable Additional on-site development potential where community benefits are provided.** Similar to the floor area bonuses that can be obtained for inner city apartment buildings that provide ground floor public spaces, tools could be introduced to allow for additional density / building height if communal facilities or public spaces are provided onsite and as such the reliance for these amenity benefits are not being passed on to / expected to be provided in the public realm.
  - **Provision of guidance as to a consistent, best practice methodology (which could be universally applied) for how to provide medium and high density urban development opportunities across a geographical area.** This guidance could then be utilised through plan-review processes to help guide where and how particular urban zones can be spatially applied. It could also be utilised to guide plan change requests / submissions through plan-making process with regard to rezoning proposals and requests.

### 3.3 Opportunities to amend / further refine District Plan provisions

- **Encouraging a greater variety of housing types, at a range of densities, and across varying price points.** A key RMA (non-market) impediment to the establishment of a variety of housing types is likely to have been the long-standing and widespread use across the country of a standard 'land use density' minimum net site areas per dwelling unit. In the 1990/2000's this size was most commonly one dwelling per 600m<sup>2</sup>, with one unit per 450m<sup>2</sup> becoming common in some areas post-2000. Site sizes of down to one unit per 250m<sup>2</sup> are now common but redevelopment of existing sites is not often seen to this size. With the widespread use of this standard 'land use density' control, it is difficult to see a situation where a 1 or even a 2-bedroom unit would be established on a 600m<sup>2</sup> or 450m<sup>2</sup> site, when a 4-bedroom dwelling could be. A review of other District Plans across the country has revealed the recent introduction of other tools that reduce the impact of this standard density rule. The investigation of these techniques and perhaps their introduction in to the National Planning Standards could be investigated. Examples of the techniques found are:

- Require smaller site areas for smaller units, such as providing for a reduced site area for duplex units (e.g. the Hamilton plan requires 200m<sup>2</sup> per unit for a duplex house and 400m<sup>2</sup> for a standalone house);
  - Provide for a site area per bedroom instead of unit (e.g. Dunedin Plan requires 100m<sup>2</sup> per bedroom, however the usefulness of this tool is however reduced by developments needing to first comply with a minimum standard of 1 unit per 400m<sup>2</sup>);
  - As in the Auckland example, the potential to remove ‘density’ requirements all together, in favour of managing residential amenity outcomes through the application of ‘bulk and location’ standards.
- Where resource consent is required for residential activity (on urban design grounds), exemption from built form standards could be appropriate, in favour of a clearly understood design-related assessment process (e.g. via identified matters of discretion and assessment criteria).
  - ***There appears to be an opportunity to further refine the provisions of the Auckland Unitary Plan, particularly to create better alignment across various chapters of provisions*** (both zone as well as subdivision provisions) to further enhance how the Unitary Plan is able to assist with delivering urban growth and intensification, including a range of housing types at a variety of price points. Examples of such opportunities could include:
    - ***Review of the urban subdivision provisions***, in particular to address the issue of how the subdivision rules apply in circumstances where the provision of additional dwellings (up to two additional dwellings per site) in the MHS and MHU zones, which can comply with all the relevant zone ‘bulk and location controls’ and therefore would not require ‘land use’ consent, could be better enabled. Such a proposal would currently require consent as a full Discretionary Activity, however we consider provision could be made within the subdivision provisions of the Unitary Plan for such a proposal to be assessed as a Restricted Discretionary Activity (in a similar manner to how the Plan currently enables ‘subdivision in accordance with and approved land use consent’ as a Restricted Discretionary Activity);
    - ***Re-alignment of the framework of the Residential zone provisions with the Business zone provisions***, such as;
      - The opportunity to apply a similar framework within the Business zones (particularly in relation to the Town Centre and the Mixed Use zone), retaining a suite of ‘core bulk and location’ controls, with other ‘controls’ being applied more flexibly as design-related assessment criteria – in a similar way to the framework set out for the Residential zones;
      - The opportunity to apply a similar approach with regards to notification, as is currently provided for within the Residential zone provisions, whereby development proposals which could comply with the identified suite of ‘core controls’ could be processed as a Restricted Discretionary Activity, without the need for public or limited notification;
      - The opportunity to review of the maximum 50% building coverage standard in the THAB zone. The THAB zone seeks to provide for residential intensification, seeking a similar built form outcome (of between 5-7 storeys in height) to that being sought in the Town Centre and Mixed Use zones. Currently, there is no maximum building coverage standard in the Mixed Use and Town Centre zones;
      - The opportunity to review the current standards which require the provision of on-site outdoor living space for any new development in the THAB zone. Again, the current Town Centre and Mixed Use zone provisions currently have no rule requiring the provision of on-site outdoor living space. One potential approach in the THAB zone could be to waive the requirement to provide for on-site outdoor living space, where a development site is in close proximity to / adjoins a public open space, or perhaps an ‘off-set’ (for instance, by way of payment of a development contribution or similar method to go towards the provision of local open spaces / community recreational facilities). Such an approach could provide for the more efficient use of the THAB zoned land resource to provide for additional ability to increase housing supply and capacity;

### 3.4 Opportunities to consider / explore alternate strategies and tools

- **Tools to incentivise amalgamation of sites.** Better urban housing outcomes can be achieved when developments are comprehensively designed on larger sites. These opportunities are limited due to the small number of larger sites available in existing urban areas. Plans could include stronger incentives for encouraging site amalgamation using such tools as providing for units that infringe the minimum density requirements as a Restricted Discretionary activity on sites comprised of more than one certificate of title or on sites of greater than 100m<sup>2</sup> (which would usually require amalgamation).
- **Publicise the ability for existing dwellings to be converted to two dwellings and consider expanding the use of this tool.** The AUP introduced the ability for existing homes in the Single House zone to be split into two units. The aim of this tool was to encourage smaller homes in existing residential areas without changing the character or built form of the area. We understand there has been limited uptake of this rule but we are not aware of any exposure that the general public would have had to this rule so that it would be taken into account in existing home owners financial planning. Promotion of this opportunity may assist its uptake. These additional units cannot easily be separated into separate certificates of title due to the need to introduce fire rating in the walls and ceiling between units under the Building Act. However the ability for two households to occupy (by one renting) a dwelling previously only suitable for one household should increase the availability of smaller housing typologies in existing urban area, and also could be a means of facilitating 'affordable rentals', alongside current imperatives to make housing ownership more affordable.
- **Encourage 'secondary units' as a pathway to affordability and to encourage smaller housing typologies.** Affording the mortgage on a home is a key impediment to ownership. If households could be constructed with a small secondary unit on the site, for example above the garage, then families are more able to purchase a section and build and live in the small unit above the garage until they are able to afford to build the main dwelling. The affordability of the main dwelling is bought forward as the section owner can rent out the smaller unit and has this income available to them. The smaller secondary unit provides a long-term smaller housing type (unless this is utilised for short term visitor accommodation). The secondary unit technique has been utilised in some of the Special Zones in the Queenstown Lakes Plan, for example the Mount Cardrona Station and Millbrook Special Zones.
- **No appeal rights on certain residential development applications.** As was recently introduced into the RMA in relation to subdivision applications, it could be investigated whether appeal rights on small to medium sized housing developments (for example less than 8 units), should be removed. While neighbours involvement is important, the current lengthy and expensive notification, hearing and potential Environment Court process is a deterrent to consenting developments. Neighbouring parties should not have their rights to contribute to a proposal removed, but there would be benefit in their position being heard by a third party (Council or commissioner), quickly and fairly. If landowners had the certainty that neighbours with only frivolous issues, could be considered by Council in an expedient manner, this may remove some barriers to proposals. This should be investigated following the investigation of development controls discussed above where suitable controls that are proven to protect the daylight and privacy of adjoining sites are confirmed.
- **Examine how submission process could be altered.** The existing process is weighted towards maintaining private property values and amenity due to each land owner having a right to submission and appeal. The same issues are usually covered by many submitters and few cover public good and urban quality issues. Investigation is recommended to see if the process can be altered so all are consulted and have a voice early in the process but the issues are quickly funnelled through so that there is a clear and balanced discussion of all matters. This may give a more balanced outcome for the protection of

property rights and individual property amenity with public good and urban quality issues in the absence of specific plan making processes such as those that were in place for Christchurch and Auckland.

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**Explore the use of standardised design templates that are effectively pre-approved housing designs.** We are aware that these are used in New South Wales as a way to ensure certainty, efficient process and certainty in terms of quality. This system in New South Wales does have a significant amount of structure around it however to ensure it operates effectively. Some New Zealand Council's (we are aware of some instances in Auckland and Waikato) where new housing development areas are approved with a number of housing options (eg 12) with pre-approved Building consents so that the individual land owners do not need to apply for these. This reduces time and costs for new developments.

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**Encourage acceptance of communities of intensification** by central and local government focusing the funding of social and other infrastructure in those areas proposed for intensification. Communities tend to want levels of services and facilities that are commensurate with higher density living (eg levels of public transport, parks and facilities) without the corresponding growth. Greater connectivity between these two would assist integrated planning and potentially reduce resistance. One method of achieving this is through more targeted Development Contributions that require new residents to pay an equal contribution to the existing urban infrastructure that the existing residents have. (For example, contribute the value of existing reserves/ roads that exist for one dwelling in an area.) This will assist to provide quality urban environments in terms of public space, Infrastructure and Community facilities. We are aware of one example where this was done in the past. This was in Plan Change 62 to the previous Operative Rodney District Plan. Investigations into the merits of this and why it was not carried over with amalgamation will assist to provide more information in this area.

## PART TWO REVIEW: Detailed Analysis

### 4 Analysis of District Plan Objectives and Policies

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#### 4.1 What is the purpose of Objectives and Policies in District Plans?

##### Objectives

- Objectives are used in District Plans as a statement of what is sought to be achieved in relation to a particular matter / issue.
- Objectives are utilised to state what is being aimed for to resolve a particular issue or promote a positive outcome, and need to provide clear direction or targeted outcomes which policies can then seek to achieve.

##### Policies

- Policies are used to identify and set a course of action in order to implement the stated objectives (e.g. how to achieve a specified environmental outcome).
- Policies are then implemented through 'methods' (e.g. often rules and identified development / performance standards) and, as such, need to provide clear direction to those who implement the methods or make decisions in relation to the rules.

#### 4.2 Overview Observations of Objectives and Policies

##### 4.2.1 Auckland Unitary Plan

- The objectives and policies of the identified key residential zones (MHS, MHU and THAB) all envisage and enable growth and change, with a focus on new development being able to achieve and be consistent with the planned built character which each zone is seeking to achieve over time. These three zones also have clear policy direction seeking the enablement of a variety of housing types, sizes and densities, including the provision for 'Integrated Residential Development';
- The Single House zone also enables and anticipates some degree of change over time, while also seeking new development is compatible with the existing built character of an area, where this existing character is sought to be maintained;
- Each of the residential zones has strong policy direction which requires that new development maintains reasonable standards of sunlight access and privacy, as well as minimises any visual dominance effects, to adjoining sites;
- The residential zones have a direct linkage to stormwater management, with strong policy direction seeking that impervious areas on a site be restricted in order to manage the amount of stormwater run-off generated by a development and ensure that adverse effects on water quality, quantity and amenity values are avoided or maintained.
- The Mixed Use and Town Centre objectives and policies have clear policy direction seeking to enable an increase in the density, diversity and quality of housing developed within the zones, whilst also seeking to manage any reverse sensitivity effects;
- There is strong policy direction requiring new development to be of a quality and design that positively contributes to the visual quality of and interest of streets and public open spaces, as well as to pedestrian amenity, movement, safety and convenience.

#### 4.2.2 Hamilton

- The District Plan is based on a consolidated set of objectives and policies under broad topic headings of 'residential zones', 'Business 1 to 7 Zones', and 'Central City zone'. Accordingly, all of the residential zones have a common suite of objectives and policies applying to them. The lack of zone-based objectives and policies allows for a simpler style of district plan and avoids duplication of provisions that inevitably results from drafting zone-based provisions. The application of the residential-wide objectives and policies allows a more nuanced interpretation to be applied to the different parts of the city. The plan provisions include clear statements of outcomes sought for the various zones, and there is an explicit hierarchy of provisions apparent, running from objectives, to policies, to implementing rules.
- The objectives and policies applying to the residential zones are considered to be enabling in nature, rather than simply seeking the maintenance of existing amenity (i.e. preserving the 'status quo'). This reflects the recognised cost in terms of infrastructure provision servicing greenfield development versus development within the existing urban area, as recognised through development contributions for existing versus greenfield residential development applying in the city.
- The objectives and policies seek to deliver a range of housing types and densities available to the market; the efficient use of land and infrastructure through consolidation and a compact urban form; residential development producing good onsite amenity and contributing to good neighbourhood amenity (but not outright preservation of existing amenity); residential activity remaining the dominant land use (as opposed to commercial and other land uses 'spilling out' from commercial locations); and management of the interface with development in adjacent zones.
- The framework of objectives and policies, supported with matters of discretion and assessment criteria, are considered to be delivering increased housing densities within the existing built-up part of the city effectively, as evidenced by the plethora of duplex developments within the General Residential zone, and apartment developments within the Residential Intensification zone. Effectively the built form of the residential parts of the city are being transformed from a traditional built form dominated by detached dwellings, to a built form where duplex dwellings and apartments are becoming a more common feature. In parts of the city (within the Residential Intensification zone), the predominant built form is now multi-unit forms of housing, with detached dwellings becoming relatively uncommon. This is considered to be evidence of the success of the enabling framework of the Operative District Plan.
- The District Plan has established a 'centres hierarchy' that did not exist in previous iterations of the Plan. The primacy of the central city is strongly recognised, both for the city and for the Waikato region as a whole. The Business 5 Zone covers suburban centres within that hierarchy, being beneath the central city and sub-regional centres, but above local neighbourhood centres. Residential activity is promoted as supporting both the central city and suburban centres through mixed use developments adding to the vitality and range of land uses within consolidated centres.
- In respect of the Central City Zone, the main focus of the objectives and policies is to establish the central city as the primary location for future retail and office development in the city, and the enhancement of pedestrian-focused and attractive consolidation within the central city, and an increased connection to the Waikato River. More specifically in relation to residential activity, the objectives and policies for the central city are enabling in nature in recognition that on-going apartment development is necessary to support the consolidation of the city centre.
- The Business 5 zone suburban centre areas are relatively constrained in terms of geographic extent and do not currently contain much residential activity. In terms of residential activity, the framework of objectives and policies strongly seeks to enable residential activity (except at ground level), and provide a robust supporting framework that is considered to be delivered effectively through the supporting rules and development controls.

#### 4.2.3 Tauranga

- The structure of the Operative District Plan is based on identifying seven district-wide resource management issues that the remainder of the district then addresses. The issue topics are 'the natural



environment', 'the landscape', 'culture and heritage', 'tangata whenua', 'population growth', 'development' and 'transportation'. Each topic heading has a discussion for each, but these are broad and generic discussions, with the objectives and policies being the framework for decision-making. Objectives and policies are contained within each of the zone chapters, resulting in a high number of objectives and policies across the district plan.

- The objectives and policies for the Suburban Residential Zone are fairly typical of older district plans, with a focus on maintaining 'appropriate' amenity levels, maintaining existing residential character, providing for a low density residential environment, whilst making some allowance for medium density residential development. These provisions collectively do not provide a strong enabling framework, and seek to deliver a 'status quo' urban outcome of continuing suburban development based on detached dwellings at a standard density.
- The City Living Zone and High Density Residential Zone objectives and policies are fairly similar, and reflect a 'balancing' approach. Both sets of objectives and policies recognise that the zones are intended to deliver higher density forms of housing, due to the locations that the zones are applied to, but also seek to 'balance' this against maintaining other values. For the City Living Zone this is a balancing against the 'urban landscape' character (i.e. character and amenity of the neighbourhoods), whilst the High Density Residential Zone is 'balanced' against the landscape values of the surrounding coastal landscape and harbour. The framework is considered partially enabling of higher density forms of residential activity, but not strongly enabling of such development.
- The City Centre Zone objectives and policies are strongly enabling of promoting the central city as the regional commercial hub, with residential activity being part of the consolidation of activities sought in this location. Provisions are aimed at achieving active street frontages and pedestrian-orientated environments, and a dense built form with residential activity promoted as a core part of the mix of activities sought.
- The Commercial Zone is similar in terms of the focus of objectives and policies, with mixed use development provided for within a built form that is consolidated and increasingly dense. There is also a focus on achieving a high amenity urban environment that is attractive for pedestrians to utilise with active retail and commercial frontages.

#### 4.2.4 Christchurch

- The objectives and policies framework has strong direction seeking an increased supply of housing that enables a wide range of typologies and densities, meets the diverse needs of the community and assists in providing housing affordability. This is sought to be achieved by providing for:
  - high density residential development in the Central City;
  - medium density residential development in and near identified commercial centres in existing urban areas where there is ready access to a wide range of facilities, services, public transport, parks and open spaces;
  - a mix of low and medium residential density development in greenfield neighbourhoods;
- The objectives and policies support the establishment of new residential medium density zones to meet demand for housing in locations where a range of amenities (e.g. public transport routes, open spaces, education facilities and commercial centres) are available within 800 metres walkable distance of the area;
- The objectives and policies also seek the creation of high quality, sustainable, residential neighbourhoods which are well designed, have a high level of amenity, enhance local character and reflect the Ngāi Tahu heritage of Ōtautahi;
- The provisions also seeks to encourage higher density housing to be located to support, and have ready access to, commercial centres, community facilities, public transport and open space; and to support well-connected walkable communities.

- As context to the policy framework introduced by the Christchurch District Plan, the section 32 report for the Residential chapter describes the direction in section 7 of the Act, while also referencing the Land Use Recovery Plan 's definition of Recovery, which includes “restoration and enhancement”, and rebuilding being not about “restoring physical structures but also rebuilding communities”. A further consideration was the Statement of Expectations under the Order in Council, which required particular regard to be had to facilitating an increase in supply of housing (and a wide range of housing types and locations), reducing reliance on consent processes, development controls, and requirements for notification amongst other matters.
- The context described above saw submissions seeking that priority be given to recovery over long term needs and vice-versa, the Panel being satisfied that the two were compatible and not competing. The objectives of the Strategic Directions chapter were therefore framed accordingly, with a focus on “providing the right investment climate to enable recovery and sustain long term growth<sup>17</sup>”. The following two objectives were given primacy over other objectives (underlining is my emphasis) in that chapter, which are concerned with enabling recovery and process (Clarity of language and efficiency):

### **Objective 3.3.1**

*a. The expedited recovery and future enhancement of Christchurch as a dynamic, prosperous and internationally competitive city, in a manner that:*

- i. Meets the community's immediate and longer term needs for housing, economic development, community facilities, infrastructure, transport, and social and cultural wellbeing; and*
- ii. Fosters investment certainty; and*
- iii. Sustains the important qualities and values of the natural environment.*

### **Objective 3.3.2**

*a. The District Plan, through its preparation, change, interpretation and implementation:*

- i. Minimises:*
  - A. transaction costs and reliance on resource consent processes; and*
  - B. the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and*
  - C. the requirements for notification and written approval; and*
- ii. Sets objectives and policies that clearly state the outcomes intended; and*
- iii. Uses clear, concise language so that the District Plan is easy to understand and use.*

- Objectives of the Strategic Directions chapter in the context of housing seek “a range of housing opportunities...including: (i) a choice in housing types, densities and locations)” (Objective 3.3.4) and “...a high quality urban environment that (i) is attractive to residents, business and visitors; and (ii) Has its areas of special character and amenity value identified and their specifically recognised values appropriately managed...” (Objective 3.3.7).
- While good urban design was recognised as an essential ingredient to recovery and the long-term outcomes, Clause (ii) of Objective 3.3.7 is an example of the targeted approach that was sought by the Panel in applying urban design provisions (additional to the Central City, centres and some categories of

<sup>17</sup> <http://www.chchplan.ihp.govt.nz/wp-content/uploads/2015/03/Strategic-Directions-and-Strategic-Outcomes-Decision.pdf>

multi-unit development). The risk of not doing so is “*significant costs will be imposed that are not justified by the environmental benefits that could be realised*”<sup>18</sup>.

- A key point in the Panel’s decision was that “(objectives) serve as a measuring point for the formulation of related policies and rules, and monitoring of their effectiveness over time.” Also that “A Plan cannot, of course, get houses built. However, the policies and rules (and their sound administration) can help facilitate and stimulate this necessary solution.”
- While the context of the Christchurch District Plan process was focussed on Recovery in unique circumstances, the approach to how areas are managed in their growth and development and the balance between enabling and achieving long term outcomes, including a quality built environment, is relevant to any urban area.

#### 4.2.5 Queenstown Lakes District Council

##### a. Residential Zones

- The objectives and policies of the residential zones seek primarily to provide sufficient land for residential and visitor accommodation to provide a diverse range of residential accommodation options, subject to environmental constraints. The provisions promote a compact residential form that is responsive to constraints such as topography, and maintains the distinction from rural areas.
- The provisions seek to contain residential activity within zoned areas and limit peripheral expansion, and provide for efficient use of services and infrastructure. The objectives also aim to provide living environments that are pleasant, yet continue to provide for the needs of the community, by allowing non-residential activities that do not compromise residential amenity.
- The objectives and policies seek to maintain low density development in most existing residential areas and settlements and ensure more intensive development does not compromise residential character, and also encourages new and imaginative residential development.
- High density objectives provide for high density living environments that have high amenity values, qualities and character, and seek multi-unit developments that are designed to a high standard, integrate well with their neighbourhood and streetscape, are located where they are supported by and close to physical and social infrastructure, and any adverse effects on amenity values are avoided or mitigated where possible.
- The provisions in the Town Centre zone provide for residential activity, within the context of a framework that seeks the maintenance and enhancement of a built form and style within each town centre that respects and enhances the existing character, quality and amenity values of each town centre and the needs of present and future activities.
- Town centres are still expected to be the focus for commercial, administration, employment, cultural and visitor activities. Residential activity has a place in these areas provided the physical, scenic and historic values of the geographic setting are preserved.
- Town Centres are enabled to intensify with the maximum consolidation of space, but the expectation is that the form and appearance of buildings will be controlled, with controls that define appearance standards, promote harmonious and compatible building design and use special character overlays to manage historic character areas.

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<sup>18</sup> <http://www.chchplan.ihp.govt.nz/wp-content/uploads/2015/03/Strategic-Directions-and-Strategic-Outcomes-Decision.pdf>

### 4.3 Do these provisions promote quality built environments and do they enable or constrain the delivery of a greater diversity of housing at a range of price points?

#### ■ In the Auckland context:

- The provisions of the key urban zones do not specifically address the matter of explicitly seeking or enabling the delivery of housing at different price points. However, the combination of clear policy direction which seeks to enable the delivery of a range of house types at varying densities, in combination with the removal on any specific 'land use density' rules from the Plan (as opposed to such 'land use density' rules which did exist in the various former 'legacy District Plans' for the Auckland Region) is implied to assist in promoting the delivery of housing that is more affordable, at a range of different price points.
- The provisions also provide clear policy direction, as well as further design-related assessment criteria (particularly in the MHS and MHU zones), which seek to ensure that new multi-unit and high-density development achieves quality built design outcomes, both in relation to the amenity of the application site, adjoining residential sites, as well as the amenity / attractiveness and safety of streets and public open spaces.

#### ■ In the Hamilton context:

- The Operative District Plan is effective in having objectives and policies that are specific and clear in their intent and avoid many of the generic Part 2 RMA statements that typically featured in 'first generation' RMA plans. The link then between intent (objectives and policies) and implementation (methods) also appears effective, avoiding a tendency of a disconnect between aspirational statements in district plans, and implementation methods that do not achieve those aspirations. In particular, the duplex provisions within the residential zones represents a step-change in residential densities in the city, as it has effectively doubled the allowable density in large parts of the city, in an effective way (based on outcomes on the ground).
- The Residential Intensification Zone also provides a useful mechanism for achieving greater densities, and has a large enough spatial extent to have a significant impact on housing supply by enabling redevelopment of existing residential properties in the city.
- The framework that exists of objectives, policies, rules, matters of discretion, and a design guide for higher density forms of development, collectively provide a strong and flexible decision-making framework to achieve Quality Built Environments.

#### ■ In the Tauranga context:

- The provisions of the key urban zones do not specifically address the matter of explicitly seeking or enabling the promotion of Quality Built Environments and delivery of housing at different price points. This simply reflects the age of the Operative District Plan, and is expected to be a strong focus of the district plan review which is now commencing. The Operative District Plan became operative in 2013 and was formulated during 2009 and 2010.

## 5 Analysis of District Plan Activity Tables / Activity Status

### 5.1 What is the role of Activity Tables / Rules in District Plans?

- The methods which are discussed and analysed below relate to how particular forms of residential activities, as 'land uses', have been provided for in District Plans. In the selection of district plans which has formed the basis of our analysis, these rules are primarily set out in 'Activity Tables' – where specific types of activities are identified, with a corresponding 'Activity Status' (e.g Permitted, Controlled, Restricted Discretionary etc).
- A key matter to consider, in relation to Activity Tables and the identification of an Activity Status for each identified 'land use', is the philosophy of how Activity Status is used / utilised – particularly in relation to encouraging or discouraging particular types of activities;
  - For instance, Permitted and Controlled activities are generally applied to those activities which are sought to be encouraged in the zone, and where resource consent approval is generally expected;
  - It is the application of the Restricted Discretionary, Discretionary and Non-Complying activity statuses which can often differ in their use and application across various District Plans.
- The Restricted Discretionary status is applied to those activities where it is considered a resource consent is required in order to be able to appropriately assess the potential adverse effects of a such an activity, and where the District Plan can be clear in 'restricting its discretion' as to the specific matters which will be assessed in relation to a consent application. The matters are specific listed in District Plans as 'matters of / for discretion' (or for the lesser utilised 'Restricted Controlled' Activity Status, 'matters of / for control');
- District Plans then generally apply the Discretionary and Non-Complying activity status to those activities which are sought to be discouraged from establishing in particular zones. For such activities, the Council's discretion with regard to what matters they can assess a resource consent proposal against aren't 'restricted' – the Council has full discretion to assess the proposal against any matter the Council deems relevant and appropriate in order to be able to assess the effects of an application.
- This approach, as an example, became an issue of debate during the Auckland Unitary Plan plan-making process. The key issue being – should activity status be applied primarily in relation to which activities a Plan seeks to encourage / discourage, or should the Discretionary / Non-Complying Activity status be applied primarily in those circumstances where it is difficult or unclear as to what matters / issues Council would wish to assess an application against?
- For instance, the Auckland Unitary Plan often utilises the Discretionary Activity status for small amounts of earthworks (for instance between 5m<sup>2</sup> and 50m<sup>2</sup> per site) where a site is impacted a 'Special Character' Overlay. Earthwork, generally, are a straight forward type of activity undertaken on a regular basis, where it is relatively simple to clearly identify the matters which Council would want to assess any such earthworks proposal against. Rather than listing this activity as 'Restricted Discretionary', and then clearly identifying (as 'matters of discretion') the key matters which Council would assess the application against, a full Discretionary activity status has been applied – more as a means to discourage such an activity from taking place. Another example would be a proposal to develop a second dwelling in the 'Single House' zone in Auckland. Such a proposal is listed as a Non-Complying Activity, not because it is unclear as to the matters which such a proposal would need to be assessed against, but because multi-unit development is specifically sought to be discouraged in the 'Single House' zone.
- As conveyed above, Controlled activity status has been applied to those activities encouraged in a zone and could be a method more widely used to enable housing and the delivery of a range of types/ affordable housing. In some instances, it may be more appropriate than permitted activity status in providing for the imposition of conditions to manage effects. However, its use has raised concerns. This includes the risk of situations where the council seek to impose conditions that the applicant does not agree with and stalemates precluding the issuing of consent. Through the Christchurch District Plan process, the appropriateness of Controlled activity status was considered, the panel concluding that the *"consequence of this (Council's) positional stance against the use of the controlled activity class in the*

*design of the Notified Version was that obvious opportunities to minimise cost and uncertainty were missed”.*

- The Panel concluded that the Council’s concerns regarding the risk of a “stalemate” was “misplaced” and “The critical ingredient is properly-expressed controls within the rules, for the purposes of enabling the setting of appropriate resource consent conditions. In any event, that is a position the Council has come to acknowledge and accept.”
- Notwithstanding the position held by the Panel in the Christchurch context, there remains a risk of stalemates and poor outcomes, reflecting the limited scope in managing the effects of a development i.e. the ability for changes to be made to what has been applied for as reflected in case law.
- Also important to note is that if Controlled activity status is used for more intensive housing proposals, then the effects of these cannot be considered within the permitted baseline of effects in a zone, and this method again reemphasises the state of the existing environment when assessing the effects of an application as there is not a higher permitted baseline of effects created by permitted housing proposal to assess them against.
- How flexibly Rules are applied by Councils can also have an impact on whether quality outcomes can be achieved. It is generally the case however, that rules are applied as an almost absolute unless the written approval of neighbours adjacent to the infringement can be obtained. This increases the importance of the development controls being correct and appropriate to enable the type for development envisaged, and to be overly restrictive, as shown in the examples with height in relation to boundary rules shown in this report.

## 5.2 Overview Observations of Activity Tables / Rules

### 5.2.1.1 Auckland Unitary Plan

- New dwellings (up to three dwellings per site) are provided for as a Permitted Activity, subject to compliance with the full suite of permitted standards in the MHS and MHU zones. In these two zones, development of four or more dwellings is provided for as a Restricted Discretionary Activity;
- The Single House zone provides for one dwelling per site; the conversion of a principal dwelling (existing at the date the Plan was originally notified) into a maximum of two dwellings; as well as a minor dwelling, all subject to compliance with the relevant Permitted standards, as a Permitted Activity. A proposal seeking to develop more than the Permitted number of dwellings is a Non-Complying Activity in the Single House Zone;
- In the THAB zone, any development of new dwellings is a Restricted Discretionary Activity. There is no enablement within this zone to provide for a specified number of new dwellings as a Permitted Activity;
- In all four residential zones, ‘Integrated Residential Development’ is provided for. ‘Integrated Residential Development’ is a specifically listed activity, which provides for residential development on sites greater than 2,000m<sup>2</sup> which includes supporting communal facilities such as recreation, leisure, welfare and medical facilities, as well as retirement villages. This has an activity status of Restricted Discretionary in the MHS, MHU and THAB zones, while being a full Discretionary Activity in the Single House zone;
- In the MHS, MHU and THAB zones, proposals for new development as a Restricted Discretionary Activity (e.g. up to three dwellings per site in MHS and MHU, any development in THAB, as well as any proposal for an ‘Integrated Residential Development’) are required to comply with only a limited number of specified Permitted standards (those relating to maximum building height, height in relation to boundary and yard setbacks). The remaining suite of Permitted standards for these zones are not applied as rules, but are instead applied, more flexibly, as matters to be considered and assessed through the resource consent process (through the Matters for Discretion and Assessment Criteria framework).
- While dwellings (as a land use / activity) are provided for as Permitted in the Mixed Use and Town Centre zones, any new development requires resource consent as a Restricted Discretionary Activity. As such, all new dwellings in these zones will always require resource consent approval. Similarly, the conversion



of an existing building (or part of a building) to dwellings / residential use also requires resource consent approval as a Restricted Discretionary Activity.

#### 5.2.1.2 Hamilton

- The General Residential zone is applied to the majority of the existing residential areas within the city, and much of recent greenfield development areas. Based on duplex dwellings at a density of one dwelling per 200m<sup>2</sup> and second dwellings on a site at a density of one dwelling per 400m<sup>2</sup>, both are a Restricted Discretionary Activity.
- High levels of uptake by the market of duplex developments in the General Residential Zone (and to a lesser extent apartments within this zone) are evident. This is significant as duplexes have effectively doubled allowable density relative to previous district plan provisions.
- Apartments are also provided for, but as a Discretionary activity reflecting the scale and intensity of use associated with apartments are generally not considered as compatible with the predominant built form within the General Residential Zone (hence not being provided for as a Restricted Discretionary activity). This approach is largely rolled over from the previous district plan and remains an area of potential improvement within the Operative District Plan. In particular, a set of development standards and/or matters of discretion could be formulated to allow apartments to be provided for as a Restricted Discretionary activity.
- The Residential Intensification zone applies to specifically identified locations around the central city, near Waikato Hospital, near the University of Waikato, and locations around suburban centres. Densities of 350m<sup>2</sup> per detached dwelling, duplexes at 150m<sup>2</sup> per dwelling, and apartments at 150m<sup>2</sup> per apartment are applied. The zone provisions have been largely 'rolled over' from the previous district plan, and appear to have been highly successful in promoting apartment buildings and higher forms of housing densities in the above noted locations. Apartments and multi-unit types of housing developments now form the predominant built form in these brownfield locations.
- The Medium Density Residential zone is a higher density zone applied to greenfield areas, typically located around proposed suburban centres and other nodes. Comprehensive Development Plans (CDPs) are approved as a Discretionary activity, and all CDP areas must achieve set residential yields specified in the district plan (or be within 10% of that yield). This particular tool in this zone is not considered to incentivise development, but rather is intended to ensure particular urban quality outcomes are achieved. There are no particular bonus developments on offer or other form of incentivising. Also as the zone is applied to greenfield areas only, typically there is only one or two landowners involved with this process.
- The Central City zone applies to the central city of Hamilton, and is divided into three precincts. The City Living and Downtown precincts are both enabling of higher density forms of housing, with targets set for achieving density, rather than setting of maximum densities. Dwellings are provided for as a Permitted activity subject to compliance with various development controls. To date there has been limited uptake until recently, with Council supporting apartment development with development contribution exemptions and public space investments to stimulate the market.
- The Business 5 zone applies to suburban centres within the city (based on a hierarchy of central city/metropolitan centres, suburban centres and neighbourhood centres). Above ground floor apartments provided for as Restricted Discretionary activities with minimum density yields set rather than maximum densities set. The effectiveness of this approach has not been demonstrated as successful at this stage based on an absence of recent examples of this form of development.

#### 5.2.1.3 Tauranga

- Single dwellings are a Permitted activity in the Suburban Residential Zone at a density of one dwelling per 325m<sup>2</sup>. 'Comprehensive designed developments' are a Controlled activity but with limited uptake. Secondary independent dwelling units (minor dwelling) are also provided for with a property size of at

least 500m<sup>2</sup>, with limitations to two bedrooms only and within the existing building footprint of the principal dwelling.

- The Suburban Residential Zone covers the majority of residential land in the city, and has as its purpose to promote further low density suburban residential development. Greenfield areas are typically zoned as Suburban Residential.
- The City Living zone is applied to residential areas on the fringe of the central city. 'Comprehensive development' is provided for as a Restricted Discretionary activity, with no density limit applying provided the site meets certain size thresholds (otherwise a density of one dwelling per 200m<sup>2</sup> of land).
- The High Density Residential zone is applied to a relatively contained location on the western portion of Mt Maunganui. The zone promotes higher density forms of housing (at a density of one unit per 100m<sup>2</sup> of land) as a Permitted Activity. There appears to have been high levels of market uptake in the zone for new dwellings, given the location near to Mt Maunganui beach and other community amenities.
- The City Centre zone is a highly permissive zone allowing residential apartments as a Permitted activity, with no limits on density. The lack of apparent uptake within the zone for residential development appears to reflect market fundamentals and financial feasibility of developments, rather than any aspect of the zone provisions preventing or constraining uptake.
- Commercial Zone is applied to commercial locations throughout the city, and provides for residential apartment development to a density of one dwelling per 50m<sup>2</sup> of land. There appears to have been limited uptake for residential development, again potentially due to market fundamentals and financial feasibility of developments, rather than any aspect of the zone provisions preventing or constraining uptake.

#### 5.2.1.4 Christchurch

##### a. Residential suburban

- The Residential Suburban zone covers large areas of suburban Christchurch and is typified by single storey detached residential units with a garage and garden. Residential activity is permitted up to six bedrooms per unit and 1 unit per 450m<sup>2</sup>, subject to compliance with relevant standards. Multi-unit residential developments require resource consent as a Discretionary activity.
- The Residential Medium Density zone surrounds parts of the Central City and larger commercial centres, providing for a range of housing types. Residential activity is permitted (also up to 6 bedrooms per unit) as is the conversion of an elderly persons unit into a residential unit. Notwithstanding this, residential development with 3 or more units (amongst other thresholds) and retirement villages require resource consent for the purpose of assessing design. This reflected a plan change made operative prior to the District Plan Review and it was not a matter of significant challenge by parties contesting provisions as part of the District Plan Review.
- The Residential New Neighbourhood zone generally includes new greenfield areas for large-scale residential development. The rules permit residential activity (up to 6 bedrooms per unit) and minor residential units. Retirement villages, complying with built form standards are controlled, or otherwise Restricted Discretionary. A unique aspect to the RNN zone is provision for "Comprehensive residential development", which is defined as "*development of three or more residential units which have been, or will be, designed, consented and constructed in an integrated manner (staged development is not precluded). It may include a concurrent or subsequent subdivision component.*" Comprehensive residential development complying with built form standards is a controlled activity, or otherwise restricted discretionary.
- The Residential Central City zone covers those parts of the Central City identified for primarily residential development as the name suggests. Like the RMD zone, residential activity is permitted, with the development of 3 or more units triggering a requirement for resource consent on urban design grounds.

- The Commercial Core zone covers large and small commercial centres across suburban areas of the City with limited residential development in these locations historically. A permissive regime enables residential activity.
- The Commercial Central City Mixed Use zone which covers those parts of the Central City beyond the core and provides for a range of activities, permits residential activity.

#### 5.2.1.5 Queenstown Lakes District Council

##### a. Residential Zones

- New dwellings (one dwelling per 450m<sup>2</sup> of net site area) are provided for as a Permitted Activity, subject to compliance with the full suite of permitted standards for the LDR zone.
- In the Medium Density zone, residential activity is permitted at a higher density (up to 3 units per site) with a max density of 250m<sup>2</sup> per unit. Development controls will limit the number of dwellings per site, as building footprints are restricted by a maximum of 45% site coverage and a minimum 25% landscaped area / permeable surface requirement, for example.
- In the LDR zone, it is a Restricted Discretionary Activity for new residential units at a density between 300 and 450m<sup>2</sup> net site area each. Any breach of the max 300m<sup>2</sup> density is a Non-Complying Activity.
- The High Density zone is enabling with up to three units provided for as a Permitted Activity. There is no density control, although the minimum lot area that may be created at the time of subdivision is 450m<sup>2</sup>.

### 5.3 Do these provisions promote quality built environments and do they enable or constrain the delivery of a greater diversity of housing at a range of price points?

#### 5.3.1 Enabling Elements

- **In the Auckland context:**
  - Within the MHS and MHU zones, providing for up to three dwellings per site as a Permitted Activity ('permitted threshold'), subject to compliance with identified standards, is a more enabling approach than that which previously existed in the various 'legacy' district plans. An important point to note here, however, is that this 'permitted threshold' was finalised through a recent Environment Court appeal (by HNZN) process in early 2018. The Independent Hearings Panel (IHP) had recommended a 'permitted threshold' of four dwellings per unit, however the Council's 'decision version' of the plan disagreed with the IHP recommendation, instead applying a 'permitted threshold' of two dwellings per site. During the Environment Court appeal process evidence and legal submissions were presented as to the extent to which the 'Permitted threshold' provision could be considered to appropriately respond to the NPS:UDC and the Auckland Council's recently published 'National Policy Statement on Urban Development Capacity 2016: Housing and business development capacity assessment for Auckland' Report (dated December 2017). So while the appeals process was successful in raising the permitted threshold from two (the Council's preference) to three dwellings per site, this threshold still represented a reduction from the threshold of four dwellings per site, which the IHP had initially recommended and considered to be appropriate, based upon the evidence and submissions presented to the IHP during the Unitary Plan hearings process;
  - Within the MHS, MHU and THAB zones, providing for multi-unit developments (4 or more dwellings per site, as well as 'Integrated Residential Development') as a Restricted Discretionary Activity which can be processed on a non-notified basis providing 'core controls' (maximum building height, height in relation to boundary and yard setbacks) can be complied with is also a key enabling element.
- **In the Hamilton context:**
  - The provisions for duplex dwellings being a Restricted Discretionary activity with a density of 200m<sup>2</sup> per duplex dwelling, effectively has enabled a doubling of density in the General Residential Zone,

which is the majority of the residential area of the city, including for many of the greenfield areas. The uptake of duplex developments throughout the city, both greenfield and redevelopment of existing sites, has been strong – clearly indicating that both the market for such development is robust, and that the plan provisions are enabling the delivery of this residential typology. The interface between the land use and subdivision provisions appears to operate well and consents for non-compliances with standards appear to be largely being considered without notification or notice being served on affected parties.

- The use of the Restricted Discretionary activity status for many activities, even when development standards are not complied with, provides a greater level of certainty for plan-users and applicants as to the matters to be assessed. Clear statements of what those assessment matters are, and the tidy organisation of objectives and policies under broad topic headings to be applied regardless of zones, provides a clear and predictable evaluation framework. The premise of the Hamilton Operative District Plan is that the activity status need not change due to a non-compliance with one or more standards. But rather that the Restricted Discretionary activity framework can successfully lead to robust evaluations of effects, without elevating the activity status. The use of Discretionary and Non-complying activities is relatively uncommon in the district plan, and used where there is far less certainty of the level of effects likely.

### 5.3.2 Constraining Elements

#### ■ In the Auckland context:

- the lack of enablement / provision in the THAB zone with regard to small-scale infill development can be seen as a constraint to the delivery of a range of housing types in this zone. While the MHS and MHU zones provide for up to three dwellings per site as a Permitted Activity, any residential development in the THAB zone requires resource consent as a Restricted Discretionary Activity. This approach could have the potential to lead to a delayed / underutilised uptake of development potential within this zone. By way of an example, if the current typology on a THAB-zoned site is a single, two storey house, and the site area is say between 700 – 1,000m<sup>2</sup>, there may be limited ability to design and deliver an apartment / terrace typology on the site. Where such a land owner might wish to provide an additional dwelling on such a site, the requirement for a Restricted Discretionary Activity approval for the one additional dwelling may act as a barrier to seeing such sites redeveloped to provide for additional housing.
- On the flip side, the consideration of this specific example as a 'constraint' must also be balanced against the need to ensure that the limited extent of land area zoned as THAB is not predominantly redeveloped in an infill, lower-density manner – and thereby forgoing the anticipated level of intensification which the zone is seeking to achieve (e.g. not enabling infill or small redevelopment of these sites to provide for one or two additional dwellings could be considered a 'constraint' but, at the same time, ensuring a limited land resource which has been identified to enable high-density development is not under-developed with lower density forms of housing can also be considered 'enabling' for the provision of higher-density residential typologies in the THAB zone). The key issue being – if development of THAB zoned sites was a Permitted Activity up to three dwellings per site, in the same way as this is enabled in the MHU and MHS zones, then there is a risk that the relatively small area of land zoned for higher-density residential typologies could be predominantly taken up by lower density residential development, which will typically be an easier and cheaper form of residential redevelopment to undertake on these sites.

## 6 Analysis of District Plan 'Notification' Provisions

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### 6.1 Overview observations of Notification Provisions

#### 6.1.1 Auckland Unitary Plan

- In a general sense, proposals for new development in the SH, Mixed Use and Town Centre zones, which infringe one or more of the relevant Permitted Standards, will be subject to the normal tests for notification under the RMA;
- In the MHS, MHU and THAB zones, proposals for the development of new dwellings which can comply with the specifically identified Permitted Standards (being maximum building height, height in relation to boundary and yard setbacks) will be considered without public or limited notification, or the need to obtain the written approval of affected parties. This is also the case for an application for an 'Integrated Residential Development' which can also comply with these same specifically identified Permitted standards;
- Within the Mixed Use and Town Centre zones, this incentivised approach to notification (tied to compliance with specifically identified key Permitted Standards) has not been provided for – it is an approach provided for through the Unitary Plan for the residential zones only.

#### 6.1.2 Hamilton

- The Plan takes a consistent approach to notification issues irrespective of zone, with most activities being subject to the normal tests for notification under the RMA (i.e. not precluding notification, nor requiring notification). The majority of activities that require resource consent are Restricted Discretionary activities.
- Significantly there are incentivising provisions to encourage certain activities in certain zones. Within the General Residential zone 'duplex dwellings' and 'two or more detached dwellings per site' are precluded from notification or the need to obtain approval from affected parties. Within the Business 5 Zone 'apartments above ground floor' are precluded from notification or the need to obtain approval from affected parties. Within the Central City zone 'apartments at ground floor within the secondary active frontage area' are precluded from notification or the need to obtain approval from affected parties. Council is seeking to encourage these forms of development in these particular zones (as the market was otherwise not providing them), and the preclusion of notification is intended to reduce the risk for private developers given that the activity status for the activities are Restricted Discretionary activities. Anecdotal information is that these incentive provisions have been successful, particularly with encouraging duplex developments in the General Residential Zone.
- It is also worth noting that for these activities there is also a statement that for any non-compliance with development controls, that "*notification will be determined in accordance with the provisions of the RMA (section 95) in relation to the effects of not complying with the standard or standards*". In other words, a non-compliance with a development control still provides certainty that the activity in general is not going to be part of any notification consideration, but that any notification consideration is solely around any effects associated with the non-compliance(s) itself. This seeks to provide certainty to a developer that a non-compliance does not remove the protection provided by the incentivising provision.
- In addition boundary setback non-compliances are permitted subject to written approval from neighbours being obtained.

#### 6.1.3 Tauranga

- No specific notification exemptions within the Suburban Residential zone, and therefore will be subject to the normal tests for notification under the RMA.

- Able to infringe yard setbacks and height to boundary controls with written approval from neighbours as a Permitted Activity.
- Statements within the City Centre zone, Commercial Zone and City Living Zone that Restricted Discretionary Activities shall not be notified.
- No specific notification exemptions within the High Density Residential zone. Any assessment will therefore be subject to the normal tests for notification under the RMA.
- In considering a Discretionary Activity the Council's discretion is unrestricted, with no specific exemptions applying. Any assessment will therefore be subject to the normal tests for notification under the RMA.

#### 6.1.4 Christchurch

- Reflecting the Statement of Expectations and Objective 3.3.2 of the Strategic Directions chapter, which seeks to 'minimise' the requirements for notification and written approval, the Plan includes non-notification provisions, providing greater certainty and reducing the risk of additional costs/ time. Notwithstanding this, it was recognised that it does not "*give licence to arbitrarily dispense with notification. As s76 makes clear, the rules must ultimately serve the relevant functions and achieve the applicable objectives and policies*"<sup>19</sup>.
- As is discussed earlier in this report, the Panel applied a philosophy to notification based on the effects i.e. where effects of an activity relate to the streetscape or public realm, applications are not subject to notification or non-notification e.g. design assessment, while effects likely to impact on immediate neighbours enables limited notification (but not public notification) e.g. Recession plane breach. The tests of S95A-E otherwise apply.
- The approach described is consistent across the plan regardless of the zoning.

#### 6.1.5 Queenstown Lakes District Council

- In a general sense, proposals for new development in the LDR, RMDR, HD and Town Centre zones which infringe one or more of the relevant Permitted Standards, will be subject to the normal tests for notification under the RMA. The Plan notes that Controlled Activities and activities that breach standards in relation to access, site coverage or outdoor space will not be notified.

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<sup>19</sup> <http://www.chchplan.ihp.govt.nz/wp-content/uploads/2015/03/Residential-Stage-1-decision.pdf> paragraph 81.



## 7 Analysis of District Plan 'Development / Performance Standards'

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### 7.1 Density and Subdivision Standards

#### 7.1.1 What is the purpose of Density and Subdivision Standards in District Plans

Density and subdivision controls have typically been utilised to set a structure or pattern for the anticipated or desired character anticipated in particular residential zones. The rules are typically applied on the basis of stipulating the required amount of land area, specific to a dwelling (e.g. a requirement of one dwelling per 600m<sup>2</sup> / minimum subdivision lot size of 600m<sup>2</sup> per site). While these rules have been common-place in District Plans for a number of years, they have also been utilised by other associated industries, in particular real estate agents and valuers, as a 'quick proxy' indicator of a site's potential developable capacity, and therefore its potential value. The 'density' rules have typically strongly favoured the delivery of stand-alone, single dwellings (rather than multi-unit and high-density housing typologies), by virtue of the 'one dwelling per XXm<sup>2</sup>' nature of the rule.

#### 7.1.2 Overview observations of Density and Subdivision Standards

##### 7.1.2.1 Auckland Unitary Plan

- The Plan identifies minimum lot size requirements and specific subdivision standards, generally for 'vacant lot subdivision'. For development proposals which would include both a land use (the establishment of the residential activity / physical built dwellings) and subdivision component, the provisions provide for the ability to undertake a 'subdivision in accordance with an approved land use consent' as a Restricted Discretionary Activity. This approach allows the design, bulk and location elements of a proposal to primarily be assessed and addressed once – through the 'land use' consent approval process. Once all potential adverse effects have been assessed as part of the land use consent approval, then the provisions anticipate and provide for a simpler and more enabling subdivision process, whereby the only assessment to be undertaken with regard to the subdivision component of a proposal is the extent to which it is consistent with the land use component which has already been approved.
- In practice this would enable a concurrent, single resource consent application which would include both the 'land use' and subdivision aspects to be considered and assessed together as one overall development proposal.
- The subdivision rules of the Plan appear to have not provided for an equivalent, more enabling subdivision process where residential development proposals can comply with all relevant zone 'bulk and location' standards, and therefore do not trigger the need to obtain a 'land use' resource consent approval for the development of new dwellings. In such a circumstance, undertaking the subdivision component of the proposal would be considered and assessed as a full Discretionary Activity.

##### 7.1.2.2 Hamilton

- The Operative District Plan treats most forms of subdivision as a Restricted Discretionary activity, including when non-compliance with standards exists (including density/minimum lot sizes). Minimum lot sizes are set in accordance with the density standards for consistency within the various zones, being 400m<sup>2</sup> per lot in the General Residential Zone (and for duplexes 200m<sup>2</sup> per dwelling), and 350m<sup>2</sup> in the Residential Intensification Zone. Subdivision in the Central City Zone and the Business 5 Zone tends to be unit title subdivision rather than creation of freehold lots.

- For development proposals which would include both a land use (the establishment of the residential activity / physical built dwellings) and subdivision component, the provisions provide for the ability to undertake a 'subdivision in accordance with an approved land use consent' as a Restricted Discretionary activity. This typically applies in situations of duplex developments and apartments where the subdivision layout and lot sizes is expected to be 'in accordance' with the approved land use consent (the usual practice is a consent notice is applied to titles linking their development to the approved land use consent).

#### 7.1.2.3 Tauranga

- The Operative District Plan provides for subdivision in compliance with minimum lot sizes for the respective zones as a Controlled activity. Minimum lot sizes are set in accordance with the density standards for dwellings within the various zone provisions for consistency.
- The minimum lot sizes for the Suburban Residential Zone is 325m<sup>2</sup> per lot, for the High density Residential Zone the lot size is a 100m<sup>2</sup> minimum, and for the City Living Zone the minimum lot size is 200m<sup>2</sup>.
- There are no minimum lot sizes applying to the City Centre Zone or the Commercial Zone, in recognition that subdivision in these zones serves a different purpose and is often unit title subdivision rather than freehold subdivision. There is a general requirement that, for any subdivision, for the creation of any allotments of 1500m<sup>2</sup> or less that the potential adverse effects of subdivision are able to be managed on-site in accordance with Permitted Activity rules.

#### 7.1.2.4 Christchurch

- Provisions on density and subdivision are atypical of other District Plans with minimum lot size requirements for residential density and subdivision. Residential zones in suburban areas (Residential Suburban and Residential Suburban Density Transition zones) have minimum requirements for density and subdivision to "*maintain the anticipated built and neighbourhood outcome for a low density residential environment*" (Residential Section 32 report<sup>20</sup>).
- Through Councils section 32, there was considered to be sufficient opportunity for future infill and redevelopment while not affecting the suburban character of the Residential Suburban zone e.g. Provision for existing houses to be converted into two residential units; small residential units (Minor) being able to be built on the same site as the main house.
- The alternative of not having a low density zone with associated provisions to control density was not considered 'feasible', having regard to the need and demand for such environments and there not being the necessity to enable development at higher densities to ensure sufficient provision. Notwithstanding this, an alternative considered was to apply a 'mixed density approach' of providing for a greater mix of housing across suburban areas. This was not considered appropriate in Council's section 32 having regard to the potential effects on adjoining properties, the lack of certainty on the local character and amenity and potentially compromising objectives for intensification around commercial centres (which was seen as improving the viability and supporting growth of centres). The Panel agreed with the proposal in stating that "*zoning classes and mechanisms that explicitly provide for different densities assist to achieve Strategic Objective 3.3.4(b) in that it allows for "...a range of housing opportunities...including a choice of housing types, densities and locations". By reflecting the established*

<sup>20</sup>

<http://resources.ccc.govt.nz/files/TheCouncil/policiesreportsstrategies/districtplanning/districtplanreview/Section32ResidentialChapter.pdf>

*patterns of residential development across the City, the zoning classes also assist in maintaining and enhancing amenity values (to which we must have particular regard: s7(c) RMA)<sup>21</sup>.*

- The Council's Section 32 describes site density, building height and site coverage as “effective methods of establishing or maintaining the desired character of neighbourhoods in terms of the amount of openness, scale and height of buildings”. On this basis, no changes were proposed to the operative rules<sup>22</sup>.
- The extent to which a site density control precludes opportunities for a range or choice of housing in suburban areas was not considered from review of the section 32 report, although as discussed earlier, there was an alternative assessed of providing for a mix of densities in suburban areas.
- It is recognised that the alternative of no site density controls can result in adverse effects without appropriate controls on density, particularly in terms of character and amenity. However, it can be achieved through other methods as is discussed later in the report.
- The Residential Median Density zone has no minimum site density requirements, providing flexibility to accommodate a range of housing types as anticipated in the zone. Notwithstanding this, there is a minimum lot size for subdivision of 200 m<sup>2</sup>, which can have the effect of limiting opportunities.
- In addition to the site density rule, the previously operative City Plan had a residential floor area ratio (RFAR), which was removed as part of the plan review. In a review of the provisions and their effectiveness (Appendix 5 to the Section 32<sup>23</sup>), it was found that the permitted RFAR is “*forming a target and forcing amenity related standards to be compromised in favour of theoretical density*”.

#### 7.1.2.5 Queenstown Lakes District Council

- The Plan identifies minimum lot size requirements and specific subdivision standards, generally for ‘vacant lot subdivision’. For development proposals which would include both a land use (the establishment of the residential activity / physical built dwellings) and subdivision component, the provisions provide for the minimum lot requirement to be disregarded in circumstances where there is already a dwelling on each lot to be created, or a certificate of compliance/resource consent has been issued for additional dwellings.

## 7.2 Height / Height in Relation to Boundary (HiRB) Standards

### 7.2.1 What is the purpose of Height / HiRB standards in District Plans

Height controls and height in relation to boundary controls together effectively set a three dimension building envelope within residential zones. They are very common standards that all residential zone provisions within the country have. The specific height limits, and in particular how height in relation to boundary controls are written will vary between district, but the essential premise of the standards appears to remain the same. The rationale for different residential zone height limits and height to boundary standards appears to reflect local historical planning provisions, rather than there being a robust reason for variation. There do not appear to be differentiating factors in different parts of the country that should dictate differing standards in district plans, and this does appear an area where national planning instruments could be used.

<sup>21</sup> <http://www.chchplan.ihp.govt.nz/wp-content/uploads/2015/03/Residential-Stage-1-decision.pdf>

<sup>22</sup>

<http://resources.ccc.govt.nz/files/TheCouncil/policiesreportsstrategies/districtplanning/districtplanreview/Section32ResidentialChapter.pdf>  
f. Page 72

<sup>23</sup> <http://resources.ccc.govt.nz/files/TheCouncil/policiesreportsstrategies/districtplanning/districtplanreview/Appendix5-DesignControlsReview.pdf>

Particularly for method of calculation, being 'ground level' for height measurements, and the angles for height in relation to boundary measurements.

## 7.2.2 Overview observations of Height / HiRB standards

### 7.2.2.1 Auckland

- Maximum building heights differ across the residential and business (Mixed Use and Town Centre) zones. As a general guide:
  - Single House and Mixed Housing Suburban = provides for building up to two storeys in height (9m);
  - Mixed Housing Urban = provides for buildings up to three storeys in height (12m);
  - Terrace Housing and Apartment Buildings = provides for buildings up to five storeys (16m), with the ability to achieve up to six or seven storeys in identified locations;
  - Mixed Use = provides for buildings up to five storeys (18m), with ability to achieve greater buildings heights in identified locations; and
  - Town Centre = provides for a range of differing building heights, specific to each town centre, ranging from 13m to 27m.
- There are instances where building heights are limited certain town centres – locations often served by high levels of community facilities and services as well as public transport networks – which would otherwise be considered to be appropriate locations for higher-density intensification. Heights are restricted in these specific town centres (Parnell, to name one example, which is typically limited to three – four storeys) to recognise historic character values associated with these locations.
- The Single House zone applies a single, traditional 'height in relation to boundary' (HiRB) control, aimed at providing for a building envelope typically associated with a two-storey, stand-alone dwelling.
- A range of HiRB controls are provided for in the MHS, MHU and THAB zones, which seek to recognise the need for – and assist in the delivery of – a variety in the range of housing typologies (e.g. stand-alone dwellings, terraces as well as apartments) which are anticipated in these zones. The MHS zone utilises two controls (a 'typical HiRB' control, along with an 'Alternate HiRB' control, targeted at providing for 'attached dwelling' typologies such as flats / units, duplexes and low-rise terraces). The MHU and THAB zones utilise three different HiRB options (being a 'typical HiRB' control, an 'Alternate HiRB' control, as well as a 'HiRB adjoining lower intensity zones' control – being mindful of potential visual dominance and amenity effects at the boundary interface where a 'lower order' zone, such as MHS, directly adjoins a 'higher order' zone, such as MHU or THAB).
- This provision of variety in the HiRB controls / approaches has been mindful of wanting to achieve a range of varying built form /typology outcomes and not have one standardised / generic control determine or lead the potential delivery of one predominant residential typology (e.g. traditional application of one standardised HiRB control for each residential zone generally favoured and encouraged two-storey, stand-alone dwellings in favour of enabling a range of typologies). Providing optionality in the application of these HiRB controls is considered to better enable and provide for the delivery of a range of different housing types in these zones.

### 7.2.2.2 Hamilton

- In the Hamilton context, Council recognised that a more permissive height limit would enable larger dwellings on less land, and is one of the responses to housing supply issue in the city. The height limit in the General Residential Zone increased to 10 metres (from 8 metres in the previous district plan) and 12.5 metres in the Residential intensification zone. Historically within Hamilton the majority of dwellings were single storey, and hence were more land-hungry. The city has experienced a significant lessening of lot sizes in newer subdivisions relative to a decade ago (generally from 800m<sup>2</sup> to 600m<sup>2</sup> as a median), and this has tended to prompt an increase in double-storey dwellings to accommodate larger dwelling

size. The Operative District Plan responded to this with an increase in the maximum height. Height limits within the commercial zones are reasonably permissive and reflect the built form of those locations.

- In respect of the height to boundary standards, a standard of a 3m + 45° angle is a fairly typical district plan standard. An innovation in the Operative District Plan is for the height to boundary standard in the residential zones to only apply in General Residential zone or Special Character zone boundaries, with no height to boundary standard within the Residential Intensification Zone. This may indicate that as residential areas of cities intensify over future decades, that height to boundary standards may not be applied at all, as Councils appear to be recognising that height to boundary is mainly relevant in neighbourhoods with detached housing as the predominant built form.
- Arguably height and height to boundary standards have some role to perform in terms of streetscape issues in avoiding pseudo-terraces of buildings along street frontage, although in most section 32 reports the rationale is cited as being to avoid overshadowing on adjacent properties, and for sunlight protection. It is likely as terraced housing becomes a more typical form of residential development that height to boundary standards in particular may become less common.

### 7.2.2.3 Tauranga

- In the Tauranga context, a different standard in residential zones applies of a 2.7m + 55° angle applies. This serves to demonstrate that the differences between district plans appears to reflect historical district plan standards, rather than an appreciable environmental reason for different standards. Also somewhat unusually the Tauranga Operative District Plan has commercial zone height to boundary standards also, with a 12m + 45° angle for the City Living zone, and in the City Centre zone a requirement that 'buildings must meet height to boundary controls allowing sunlight into city centre public spaces at noon on 21 June'. These appear to reflect historical district plan provisions in the city, rather than appreciable local characteristics.
- Height controls in the Tauranga context are 9 metres for residential zones, and between 9 and 19 metres for the commercial zones. These are somewhat more restrictive than the Hamilton limits, but are likely to reflect the age of the district plan. In the upcoming review there will be an expectation that these height limits will be reviewed and likely raised.

### 7.2.2.4 Christchurch

- The height provisions for the Residential Suburban (8m) and Residential Medium Density zones (11m) reflect the scale of development anticipated in each zone. As stated in the section 32 report, "*The greater dominance of buildings expected within medium density areas (resulting from more permissive building heights, recession plane intrusions, and smaller outdoor living space and boundary setbacks) can be a significant visual contrast to the character of low and more traditional residential areas*"<sup>24</sup>.
- The rules are carried over from the operative plan on the basis that they are reflective of the built form and density expected for each zone. There is also comment in the section 32 report that the existing rules "*adequately provide for a broad range of multi-unit developments (i.e. townhouse and apartments)*". In effect, there is assumed to be no change in the outcomes sought relative to the operative plan.
- In terms of controls to manage shading effects on adjoining property, a review found that minor recession plane intrusions generated a significant number of resource consent applications. In response to the Statement of Expectations, Council introduced a revised recession plane rule, allowing for intrusions of 0.2m for gutters and eaves) in an effort to reduce unnecessary consents where the outcome is "*predictable and acceptable (as evidenced by granted consents under the Operative Plan)*".

<sup>24</sup>

<http://resources.ccc.govt.nz/files/TheCouncil/policiesreportsstrategies/districtplanning/districtplanreview/Section32ResidentialChapter.pdf> (p48)

- In respect of alternatives, Council considered lifting the recession plane angle starting height from 2.3 to 2.5 metres, for which there was insufficient evidence to support the change. A review of proposals found a change to the recession plane starting height would not reduce the requirement for resource consents.
- There is recognition in the section 32 report that “Height and recession plane rules together place the greatest limitation on the amount of development that can be accommodated on a site.” The costs of setting unreasonable controls are described, namely reducing development potential and having associated costs. An “Economic Impact Analysis” was carried out by Council to consider the potential costs of the provisions, which was largely qualitative and concluded that the “net monetary cost of the built form standards to be neutral or near neutral”. However, this does not take account of all of the built form standards.
- Height limits for the Central City Mixed-use zone and Central City Residential zones reflect the provisions introduced by the Christchurch Central Recovery Plan, which the Christchurch District Plan could not be inconsistent with. The status quo was essentially carried over into the proposed district plan.

## 7.3 Private Outdoor Living Space Standards

### 7.3.1 What is the purpose of Private Outdoor Living Space standards in District Plans

In many respects the outdoor living space requirements found in most district plans reflect a general public health concern that each dwelling should have easy access to an outdoor area for the health and well-being of residents. This reflects that improving public health outcomes was one of the early tenets of town planning in the early twentieth century. IN this sense outdoor living space requirements are similar to height in relation to boundary controls which seek to ensure sunlight is received into properties, without undue shading by adjacent buildings.

### 7.3.2 Overview observations of Private Outdoor Living Space standards

#### 7.3.2.1 Auckland

- A consistent approach is applied across the MHS, MHU and THAB zones, where ground level open space provision is required for a minimum area of 20m<sup>2</sup> (with no dimension less than 1.8m). For dwellings above ground floor, there is a requirement for provision (via either a balcony, patio or roof terrace) for a minimum of 5m<sup>2</sup> – 8m<sup>2</sup> (based on size of dwelling). These requirements for on-site provision of open space are not considered to be a constraint or problematic to achieve in residential developments – given their relatively small size.
- A key element which is missing from the Plan could be how the provision could better anticipate and enable the delivery of shared on-site open space (as opposed to individual unit provision) for high-density multi-unit developments.
- In addition, the current provisions do provide the ability for the on-site provision to be waived – but only in the MHU and THAB zones – with such waivers directly linked to the proposed size of the internal floor areas of the dwelling. Further consideration could be given to how the provisions could provide for on-site reductions or ‘waivers in full’ – with such reductions / waivers being linked to the existing provision / availability of off-site, public open spaces within close proximity to the application site.

#### 7.3.2.2 Hamilton

- In the Hamilton context, ‘outdoor living areas’ are required in the residential zones with a minimum size, minimum dimensions (to ensure good useability), are accessible from the dwelling, and are located to the north, east or west of the dwelling to ensure sunlight is received. A provision enabling communal outdoor living areas is also provided to provide for shared outside space for a multi-unit development. It is apparent from the plan-making documents that these provisions were largely ‘rolled over’ from previous



district plans, and that their rationale is to ensure a suitable on-site amenity is created for residents. The provisions are also a common set of standards found in many district plans. There does not appear to be any rationale in relation to managing any off-site amenity issues given site coverage controls perform that function.

- Interestingly, smaller outdoor living areas are required for apartments above ground level, being 12m<sup>2</sup>, as opposed to 60m<sup>2</sup> for detached dwellings and duplexes. Whilst an argument could be made that detached dwellings tend to be larger in floor area, this is not necessarily the case and occupant demand for outdoor living area could be quite similar between the housing typologies. Also central city apartments arguably require lesser amounts of outdoor living space, due to the proximity of central city amenities. However, duplex dwellings and apartments located in the Residential Intensification Zone only have a requirement for 12m<sup>2</sup> outdoor living areas, whilst the same building typologies in the General Residential Zone have a minimum area of 60m<sup>2</sup>. This would tend to indicate that some of the rationale for the particular areas are questionable, and that there is scope to review what extents genuinely are a minimum for occupant health and wellbeing. Given that along with on-site car parking, outdoor living areas are the largest rule-based land area requirement, it certainly seems worthy of further consideration. Particularly given that health and wellbeing matters are not a local issue that would vary from city/district to city/district, this could be useful territory for a national planning instrument.

### 7.3.2.3 Tauranga

- In the Tauranga context, there is wider variation in the standards applied, with not particularly strong rationale for those variations. The Suburban Residential zone is based on 50m<sup>2</sup> minimum area with a minimum dimension, can partially be located within a balcony area, needs to be directly accessible from main living area of dwelling, and can be reduced in size as a Controlled Activity. Conversely, the City Living Zone has a reduced area of 30m<sup>2</sup>, in recognition of the proximity to central city amenities. As with Hamilton, the rationale for outdoor living areas being different within different zones, for effectively the same activities does not appear to be robust.

### 7.3.2.4 Christchurch

- Controls including outdoor living space (and boundary setbacks) are described in Council's section 32 as controlling on-site amenity and street scene, rather than the overall neighbourhood amenity. However, there is also recognition of the contribution such provisions make to achieving a high-quality neighbourhood. It is cited as the only rule alongside car parking requirements that control on-site amenity and were found to be effective in Council's section 32 report. The outdoor living space provisions were therefore carried through into the proposed plan largely unchanged for the Residential Suburban and Residential Medium Density zones<sup>25</sup>. One change was "*reduced outdoor living requirements for single bed units to better reflect the needs of occupants and increase affordability*", with 16m<sup>2</sup> of outdoor living space required compared to 30 m<sup>2</sup> for a 2 bedroom unit.
- While the outdoor living space rules were identified as generating a large number of resource consent applications, the non-compliances were context specific and related to the specific house and site layout. An adjustment to the provision was therefore found to not necessarily reduce the requirement for resource consent.

<sup>25</sup>

<http://resources.ccc.govt.nz/files/TheCouncil/policiesreportsstrategies/districtplanning/districtplanreview/Section32ResidentialChapter.pdf>

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## 7.4 Outlook Space / Privacy and Daylight Standards

### 7.4.1 What is the purpose of Outlook Space / Privacy standards in District Plans

Outlook Space / Privacy and Daylight / Sunlight access standards are generally focussed on managing the following key residential amenity matters:

- visual dominance effects within a site by ensuring that habitable rooms have an outlook and sense of space;
- to ensure a reasonable standard of visual privacy between habitable rooms of different buildings, on the same or adjacent sites; and
- to ensure adequate daylight for living areas and bedrooms in dwellings.

### 7.4.2 Overview observations of Outlook Space / Privacy standards

#### 7.4.2.1 In the Auckland context:

- A key point to note is, while the residential zone provisions typically sought to apply the 'philosophical approach' of applying a suite of 'core development controls' which specifically sought to manage the potential for adverse amenity effects to immediately adjoining properties – both the Outlook Space and Daylight standards included in the Plan have (as a focus of their stated 'purpose') a desire to 'manage visual dominance effects within a site'. This generally runs counter to the wider 'philosophical approach' adopted for the wider residential zone provisions, where it was considered and determined that, generally, on-site amenity effects could be better managed through a more flexible design assessment process (through the assessment framework), than through the application of prescribed standards.
- Both the Outlook Space and Daylight Standards are quite detailed and technical, creating potential difficulties (for those unfamiliar with planning and/or architecture) with how to interpret and apply these standards. Given their technical nature, as well as their inability to provide for flexibility (as is often required for sites of different sizes, shapes and topographies), further consideration could be given as to whether achieving the outcomes sought by these standards (as noted in their 'purpose' statements) could be better enable through an 'assessment framework' approach, where proposals could be assessed against identified assessment criteria which seek to manage matters such as maintaining privacy and managing the potential for visual dominance effects. Furthermore, particularly for the Daylight standard (or other standards which seek to manage issue of privacy), these types of standards appear to anticipate a scenario where windows are unstructured / completely open – without consideration of how people generally manage such issues on a day-to-day basis in their homes (e.g. via the common use of blinds or curtains, which can have wider benefits such as for energy / heating efficiency, as well as for managing privacy between windows of adjoining dwellings / buildings).

#### 7.4.2.2 In the Hamilton context:

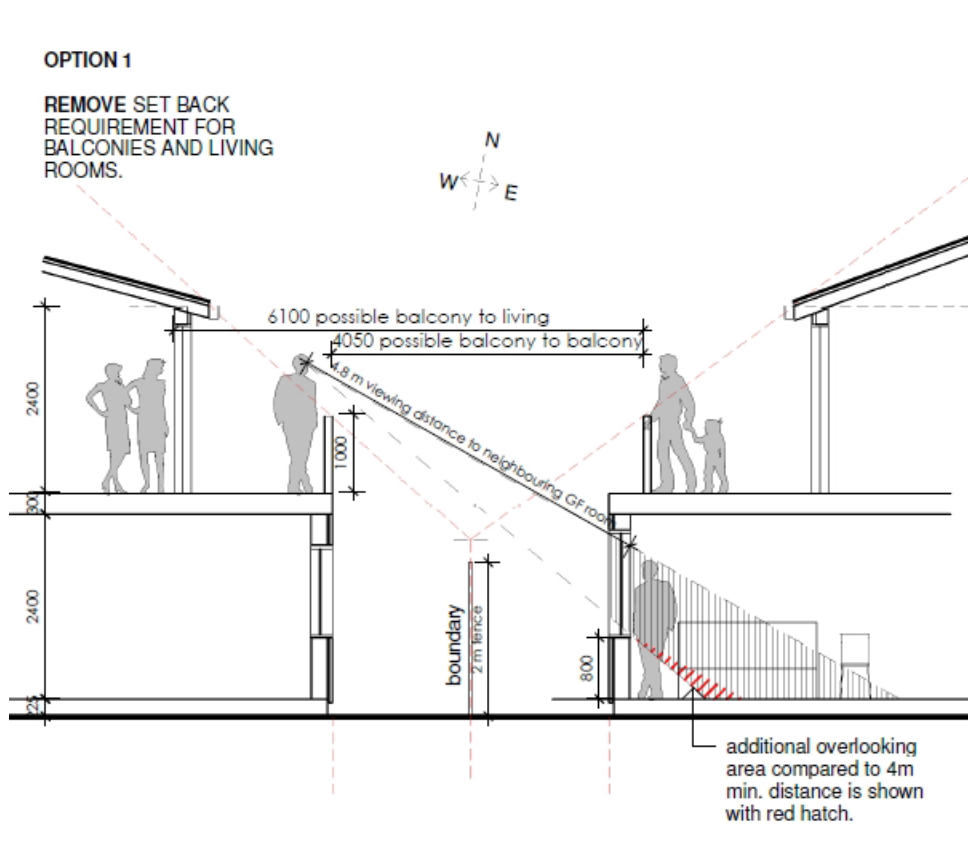
- The privacy provisions are relatively simple and apply both within a property where there are multiple detached dwellings, and with adjoining sites. The impact of the provisions tends to be in respect of upper level balconies and windows from habitable rooms, which are fairly detailed design matters. The provisions do not appear to inhibit density from occurring and do promote consideration of privacy impacts on nearby dwellings. The privacy provisions are largely unchanged from previous district plans, and in that sense are well settled and well understood amongst the local development community.
- There no daylight/sunlight controls within the Hamilton district plan, but effectively building setback standards, height in relation to boundary standards, and height standards collectively do achieve maintenance of daylight levels in a de facto manner.

### 7.4.2.3 In the Tauranga context:

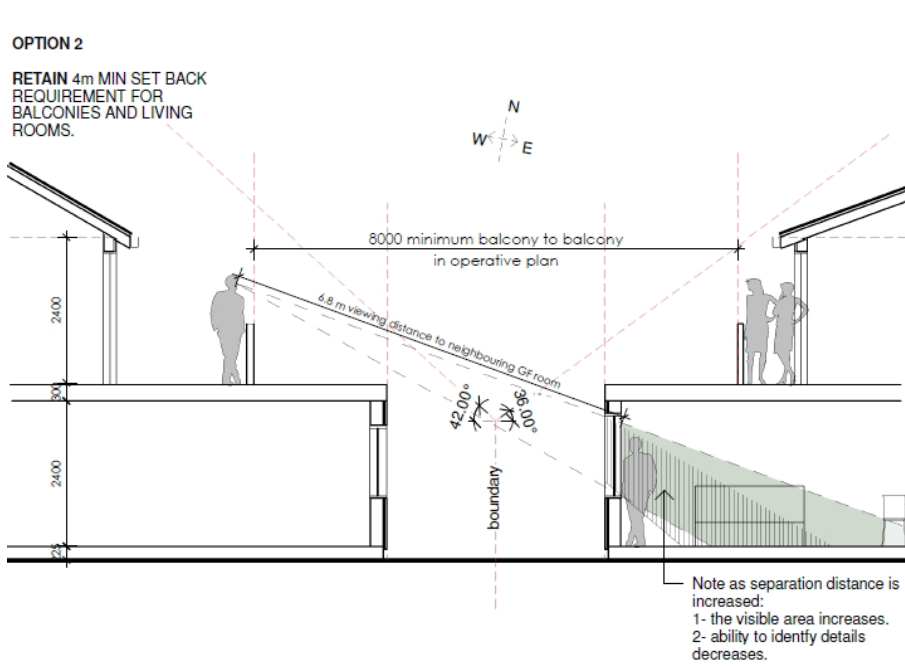
- Privacy standards and daylight controls do not feature greatly, particularly in the residential zones. The standards as they apply to the City Living zone are relatively complex and difficult to administer. The upcoming district plan review provides an opportunity to re-consider the purpose of these rules and the detail of the provisions, including where they do not currently exist for some of the zones.

### 7.4.2.4 Christchurch

- The Council in its section 32 report noted that setbacks of balconies and living space windows from internal boundaries were effective in maintaining amenity, outlook and privacy, which would otherwise be compromised due to the high level of detail that is potentially visible across boundaries. The operative provisions were therefore carried through into the proposed plan unchanged for the Residential Suburban, Suburban Density Transition and Medium Density Zones. The following images seek to demonstrate Council's basis for retaining controls (Source: Appendix 5 to Section 32 report<sup>26</sup>).



<sup>26</sup> <http://resources.ccc.govt.nz/files/TheCouncil/policiesreportsstrategies/districtplanning/districtplanreview/Appendix5-DesignControlsReview.pdf>



- Controls on privacy were considered in a review of provisions while noting that the status quo was retained due to the short timeframe for the consideration of alternatives. A plan change prior to the district plan review had considered the appropriate means of managing effects on privacy and proposed a distance of 12m separating two adjoining buildings. However, this was not supported due to the concern of Council/ commissioners over the potential reduction in density.
- Rules for managing effects on privacy are generally consistent across the residential zones reviewed. Like Auckland, the rules can be perceived as complex and difficult to interpret, an example being the following for the Residential Central City zone:  
*"Parts of a balcony or any window of a living area at first floor level or above shall not be located within 4 metres of an internal boundary of a site, except that this shall not apply to a window at an angle of 90° or greater to the boundary, or a window or balcony which begins within 1.2 metres of ground level (such as above a garage which is partly below ground level)."*

#### 7.4.2.5 In the Queenstown Context

- Only the LDSR zone contains a rule requiring a minimum separation between buildings on the same site. This directly relates to the scale, intensity and character of buildings within the zone and the identified priority of maintaining a suburban level of amenity values in the zone, and the Panel considered that the requirement for separation should be equivalent to what would be required for buildings separated by a legal boundary.

## 7.5 Car Parking Standards

### 7.5.1 Overview observations of Car Parking standards

#### 7.5.1.1 Auckland Unitary Plan

- The Unitary Plan adopted a new philosophical approach with regards to how car parking was to be provided for particular activities, in particular more intensive residential activities, when compared to the previous approach adopted through the various 'legacy' District Plans;

- The traditional approach had typically required the provision of a 'minimum parking requirement' for new development (e.g. a minimum of two off-street carparks to be provided for each new residential unit);
- The Unitary Plan sought to adopt a more flexible approach to the provision of carparks associated with particular activities, with a focus on the provision of parking which would support urban growth and a quality compact urban form, as well as the efficient use of land. The Plan also sought to provide a flexible approach to the provision of car parking (including the ability for shared parking and off-site parking provision) as a means to reduce incremental and individual-site parking provision;
- In relation to residential activities in the identified 'key urban zones', the following car parking standards now apply in the AUP:OP:
  - In the Town Centre, Mixed Use and THAB zones = no minimum or no maximum car parking requirement;
  - In the MHU zone = no minimum or maximum requirement for studios and 1 bedroom units, with a minimum of 1 carpark and no maximum required for dwellings of two or more bedrooms;
  - In the MHS zone = a minimum of 0.5 parks per dwelling for studios and 1 bed units with no maximum requirement, and a minimum requirement of 1 car park per dwelling and no maximum requirement for dwellings of two or more bedrooms; and
  - In the Single House zone = a minimum requirement of 1 car park per dwelling, with no maximum requirement.

#### 7.5.1.2 Hamilton

- The Operative District Plan is in most respects based on a simple framework of on-site car parking requirements set for each land use 'activity', irrespective of zoning. The primary exception to this is in respect of the Central City zone (see below). In other zones, 'detached dwellings' and 'duplex dwellings' each have a requirement for two on-site parking spaces per dwelling, with 'apartments' and 'ancillary residential units' having a requirement for one on-site parking space per dwelling. The rationale for the differentiation is the anticipated size of the residential unit, with apartments and ancillary residential units typically being much smaller.
- Whilst this is simple to understand and apply, it does mean there is no recognition of the differing locational characteristics of particular zones or parts of the city. For example, parking requirements are not reflecting factors such as distance to public transportation hubs, transport corridors, and proximity to suburban centres. Given that car parking can be a significantly land-hungry design element, it may be appropriate in some locations to adopt an explicit trade-off with lesser parking provision and higher densities.
- The Central City Zone has an entirely different approach to car parking that seeks to be highly enabling. All 'residential activities' in the zone have a zero on-site car parking requirement. This recognises the accessibility and locational characteristics of central cities that make on-site parking provision less important, and serves to encourage higher densities. The 'on the ground' experience however is that developers are wary of not providing car parking, and that despite the absence of any requirement, on-site car parking is being provided in recent apartment developments in the zone.

#### 7.5.1.3 Tauranga

- The Operative District Plan is based on some differentiation between zones. The City Centre Zone has no on-site car parking requirements for any activity, including residential dwellings. This recognises the agglomeration effect of the concentration of commercial, residential, hospitality and other land uses within the central city, and the public transport hub within the central city.
- The Suburban Residential Zone has a requirement of two on-site parking spaces per detached dwelling, and one space per secondary residential dwelling (minor unit). This is fairly typical for suburban residential development parking standards.

- For the Commercial Zone, the City Living Zone and the High Density Residential Zone, the on-site car parking requirements are all based on a ratio with the number of bedrooms per dwelling (1 bedroom – 1.0 spaces, 2 bedrooms – 1.2 spaces, and 3 bedrooms – 1.5 spaces). Whilst there will be some practical difficulties with administering such a rule (given alterations and additions to dwellings over time), it provides a mechanism to link actual parking demand with the number of parking spaces.

#### 7.5.1.4 Christchurch

- Council's section 32 report referred to current (previously operative City Plan) rules as triggering a large number of resource consents, suggesting that the standards are not reflective of demands. Council therefore considered 5 options in respect of parking, being
  - status quo i.e. minimum parking standards;
  - Removal of minimum parking standards, relying on a requirement for an Integrated Transport Assessment where one is required;
  - Graduated minimum parking standards, varying according to location/ context;
  - Maximum parking standards; and
  - Updated minimum parking standards with exemptions for some commercial zones.
- CCC put forward the last option of updated minimum car parking standards, which included a reduction in car parking requirements for residential units less than 150m<sup>2</sup> relative to the previously operative City Plan. In addition, the proposed district plan included 'parking reduction factors', enabling a reduction in the minimum car parking requirement in some circumstances, such as where development is in proximity to public transport. While the parking reduction factors are appropriate in recognising the context that a development is within, the provisions themselves are complex as illustrated below:

	Factor	Description	Reduction from the minimum parking requirements
Permitted reductions (without the need for a resource consent)			
a.	Public transport accessibility	Located within a 400m walk of a public transport stop served by a public transport service <sup>1</sup> with a frequency of at least 15 minutes on weekdays between 7am and 6pm.	Between 0m and 100m: 10% reduction per service. Between 101m and 200m: 6% reduction per service. Between 201m and 400m: 3% reduction per service. Up to a maximum of 16%.
b.		Located within a 200m walk of a public transport stop served by a public transport service with a frequency of at least 30 minutes on weekdays between 7am and 6pm.	Between 0m and 50m: 5% reduction per service. Between 51m and 125m: 3% reduction per service. Between 126m and 200m: 1% reduction per service. Up to a maximum of 8%
c.	Public parking facility	Located within a 400m walk from an offstreet car park that is available for use by the general public.	Between 0m and 50m: 10% reduction. Between 51m and 200m: 6% reduction. Between 201m and 400m: 2% reduction.
d.	Walking accessibility	Located within a 400m walk of an identified commercial core zone (refer to Chapter 15):	Between 0m and 50m: 15% reduction. Between 51m and 200m: 10% reduction. Between 201m and 400m: 5% reduction.
e.	Access to a Major Cycle Route	Located within 1.2km of a Major Cycle Route.	Between 0m and 150m: 15% reduction. Between 151m and 600m: 10% reduction. Between 601m and 1,200m: 5% reduction.



The above is an excerpt from Appendix 7.14 of the Transport chapter appended to the Decision of the Hearings Panel 27.

#### 7.5.1.5 Queenstown Lakes District Council

Parking standards are included Transportation chapter notified as part of Stage 2 of the District plan review.

- The plan provides a standard rule in all zones that requires 1 park per residential flat and 2 parks per residential unit unless otherwise provided for in the exceptions.
- Exceptions to the rule relate to the High Density and parts of the Medium density zones. In the High Density Zone, the rules require 0.25 parks per studio unit/flat and 1 b/r unit, and 0.5 parks per unit for all others.
- Depending on the location in the MD zone, the rules apply slightly differently. For example, for units or flats in Arrowtown and Wanaka in the MD zone, parking is required at a rate of 0.7 parks per studio unit/ 1 b/r flat; 1 park per 2 b/r units; and 1 park per unit with 3+ bedrooms.
- Elsewhere in the MD Zone, the plan requires 0.5 parks per studio/flat, 1 b/r flat or 2 b/r unit/flat; and 1 park per unit/flat w 3+ b/r.

#### 7.5.2 Do these provisions promote quality built environments and do they enable or constrain the delivery of a greater diversity of housing at a range of price points?

##### 7.5.2.1 Enabling Elements

- The approach to the provision of car parking associated with new residential development, typically requiring either no car park (in the higher density zones) or the provision of a minimum of one park (in the lower density zones), is enabling a more efficient use of Auckland's residential land resource – essentially to encourage the provision of additional dwellings on a site, rather than requiring that valuable space to be used for on-site car parking provision.
- The provisions in the Operative Tauranga Plan within the City Centre Zone and the Commercial Zone are considered to be strongly enabling in terms of residential development. The lack of apparent uptake in central commercial areas of the city, despite the absence of any residential density or car parking controls, would appear to reflect low market demand for apartment development in those locations, and not any restraining impact of district plan provisions. If anything the ready supply of available and zoned greenfield land at suburban densities appears to be undermining the policy intent within the City Centre Zone and Commercial Zone to enable apartment development.

##### 7.5.2.2 Constraining Elements

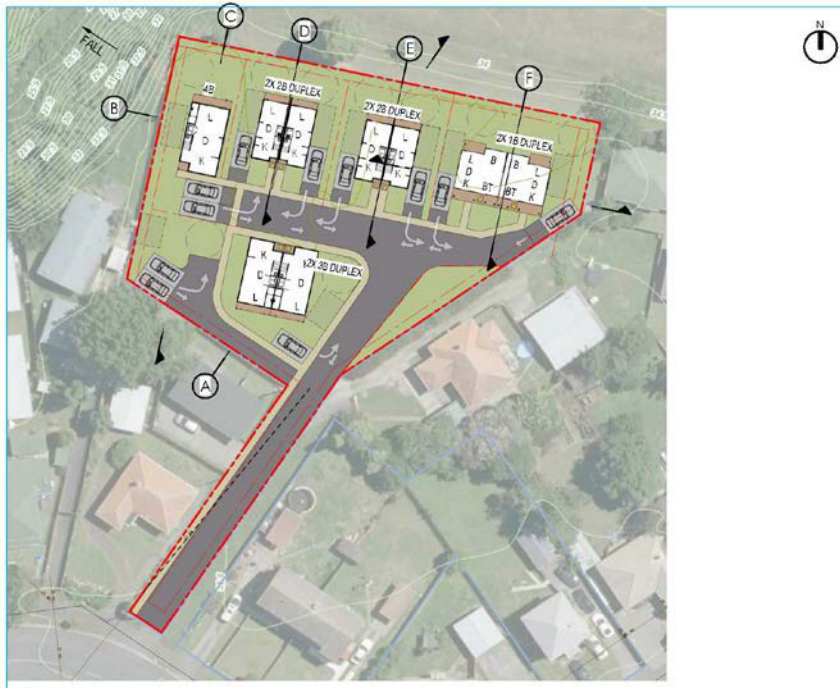
- An example in the Operative Hamilton Plan is that the car parking standards being applied city-wide based on types of dwellings (apartments, detached dwelling etc.) acts as a constraint, as it does not allow for location factors or number of bedrooms to be considered, except through the consenting process. Unnecessarily providing parking spaces on-site (if it is deemed unnecessary) comes at a significant cost for landowners or developers given the extent of land required, particularly in central city and central city fringe locations.

<sup>27</sup> <http://www.chchplan.ihp.govt.nz/wp-content/uploads/2015/03/Transport-Part-and-relevant-definitions.pdf>

### 7.5.2.3 The Spatial Application of Provisions and the extent to which they promote Quality Built Environments

Outlined below are a number of site-specific examples, from a range of locations / District Plans, which seek to demonstrate how different car parking requirements can impact the extent to which quality built form and intensification outcomes can be impacted in regard to residential dwellings.

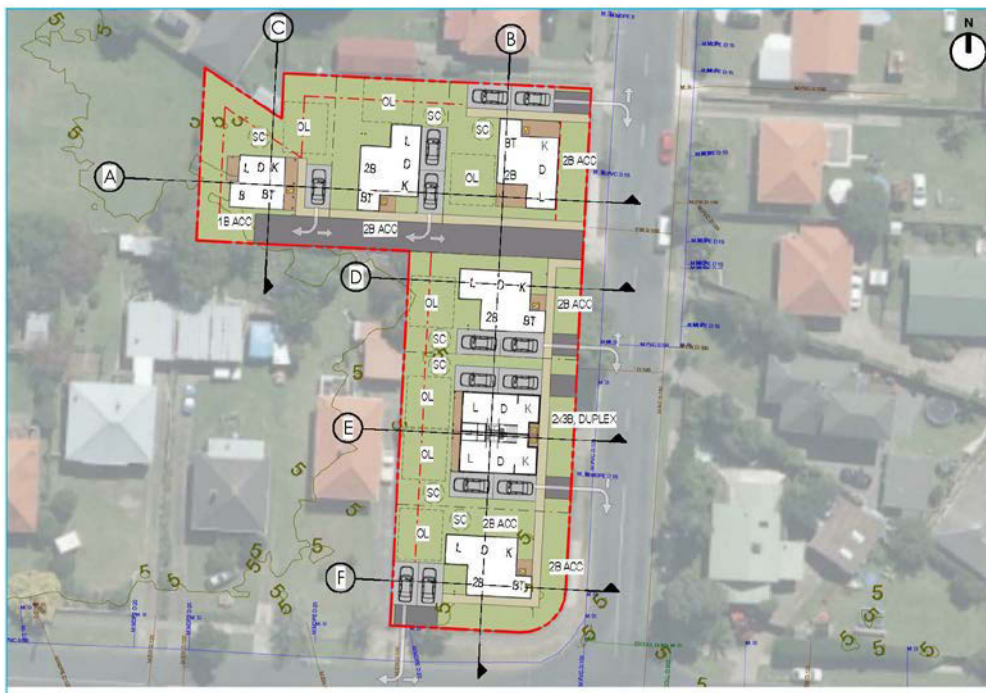
The first site example is located in Hamilton, and has a site area of approximately 3,040m<sup>2</sup>. The Hamilton District Plan requires one house per 400m<sup>2</sup> but if the houses are joined as a duplex then one house per 200m<sup>2</sup> is permitted. Below is an example how this allows more small units on a large site but does not compromise privacy or outdoor living areas.



Contrast the above example with another from the Far North District Plan development where, for this site, one unit per 600m<sup>2</sup> is the required density. The below development concept example would be a Restricted Discretionary activity under the Plan provisions. Note that the Plan requires a minimum of two car parks be provided per dwelling. This site is approximately 3,350m<sup>2</sup> in area, with a proposal for six new 2-bedroom units. There is a large area of unused land on these sites, which could be used more efficiently if the minimum density and car parking requirements were reviewed and enabled a potentially more efficient use of this land for new dwellings, in a multi-unit typology.



The below example demonstrates how more flexible outdoor living controls (in this instance, an example from Whakatane which requires only 40m<sup>2</sup> of outdoor living space per dwelling), can result in more dwellings being able to be provided (particularly in comparison to the existing, surrounding built form) on a larger site (approximately 2,500m<sup>2</sup>).



## 8 Analysis of District Plan Assessment Frameworks

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### 8.1 What is the role of 'Assessment Frameworks' in District Plans?

The 'assessment frameworks' we have reviewed and analysed relate to:

- Matters of control / discretion:
  - being the specific matters, in relation to Controlled / Restricted Controlled / Restricted Discretionary activities, where Council are required to identify and list in the District Plans the specific matters they will restrict their control / discretion to, in assessing such resource consent applications;
- Assessment criteria:
  - Being the listing of the specific criteria / stated outcomes which Council will assess and resource consent application against (typically assessing the extent to which a proposal is consistent with / achieves the stated criteria or outcome).

### 8.2 Overview Observations of Assessment Frameworks

#### 8.2.1 Auckland Unitary Plan

- The structure and format of the assessment framework (both 'matters of discretion' as well as 'assessment criteria') follows a general pattern whereby the 'Matters of discretion' do identify and list the specific matters which Council will restrict their discretion to when considering development proposals. The 'assessment criteria' then rely heavily on a structure which simply provides cross-reference linkages back to specific policies relevant to the zone / specific standards being infringed as well as to the identified 'purpose' statements in the Plan relevant to each standard being infringed.
- The general philosophy applied through this framework is to avoid or reduce unnecessary duplication of text within the Plan. Having development proposals assessed against the extent to which the proposal is consistent with policy direction / the 'purpose' of specific controls seeks to align the resource consent assessment process with the specific outcomes being sought in the zone (as set out through the policies etc), without the need to repeat these matters within the 'assessment criteria' of the zone provisions.
- In all the key urban zones reviewed (the four residential zones as well as the Mixed Use and Town Centre zones), the 'matters of discretion' in the Unitary Plan specifically require that multi-unit (four or more dwellings) proposals consider:
  - The effects on the neighbourhood character, residential amenity and safety of the surrounding residential areas (as well as public spaces, particularly for the Mixed Use and Town Centre zones) from:
    - Building location, intensity, scale, location form and appearance;
    - Traffic;
    - Design of parking and access; and
    - Noise, lighting and hours of operation (primarily for proposals seeking approval on non-residential land uses).
- Within the provisions of the MHS and MHU zones, development proposals for four or more dwellings are also assessed against the following criteria which are of particular note:
  - The extent to which the development contributes to a variety of housing types in the zone and is in keeping with the neighbourhood's planned suburban built character by "limiting the height, bulk and form of development and managing the design and appearance as well as providing sufficient setbacks and landscaped areas";
  - The extent to which development achieves attractive and safe streets and public open spaces;
  - The extent to which the height, bulk and location of the development maintains a reasonable standard of sunlight access and privacy and minimises visual dominance to adjoining sites; and

- In relation to infrastructure and servicing, whether there is adequate capacity in the existing stormwater and public reticulated water supply and wastewater network to service the proposed development and, if not, whether adequate mitigation is proposed.
- It is also worth noting that the specific detail of the assessment criteria noted above for the MHS and MHU zones are not repeated or reflected in an equivalent manner within the assessment criteria for the THAB zone. Within the THAB provisions, the assessment of development proposals for new dwellings as well as for 'Integrated Residential Development', relies heavily on cross-references back to specific policies of the zone and 'purpose' statement for particular standards (e.g. building coverage, daylight, outdoor living space etc).

### 8.2.2 Hamilton

- The structure and format of the assessment framework (being both 'matters of discretion' as well as 'assessment criteria') is consistent throughout the Operative District Plan. The assessment framework is based on a series of topic headings that then cross-reference to those same topic headings within the various zone and rule chapters. The assessment framework itself is located in a consolidated form in a single location within the Operative District Plan.
- The general philosophy applied through this framework is to avoid unnecessary duplication of text within the Operative District Plan, by repetitive inclusion within individual chapters. Topic headings are 'design and layout', 'character and amenity', and 'natural character and open space', as examples. Under each heading are between ten and twenty individual points of assessment, some or all of which may be relevant in individual circumstances.
- The Operative District Plan relies heavily on activities being either Permitted or Restricted Discretionary activities, with relatively few examples of Controlled activities, Discretionary activities or Non-Complying activities. The same set of assessment framework headings are used for Restricted Discretionary, Discretionary and Non-Complying Activities.

### 8.2.3 Tauranga

- The structure and format of the assessment framework is what would be described as a more traditional model of 'matters of control' (for Controlled activities), 'matters of discretion' (for Restricted Discretionary activities) and 'assessment criteria' for decision-making more generally being located within each chapter of the Operative District Plan. Some cross-referencing is used to attempt to avoid duplication between chapters, but this is generally a less efficient and more weighty (in terms of words) approach. Generally plan-users would find this approach more difficult to follow and respond to, relative to the Operative Hamilton City approach described above.
- The Operative District Plan uses a wide spread of Controlled activities, Restricted Discretionary activities, Discretionary activities, and Non-Complying activities for various activities within plan chapters. There is also a wide degree of variability between plan chapters, making the Operative District Plan less predictable in terms of format and use of activity status.
- For Discretionary activities, the stated wording is that "*in considering a Discretionary Activity the Council's discretion is unrestricted. The Council will consider any relevant matter with particular regard to the relevant Objectives and Policies of the Plan.*" For applicants and plan-users this approach provides a low level of certainty as to what assessment matters will be relied upon by Council in determining decisions.

### 8.2.4 Christchurch

- The structure and format of the matters of control and discretion are generally consistent with headings relating to the rules e.g. "Outdoor living space". Like other plans, cross-referencing is used although there is repetition to avoid the need to refer to multiple places for the relevant matters.
- There is widespread use of Controlled, Restricted Discretionary, Discretionary and Non-complying activities, with the Hearings Panel challenging Council's position on the use of Controlled activities



through the District Plan Review as follows:

*We agree with the Crown that making appropriate provision for controlled activities better reflects the intentions of the OIC (Order in Council) Statement of Expectations. We also agree with the Crown that the Council's earlier concerns as to the risk of "stalemate" between applicant and the Council were misplaced. The critical ingredient is properly-expressed controls within the rules, for the purposes of enabling the setting of appropriate resource consent conditions. In any event, that is a position the Council has come to acknowledge and accept.*

- For Discretionary activities for the zones reviewed, Council did not include assessment matters with their discretion being unrestricted.
- In the context of matters for assessment in respect of urban design, there were a range of views expressed through submissions and evidence on the level of prescriptiveness and a lack of certainty provided. The subsequent decisions version comprises a series of 'principles' with considerations below each to provide a 'guide'. The principles include City context and character; Relationship to the street and public open spaces; Built form and appearances; Residential amenity; Access, parking and servicing; Safety; and Hillside and small settlement areas.

### 8.2.5 Queenstown Lakes District Council

- The assessment framework of the residential chapters is based upon stated Matters of Control for controlled activities and Matters of Discretion for Restricted Discretionary Activities. No additional specific Assessment Matters are identified in individual sections.
- For RD activities in the low density zone to increase density (ie more than 1 unit per site provided density is between 300 – 450m<sup>2</sup> per unit), the matters of discretion include:
  - The location, external appearance, site layout and design of buildings and fences;
  - The extent to which the design advances housing diversity and promotes sustainability either through construction methods, design or function;
  - In Arrowtown, the extent to which the development responds positively to Arrowtown's character, utilising the Arrowtown Design Guidelines 2016 as a guide;
  - The extent to which the development positively addresses the street;
  - The extent to which building mass is broken down and articulated in order to reduce impacts on neighbouring properties and the public realm
  - Parking and access: safety, efficiency and impacts to on-street parking and neighbours
  - The extent to which landscaped areas are well integrated into the design of the development and contribute meaningfully to visual amenity and streetscape, including the use of small trees, shrubs or hedges that will reach at least 1.8m in height upon maturity.
  - Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: an assessment by a suitably qualified person is provided that addresses the nature and degree of risk the hazard(s) pose to people and property, whether the proposal will alter the risk to any site, and the extent to which such risk can be avoided or sufficiently mitigated.
- Although the Medium Density Zone provides for a higher density of development, the Matters of Discretion relating to such activities are broader than the low density zone. This could be considered anomalous to the intention of the zone to be more enabling in terms of density. Matters of discretion that relate to the Medium Density Zone, for situations where four or dwellings are to be located on a site (subject to the net site area of 250m<sup>2</sup> per unit being achieved, are:
  - The location, external appearance, site layout and design of buildings and fences
  - The extent to which the development positively addresses the street
  - The extent to which the design advances housing diversity and promotes sustainability either through construction methods, design or function.



- In Arrowtown, the extent to which the development responds positively to Arrowtown's character, utilising the Arrowtown Design Guidelines 2016 as a guide
- For land fronting State Highway 6 between Hansen Road and the Shotover River, provision of a Traffic Impact Assessment,
- Landscaping Plan and Maintenance Program, and extent of compliance with Rule 8.5.3
- The extent to which building mass is broken down and articulated in order to reduce impacts on neighbouring properties and the public realm
- Parking and access: safety, efficiency and impacts to on-street parking and neighbours
- The extent to which landscaped areas are well integrated into the design of the development and contribute meaningfully to visual amenity and streetscape, including the use of small trees, shrubs or hedges that will reach at least 1.8m in height upon maturity
- Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: an assessment by a suitably qualified person is provided that addresses the nature and degree of risk the hazard(s) pose to people and property, whether the proposal will alter the risk to any site, and the extent to which such risk can be avoided or sufficiently mitigated.

# Appendix 1: Summary of Provisions in each District Plan

## Activity Tables / Activity Status for Residential Development

Territorial Authority / Plan	Permitted	Controlled	Restricted Discretionary	Discretionary	Non-Complying
<b>Auckland Unitary Plan</b>					
<u>Single House</u>	1 dwelling per site; minor dwellings; conversion of existing dwelling into 2 units.	N / A		Integrated Residential Development	more than 1 dwelling per site
<u>Mixed Housing Suburban / Mixed Housing Urban</u>	Up to 3 dwellings per site.		4 or more dwellings per site; 'Integrated Residential Development'.		
<u>Mixed Urban / Town Centres/ THAB</u>	Dwellings and 'Integrated Residential Development'		'Integrated Residential Developments'		
<b>Hamilton City District Plan</b>					
<u>General Residential</u>	Single detached dwelling, ancillary residential unit	N/A	2 and more dwellings, duplexes.	Apartment building.	

<u>Residential Intensification</u>	Residential activities.	N/A	Apartment building, and duplexes.	Single dwelling.	Ancillary residential unit.
<u>Medium Density Residential</u>	Residential activities		Apartment building (at ground level)  Apartments (above ground floor), ancillary residential units.	Comprehensive development plan' consent, apartment building, single or duplex dwellings, ancillary residential unit.	
<u>Business 5 Suburban Centre</u>	Apartment building, ancillary residential units.				Apartments at ground floor.
<b>Tauranga City Plan</b>					
<u>Suburban Residential</u>	Single detached dwelling, secondary dwelling units,	Comprehensive development (in identified yield areas - location specific)	Comprehensive development (in identified yield areas - location specific)		
<u>Medium Density Residential</u>	Independent dwelling units,	Building a high rise building on a specified high rise site within the High Rise Plan Area	Activity that does not comply with a Permitted Activity Rule, unless stated otherwise.		
<u>City Living Residential</u>			Comprehensive development		
<u>City Centre</u>	Residential activities				



	single residential flat		does not exceed 1 unit per 300m <sup>2</sup>		unit per 300m <sup>2</sup>
<u>Medium Density</u>	Three or less residential units per site subject to a maximum density of 1 unit per 250m <sup>2</sup> of site area.		4 or more residential units per site subject to a maximum density of 1 unit per 250m <sup>2</sup> of site area.  Breach of the density requirement.		
<u>High Density</u>	3 or less units per site subject to performance standards		4 or more units per site subject to performance standards		
<u>Town Centre</u>	Residential Activity				

Summary Table One: How District Plan Activity Tables have provided for residential activities

## Notification Provisions

Territorial Authority / Plan	Notification Provisions which enable / encourage urban growth?	Guaranteed Non-Notification	Normal RMA Notification tests apply
Auckland Unitary Plan	<p><b><u>Yes</u></b> = in MHS, MHU and THAB zones;</p> <p><b><u>No</u></b> = Single House, Mixed Use and Town Centre zones</p>	<p><b><u>MHS / MHU / THAB</u></b> = any development of new dwellings or 'Integrated Residential Development' which complies with relevant rules / standards.</p> <p><b><u>Mixed Use / Town Centres</u></b> = only for non-compliance with 'minimum dwelling size' and 'fences / walls' development standards.</p> <p><b><u>Single House</u></b> = only for non-compliance with 'fences / walls' development control.</p>	<p><b><u>MHS / MHU / THAB / Mixed Use / Town Centre</u></b> = any development of new dwellings or 'Integrated Residential Development' which does not comply with relevant rules / standards.</p> <p><b><u>Single House</u></b> = any 'Integrated Residential Development'; any new dwelling which does not comply with relevant rules / standards; and proposal for more than 1 dwelling per site.</p>
Hamilton City District Plan	<p><b><u>Yes</u></b> = in Central City, General Residential, Residential Intensification and Business 5 zones</p>	<p><b><u>Central City</u></b> = apartments at ground floor within the secondary active frontage. <b><u>General Residential</u></b> = second and subsequent detached dwellings, duplex dwellings.</p> <p><b><u>Residential Intensification</u></b> = duplex dwellings.</p> <p><b><u>Business 5</u></b> = apartments above ground floor.</p>	<p><b><u>Central City</u></b> = all apartments not at ground floor within the secondary active frontage. <b><u>General Residential</u></b> = apartment buildings, and integrated residential development.</p> <p><b><u>Residential Intensification</u></b> = apartment buildings, detached dwellings, and integrated residential development. <b><u>Business 5</u></b> = apartments at ground floor.</p>
Tauranga City Plan	<p><b>Tauranga City Plan</b></p>	<p><b><u>Yes</u></b> = in City Living and City Centre zones.</p> <p><b><u>No</u></b> = Suburban Residential, High Density Residential and Commercial zones.</p>	<p><b><u>City Living and City Centre</u></b> = Restricted discretionary activities shall not be notified, primarily relates to 'comprehensive developments' in the City Living.</p>



Christchurch City District Plan	<b><u>Yes</u></b> = in RS, RMD, RCC	<p><b><u>RS</u></b> = Controlled activities; Activities exceeding site coverage by up to 5%; or not complying with Outdoor Living Space, Road setback rules.</p> <p><b><u>RMD</u></b> = Controlled activities; New/ alteration/ additions to buildings for 3 or more residential units (amongst other criteria); Activities not complying with Outdoor Living Space/ Road setback, Minimum unit size and amenity (fencing) rules.</p> <p><b><u>RCC</u></b> = New/ alteration/ additions to buildings for 3 or more residential units (amongst other criteria); Buildings for a retirement village not complying with Road setback rules.</p>	
Queenstown Lakes District Plan		<p><b><u>LDSR</u></b> = RD activities where density is between 1 per 450m<sup>2</sup> and 1 per 300m<sup>2</sup>,</p> <p><b><u>MD</u></b> = RD activities provided Performance Standards complied with except where access to a State Highway is sought</p> <p><b><u>HD</u></b> = Development of 4 or more residential units on a site provided performance standards complied with and except where access to a State Highway is sought</p>	

Summary Table Two: Use of Notification Provisions across Plans to enable residential development

## Key Urban Zone Rules and ‘Development Standards’

### Density and Subdivision standards

Territorial Authority / Plan	Density – Rule / Standard	Subdivision (vacant lot size standard)
Auckland Unitary Plan	No requirement in all zones other than Single House (‘one dwelling per site’).	THAB = 1,200m <sup>2</sup>  MHU = 300m <sup>2</sup>  MHS = 400m <sup>2</sup>  Single House = 600m <sup>2</sup>
Hamilton City District Plan	General Residential = 200m <sup>2</sup> per duplex dwelling, otherwise 400m <sup>2</sup> per detached dwelling.  Residential Intensification = 150m <sup>2</sup> per duplex dwelling, otherwise 300m <sup>2</sup> per detached dwelling.  Medium Density = set minimum yields to be achieved that vary depending on location.  City Centre = minimum density of 40 residential units/ha (net).  Business 5 = Minimum density of 30 dwellings/ha (net).	General Residential = 200m <sup>2</sup> per duplex dwelling, otherwise 400m <sup>2</sup> per detached dwelling.  Residential Intensification = 150m <sup>2</sup> per duplex dwelling, otherwise 300m <sup>2</sup> per detached dwelling.  Medium Density = n/a as approved through comprehensive development plan process.  City Centre / Business 5 = 1000m <sup>2</sup> minimum lot size.
Tauranga City Plan	Suburban Residential = 325m <sup>2</sup> .  High Density Residential = 100m <sup>2</sup> .  City Living = 325m <sup>2</sup> .  City Centre = no density control.  Commercial = 50m <sup>2</sup> per unit.	Suburban Residential = 325m <sup>2</sup> . High Density Residential = 100m <sup>2</sup> .  City Living = 325m <sup>2</sup> .  City Centre / Commercial = no minimum lot size.
Christchurch City District Plan	RS = 450m <sup>2</sup>  RSDT = 330m <sup>2</sup>  RMD = None  RNN = Specific to ODP area  CC = None  CCMU = None	RS = 450m <sup>2</sup>  RSDT = 330m <sup>2</sup>  RMD = 200m <sup>2</sup>  RNN = 15hh/ha except where specified  CC = 250m <sup>2</sup>

	Central City zone, the minimum net density is not less than 1 residential unit for every 200m <sup>2</sup> of site area.	CCMU = 500m <sup>2</sup>  In the RCC zone, all allotments shall meet the site density requirement.
<b>Queenstown Lakes District Plan</b>	LDSR – 450m <sup>2</sup>  MD – 250m <sup>2</sup>  HD – N/A  TC – N/A	LDSR – 450m <sup>2</sup>  MD – 250m <sup>2</sup>  HD – 450m <sup>2</sup>  TC – N/A

Summary Table Three: Summary of Density and Subdivision minimum lot sizes across Plans

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### Comprehensive and Integrated Residential Developments

Location	Name	Required land area	Number of units	Density of lots	Specified min floor area	Activity Status	Assessment matters
Queensland Lakes District Council	Comprehensive Residential development	$\geq 2000\text{m}^2$	$\geq 2$	$<450\text{m}^2$		Discretionary	<ul style="list-style-type: none"> <li>-noise, vibration, light</li> <li>-privacy</li> <li>-traffic</li> <li>-pedestrian safety</li> <li>-building bulk and daylight</li> <li>-onsite parking and manoeuvring</li> <li>-onsite outdoor space</li> <li>-amenity values</li> </ul>
	Multi-unit Developments	0	$\geq 3$ units in one building			<b>RD</b> No affected party approval required	-Urban design protocol

Christchurch City District Plan	Enhanced Development Mechanism	Qualifying sites shall be:	minimum density of 30 households per hectare (one unit per 330m <sup>2</sup> )	Studio – 35m <sup>2</sup>	RD – when complying with all or having certain non-compliances with standards  D – When not part of site does not comply with location (zone) standards  NC – When none of site meetings location, site size, or housing yield standard	<ul style="list-style-type: none"> <li>a. Residential design principles – Rule 14.15.1</li> </ul>
	*NOTE	> 1500m <sup>2</sup> and  < 10,000m <sup>2</sup> ; and	maximum density of 65 households per hectare (one unit per 150m <sup>2</sup> ).	1 BR – 45m <sup>2</sup>  2 BR – 60m <sup>2</sup>  ≥ 3 BR – 90m <sup>2</sup>		<ul style="list-style-type: none"> <li>a. Residential design principles – Rule 14.15.1</li> <li>b. As relevant to the breached built form standard: <ul style="list-style-type: none"> <li>i. Site density and site coverage - Rule 14.15.2</li> <li>ii. Impacts on neighbouring property - Rule 14.15.3</li> <li>iii. Street scene – road boundary building setback, fencing and planting – Rule 14.15.17</li> <li>iv. Minimum building, window and balcony setbacks - Rule 14.15.18</li> <li>v. Outdoor living space - Rule 14.15.20</li> <li>vi. Minimum unit size and unit mix - Rule 14.15.4</li> <li>vii. Service, storage and waste management spaces - Rule 14.15.19</li> <li>viii. Acoustic insulation - Rule 14.15.8</li> <li>ix. Traffic generation and access safety - Rule 14.15.6</li> </ul> </li> </ul>
	There are a number of accessibility criteria (eg walking distance to schools) and constraint criteria (eg not in the tsunami zone)	In one continuous block of land.		(BR – Bedroom)		<ul style="list-style-type: none"> <li>a. Residential design principles – Rule 14.15.1</li> <li>b. Water supply for fire fighting - Rule 14.15.7</li> </ul>
	Sites must be within Residential Suburban Density Transition Zone, or the Residential Medium Density Zone, or the Specific Purpose (School) Zone or the Residential					<ul style="list-style-type: none"> <li>a. Residential design principles – Rule 14.15.1</li> <li>b. Whether the reduced setback from the rail corridor will enable buildings to be maintained without requiring access above, over, or on the rail corridor.</li> </ul>

	Banks Peninsula Zone.						
	Community Housing Redevelopment Mechanism	Qualifying sites shall be:	minimum density of 30 households per hectare (one unit per 330m <sup>2</sup> )		Studio – 35m <sup>2</sup>  1 BR – 45m <sup>2</sup>  2 BR – 60m <sup>2</sup>	<b>RD</b> - when complying with all or having certain non-compliances with standards  <b>NC</b> – when sites are not in CHRM areas, do not meet site size or proportion and yeild	Same as above for Enhanced development mechanism
	*NOTE  Sites must be within the Community Housing Redevelopment Mechanism Areas	> 1500m <sup>2</sup> and  < 10,000m <sup>2</sup> ; and  In one continuous block of land.	maximum density of 65 households per hectare (one unit per 150m <sup>2</sup> ).		≥ 3 BR – 90m <sup>2</sup>  (BR – Bedroom)		
	Multi-unit Residential Development		≤ 4 units as Permitted or Controlled		Studio – 35m <sup>2</sup>  1 BR – 45m <sup>2</sup>  2 BR – 60m <sup>2</sup>	<b>P</b> – when no non-compliances with P standards  <b>C</b> – where certain non-compliances  <b>RD</b> – where non-compliances with site density/coverage/unit size  <b>D</b> – multi-units in Residential Suburban Zone	
	Social Housing Complex		> 4 Restricted Discretionary		≥ 3 BR – 90m <sup>2</sup>  (BR – Bedroom)		



<b>Tauranga City District Plan</b>	Comprehensively Designed Development (City Living zones)		200m <sup>2</sup> per dwelling			<b>RD</b> – when complying with associated standards  <b>D</b> – where non-compliances	
<b>Hamilton City District Plan</b>	Integrated Residential Development	≥ 2000m <sup>2</sup>		300m <sup>2</sup> – single dwelling  400m <sup>2</sup> – duplex  150m <sup>2</sup> average unit – apartments		<b>RD</b> – General Residential Zone  <b>NC</b> – Residential Intensification and Large Lot Residential zone	- Design and layout  - Character and amenity
<b>Auckland Unitary Plan</b>	Integrated Residential Development	≥ 2000m <sup>2</sup>	Relevant zone standards apply to these developments.			(Mixed House Urban Zone) <b>RD</b> – when complying with applicable standards  Non-notified when all standards are complied with	Effects on character, amenity, safety from the following  - building scale, location, form appearance  - traffic  - design of parking and access  - noise, lighting and hours of operation  All applicable standards.

## Height and Height in Relation to Boundary (HiRB) Standards

Territorial Authority / Plan	Height – Rule / standard	HiRB – Rule / standard
Auckland Unitary Plan	<p><b><u>Single House / MHS</u></b> = 8m (+1m for roof pitch)</p> <p><b><u>MHU</u></b> = 11m (+1m for roof pitch)</p> <p><b><u>THAB</u></b> = 16m (with some location-specific height limits within identified 'Height Variation Control' areas)</p> <p><b><u>Mixed Use</u></b> = 16m (+2m for roof form), also with some location-specific height limits within identified 'Height Variation Control' areas</p> <p><b><u>Town Centres</u></b> = varies from 'centre' to 'centre', range from 13 – 27m.</p>	<p><b><u>Single House</u></b> = 'typical' standard, 45 degree recession plane measured from a point 2.5m above ground level at boundary.</p> <p><b><u>MHS</u></b> = 'typical' standard (same as SH zone above); plus 'alternate' standard measured from a point 3.6m above ground level at boundary, with a flexible recession plane;</p> <p><b><u>MHU</u></b> = 'typical' standard of 45 degree recession plane measured from a point 3m above ground level at boundary; 'alternate' standard (same as above for MHS).</p> <p><b><u>THAB</u></b> = 'typical' standard (same as MHU above); 'alternate' standard of 60 degree recession plane measured from a point 8m above ground level at boundary; also 'adjoining lower intensity zone' standard, which applies the HiRB control of the adjoining lower intensity zone at the boundary where a THAB site immediately adjoins a lower intensity zone (e.g. MHU, MHS or SH).</p>
Hamilton City District Plan	<p><b><u>General Residential</u></b> = 10m</p> <p><b><u>Residential Intensification</u></b> = 12.5m</p> <p><b><u>City Centre – City Living Precinct</u></b> = 16-20m depending on development bonuses for public amenities</p> <p><b><u>City Centre – Downtown Precinct</u></b> = 16-32m + depending on development bonuses for public amenities, pedestrian links etc</p> <p><b><u>Business 5 – Suburban Centre</u></b> = 15m</p>	<p><b><u>General Residential / Medium Density Residential / General Res or Large Lot Res Zones</u></b> = 3m + 28° (south boundary), 45° (all other boundaries). Attached buildings exempt</p> <p><b><u>City Centre – City Living Precinct / Downtown Precinct</u></b> = 3m + 45° on the boundary of a residential or open space zone</p> <p><b><u>Business 5 – Suburban Centre</u></b> = 3m + 45° on the boundary of a residential or special character zone</p>
Tauranga City Plan	<p><b><u>Suburban Residential / High Density Residential</u></b> = 9m</p> <p><b><u>City Living Residential / City Living Mixed Use</u></b> = 13m - 19m depending on location within the zone</p>	<p><b><u>Suburban Residential / High Density Residential</u></b> = 2.7m + 55° (north sector) or 45° (all other sectors)</p>

	<p><b>City Centre</b> = generally 12m-19m (depending on location within zone), with 49m right in centre of town</p>	<p><b>City Living Residential / City Living Mixed Use</b> = 12m + 55° (north sector) or 45° (all other sectors)</p> <p><b>City Centre</b> = Buildings must meet height to boundary controls allowing sunlight into City Centre public spaces at noon on 21 June</p>
Christchurch City District Plan	<p><b>RS</b> = 8m</p> <p><b>RMD</b> = 11m (max. 3 stories assumed). Multiple overlays with variations according to context.</p> <p><b>RCC/ CCMU</b> = Specific to area within the CC</p> <p><b>RNN</b> = 8m (or 11m where comprehensive residential development<sup>1</sup>)</p> <p><b>CC</b> = 20m/12m, depending on function of the centre and proximity to residential boundary.</p>	<p><b>RS/ RSDT/ RMD/ RCC/ RNN/ CC/ CCMU</b> = 'Typical standard based on angle of the boundary with recession plane measured from a point 2.3m above ground level at boundary. The angles applied vary according to zones.</p>
Queenstown Lakes District Plan	<p><b>LDSR</b></p> <p>Queenstown – 8m</p> <p>Wanaka – 7m</p> <p><b>MD</b></p> <p>Wanaka – 7m</p> <p>Elsewhere – 8m</p> <p><b>HD</b></p> <p>Flat sites in Queenstown – 12m, with exceptions for specific areas</p> <p>Flat sites in Wanaka – 8m</p>	<p><b>LDSR and MD</b> = Flat sites only:</p> <p>North boundary – 2.5m and 55 degrees</p> <p>East and West Boundaries: 2.5m and 45 degrees</p> <p>Southern Boundary - 2.5m and 35 degrees.</p> <p>Gables/roof ends may penetrate by up to 1/3 of the gable height.</p> <p><b>HD</b> = No recession plane on sloping sites. Otherwise, 45 degree plane at 2.5m above all boundaries, apart from northern boundary where a 55 degree plane applies.</p>

<sup>1</sup> means a development of three or more residential units which have been, or will be, designed, consented and constructed in an integrated manner (staged development is not precluded). It may include a concurrent or subsequent subdivision component.

	Sloping Sites – 7m	TC = no requirements
	<b>Town Centre</b> – various heights depending on precinct/area,	

Summary Table Five: Height and Height in Relation to Boundary (HiRB) controls across Plans

### Private Outdoor Living Space standards

Territorial Authority / Plan	Private Outdoor Space – Rule / standard for dwellings located at ground floor level	Private Outdoor Space – Rule / standard dwellings above ground floor	Private Outdoor Space – Rule / standard for communal or off-site provision
<b>Auckland Unitary Plan</b>	<p><b>Single House</b> = only applies a minimum landscaped area standard of 40% of net site area;</p> <p><b>MHS / MHU / THAB</b> = if provided at ground level, a minimum area of 20m<sup>2</sup>; no dimension less than 4m and a gradient no greater than 1 in 20; if provided as a balcony / patio / roof terrace, at least 5m<sup>2</sup> with a min dimension of 1.8m; is accessible from the dwelling and is free from buildings parking spaces, servicing / manoeuvring areas.</p> <p><b>Mixed Use / Town Centre</b> = no requirement to provide private open space</p>	<p><b>MHS / MHU / THAB</b> = at least 5m<sup>2</sup> (studios and 1-bed units) or 8m<sup>2</sup> (2+ bedrooms) with a minimum dimension of 1.8m; is accessible from the dwelling.</p> <p><b>Mixed Use / Town Centre</b> = no requirement to provide private open space</p>	<p>No optionality in the rule / standard to allow communal on-site open space provision, nor any option to waive the requirement if, for example, the site adjoins / is in close proximity to public open space.</p> <p><b>MHU and THAB only</b> = a balcony or roof terrace is not required if the net internal floor area of a dwelling is at least 35m<sup>2</sup> (for studios) or 50m<sup>2</sup> (for dwellings of one or more bedrooms).</p>
<b>Hamilton City District Plan</b>	<p><b>General Residential / Residential Intensification</b> = Single dwellings: 60m<sup>2</sup>, 6m diameter circle, min dimension 2.5m</p> <p>Ancillary residential unit: 12m<sup>2</sup>, min dimension 2.5m</p> <p>Must be accessible from living area, free of</p>	<p><b>City Centre – City Living Precinct / Downtown Precinct / Business 5 – Suburban Centre</b> = Apartments above ground level: 12m<sup>2</sup>, min dimension 2.5m</p>	<p><b>General Residential / Residential Intensification</b> = Communal space for more than 4 units: 12m<sup>2</sup> per unit, 8m diameter circle, min dimension 4m.</p> <p><b>Medium Density Residential</b> = Managed care facility and rest</p>

	<p>obstructions / parking etc and must face north, east or west.</p> <p><b><u>Medium Density Residential =</u></b> None (approved as part of comprehensive development plan)</p> <p><b><u>City Centre – City Living Precinct / Downtown Precinct / Business 5 – Suburban Centre =</u></b></p> <p>All residential units and apartments: 40m<sup>2</sup>, 5m diameter circle.</p> <p>Ancillary residential unit: 12m<sup>2</sup>, min dimension 2.5m</p> <p>Outlook space of 6m from exterior habitable rooms.</p> <p>Must be accessible from living area, free of obstructions / parking etc and must face north, east or west.</p>		<p>home: communal space, 15m<sup>2</sup> per resident, 6m diameter circle, min dimension 4m, min 60% at ground level, max 35% impervious.</p>
<b>Tauranga City Plan</b>	<p><b><u>Suburban Residential =</u></b> 50m<sup>2</sup> and 4m x 3m square.</p> <p>Secondary dwelling = 35m<sup>2</sup> and 4m diameter circle.</p> <p>Must be directly accessible from main living area of dwelling and clear of other uses (buildings, parking, manoeuvring) except for decks and balconies. Can be reduced to an area with dimensions of 5m in any direction as a controlled activity, provided it receives sunlight for 4 hours on 21 June.</p>	<p><b><u>Suburban Residential =</u></b> 12m<sup>2</sup> at balcony level</p> <p><b><u>High Density Residential / City Living Mixed Use =</u></b> 6m<sup>2</sup> with min dimensions of 2m</p>	<p>No optionality in the rule / standard to allow communal on-site open space provision, nor any option to waive the requirement if, for example, the site adjoins / is in close proximity to public open space.</p>

	<p><b><u>High Density Residential</u></b> = No Outdoor Living Area Amenity Controls.</p> <p><b><u>City Living Residential / City Living Mixed Use</u></b> = 30m<sup>2</sup> and 3m diameter circle.</p> <p>Must be directly accessible from main living area of dwelling and clear of other uses (buildings, parking, manoeuvring) except for decks and balconies.</p> <p><b><u>City Centre</u></b> = Pedestrian Environments - No residential or carparking at ground level except when it is set back 15m from road frontage or 50% of the site depth.</p> <p>Streetscape - where there is no 'active frontage' on planning maps; 2m wide landscaped areas on primary street frontage, excluding vehicle access. Must still provide 15% 'active frontage'.</p> <p>2m wide landscaped areas on secondary frontage, excluding vehicle access</p>		
Christchurch City District Plan	<p><b><u>RS</u></b> = 90m<sup>2</sup> with min. dimension of 6m, readily accessible from a living area of a residential unit.</p> <p><b><u>RMD/ RNN</u></b> = 16m<sup>2</sup> for 1 and 30m<sup>2</sup> for 2 or more bedroom units on the ground floor, with a min. dimension of 4m. At least 1 private space is to be accessible from the living area.</p>	<p><b><u>RS</u></b> = N/A</p> <p><b><u>RMD/ RNN</u></b> = 16m<sup>2</sup> for 1 and 30m<sup>2</sup> for 2 or more bedroom units on the ground floor, with a min. dimension of 1.5m when provided by a balcony. At least 1 private space is to be accessible from the living area.</p> <p>Outdoor space can be a mix of private or communal areas.</p>	<p><b><u>RS</u></b> = N/A</p> <p><b><u>RMD/ RNN</u></b> = 16m<sup>2</sup> for 1 and 30m<sup>2</sup> for 2 or more bedroom units on the ground floor, with a min. dimension of 4m when provided as communal space, which is to be accessible by all units.</p> <p>Outdoor space can be a mix of private or communal areas.</p> <p>In the RMD zone, 50% of space required</p>



	<p>Outdoor space can be a mix of private or communal areas.</p> <p>In the <u>RMD zone</u>, 50% of space required across the entire site is to be at ground level.</p> <p>In the <u>RNN zone</u>, 16m<sup>2</sup> of the 30m<sup>2</sup> for 2 or more bedroom units and all of the space required for 1 bedroom units is to be private.</p> <p><b><u>RCC</u></b>=Each unit is to have at least 24m<sup>2</sup> and can be a mix of private and communal areas, subject to – each unit having at least 8m<sup>2</sup> with a min. dimension of 4m</p> <p>At least 1 private space is to be accessible from the living area.</p> <p>50% of space required across the entire site is to be at ground level.</p> <p><b><u>CCMU</u></b> = 20m<sup>2</sup> of space, outside and accessible from a living area.</p> <p><b><u>CC</u></b> = 6m<sup>2</sup> for studio, 1 bedroom units; 10m<sup>2</sup> for 2 or 3 bedroom units and 15m<sup>2</sup> for 3 bedroom units with a min. dimension of 1.5m for all. Space is to be immediately outside and accessible.</p>	<p>In the <u>RMD zone</u>, 50% of space required across the entire site is to be at ground level.</p> <p>In the <u>RNN zone</u>, 16m<sup>2</sup> of the 30m<sup>2</sup> for 2 or more bedroom units and all of the space required for 1 bedroom units is to be private.</p> <p><b><u>RCC</u></b>=Same as requirement at ground floor but with a min. dimension of 1.5m.</p> <p>At least 1 private space is to be accessible from the living area.</p> <p>50% of space required across the entire site is to be at ground level.</p> <p><b><u>CCMU</u></b> = 20m<sup>2</sup> of space, a min of half being provided as a balcony with a min. dimension of 1.5m, outside and accessible from a living space.</p> <p><b><u>CC</u></b> =Refer to requirement at ground floor.</p>	<p>across the entire site is to be at ground level.</p> <p><b><u>RCC</u></b>=Same as requirement at ground floor, except that any communal space is to have a min. dimension of 4m.</p> <p>50% of space required across the entire site is to be at ground level.</p> <p>Communal space may be located indoors.</p> <p><b><u>CCMU</u></b> = Any balance not provided by private balconies can be provided in communal areas with a min. dimension of 4m.</p> <p><b><u>CC</u></b> =No specific provision.</p>
Queenstown Lakes District Plan	<p><b><u>LDSR</u></b></p> <p>Site coverage 40%</p> <p>Minimum 30% of site to be landscaped (permeable) surface</p> <p><b><u>MD</u></b></p>	None	None

	<p>Site Coverage 45%</p> <p>Minimum 25% of site to be landscaped (permeable) surface</p> <p><b><u>HD</u></b></p> <p>Site Coverage 70%</p> <p>Minimum 20% of site to be landscaped (permeable) surface</p> <p><b><u>Town Centre</u></b> = no requirement to provide private open space</p>		
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Summary Table Six: Private Outdoor Living Space controls across the District Plans

### Outlook Space / Privacy / Building Setback and Daylight standards

Territorial Authority / Plan	Outlook / Privacy / Building Setbacks – Rule / standard	Daylight / Sunlight Access – Rule / standard
<b>Auckland Unitary Plan</b>	<p><b><u>Single House</u></b> = no requirement;</p> <p><b><u>MHS / MHU / THAB</u></b> = an outlook space must be provided from the face of a building containing windows to a habitable room; minimum dimensions of 6m in depth and 4m in width (from principal living room), 3m deep and 3m wide (from a principal bedroom), and 1m deep and 1m wide (all other habitable rooms).</p> <p><b><u>Mixed Use / Town Centre</u></b> = an outlook space must be provided from the face of a building containing windows to a habitable room; minimum dimensions of 6m in depth and 4m in width (from principal living room), 3m deep and 3m wide (all other habitable rooms).</p> <p><b><u>All Key Urban zones</u></b> = outlook spaces may be within the site or over a public street or public open space; outlook spaces required from different rooms in the same building</p>	<p><b><u>Single House</u></b> = no requirement;</p> <p><b><u>MHS / MHU / THAB</u></b> = a rather complex rule to interpret and apply. Effectively sets various building distance and wall height / length measurement thresholds relative to windows of principal living / dining rooms and bedrooms on adjacent buildings within the same site.</p> <p><b><u>Mixed Use / Town Centre</u></b> = no requirement.</p>

	can overlap; outlook spaces cannot be obstructed by buildings or extent over, cannot extend over adjacent residential sites and cannot extent over an outlook space or outdoor living space required by another dwelling.	
Hamilton City District Plan	<p><b><u>General Residential / Residential Intensification</u></b> = Residential dwellings separated by 3m, can be reduced to 1.5m if glazing is obscured. Upper floor windows/balconies set back 5m from all boundaries; can be reduced to 3m with 1.7m sill height and if glazing is obscured.</p> <p><b><u>Medium Density Residential / City Centre – City Living Precinct / City Centre – Downtown Precinct</u></b> = no requirement.</p> <p><b><u>Business 5 – Suburban Centre</u></b> = outlook space of 6m from exterior habitable rooms.</p>	No requirements in any of the zones
Tauranga City Plan	<p><b><u>Suburban Residential / High Density Residential / City Centre</u></b>= no requirement.</p> <p><b><u>City Living Residential / City Living Mixed Use</u></b> = Outlook space from living space - 6m</p> <p>Outlook space from bedroom - 3m</p> <p>Each living space/bedroom must have one exterior window.</p>	<p><b><u>Suburban Residential / High Density Residential / City Centre</u></b> = no requirement.</p> <p><b><u>City Living Residential / City Living Mixed Use</u></b> = Each unit must have 1 north facing window or doorway 4m<sup>2</sup> in area that receives at least 2 hours of sunlight on June 21.</p>
Christchurch City District Plan	<p><b><u>Residential Suburban/ Residential Medium Density</u></b>: Min setback for balconies from internal boundary: 4m;</p> <p>Requirement for a living space window on a wall at first floor level to have permanently obscured glazing, where the wall of a unit is between 1-4 m from an internal boundary.</p> <p><b><u>Residential Central City</u></b>: Parts of a balcony or window at first floor level or above to be setback 4m</p>	No requirement in any of the zones (excl. recession plane controls)

	<p>from internal boundary with exception.</p> <p><b><u>Residential New Neighbourhood:</u></b> Min setback from internal boundary for a living area window: 3m (or 4m for living area and balconies at first floor level).</p>	
Queenstown Lakes District Plan	<p><b><u>LDSR</u></b></p> <p>Detached buildings on same site shall be separated by a minimum of 4m</p>	No requirements

Summary Table Seven: Use of Outlook Space / Building Setback / Privacy and Daylight / Sunlight Access Controls

### Car Parking standards

Territorial Authority / Plan	Car Parking – Rule / standard for on-site provision	Car Parking – Rule / standard for communal or off-site / shared parking provision	Car Parking – Rule / standard which enables flexibility / reductions in provision
Auckland Unitary Plan	<p><b><u>Single House</u></b> = minimum requirement of 1 park per dwelling.</p> <p><b><u>MHS</u></b> = minimum of 0.5 parks per dwelling (studios and 1-bed units); minimum of 1 per dwelling (2+ bedrooms).</p> <p><b><u>MHU</u></b> = no min or max requirement for studios and 1-bed units; minimum of 1 park per dwelling (2+ bed units).</p> <p><b><u>THAB / Mixed Use / Town Centres</u></b> = No minimum or maximum requirement for dwellings.</p>	<p>There is a requirement for parking spaces to be provided on the same site as the activity to which it relates, <u>unless a resource consent has been granted to an alternative arrangement, such as shared parking or off-site parking.</u></p> <p>The provisions of 'off-site parking' is listed as a <u>Discretionary Activity</u> in all zones.</p>	<p><b><u>THAB / Mixed Use / Town Centres</u></b> = there is the ability for parking requirements to be waived in a number of circumstances such as: for sites located in Historic Heritage and Special Character Overlays; where construction of new buildings or alterations to existing buildings do not exceed 100m<sup>2</sup>; or where activities are located on sites with size constraints (e.g. sites less than 800m<sup>2</sup>, or front sites which can't accommodate a circle with a 13m diameter).</p>
Hamilton City District Plan	<p><b><u>All Zones:</u></b></p> <p><b>Single or Duplex Dwellings</b> = 2 spaces per household</p>	N/A	N/A

	<p><b>Ancillary residential unit or apartment</b> = one space per unit / apartment</p> <p><b><u>Central City</u></b> = No onsite parking requirements (for any activity)</p>		
Tauranga City Plan	<p><b><u>Suburban Residential</u></b> = 2 spaces per primary dwelling unit and 1 space per secondary dwelling unit.</p> <p><b><u>High Density Residential</u></b> =</p> <p>1 bedroom unit: 1 space/unit</p> <p>2 bedroom unit: 1.2 spaces/unit</p> <p>3 bedroom unit: 1.5 spaces/unit</p> <p>Visitors: 0.2 spaces/unit</p> <p>1 parking space per secondary unit.</p> <p><b><u>City Living Residential / City Living Mixed Use</u></b> =</p> <p>1 bed - 1 space</p> <p>2 beds - 1.2 spaces</p> <p>3 beds - 1.5 spaces</p> <p>Visitors - 0.2 spaces per unit</p> <p>1 loading bay</p> <p><b><u>City Centre</u></b> = No onsite parking requirements (for any activity)</p>	N/A	N/A
Christchurch City District Plan	<p><b>All zones</b></p> <p>Residential activities: 1 space/ unit where the unit is less than 150m<sup>2</sup> GFA. Otherwise 2 spaces/ unit.</p> <p>Residential activities under EDM and CHRM: 1 space per unit.</p> <p>Retirement village: 1 space/ residential unit.</p> <p>Social housing complex: 0.5 space/ unit for units with one bedroom, 1</p>	N/A	Parking reduction factors (% reduction in parking subject to criteria e.g. proximity to public transport) are included with the plan stating “ <i>The minimum number of car parking spaces required may be reduced by the relevant amount if the activity qualifies for any of the</i>

	space/ unit for units with two or more bedrooms.		<i>permitted reductions in Appendix 7.5.14."</i>
<b>Queenstown Lakes District Plan</b>	<p>Standard Requirement for parks in all zones:</p> <p>1 park per residential flat</p> <p>2 parks per residential unit unless provided for in exceptions.</p> <p><u>Exceptions:</u></p> <p><b><u>HD + Part MD</u></b> – 0.25 parks per studio unit/flat and 1 b/r unit, and 0.5 parks per unit for all others.</p> <p><b><u>Units/Flats in MD Wanaka / Arrowtown</u></b></p> <p>0.7 per studio unit/ 1 b/r flat; 1 per 2 b/r units; 1 per unit with 3+ bedrooms.</p> <p><b><u>MD Elsewhere:</u></b></p> <p>0.5 per studio/flat, 1 b/r flat and 2 b/r unit/flat; 1 per unit/flat w 3+ b/r.</p>	N/A	N/A

Summary Table Eight: Car Parking requirement across the District Plans



## Urban Zone 'Assessment Frameworks'

Territorial Authority / Plan	Matters of Discretion and/or Assessment Criteria seeking to promote / require quality built outcomes / quality urban environments	Matters of Discretion and/or Assessment Criteria seeking to enable / deliver additional housing supply	Matters of Discretion and/or Assessment Criteria seeking to enable / deliver greater diversity of housing types	Matters of Discretion and/or Assessment Criteria seeking to enable / deliver improved housing affordability at a range of price points
Auckland Unitary Plan	✓	✗	✗	✗
Hamilton City District Plan	✓	✓	✓	✗
Tauranga City Plan	✗	✗	✗	✗
Christchurch City District Plan	✓	✓	✓	✗
Queenstown Lakes District Plan	✗	✗	✓	✗

Summary Table Nine: How the 'Assessment Frameworks' relate / link to the Objectives and Policies across the Plans

# Decision following the hearing of an application for resource consent under the Resource Management Act 1991

Proposed retirement village comprising seven buildings with 344 residential units.

These resource consents are **REFUSED**. The reasons are set out below.

<b>Application numbers:</b>	LUC60303311, WAT60305462
<b>Site address:</b>	55-57 Ripon Crescent
<b>Applicant:</b>	Summerset Villages (St Johns) Limited
<b>Hearing commenced:</b>	Thursday 14, Friday 15, Monday 18 and Friday 29 June 2018, 9.30am
<b>Hearing panel:</b>	Mark Farnsworth Michael Parsonson Richard Knott
<b>Appearances:</b>	<p><u>For the Applicant:</u>  Russell Bartlett QC (counsel)  Francelle Lupis (counsel)  Aaron Smail (Summerset, applicant)  Andrew Wilkinson (planning)  Nick Milnes (architect)  Ian Munro (urban design)  Rob Pryor (landscape and visual)  Danny Kamo (landscape architect)  John Burgess (traffic)  Brett Black (geotechnical engineering)  Steven James (civil engineering)  Jenni Shanks (ecology)  Tim Beresford (acoustics)  Craig Webb (arborist)</p> <p><u>Orakei Local Board:</u>  Kit Parkinson (Chair)  Colin Davis (member)  David Wong (member)</p> <p><u>For the Submitters:</u>  Valerie Fearn  Pamela Doyle  Mahlon Burch  Noel L. McGrevy  Mike Webber  Rae Nield</p>

	Donnell Burch Gael Richardson  Geraldine Ngata represented by: Michael O'Halloran  Joyce Allen supported by: Chris Timbs (Legal Counsel) Karl Cook (Planner) Nicholas Albrecht (Son-in-law)  <u>For Council:</u> Bernie Warmington, Team Leader Nicola Woodhead, Planner Gerard Mostert, Arborist Bronwyn Coomer-Smit, Traffic Engineer Malcolm Todd, Development Engineer Yu-Ning Liu, Urban Designer Nick Hazard, Groundwater Specialist Josh Markham, Ecologist Stephen Brown, Landscape & Visual Specialist Claire Drewery, Acoustic Specialist Sreevidya Radhamani, Auckland Transport Tanisha Hazelwood, Hearings Advisor
<b>Hearing adjourned</b>	Friday, 29 June 2018
<b>Commissioners' site visit</b>	Wednesday 13 June & Friday 29 June 2018
<b>Hearing Closed:</b>	Monday, 9 July 2018

## Introduction

1. This decision is made on behalf of the Auckland Council ("**the Council**") by Independent Hearing Commissioners Mark Farnsworth, Michael Parsonson and Richard Knott, appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 ("**the RMA**").
2. This decision contains the findings from our deliberations on the application for resource consent and has been prepared in accordance with section 113 of the RMA.
3. The applications were publicly notified on 8 December 2017. A total of 41 submissions were received and 4 submissions were received late after the close of submissions. Of the submissions received: 4 were in support; 1 were neutral and 36 were in opposition.

## Summary of proposal and activity status

4. Summerset Villages (St Johns) Limited (**applicant**) proposes to undertake a comprehensive development of the site to construct and operate a retirement village.

Section 3 of the applicant's Assessment of Environmental Effects<sup>1</sup> (AEE) provides a detailed description of the proposal and Section 2 of the AEE<sup>2</sup> provides a site description.

5. In summary the proposed retirement village will consist of seven buildings which will provide a total of 344 units. These units consist of a mixture of 1-3 bedroom apartments, serviced apartments and care beds.

6. The Section 42A Report provides<sup>3</sup> a comprehensive analysis of why the proposal requires resource consent, which was subsequently amended by Ms Woodhead. In summary:

- Auckland Unitary Plan (Operative in Part)

District land use

*There are various restricted discretionary activity requirements under:*

- *Chapter H4 - For the part of the site zoned Mixed Housing Suburban (55 Ripon Crescent)*
- *Chapter H5 - For the part of the site zoned Mixed Housing Urban*
- *Chapter E12 – Land Disturbance – District*
- *Chapter E17 Trees in Roads*
- *Chapter E27 – Transportation*

Regional land use

*There is a controlled activity requirement under:*

- *Chapter E11 – Land Disturbance – Regional*

*There is a discretionary activity requirement under:*

- *Chapter E15 - Vegetation management and biodiversity.*

Regional water permit

*There are restricted discretionary activities under:*

- *Chapter E7 Taking, using, damming and diversion of water and drilling*

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<sup>1</sup> Summerset Villages (St Johns) Limited *Assessment of Environmental Effects* November 2017 pp 4 – 8.

<sup>2</sup> Ibid pp 3 – 4.

<sup>3</sup> Section 42A Report 11-14

- NES for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCO)

*There is a restricted discretionary activity requirement under regulation 10 (2) of the NESCS.*

7. The activities for which resource consents are required are inter-related and inter-dependent such that they have appropriately been 'bundled' to an overall **discretionary** activity status. While only a relatively minor part of the proposal, the vegetation clearance in the SEA, required consideration as a discretionary activity; the applicant did not seek unbundling of the consents. Rather, Mr Bartlett considered there to be some advantage in the application being treated as discretionary, thus allowing a full consideration of positive and adverse effects of the proposal.

### **Procedural matters**

8. Under sections 37 and 37A of the RMA, the time limit for the receipt of submissions is waived to accept the late submissions of:
  - John and June Loomb;
  - Dennis and Venetia Shine;
  - Elisabeth Scofield; and
  - Donnell Burch.
9. The reasons for accepting these submissions are:
  - The applicant did not oppose the acceptance of the late submissions;
  - The submission did not raise any matters additional to those generally addressed in other submissions; and
  - The late submissions did not result in any delay in the hearing or making a decision on this application.

### **Relevant statutory provisions considered**

10. In accordance with section 104 of the RMA, we have had regard to the relevant statutory provisions including the relevant sections of Part 2 and section(s) 104, 104B and 108.

### **Relevant standards, policy statements and plan provisions considered**

11. In accordance with section 104(1)(b)(i)-(vi) of the RMA, we have had regard to the relevant policy statements and plan provisions of the following documents:
  - The Hauraki Gulf Marine Park Act 2000 (HGMPA).
  - The New Zealand Coastal Policy Statement 2010 (NZCPS);

- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESC);
  - The Auckland Unitary Plan – Operative in Part (AUP-OP), including Chapter B Regional Policy Statement
12. We also considered the following other matters to be relevant and reasonably necessary to the application in accordance with section 104(1)(c) of the RMA:
- Auckland Plan.

### **Local Board comments**

13. The Ōrākei Local Board (the Board) commented on this application and presented<sup>4</sup> to the hearing. While the Board does not oppose the use of the site for a retirement village, given the number of, and the significant infringements proposed with this development, the Board does not support the proposed development in its current form. In particular:
- The community has the reason to expect a built environment character of no more than three storeys in the MHU Zone;
  - The height impact of the built form proposed on the wider environment is not acceptable;
  - The removal of trees from the SEA is opposed;
  - The removal of mature natives and exotics from the site is opposed; and
  - The considerable increases in traffic movements will adversely impact the surrounding neighbourhoods in Meadowbank.
14. The Board provided the panel with a set of recommendations<sup>5</sup> if the panel were of the mind to grant the application.
15. The Board also provided further feedback on the applicant's summary of the chronology of the retirement village zone, the zoning of the St Johns site, and examples of retirement villages already consented under the Unitary Plan. The board reiterated that:
- They were supportive of fit-for-purpose and well-designed retirement village developments;
  - Their principal opposition to the St Johns proposal is that it infringes significantly the height provisions of the Unitary Plan provisions;
  - If the development is permitted to exceed the regulated heights, will set a further precedent to determine what can be accepted in the future; and

<sup>4</sup> Kit Parkinson (Chairman); Colin Davis (Member) and David Wong (Member)

<sup>5</sup> Ōrākei Local Board – representation 18 June 2018 page 3

- There is an important principle of not comparing this application with the examples given by counsel because this site is different with its own characteristics and any development should respond to those.

## Submissions

16. Attachment 4 to the Section 42A Report provided a tabulation<sup>6</sup> of all the submissions<sup>7</sup> received; listing the issues raised and the relief sought. Issues<sup>8</sup> raised in submissions included:

- Height/dominance of buildings proposed;
- Height in relation to boundary infringements – shadowing, privacy and reduced sunlight concerns;
- Character and Intensity of Development – not in keeping with the character of the area;
- Yard infringements;
- Increase in traffic movements and lack of car parking;
- Stormwater/Impervious area/Overland flow path effects;
- Vegetation/Tree Removal within Significant Ecological Area (SEA);
- Effect on St Johns Bush, biodiversity and local wildlife;
- Construction effects – noise, dust, vibration, construction traffic;
- Increased demand on local facilities (eg doctors, dentists etc);
- Proposal is contrary to the Unitary Plan and contrary to its objectives and policies;
- Earthworks / contamination and disturbance of soil;
- Adverse noise effects during the operation of the retirement village including increased traffic noise;
- Development devaluing house prices;
- Lack of social justice/ Ethical matters;
- Lack of sustainability considerations in the development; and
- Objection to the location of the transformer

<sup>6</sup> Section 42A Report Attachment 4 pages 305 – 307

<sup>7</sup> A copy of each submission can be found in Volume 2 of the Section 42A Report pages 551 – 777

<sup>8</sup> Section 42A Report pages 15 – 17



Relief sought included:

- Refuse Consent;
- Grant the application;
- Grant consent subject to conditions; and
- Neutral.

### Written Approvals

17. The following written approvals were received:

- |   |                        |  |
|---|------------------------|--|
| - | 188-280 St Johns Road  | St Johns College Trust Board             |
| - | 59 Ripon Crescent      | Summerset Villages (St Johns) Limited    |
| - | 63 Ripon Crescent      | Summerset Villages (St Johns) Limited    |
| - | 156B St Johns Road     | Anne Ross Mitchell                       |
| - | 45A Rutherford Terrace | Ian Evison and Lucy McGrath <sup>9</sup> |
| - | 47 Rutherford Terrace  | Suzanne and Bryan Roper                  |
| - | 51 Rutherford Terrace  | Karlene and Steven Haddock <sup>10</sup> |

### Summary of evidence heard

18. The Council's Section 42A Report prepared by Nicola Woodhead a consultant Planner, was circulated prior to the hearing and taken as read. Attached to the report were:

- Expert reports (peer reviews & comments) from the Council's specialist advisors<sup>11</sup>;
- A copy of the all the submissions received;
- The applicant's AEE and comprehensive sets of: profiles; plans; views and shading diagrams; and
- Riley Consultants - *Geotechnical Investigations and Groundwater Modelling*

19. Both the applicant's expert evidence and submitters' expert evidence were pre-circulated<sup>12</sup> to all parties in advance of the hearing.

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<sup>9</sup> Received during the hearing

<sup>10</sup> Received during the hearing

<sup>11</sup> Thumb nail accounts of the qualifications and experience of the Council's experts were requested and received by the panel.

<sup>12</sup> A copy of all pre-circulated evidence can be found on Auckland Councils web page

20. The evidence presented at the hearing responded to:
- the issues and concerns identified in Nicola Woodhead's Section 42A Report;
  - the application itself; and
  - the submissions made on the application.

21. The evidence presented by the applicant at the hearing is summarised below.

### **For the Applicant**

22. The applicant's legal counsel, Russell Bartlett QC, made opening legal submissions; introducing members of the applicant's executive team and experts who were to present submission or evidence at the hearing.
23. Mr Bartlett noted that the application represents a serious opportunity to contribute meaningfully to demand in Auckland for additional, and more varied, housing stock. He stressed (a number of times) St Johns is a prime location for such a development. He drew our attention to the large size of the site and its zoning – *Mixed Housing Urban (MHU)* – which is in his words-

*'A reasonably high-intensity residential zone, specifically "enabling a greater intensity of the development than previously provided for".*

*Front and centre of the zone is the expectation of change. Specifically, the zone description indicates that over time, the appearance of neighbourhoods within the zone will change' with development typically up to three storeys in a variety of sizes and forms, including detached dwellings, terraced housing and low-rise apartments.*<sup>13</sup>

24. Mr Bartlett also pointed out that that the small portion of the site zoned *Mixed House Suburban (MHS)*, the objectives and policies of the MHS zone will also enable intensification.
25. In addressing the recommendation of the Section 42A Report Mr Bartlett advocated that the recommendation to decline is based on relatively confined concerns in respect to the height and design of some of the buildings. He submitted that the applicant acknowledges that the Proposal will result in a number of effects, including positive and in some cases moderate adverse effects, but overall the Proposal will result in acceptable effects on neighbours and the surrounding environment. He submitted that resource consent should be granted, subject to conditions.
26. Mr Bartlett advised that the effects of the application must be assessed against the future characteristics of the site and the surrounding properties that are now enabled by the recently adopted Unitary Plan MHU and MHS zones.
27. Aaron Smail, the applicant's General Manager for Development, provided an overview of Summerset's corporate philosophy and approach. He noted, and stressed, the need for a comprehensive care retirement village in Meadowbank, and considered that the

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<sup>13</sup> Russell Bartlett Opening Legal Submission [31-32]

St Johns village when completed will be a valuable community asset. Mr Smail also noted<sup>14</sup>:

*"In terms of important community benefits.....it is expected to release approximately 300+ house to immediately help alleviate Auckland's housing supply..."*

28. A written statement of planning evidence was provided by Andrew Wilkinson, a consultant planner. Mr Wilkinson spoke to a written summary<sup>15</sup> of his evidence at the hearing. Key points:
- The retirement village as proposed fits within the Unitary Plan definition of "integrated residential development".
  - The development provides quality on-site residential amenity for residents and adjoining sites and streets.
  - Non-residential activities provide for the community's social, economic and cultural well-being, while being compatible with the scale and intensity of development anticipated by the zone so as to contribute to the amenity of the neighbourhood.
  - Policy direction acknowledges that integrated residential developments can be appropriately accommodated on larger sites.
  - There will be occasions where the regional outcomes for residential growth cannot be achieved through strict adherence to development standards.
  - The activity status provides a reasonable opportunity for an infringement to be considered.
  - The MHU zone can achieve a predominantly three-storey urban built character while accommodating significantly more substantial development on large sites.
29. Mr Wilkinson emphasised that the effects of the application must be assessed against the future characteristics of the site and the surrounding properties that are now enabled by the recently adopted Unitary Plan MHU and MHS zones
30. In response to questioning, Mr Wilkinson considered that the extent that the proposal is consistent with the Chapter H5 objectives and policies should be confined to the subject site, rather than being averaged across various MHU zones of the Auckland urban area.
31. Nicholas Miles, the Project Design Director for the applicant, provided a written brief of evidence and tabled a written summary of his evidence which he spoke to at the hearing. Mr Miles outlined the key design principles of the project noting that the design concept for the proposal was based on enabling a comprehensive development of a currently underutilised site and that care had been taken with the design of the apartment buildings to ensure that they complement the form and

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<sup>14</sup> Aaron Smail EiC at [30h]

<sup>15</sup> Mr Wilkinson presented his summary evidence in two parts at the hearing

materiality of the neighbouring residential properties while establishing their own individual style. The proposal has been specifically designed to reduce the perceived bulk and dominance of the buildings and to mitigate any consequential and/or related adverse effects. In his opinion, the village design is appropriate in respect of scale, character and amenity to the surrounding residential neighbourhood and is considerate of the site's natural features.

32. Urban design evidence was provided by Ian Munro, a consultant urban designer. Mr Munro also spoke to a written summary of his evidence and provided the hearing with supplementary urban evidence as the hearing progressed. Mr Munro agreed that the proposal was not in keeping with the existing characteristics of the environment and that in his analysis the MHU zone will enable significant change and that change must happen. He too emphasised that the assessment must be made against the future environment that is enabled by the MHU and MHS zoning.
33. With the further urban design refinements<sup>16</sup> made by Mr Munro, he confirmed that the proposal will achieve an urban built form character that is appropriate for the environment and which will not be adverse. He emphasised that his opinion on a key issue remained unchanged<sup>17</sup>:

*“The Plan permits a spatial relationship of a person on a 2-storey building in such proximity to the boundary that would be as, or more visually dominant than a taller but more set back building”*

34. Robert Pryor, a registered landscape architect, provided landscape and visual effects evidence. In speaking to his written summary he noted:
- The site's location and large size result in it being entirely suitable for an integrated residential development as proposed.
  - The proposal will have minimal adverse landscape and visual effects and can be readily accommodated in this location.
  - The architectural design of the building has reduced the bulk and scale of the building and the generous building setbacks have reduced the dominance effects on western neighbours and the increased height of buildings D and F have been mitigated by their location away from the western and northern boundaries.
35. Landscape evidence was provided by Daniel Kamo, a consultant landscape architect. Mr Kamo tabled a written summary of evidence and spoke to it. Key points included:
- The village landscape was designed to be of high quality creating a connectedness with the wider landscape.

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<sup>16</sup> Additional Statement of Evidence – Ian Munro 18 June 2018

<sup>17</sup> Ian Munro Summary Statement of Evidence 14 June 2018

- Existing planting is retained, where possible, in order to provide amenity for residents and public whilst ensuring the visual impact of the proposed retirement village is reduced where possible.
  - Proposed new plantings will ensure that, as plants mature, the buildings and wider retirement village will sit more comfortably within the surrounding landscape.
  - Planting will occur as soon as possible.
36. John Burgess, a Director of Traffic Planning Consultants, provided evidence on transport and transportation outcomes and provided the hearing with a written summary of his evidence. He recorded:
- The Council's traffic consultant is satisfied with the traffic and transportation outcomes of the proposed retirement village proposal.
  - The village has been designed with two access points. The main St Johns Road access point will be used by most residents and visitors and will be restricted to 'left in' and 'left out'.
  - A formal zebra crossing will be installed on St Johns Road.
  - Carparking meets the requirements of the Unitary Plan.
  - Carparking flexibility needs to be retained for the village to be able to manage its parking to suit particular circumstances which might change from time to time in terms of overall parking demand.
37. Ecological evidence was provided Jennifer Shanks<sup>18</sup> a director of JS Ecology Limited. In speaking to her evidence, Ms Shanks noted:
- A key ecological value of St Johns Bush is its function as a stepping stone habitat for native fauna in the area of the Auckland Isthmus that has limited native vegetation.
  - No threatened species of fauna were found by Bioresarches in their investigations.
  - Effects on terrestrial fauna are expected to be less than minor and there will no change to the stepping stone function of St Johns Bush.
  - Water quality parameters and aquatic habitat values will be maintained or enhanced.
  - Shading from buildings will not negatively impact on St Johns Bush.
38. Brett Black, a Chartered Professional Engineer<sup>19</sup>, provided geotechnical evidence. In speaking to his tabled written summary, Mr Black noted that based on his

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<sup>18</sup> Ms Shanks also tabled a written summary of her evidence at the hearing

investigations (geotechnical, groundwater, settlement, and contamination), the site is suitable for the proposed retirement village.

39. Evidence on the civil engineering aspects was prepared by Steven James<sup>20</sup>, a Chartered Professional Engineer. In speaking to his tabled evidence summary, Mr James addressed:

- Earthworks activities and mitigation;
- Stormwater management; and
- Wastewater and water supply.

It was his conclusion that the proposed retirement village can be adequately serviced and will satisfy Council and Watercare standards and guidelines with respect to stormwater management, wastewater and water supply. The proposed earthwork and construction activities will be managed to mitigate effects on the environment in accordance with Council's standards and guidelines. Mr James also noted that the extension of the 300mm diameter public stormwater reticulation from Rutherford Terrace to the site at Ripon Crescent will need to be completed and operational before the sediment retention pond to service the bulk earthworks is commissioned.

40. Tim Beresford, a Senior Associate at Norman Disney & Young, provided evidence on acoustics and vibration. Mr Beresford concluded that adherence to a Council approved *Construction Noise and Vibration Plan* (CNVMP) will ensure that construction activities which occur nearby to the Summerset boundary will be appropriately managed so as to ensure compliance with the noise and vibration limits proposed on the draft consent conditions
41. Arboricultural evidence was provided by Craig Webb, a consultant arborist. Mr Webb reiterated the findings of his arboricultural assessment, concluding that the effects of the removal of trees associated with the proposed development will be appropriately mitigated through the retention of some existing trees and through the planting of trees associated with the landscaping of the site.

The evidence presented by the submitters is summarised as follows.

#### **Submitters Evidence<sup>21</sup>:**

#### **In opposition-**

42. Valerie Fearn<sup>22</sup> read a written statement covering a number of points of concern, being:
- Traffic & parking -not enough parking spaces have been allocated;
  - Noise and dust from construction trucks;

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<sup>19</sup> Mr Black is a Director of Riley Consultants limited.

<sup>20</sup> Mr James is a Director of Riley Consultants limited.

<sup>21</sup> In order of presentation at the hearing

<sup>22</sup> Submitter No 16 Hearing Agenda pp 596-599

- Stormwater effects on St Johns Bush;
- Construction noise and earthworks impacts; and
- Building heights.

43. In reading her written statement Pamela Doyle made the following points:

- All proposed buildings infringe the “height in relation to boundary” standards;
- The development will shade her house on the western boundary;
- Significant loss of amenity and privacy by the removal of some mature and magnificent trees along the western boundary;
- Insufficient parking and consequential effect on adjacent streets;
- Impact of construction traffic on Ipswich Place; and
- The length of the construction period.

44. Mahlon Burch<sup>23</sup> in reading his written statement noted:

- It looks like an industrial complex;
- It is a ‘Berlin Wall’ of high rise apartments and industrial hospital<sup>24</sup>;
- The development is a threat to St Johns Bush;
- There will traffic management problems including safety issues;
- There will be an increased risk of burglary during the construction phase; and
- The size and scale of the proposal is totally unsuited to the location proposed.

45. Noel McGrevy<sup>25</sup> in talking to his submission made the following points:

- The Plan infringements are opposed.
- People are important; large developers with grandiose schemes are a threat;
- The development is a threat to St Johns Bush; and
- The quality of life (the value and integrity of residential refuges) is under assault if the development is approved.

46. In speaking to his submission Mike Webber<sup>26</sup> told us:

- There are more suitable zones in Auckland;

<sup>23</sup> Submitter No 34 Hearing Agenda pp 695-694

<sup>24</sup> Mr Burch tabled a profile (View 11) to demonstrate this point.

<sup>25</sup> Submitter No 20 Hearing Agenda pp 618-625

<sup>26</sup> Submitter No 41 Hearing Agenda pp 763



- Supports the submission of Mr Burch;
- Concern over parking on St Johns' Road and potential problems with buses; and
- Other transportation concerns.

47. Donnell Burch<sup>27</sup> in speaking to written submission noted:

- Her concerns over the impact that the construction period would have on her daughters;
- The traffic problems (including parking) the proposal would generate;
- The massive scale of the proposed development;
- The plan infringements; and
- Ecological concerns especially for St Johns Bush.

48. Michael O'Halloran<sup>28</sup> provided an overview of Geraldine Ngata's<sup>29</sup> submission. Ms Ngata submission addressed the following concerns:

- Insufficient information;
- The scale of the proposed development is unreasonable.
- Visual impacts;
- Earthwork effects; especially the truck movements it will generate.

49. Gael Richardson<sup>30</sup> spoke to her submission which had included the following concerns:

- Increased traffic;
- Visual intrusion;
- Increased demand on services; and
- Impact of the high buildings.

### **Joyce Allen**

50. Chris Timbs presented opening legal submissions for Mrs Joyce Allen<sup>31</sup> in which he advocated:

<sup>27</sup> Submitter No 34 Hearing Agenda pp 727-732

<sup>28</sup> Geraldine Ngata could not attend the hearing the panel allowed Mr O'Halloran to provide an overview of her submission. No questions of clarification were permitted to be asked

<sup>29</sup> Submitter No 33 Hearing Agenda pp 709-726

<sup>30</sup> Submitter No 11 Hearing Agenda pp 576-579

<sup>31</sup> Submitter No 17 Hearing Agenda pp 600-609

- The intensity of development and the building infringements across the site do not appear to be a balanced response to site constraints.
  - The applicant is “pushing the boundaries” to the point it exceeds what is appropriate and acceptable in terms of residential amenity and the quality of its neighbours’ lives.
  - No concessions or changes have been made to Mrs Allen’s reasonable requests.
  - The proposed development would have adverse effects in terms of loss of privacy and dominance that exceed what a neighbour should have to accept.
51. In addressing amenity impacts Mr Timbs provided a consideration that addressed; the surrounding environment, the amenity Mrs Allen enjoys and specific amenity effects. Mr Timbs included in his consideration the potential for further mitigation. He advocated that the proposal will have significant impact on visual and amenity values of adjacent properties.
52. In concluding Mr Timbs’ noted that the proposal is contrary to, or at least inconsistent with, the relevant objectives and policies for the MHU zone and that the negative effects of the proposal outweigh the positive effects.
53. Planning evidence for Mrs Allen was provided by Karl Cook, a planning consultant and Director of Barker & Associates Limited. In addressing his evidence at the hearing Mr Cook emphasised:
- Adverse amenity effects that arise from the large scale of buildings in close proximity to site boundaries and the elevated position of the site relative to neighbours.
  - The proposed development will result in inappropriate adverse effects on amenity of neighbouring properties.
  - The Unitary Plan enables a stepwise change of residential intensity (including retirement accommodation) in a manner that is appropriate. The proposal does not fit within that approach to change.
  - The development setbacks and architectural design are not adequate to minimise the adverse amenity effects and are contrary to relevant objectives and policies of the MHU Zone.
54. Notably, while acknowledging that the assessment should reflect future characteristics of the site and the surrounding properties that are now enabled by the MHU and MHS zones, he considered that the existing characteristic of the adjacent properties and neighbourhood are also relevant.
55. Mr Cook provided suggested conditions to minimise the adverse effects should the consent be granted.

56. Nicholas Albrecht tabled and read a written statement which addressed:

- A description of the family property at 158A St Johns Road;
- The impact of the proposal including: bulk and dominance; loss of privacy; loss of sunlight; tree removal; landscaping; stormwater management; traffic, access and parking; and constriction effects; and
- Communications with the applicant.

57. Mr Albrecht considered that the adverse effects of the proposal on their family and their home would be significant

**Andrew & Jeanette Hayes<sup>32</sup>**

58. Andrew Hayes spoke to a tabled written statement key points included:

- The Hayes are supportive of the construction of a retirement village on Parson's Field.
- Summerset has selected to design a perimeter focused development that includes vast uninterrupted buildings.
- The project will result in a significant loss of amenity at 51 Ripon Crescent (their home).
- Summerset has purchased written approval from neighbours, which doesn't remedy the physical loss on amenity on those properties.

59. Rachel Dimery of Dimery Consulting Limited provided a brief of planning evidence for Andrew & Jeanette Hayes. Mrs Dimery spoke to a written summary of her evidence which reinforced the following points made in her evidence in chief:

- A lack of relevant information in the application on which to fully assess the potential adverse effects on the Hayes' property.
- The extent of adverse effects on the privacy and amenity of adjoining properties.
- The proposal is contrary to the planned built character anticipated by the objectives and policies for the MHU and MHS zones.

60. Andrew and Jeanette Hayes provided the panel with a written submission commenting on the information provided by the applicant in Mr Bartlett's Closing Submissions Part 1 in which they noted that:

- There are no special rules for retirement villages; and

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<sup>32</sup> Submitter No 28 Hearing Agenda pp 649-690

- Highlighted a point of Mrs Dimery's evidence that 'predominantly' means 'mainly'.

### **Submitter in Support**

61. Rae Nield<sup>33</sup> tabled and spoke to written submission which had been prepared by her and Trevor Brooker. Ms Nield explained:
- The space should be put to good use;
  - There is a need for a retirement village;
  - Other high-rise buildings are planned for Meadowbank; and
  - The long-term impacts of traffic can be ameliorated.
62. Trevor Brooker spoke in support of Ms Nield's submission.
63. At the conclusion of evidence from the submitters, the Council specialists were invited to comment on any matters that they had heard in evidence.

### **Auckland Council's Reporting Officer's Review**

64. Mr Woodhead told us that her Section 42A Report conclusions and recommendations remained unchanged. She stressed:
- An integrated residential development is acceptable in principle;
  - The layout of the buildings, access, carparking, landscaping and infrastructure provision of this proposal are acceptable;
  - There are positive effects associated with the development;
  - The height of the upper levels of Building E and F and the resulting adverse amenity effects are not acceptable; and
  - The relation to building B and C and the resulting visual dominance effects on the occupiers of immediately adjoining properties is not acceptable.
65. Ms Woodhead addressed the draft conditions of consent that had been undergoing an iterative review during the course of the hearing.
66. Ms Woodhead provided a number of clarifications. In terms of Objective H5.2(2) and Policy H5.3(2) she opined that whether the development is "*predominantly three storey*" should be assessed on the basis of this site only and that the development on this site be in keeping with a built character of typically up to three storeys in a variety of sizes and forms while enabling a greater intensity than previously provided for under the legacy plans. She considered that the proposal was inconsistent with Objective H5.2(2) and Policy H5.3(2) and while those provisions did not carry greater

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<sup>33</sup> Submitter No 8 Hearing Agenda pp 566

weight than others, they were significant to the assessment and the outcomes of the MHU zone.

67. Ms Woodhead was supported by a number of council experts who provided us with their review comments which did not alter the main conclusions of their initial reviews. They also addressed suggested amendments to the draft conditions.

### **Applicant's Right of Reply**

68. The applicant's right of reply was given by Mr Bartlett in two parts and addressed the following matters:

- In Part 1 of his Reply Submissions for the applicant Mr Bartlett addressed the site zoning and the sequence of events that lead to the Unitary Plan zoning and provided us with examples of retirement villages consented under the Unitary Plan.
- In Part 2 of his Reply Submissions Mr Bartlett responded to: matters raised by submitters and the panel. Mr Bartlett emphasised that for many of the potential adverse effects the only expert evidence available for the panel's consideration was that offered either by the applicant or the Council. He commented on each of the issues in contention, drawing our attention to the measures that the applicant has taken to address them.
- In regard to visual, landscape and amenity effects, Mr Bartlett pointed out that while the submitters had raised specific issues in relation to their own properties no independent expert visual or landscape evidence was called on behalf of the submitters. He reminded us of how the Proposal responds to its unique setting and reiterated that the surrounding MHS zone will be the subjected change as the development potential of the zone is realized.
- Mr Bartlett also outlined the many possible benefits of the proposal noting that none of them had been challenged by the submitters of the Council's reporting team.

69. In addressing our queries, he provided;

- A calculation the portion of the Proposal within the permitted building coverage parameters;
- An updated western elevation;
- Comment on why basement level could not be lower; and
- The location of the transformer.

70. He concluded by commenting on the proposed consent conditions<sup>34</sup>.
71. Mr Bartlett provided the Panel with a written Part 3 to his closing submission in which he:
- addressed feedback provided by the Hayes and the Ōrākei Local Board on his reply submissions (Part 1);
  - responded to the Hayes' submissions presented on the final day of the hearing, including a further design amendment to remove the height in relation to boundary infringement with the Hayes' property; and
  - addressed the applicant's final version of conditions filed with these submissions.
72. He recorded that the feedback received did not raise anything new that requires a specific further response on behalf of the applicant.

### **Principal issues in contention**

73. After analysis of the application and evidence (including proposed mitigation measures), undertaking a site visit, reviewing the Council planning officer's recommendation report, reviewing the submissions and concluding the hearing process, the proposed activity raises a number of issues for consideration. The principal issues in contention are:
- Whether the proposal is contrary to the Unitary Plan and contrary to its objectives and policies and in particular:
    - o Height/dominance of buildings proposed;
    - o Character and intensity of development;
    - o Height in relation to boundary infringements – shadowing, privacy and reduced sunlight concerns; and
    - o Yard infringements.
  - Operational traffic impacts and car parking;
  - Stormwater and overland flow path effects;
  - Vegetation/tree removal within the site and the Significant Ecological Area (SEA);
  - Effect on St Johns Bush biodiversity and local wildlife;
  - Construction effects:

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<sup>34</sup> On behalf of Mr Bartlett, Ms Francelle Lupis talked us through the applicant's proposed amendments to conditions.

- Noise, dust, vibration, construction traffic;
- Earthworks/contamination and disturbance of soil; and
- The location of the transformer adjacent to St Johns Road.

### **Main findings on the principal issues in contention**

74. A prehearing meeting had been held on 26 March 2018. No matters were agreed and all the issues raised by the submitters therefore remain outstanding.
75. The Section 42A Report addressed<sup>35</sup>, with input from Council's experts, the following effects:
- Impact on St Johns Bush;
  - Amenity - On Site;'
  - Amenity - Transformer;
  - Trees;
  - Traffic;
  - Car Parking;
  - SEA impacts;
  - Operational Noise Effects;
  - Construction Traffic Effects;
  - Construction Noise;
  - Effects on Ecology and Biodiversity:
  - Infrastructure and Engineering Effects:
    - Stormwater & Flooding;
    - Overland Flow;
    - Wastewater and Water Supply;
    - Earthworks;
    - Geotechnical Effects;
    - Groundwater; and
    - NES – Soil Contamination.

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<sup>35</sup> Section 42A Report pp 46 – 59. Hearing Agenda pp 50 - 63



76. Ms Woodhead concluded that the actual and potential effects in relation to:
- Traffic and parking issues, (concerns had been raised over the effects on the nearby intersection, access, a pedestrian crossing and increased traffic generation) any actual and potential effects can be mitigated by conditions.
  - The potential effects associated with engineering issues including: geotechnical issues; groundwater and contamination will be acceptable.
  - In relation to the effects on the Significant Ecological Area (SEA), with the mitigation proposed, any ecological effects are likely to be less than minor.
  - Section 42A report notes<sup>36</sup> that a significant modification has been made to the proposed management of stormwater. Stormwater will now be directed to new connection to the existing public stormwater network which services Rutherford Terrace and Ripon Crescent. The council's experts in their assessment concluded<sup>37</sup> that no adverse effects are expected from the stormwater disposal proposed with adherence to the recommended conditions of consent.
  - In relation to St Johns Bush, resulting from the height, orientation and location of the proposed buildings, the stream as a result of the discharge of the overland flow path, and an increase in the duration of the shade, will have negligible effects on the native vegetation within St Johns Bush and any effect on native fish and macroinvertebrate communities within the unnamed tributary is likely to be negligible.
  - Concerns in relation to the construction traffic and noise generated and the traffic safety and amenity effects on the residents and road users of Ripon Crescent and the other local roads can be mitigated through detailed management plans recommended by condition if consent is granted, and the actual and potential effects will be acceptable as a result.
77. During the course of the hearing these many of these effects were comprehensively addressed by the applicant's expert witnesses. Council's experts also addressed their original assessment and other than suggesting modification the potential conditions of consent they endorsed their original comments.
78. The potential effects were also addressed by submitters who presented at the hearing. The statements of the submitters reinforced the concerns expressed in their original submissions. We have provided further commentary and assessment below.

### ***Unitary Plan – Planning Framework***

79. In our First Direction we asked the planners to address the potential decision implications stemming The Davidson Family Trust High Court decision which found that a Panel only has recourse to Part 2 if it is determined that one of three

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<sup>36</sup> Section 42A Report page 55 Hearing Agenda page 59

<sup>37</sup> Submitter No 6

exceptions apply<sup>38</sup>: Mr Wilkinson<sup>39</sup> concluded that he did not consider that there was a need to specifically address Part 2. This viewpoint was either not challenged by the other planners or endorsed<sup>40</sup>.

80. The relevant AUP:OP planning framework is set out in the Section 42A report and there is general agreement with the identification of the relevant provisions. Two zones apply to the site with the majority of the site (57 Ripon Crescent - Parsons Field) being zoned MHU and 55 Ripon Crescent (owned by the applicant) zoned MHS. The provisions of those zones are the most relevant to the principle issues in contention.
81. The MHU and MHS objectives and policies have much commonality in their wording, with the key difference being the scale of development anticipated in each zone. Our discussion herein focusses on the MHU provisions but acknowledge where necessary the corresponding MHS provisions.
82. To assess the proposal within that planning framework we must determine what constitutes the environment of the neighbourhood and the site. On this point we heard expert opinions from Messrs Wilkinson, Munro, Pryor, Cook and Mrs Dimery. We also received opinions on this point from various witnesses who reflected on the existing neighbourhood characteristics that they appreciate.
83. The consensus of the expert witnesses was that the characteristics of the site and its neighbourhood must be considered as they can be reasonably anticipated to develop under the current MHU and MHS zones.
84. Mr Cook also contended, in response to questions, that the existing characteristics of the adjoining sites and neighbourhood are also relevant to consideration of the proposal, as did Mr Brown in his summary comments. While we accept that the proposal is not in keeping with the existing characteristics of the environment, we prefer the evidence of Mr Wilkinson on this point. Having carefully considered the planning evidence and the surrounding residential development, we find that the correct analysis must be against the built form outcome anticipated by the AUP:OP, acknowledging that that will evolve over time. In that regard, we assess the reasonably anticipated environment within the adjoining sites and neighbourhood to comprise predominantly two storeys in character and subject to the permitted standards of Chapter H4. Likewise, the reasonably anticipated development within the site is predominantly three storeys in character and subject to the permitted standards of Chapter H5.
85. We find that assuming development that might be consented beyond those standards is conjecture and unquantifiable. In this regard we don't fully accept Mr Munro's comment to the hearing that the AUP:OP doesn't provide much certainty as to the ultimate type of development that may occur. While we acknowledge that restricted discretionary activity resource consents can be sought for development on any site

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<sup>38</sup> R J Davidson Family Trust v Marlborough District Council [20i 7] NZHC 52. Environmental Defence Society Inc v New Zealand King Salmon Co Ltd [2013] NZSC [101]

<sup>39</sup> Andrew Wilkinson EIC at [84-87]

<sup>40</sup> Nicola Woodhead – Council Closing Comments page 3

that does not meet permitted standards, the policies do provide what we believe to be relatively succinct direction as to the urban form anticipated for the zones.

86. Mr Cook contended that the restricted discretionary status of the retirement village in the MHU and MHS zones engages all relevant matters of control which are referenced against the permitted standards and policies. We agree that our consideration of the effects of the proposal, and particularly those of concern to submitters, is informed by the relevant matters of discretion and assessment criteria, as well as the policies.
87. As considered by Mr Cook, for an integrated residential development in the MHU zone, Matters of Discretion H5.8.1(3) and Assessment Criteria H5.8.2(3) are engaged.
88. Matters H5.8.1(3)(a) requires assessment of the suite of effects raised by submitters, being:
- (a) the effects on the neighbourhood character, residential amenity, safety, and the surrounding residential area from all of the following:*
    - (i) building intensity, scale, location, form and appearance;*
    - (ii) traffic;*
    - (iii) design of parking and access; and*
    - (iv) noise, lighting and hours of operation.*
89. Matter H5.8.1(4) States:
- (4) for buildings that do not comply with Standard H5.6.5 Height in relation to boundary; Standard H5.6.6 Alternative height in relation to boundary; Standard H5.6.7 Height in relation to boundary adjoining lower intensity zones; Standard H5.6.8 Yards; Standard H5.6.9 Maximum impervious areas; Standard H5.6.10 Building coverage; Standard H5.6.11 Landscaped area; Standard H5.6.12 Outlook space; Standard H5.6.13 Daylight; Standard H5.6.14 Outdoor living space; Standard H5.6.15 Front, side and rear fences and walls; Standard H5.6.16 Minimum dwelling size:*
- (a) any policy which is relevant to the standard;*
  - (b) the purpose of the standard;*
  - (c) the effects of the infringement of the standard;*
  - (d) the effects on the rural and coastal character of the zone;*
  - (e) the effects on the amenity of neighbouring sites;*
  - (f) the effects of any special or unusual characteristic of the site which is relevant to the standard;*

*(g) the characteristics of the development;*

*(h) any other matters specifically listed for the standard; and*

*(i) where more than one standard will be infringed, the effects of all infringements.*

90. Criteria H5.8.2(3) incorporates reference to all the policies, and covers all effects associated with building height, which are addressed in Policies H5.3(2) and (4).
91. While again acknowledging that the full discretionary status of the application allows us a broad consideration of the positive and negative effects of the proposal, the planning framework of Chapter H5 (and correspondingly Chapter H4) confirms that we are entitled and required to consider the consistency of the proposal across all policies and specific potential adverse effects on neighbouring properties, including amenity.
92. Framed by the MHU and MHS provisions, our decision is informed by the characteristics of the site and the specific nature and scale of anticipated effects (positive and negative).

What scale of development is reasonably anticipated for the site?

93. While planning experts at the hearing were reluctant to refer to the applicant's site as a 'spot zone', it is unusual in that it is an isolated enclave of MHU zoning generally surrounded by an MHS zone<sup>41</sup>, that is characterised by existing residential development that typically expresses the former Residential 6 zone of the Isthmus Section of the Auckland Council District Plan.
94. In responses to questions, we heard evidence from Mr Wilkinson and submissions from Ms Lupis regarding the applicant's involvement in the promulgation of the MHU zoning of the site<sup>42</sup>. We also accepted an offer from Mr Bartlett to receive a more formal summary of that process, and that was subsequently provided as Part 1 of the Applicant's Reply.
95. Having reviewed that Reply, we accept that as provided for in the MHU provisions, retirement villages were clearly anticipated as an appropriate land use for the site. All planners that presented evidence to us agreed on that point and several submitters supported the use of the site for a retirement village. But we are not convinced, or as a minimum have not received evidence to support a conclusion, that the Independent Hearings Panel (IHP) anticipated such use would comprise buildings up to 7 storeys in height and corresponding bulk. Indeed, the quote provided in paragraph 10 of Mr Bartlett's Part 1 Reply suggests otherwise:

*'On the land leased for a proposed retirement village to the west of the campus, the Panel supports Residential – Mixed Housing Urban zoning in accordance with its*

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<sup>41</sup> Noting that the St Johns Theological College site to the east is subject to a Precinct overlay, and St Johns Bush lies to the north-east.

<sup>42</sup> Upon obtaining the lease of the site from St Johns College Trust Board the applicant joined the site owner's submission to the Proposed Auckland Unitary Plan as a s274 RMA party, and subsequently participated in mediations and PAUP hearings.

*strategic determination that, in general, this zoning is appropriate for existing and proposed retirement village sites. In particular, this zone is apt because of the form and nature of modern retirement complexes. The maximum height in this zone is 11m (with an allowance for a further 1m) which enables efficient use of these large sites.'*

96. We are also guided by the H5.1 Zone description which states:

*The Residential – Mixed Housing Urban Zone is a reasonably high-intensity zone enabling a greater intensity of development than previously provided for.*

*Over time, the appearance of neighbourhoods within this zone will change, with development typically up to three storeys in a variety of sizes and forms, including detached dwellings, terrace housing and low-rise apartments. This supports increasing the capacity and choice of housing within neighbourhoods as well as promoting walkable neighbourhoods, fostering a sense of community and increasing the vitality of centres.*

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

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

- *achieve the planned urban built character of the zone;*
- *achieve attractive and safe streets and public open spaces;*
- *manage the effects of development on adjoining neighbouring sites, including visual amenity, privacy and access to daylight and sunlight; and*
- *achieve high quality on-site living environments.*

*The resource consent requirements enable the design and layout of the development to be assessed; recognising that the need to achieve quality design is important as the scale of development increases.*

97. We conclude that the zone does not limit itself to a maximum of three storey development and accept Mr Bartlett's contention that the restricted discretionary status of developments exceeding height and other performance standards indicates that such exceedance may be acceptable subject to appropriately addressing adverse effects. While this application has an overall discretionary status, the effects of most significance in this instance are those listed in the matters of discretion and assessment criteria of Chapter H5 and are highlighted in the zone description which sets the context within which we have assessed the application; namely:

- *achieves the planned urban built character of the zone;*
- *achieves attractive and safe streets and public open spaces;*

- *manages the effects of development on adjoining neighbouring sites, including visual amenity, privacy and access to daylight and sunlight; and*
- *achieves high quality on-site living environments.*

### Weighting of Policies

98. Throughout the hearing we sought comment from planning witnesses regarding the relative weighting to be afforded provisions, particularly those of the MHU zone. Experts generally agreed that no objective or policies should be given specific weight. Rather, they should be considered in concert, with the various matters addressed with emphasis relevant to outcomes or effects addressed by each provision. Mr Cook considered that the directive verb “require” of Policies H5.3(2) and (4) should be given greater weight than the ‘enabling’ Policies H5.3(1) and (9).
99. Mr Wilkinson questioned Ms Woodhead’s assessment noting that he was of the opinion that the Council had placed greater weighting on the objectives and policies that suggest the zone should achieve a predominantly three-storey urban built form, none of the objectives and policies in MHU zone have been couched in absolute terms and other objectives policies come into play.<sup>43</sup> Ms Woodhead accepted in her closing comments to the hearing that individual policies should not be given greater weight, but rather considered in the context of the proposal and its effects.
100. Mrs Dimery succinctly addressed the distinction between the various verbs adopted throughout the MHU and MHS policies. In her opinion, rather than being in conflict, a policy such as HH5.3(1) that ‘enables’ integrated residential developments such as retirement villages, is subject to the more directive requirements of policies such as H5.3(2) and (4) that ‘require’ developments to fit within stated characteristics and scales of effects. We favour Mrs Dimery’s interpretation, and the majority’s view on weighting. While we do not apply a specific weighting to particular policies, we do accept that the enabling and providing policies are subject to the requirements imposed through Policies H5.3(2), (4) and (7). That is not to say that a proposal fails if it is inconsistent with any or all of those policies, but simply that they must all be given appropriate emphasis in our overall finding. That emphasis will be contextual.

### Mixed Housing Urban Zone Policy Assessment

#### *Policy H5.3(1)*

*Enable a variety of housing types at higher densities, including low-rise apartments and integrated residential development such as retirement villages.*

101. Retirement villages are anticipated for the zone. We find that the proposal is generally consistent with the outcome sought by this policy but, subject to our reasons and findings below, the scale of the proposal is unlikely to be consistent with the form of retirement village anticipated by the policy.

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<sup>43</sup> Andrew Wilkinson EIC at [46]

*Require the height, bulk, form and appearance of development and the provision of sufficient setbacks and landscaped areas to achieve an urban built character of predominantly three storeys, in a variety of forms.*

102. This is a key directive policy in the consideration of this proposal and supported Objective H5.2(2) which states:

*Development is in keeping with the neighbourhood's planned urban built character of predominantly three-storey buildings, in a variety of forms and surrounded by open space.*

103. Mr Wilkinson in his evidence opined that:

*"the objective of "predominantly three storey buildings" does not preclude more than three storeys being considered for a proposal... the use of the word "predominantly" deliberately expresses an acknowledgement that the general form of development will gradually transition to an appearance that is more regularly three storeys but with the ability to deviate from that. As more land owners begin to take up the opportunity inherent in the MHU zone, larger buildings will inevitably become more prevalent and expectations will change."*<sup>44</sup>

104. Mr Wilkinson considered that when read together the MHU zone can achieve a predominantly three-storey urban built form character, while accommodating significantly more substantial development on large sites. He was of the view that this proposal can be considered to be consistent with applicable objectives and policies.<sup>45</sup>

105. We accept Mrs Dimery's adoption of the Oxford Dictionary definition of the meaning of "predominantly" – *mainly; for the most part*<sup>46</sup>. Given that we have agreed with the planning witnesses that the consideration of the proposal must be limited to the site itself, as a MHU enclave within a MHS neighbourhood, we do not accept that the proposed development is predominantly three storeys in urban character.

106. The extent of this development that is within the MHU zone ranges from three to seven storeys, and extends to eight storeys in one section of Building F. Moreover, Buildings A, B and C along the western side of the site are to be constructed on raised platforms and basements such that those buildings are effectively greater than three storeys and up to approximately four storeys in height when perceived from the adjacent boundary, plus additional height infringements caused by the gabled roof design. While the applicant's Part 1 Reply provides a table<sup>47</sup> of percentage and areas of the site that will be greater or less than 3 storeys, we have not been provided any basis for those calculations and it does not accord with our analysis of the plans and elevations provided. Accordingly, we have not given weight to that table in our decision.

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<sup>44</sup> Andrew Wilkinson EiC at [32]

<sup>45</sup> Andrew Wilkinson EiC at [46]

<sup>46</sup> Rachel Dimery EiC at [7.4]

<sup>47</sup> Reply Submissions of Counsel for Applicant; 29 June 2018, paragraph 26.



107. Nor do we give weight to the examples provided in the Part 1 Reply of other retirement villages developed on MHU zoned sites. As suggested by Mrs Dimery<sup>48</sup> and the Orakei Local Board<sup>49</sup>, we do not have any evidence regarding the specific details of those developments or the characteristics of their surrounding sites, although Mrs Dimery<sup>50</sup> contends that one of the applicant's examples (Summerset Heritage Park) is adjoined by various zones comprising Business – Light Industry, Open Space – Informal Recreation, Terrace Housing and Apartment Building, MHU and MHS. Mr Pryor provides two other examples of MHU zoned retirement villages surrounding by MHU, and MHS and Single House zones<sup>51</sup> but does not provide any other contextual detail.
108. While the examples provided are of retirement village developments on MHU zoned sites, the context of those examples may not have any analogy to the current proposal and do not set precedent or even provide guidance over our consideration of the proposal. All experts have agreed that we must limit our consideration to the appropriateness of the proposed development at the subject site, which includes its context within its surrounding neighbourhood<sup>52</sup>.
109. Mrs Dimery acknowledged that both zones within the subject site (MHU and MHS) seek to enable integrated residential development including retirement villages<sup>53</sup>, with the objectives and policies of the MHU directed towards a planned built character of predominantly three storeys<sup>54</sup> and the objectives and policies of the MHS zone directed toward a planned character is predominantly two storeys.
110. Mr Cook recorded that he accepted that Objective H5.2(2) and supporting Policy H5.3(2) seek to provide “predominantly three storeys” but did not preclude higher or lower storey development, subject to adequately managing effects.<sup>55</sup>
111. Ms Woodhead in her Section 42A Report expressed concern over the height of buildings; noting that Building E and F were well in excess of the three storeys of built form envisaged by Objective 2 and she did not consider that the proposal was consistent with that objective<sup>56</sup>.
112. Mrs Dimery drew our attention to the Oxford Dictionary definition of the meaning of “predominantly, being ” – *mainly; for the most part*<sup>57</sup>. This aligns with Mr Cook's proposition where he stated<sup>58</sup>, “While I agree that the word ‘predominantly’ where used in Objective (2) and Policy (2) provides flexibility for greater than three storeys I consider that this would be an exception in the MHU zone”. We accept Mrs Dimery's

<sup>48</sup> Response to Part 1 Reply Submission of Counsel for Applicant, Application LUC60303311, 3 July 2018; Andrew and Jeanette Hayes

<sup>49</sup> Further Feedback from the Orakei Local Board on a Resource Consent Application for a Retirement Village at 188-226 St Johns Road and 55-57 Ripon Crescent, St Johns; Orakei Local Board, 3 July 2018

<sup>50</sup> Response to Part 1 Reply Submission of Counsel for Applicant, Application LUC60303311, 3 July 2018; Andrew and Jeanette Hayes

<sup>51</sup> Robert Pryor, EIC, at [6.18 – 61.9]

<sup>52</sup> Our finding on what constitutes the characteristics of the neighbourhood are provide later.

<sup>53</sup> Rachel Dimery EIC at [7.2]

<sup>54</sup> Ibid at [7.3]

<sup>55</sup> Karl Cook EIC at [3.3]

<sup>56</sup> Nicola Woodhaed Section 42A Report p61

<sup>57</sup> Rachel Dimery EIC at [7.4]

<sup>58</sup> Karl Cook EIC at [3.14]

interpretation of 'predominantly' and find that the outcome of the proposed development will not be an urban built character of predominantly three storeys, in a variety of forms. We find that the proposal significantly exceeds that character and its effects are a consequence of its overall height, bulk, form, and the adequacy of setbacks in the context of those matters.

113. While Policy H5.3(2) works in concert with the corresponding Objective H5.2(2), we do not accept Mr Bartlett's conjecture that the words "in keeping with" provided in the objective relaxes the extent that a development is to achieve an urban built character expressed in Policy H5.3(2). Likewise, while Mr Munro considered that "in keeping" provided for something akin to "similar to", we find that the policy tightens the interpretation of the objective and is more directly consistent with the zone description. Again, we accept that developments of greater than three storeys can be appropriate at this site if effects are appropriately addressed through design, but the extent of the exceedance is not limitless and not extended by the objective.

*Policy H5.3(3)*

*Encourage development to achieve attractive and safe streets and public open spaces including by:*

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

114. We are satisfied that the proposal will be consistent with this policy. Greater occupation of the site and surveillance from windows and balconies will increase passive surveillance, ironically being an effect of significant concern to neighbours. We are also satisfied that the proposed front yard landscaping is acceptable<sup>59</sup>. The only garage doors that would face a boundary are those of Building G which would face Ripon Crescent. Having carefully considered the design and typologies of existing dwellings along Ripon Crescent and Rutherford Terrace, we are satisfied that that garage doors of the building would not be visually dominant and are in keeping with the neighbourhood.

*Policy H5.3(4)*

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

115. This policy is engaged by a number of the key concerns raised by submitters, and the evidence provided by the expert planning and urban design witnesses. The height, scale and dominance of buildings, and the extent of the resulting infringements was the focus of attention of many of the submitters<sup>60</sup> in opposition to the proposal. These

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<sup>59</sup> This finding is distinguished from our assessment of overall dominance and amenity effects.

<sup>60</sup> The height and dominance of the building was referenced in 34 of the submission received and height in relation to boundary infringements was referenced in 23 submissions.

matters are of particular concern to submitters adjoining or adjacent to the western and northern boundaries.

116. We have carefully considered all evidence and submissions, walked the perimeter of the site, visited the properties of Mrs Allan at 158A St Johns Road, and Mr and Mrs Hayes at 51 Ripon Crescent, and viewed the site from adjoining streets and view points.
117. While Policy H5.3(4) seeks to *minimise visual dominance effects to adjoining sites*, Matter of Discretion H5.8.1(3)(a) broadens the assessment to include *(a) the effects on the neighbourhood character, residential amenity, safety, and the surrounding residential area from all of the following:*
- (i) *building intensity, scale, location, form and appearance* [our emphasis underlined]
  - (ii) *traffic;*
  - (iii) *design of parking and access; and*
  - (iv) *noise, lighting and hours of operation*
118. This engages effects on the wider the neighbourhood and bring into play consideration of the urban character promoted through Policy H5.3(2). On that basis we consider the direct effects on immediate neighbours, as well as the potential adverse effects that the proposal would have on the neighbourhood character.
119. The consideration of effects on immediate neighbours is finely balanced. At first glance, we accept that the construction of three to four storey buildings along the western and northern boundaries will create a significant change to the existing privacy and amenity of the neighbouring sites. However, given that the Summerset site is elevated above its neighbours, we accept that development in accordance with the relevant standards (MHU three storeys; MHS two storeys) with compliant setbacks would result in similar effects. Likewise, while the shading diagrams suggest minor increases in shading of neighbouring sites when compared to complying development, those differences are minimal when considered at any given point.
120. We accept the point raised in submissions by Mr Bartlett that the requirement village development is like to have a more predictably acceptable noise impact on neighbours compared with multiple separate ownership dwellings along the western and northern boundaries.
121. We acknowledge the shadow studies provided by the applicant, including the updated 7:30a.m. winter solstice diagram that incorporates 158A St Johns Road. Consistent with the conclusions of Mr Pryor<sup>61</sup> and Ms Liu<sup>62</sup>, we accept that the proposal would create similar shading effects to a theoretical compliant development with the greatest

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<sup>61</sup> Pryor, EIC, [5.8 – 5.10]

<sup>62</sup> s42A Agenda Report, page 255

differences within 47A, 49A and 51 Rutherford Terrace. We do note that a compliant development with different articulation or building separation to the proposal may result in different shading.

122. But notwithstanding the above, it is the scale and cumulative adverse effects of the proposal that may result in effects that are unacceptably greater than a compliant proposal. In particular, the bulk, relative height and continuous form of Buildings A, B C and G, and the compounding effect of even larger Buildings D, E and F ‘filling the gaps’ in the background will, in our opinion, create an overbearing effect on the amenity of the adjoining sites. Because, in our assessment, the development is not predominantly three storeys, we find that those effects are not reasonably anticipated. Nor are they adequately mitigated by the proposed design. Consequently, we find that they are not acceptable. As Mrs Dimery noted in response to questions, it is the isolated MHU nature of the site that imposes and requires a more constrained response to its neighbours.
123. Mr Munro acknowledges<sup>63</sup> “that the proposal does not represent a built form outcome that is likely to be predominant or typical within the Mixed Housing Urban zone; it is in my view clearly atypical”. We agree and acknowledge that being atypical does not automatically mean it is unacceptable. As Mr Munro suggests, it is not appropriate to assume “sameness as good”<sup>64</sup> or correspondingly difference is bad. As outlined in his evidence and summary, Mr Munro describes how he considers that the characteristic of the site and the design or the development “will achieve an urban built form character that is appropriate for the environment and which will not be adverse simply because some (typically far) viewpoints buildings greater than 3-storeys will be seen.”<sup>65</sup>
124. In that regard we accept in part Mr Pryor’s assessment that the layout of the development has focussed the largest buildings on the eastern side<sup>66</sup>, and that the development integrates acceptably with St Johns Road and Ripon Crescent. We also accept the design principles expressed by Mr Milnes<sup>67</sup> regarding the internalised open spaces and activity areas within the site, and the overall landscaping as described by Mr Kamo<sup>68</sup>. But we do not accept that the development, in its current form, will “integrate comfortably with the surrounding residential environment”<sup>69</sup> or that “The visual amenity values of the surrounding area will be retained and positively enhanced”<sup>70</sup>. Nor do we accept that those impacts are limited to distance viewpoints.
125. We agree with Ms Woodhead that height is an important determinant in the character of the zone<sup>71</sup>, and that the bulk and relative height of the buildings along the western and northern boundaries, and the height of Buildings D and particularly E and F

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<sup>63</sup> Munro, Summary of Evidence, 14 June 2018

<sup>64</sup> Ibid

<sup>65</sup> Ibid

<sup>66</sup> Robert Pryor, EIC, [5.4] “in areas with the greatest potential to absorb the additional height”

<sup>67</sup> Nick Milnes, EIC, [45 – 49]

<sup>68</sup> Daniel Kamo EIC [24 – 26]

<sup>69</sup> Robert Pryor, Summary Statement, page 1.

<sup>70</sup> ibid at [5.6]

<sup>71</sup> Council Closing Comments, 29 June 2018, page 3.

contributes to an overall adverse visual dominance and adverse effect on the character of the neighbourhood that is not adequately minimised or mitigated.

126. Mr Brown also expressed concern regarding the scale of Buildings E and F, both in height and length, and suggested the need for stronger articulation of the more residential profiles of Buildings A, B, C, D and G<sup>72</sup>.
127. Ms Liu also expressed concern over the scale of the buildings with particular regard to the height and continuous built form of Buildings D, E and F<sup>73</sup>.
128. As noted, the applicant's Final Reply of 6 July 2019 included additional modifications to the design to remove the height in relation to boundary infringement with the Hayes property at 51 Ripon Crescent. While an example of the applicant's willingness to listen and adjust the proposal in response to effects on submitters, we do not consider that that change sufficiently reduces the overall effects of the proposal we have discussed above
129. Having considered the proposal overall, and taking account of the adjoining sites, the neighbourhood as it may evolve under the MHS zone, and cognisant of Policy H5.3(2), we find that the proposal in its current form comprises height, bulk, visual dominance and amenity effects that are not sufficiently minimised or mitigated.
130. Other matters to be considered herein are:

#### *Traffic*

131. Submitters raised various concerns regarding construction and operational traffic effects<sup>74</sup>. Key elements raised were construction and operational traffic at the Ipswich Place-St Johns Road intersection, and the balance of construction traffic and operation traffic impacts between the St Johns Road and Ripon Crescent access points to the site.
132. Traffic effects were addressed by Mr Burgess in evidence and summary statement on behalf of the applicant and Ms Coomer-Smit on behalf of Auckland Council. The submitters did not present expert evidence but provide valuable local experience in the traffic behaviour of the local streets.
133. In the final draft set of conditions received in the applicant's final Right of Reply, a number of the matters raised had been addressed. These included:
  - Priority to construction traffic access and egress via St Johns Road;
  - Inclusion of a barrier berm to prohibit right turn in and right turn out at St Johns Road;

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<sup>72</sup> s42A Agenda Report, page 300

<sup>73</sup> s42A Agenda Report, page 245

<sup>74</sup> s42A Agenda Report—for example: Richardson pp 579; Doyle pp 594; Fern pp 598 and Ngata pp 718 – 720

- Improved response period for traffic impacts at Ipswich Place / Truman Street identified through monitoring during construction and establishment of the village; and
  - More directive requirement for design of zebra crossing at St Johns Road and a Stage 3 (Detailed Design) Road Safety Audit;
134. We acknowledge that giving construction access priority via St Johns Road is not the option preferred by Mr and Mrs Burch. However, as an arterial road, we find that that is the appropriate priority compared to the local streets of Ipswich Place, Rutherford Terrace and Ripon Crescent.
135. The dual access proposed for the site will create a significant change to the traffic environment of Ripon Crescent and connecting streets. However, as concluded by the Ms Coomer-Smit and Mr Burgess, that change can be accommodated with the capacity of those streets. We have not received any evidence that suggests that the proposed access via Ripon Crescent will create unacceptably adverse effects.
136. The traffic impact on the Ipswich Place / Truman Street / St Johns Road intersection has been identified as a matter that requires monitoring and potential mitigation. We were informed that Auckland Transport recognise that intersection as a site to monitor.
137. Submitters, such as Mr Burch, considered that the development would not provide sufficient on-site parking, and that spill-over parking by staff and visitors onto local streets would adversely affect residents and visitors to neighbouring properties. Submitters did not provide expert evidence on this matter. However, Ms Coomer-Smit<sup>75</sup> for Council and Mr Burgess<sup>76</sup> for the applicant were in agreement that the proposal would exceed the minimum parking standard required for the proposal under the AUP:OP. Within that parking provision, Ms Coomer-Smit and Mr Burgess were not agreed that whether 74 spaces (Mr Burgess) or 79<sup>77</sup> (Ms Coomer-Smit) should be allocated for staff and visitors. Having viewed issues with staff parking at other retirement villages we prefer the advice of Ms Coomer-Smit and believe that this should be reflected in the conditions. Accordingly, we find that the proposal will provide sufficient on-site parking for visitors and residents.

#### *Noise, lighting and hours of operation*

138. Mr Beresford confirmed that operational noise would comply with the AUP:OP standards, and construction noise would comply with AUP:OP standards for the most part, and would otherwise be addressed and mitigated through the Construction Noise and Vibration Management Plan (CNVMP). In any event, construction noise would comply with draft condition 61, which has been accepted by Ms Drewey on behalf of Council. Likewise, vibration during construction would comply with the AUP:OP standards, as required in draft conditions. Accordingly, we find that potential

<sup>75</sup> Coomer-Smit Transportation Assessment Peer Review pp18 – 20

<sup>76</sup> John Burgess EIC at [51-59]

<sup>77</sup> Confirmed by Ms Coomer-Smit at the hearing.

noise and vibration effects during construction and post construction would be adequately minimised.

139. An overall limit of construction activities would be imposed through draft Condition 60, being the hours of 07:30 to 18:00 Monday to Saturday. Hours of operation during construction would be further limited through compliance with the NZS 6803: 1999 standard that imposes a range of noise limits for different time periods throughout each day. Vibration would be similarly constrained. On behalf of Mrs Allan, Mr Cook introduced and addressed an updated set of conditions to address her main concerns, should consent be granted for the proposal. In that he recommended that construction activities be limited to 07:30 to 17:00 Monday to Friday and 08:30 to 12:00 Saturdays. Mr Cook also proposed a condition that would limit the hours of piling activities.
140. Limiting hours of construction must achieve a balance between managing amenity effects on neighbours and avoiding unnecessary extension of the overall construction period. We accept that there may be construction activities that can be undertaken with minimal noise intrusion during Saturday afternoons. We also accept that activities such as piling will be constrained by the NZ6803: 1999 noise standard and AUP:OP vibration limits. Accordingly, we are satisfied that the final noise and vibration conditions offered by the applicant would appropriately mitigate those construction effects.

141. The potential effects of lighting were not contested.

*Policy H5.3(5)*

*Require accommodation to be designed to:*

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

142. This policy addresses internal amenity and is satisfied by the proposal.

*Policy H5.3(6)*

*Encourage accommodation to have useable and accessible outdoor living space*

143. Likewise, we have no cause to question the proposal's consistency with this policy.

*Policy H5.3(7)*

*Restrict the maximum impervious area on a site in order to manage the amount of stormwater runoff generated by a development and ensure that adverse effects on water quality, quantity and amenity values are avoided or mitigated*

144. The proposal satisfies this policy. Mr Todd has accepted the proposed stormwater management elements and has concluded that the potential adverse effects of



stormwater discharges from the site will be appropriately minimised. We accept his conclusion, and Mr James' evidence in that regard.

145. We are satisfied that the development would not exacerbate stormwater runoff into surrounding properties, including that of Mrs Allan at 158A St Johns Road. Nor, on the basis of Ms Shanks evidence and Mr Markham's and Mr Todd's assessments, will it result in adverse effects on St Johns Bush.
146. We have noted the need for stormwater reticulation at Ripon Crescent to be upgraded prior to the commencement of bulk earthworks and would, if granted consent, include a condition to require that.

*Policy H5.3(8)*

*Provide for non-residential activities that:*

- (a) *support the social and economic well-being of the community;*
- (b) *are in keeping with the with the scale and intensity of development anticipated within the zone;*
- (c) *avoid, remedy or mitigate adverse effects on residential amenity; and*
- (d) *will not detract from the vitality of the Business – City Centre Zone, Business – Metro Centre Zone and Business – Town Centre Zone.*

The proposed retirement village is an integrated residential activity. It is defined as a residential activity in the AUP:OP nesting tables and included as such in Table H5.4.1. Therefore, on a strict interpretation, the proposal does not engage this policy. Effects on residential amenity have been discussed above.

*Policy H5.3(9)*

*Enable more efficient use of larger sites by providing for integrated residential development.*

147. The proposal is consistent with this objective and we note that a number of submitters are supportive of the use of the site for a retirement village at an appropriate scale. That support includes the Local Board.

Mixed Housing Suburban Zone

148. Our overall findings on the proposal under the MHU zone also apply to the MHS zone extent of the site, and our preceding discussion has been couched to cover the overall development. However, we do acknowledge that Building G is more akin to what we consider to be an anticipated scale and form of development. In particular, we note that the interface of Building G with Ripon Crescent is not dissimilar to other dwelling along adjacent streets. But height and height in relation to boundary infringements on the western side of the building do, in our opinion, extend the visual dominance and amenity effect on 53 Ripon Crescent to an extent that may be unacceptable.

## Other Effects

### *Transformer*

Mr Albrecht outlined existing challenges with emerging from the driveway at 158A St.Johns Road and noted that the proposed transformer adjacent to their shared driveway would *'mean that our cars will need to extend out over the footpath before being able to see whether any pedestrians or cyclists are using the footpath'*<sup>78</sup>. He suggested that it be relocated.

149. Mr Burgess included a plan as Attachment 4 to his evidence which clarifies the detailed position of the proposed transformer. He confirms that this *'ensures that the required visibility as set out in recommended condition 36 is achieved'*<sup>79</sup>. We accept Mr Burgess' advice on this matter.

### *Oak Tree and other established trees and vegetation*

150. Mr Albrecht confirmed issues raised by Mrs Allen in relation to the loss of the existing oak tree and other established vegetation within the site close to the boundary with 158A St.Johns Road. He indicated that the trees have aesthetic value and keeping them will *'also help to lessen some of the harm and dominance that will be caused by the proposed development's bulk and its close proximity to our home'*<sup>80</sup>. Mr Cook suggested that should consent be granted a landscaping plan should be required which shows the retention of all mature specimen trees adjacent to the boundary with 158A St.Johns Road<sup>81</sup>.
151. In relation to the Oak Tree, Mr Webb confirmed, in answer to a question, that whilst the trunk is outside of the alignment of the proposed building the crown would be 'in' the building. In addition, there are earthworks proposed in this part of the site. He indicated that it would be unrealistic to retain this tree. Mr Webb also confirmed that there was sufficient space between the proposed building and neighbours for moderate to large trees to be established.
152. From our site visit, we recognise the existing and potential future significance of the trees to the amenity of 158A St.Johns Road, but are also cognisant of Mr Webb's advice. Accordingly, whilst we do not support Mr Cook's suggestion that the landscaping plan should show the retention of mature specimen trees in this area but do consider that were consent to be granted further thought should be given to the detailed location of new trees in this area.

### *Erosion and sediment control*

153. Mr James confirmed that runoff from the earthworks phase of the proposal would be treated by a sediment retention pond to be installed at the downslope (northern) end of the site. That pond would discharge to the public stormwater reticulation for flows up to the 10 year ARI event. He indicated that the downstream stormwater system

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<sup>78</sup> Mr Albrecht EIC at [3.36]  
<sup>79</sup> Mr Burgess EIC at [74]  
<sup>80</sup> Mr Albrecht EIC at [3.25(c)]  
<sup>81</sup> Mr Cook EIC at [4.7].

within Ripon Crescent will need to be upgraded as part of the proposal, to service the site up to that design event. He confirmed the stormwater upgrade would occur before the sediment retention pond was commissioned. On that basis the requirement to upgrade the stormwater line within Ripon Crescent before the bulk earthworks are undertaken should be explicitly required in conditions. If not, the contractor may well seek to commence those elements of the project concurrently. That could result in an unnecessary and unacceptable frequency of discharges of sediment laden water onto Ripon Crescent.

## **Conditions**

154. Throughout the hearing we carefully tested the draft conditions provided by Auckland Council, the applicant and submitters, and sought feedback and amendments to address various potential adverse effects and proposed mitigation. In that regard, we acknowledge the constructive approach that the applicant exhibited during the hearing, by receiving feedback and willingly adopting or proposing changes to conditions and design elements to address, to the extent the applicant considered appropriate, issues raised by submitters and Auckland Council.
155. The applicant in its final Right of Reply offered a revised set of draft conditions, however these did not address adverse effects sufficiently to enable us to grant the application. We are not satisfied that the conditions as proposed give sufficient certainty that effects that are caused, at least in part, by the construction and / or operation of the retirement village would be adequately addressed.

## **Overall Conclusion**

156. There was generally agreement that the site would be suitable for a retirement village. We also acknowledge that there are tangible positive effects that would eventuate from approving the proposal. We have carefully factored into our considerations the positive effects, not the least of which is the potential number of housing units that could become available as a result of residents moving into the development.
157. We accept that both the MHU and MHS zones will, potentially, exhibit an evolution of built form and intensification, with resulting impacts on the present character of the zones. Change is coming.
158. But in our final analysis we were not convinced that the adverse effects on amenity (especially on adjacent properties), and the height, bulk, form and appearance of the proposal are appropriate for this site. Accordingly, we find that the potential adverse effects of the proposal do not do sufficiently balance the accepted benefits. We find that the proposal is inconsistent with Policies H5.3(2) and H5.3(4) and in particular, deviates too far from the reasonably anticipated urban character of the site and its environs.
159. In our discussion, we have indicated modifications that may result in a scale of development that could be considered acceptable. We have also expressed general satisfaction with the draft conditions proposed, subject to the scale of development being modified.

## Decision

160. In exercising our delegation under sections 34 and 34A of the RMA and having regard to the foregoing matters, sections 104 and 104B and Part 2 of the RMA, we determine that the resource consents for Summerset (St Johns) Limited are refused for the reasons explained throughout this report and as summarised below.

## Reasons for the decision

161. Under section 104(1)(a) of the RMA, the proposed development will result in actual and potential adverse effects that have not be adequately avoided, remedied or mitigated and are unacceptable, when considered in the context of the local environment. The height, bulk, form and appearance of the proposal are not appropriate for the site and the potential adverse effects of the proposal do not do sufficiently balance its benefits.
162. While the proposal would have recognised benefits in the provision of retirement village accommodation and the flow-on release of existing dwellings for new occupants, the need for the scale of the proposal has not been established or justified.
163. Under 104(1)(b) of the RMA, the proposed development would be inconsistent with the more directive objectives and policies of Chapters H4 and H5 of the AUP:OP to an extent that is not balanced by consistency with other provisions. In particular, the proposed development deviates too far from the reasonably anticipated urban character of the site and its environs, as expressed in those provisions.
164. The interface of the zoning of the site with the zoning of surrounding properties imposes development constraints and anticipated outcomes that will not be achieved to an acceptable extent.
165. For completeness we undertook a Part 2 consideration and the proposal in its current form does not promote the sustainable management of natural and physical resources under Part 2 of the RMA.



Mark C Farnsworth MNZM

Chairperson of the Panel

For- Michael Parsonson & Richard Knott

25 July 2018