

BEFORE THE AUCKLAND UNITARY PLAN INDEPENDENT HEARINGS PANEL

IN THE MATTER of the Resource Management

Act 1991 and the Local Government (Auckland Transitional Provisions) Act 2010

AND

IN THE MATTER of Topics:

059 Residential objectives and policies;

060 Residential activities;

062 Residential development controls; and

063 Residential controls and assessment

AND

IN THE MATTER

of a joint statement from the expert conference group convened as part of
mediation proceedings on the above Topics

Expert Conferencing on Residential Topics

At the workshop on Topics 059, 060, 062 and 063 held on the 22nd to 26th June a suggestion was made that relaxation or removal of the dwelling density control in the MHS, MHU and THAB zones, coupled with clear, unambiguous and enforced development controls could significantly assist in increasing housing capacity while maintaining residential amenity and neighbourhood character. To examine this proposition an expert working group was convened. The composition of this group and the submitters they represent is attached as Appendix A. The group has met four times, Mr Roberts acting for Council attended each meeting. As a result of these meetings a fair degree of consensus has been reached, particularly in respect to the development controls for each zone.

The purpose of this joint statement is to record for the Hearing Panel where there is consensus on each of the development controls in each of the four main residential zones. Full consensus was not achieved on all controls. Where a member of the group had a different opinion that has been recorded as a footnote against the particular rule.

It is recognised that not all submitters were represented in the expert working group and other submitters may have differing views. Nevertheless the members of the group agree that in their evidence before the Panel they will make reference to supporting this joint statement subject to any qualifications recorded as footnotes within it.

Considerable discussion took place on the objectives and policies for each zone and assessment criteria for assessing infringements to the development controls. It was recognised that some controls are more important than others in defining the difference between zones and preserving residential amenity. Council's track changes version produced in the evidence of Mr Roberts proposes the following clause:

11.2 Assessment Criteria

c. Particular consideration will be given to adverse effects on the planned built character of the area and adverse effects on the amenity of neighbouring sites when infringing any one or more of the following development controls:

i. Building height

i. height in relation to boundary

i. alternative height in relation to boundary in the Mixed Housing Urban zones and Terrace Housing and Apartment Buildings zone

y. height in relation to boundary in the Terrace Housing and Apartment Buildings zone where it adjoins lower density zones

v. building coverage

i. landscaping

i. outlook space

i. daylight

k. side and rear yards in the Large Lot zone. (note the Large Lot Zone was not discussed by the Group)

k. front yard.

For the purpose of simplicity this group of development controls has been referred to as "Core Development Controls" in this Joint Statement. They have been separated in the table below from the other controls. It should be noted that a number of controls contained in the PAUP as notified have been omitted from the list of controls below. These have in the main been recast as assessment criteria to be considered as part of the resource consent proposed to be required for the development of 3 or more dwellings.

Core Development Controls

Development Control, Council Track Changes	SH	MHS	MHU	THAB
Building height 8.	8m +1 50 per cent of a building's roof in elevation, measured vertically from the junction between wall and roof, may exceed this height by 1m, where the entire roof slopes 15 degrees or more.	8m + 1m Ditto.	11m +1 Ditto	Buildings must not exceed 16m in height If the site is subject to the Additional Building Height Control, buildings must not exceed the height in metres shown for the site on the planning maps.
Height in relation to boundary	2.5m x 45° on side and rear boundaries This control does not apply to a boundary adjoining: industrial zones centres and mixed use zones General Business zone Business Park zone Sites within the public open space zones exceeding 2000m ² . A gable end, or dormer or roof may project beyond the recession plane where that portion beyond the recession plane is it is: no greater than 1.5m ² in area and no greater than 1m in height and width measured parallel to the nearest adjacent boundary no greater than 2.5m cumulatively in length measured along the edge of the roof	2.5m x 45° on side and rear boundaries Ditto	3m + 45° on side and rear boundaries Ditto	Most stringent HIRB applies at the interface between zones
Alternative height in relation to boundary	No	No	Yes This development control is an alternative to the permitted height in relation to boundary control in clause 8.3 above and applies to development that is within 20m of the site frontage It will be processed as a non notified restricted discretionary activity if it complies with clause 3 below. Buildings must not exceed a height of 3.6m measured vertically above ground level at side and rear boundaries within 20m of the site frontage. Thereafter, buildings must be set back one metre, and then 0.3m for every additional metre in height (73.3 degrees) up to 6.9m, and	No

			then one metre for every additional metre in height (45 degrees) as shown in Figure 21 below. The exceptions to the permitted height in relation to boundary control listed in clause 8.3 above apply.	
Height in relation to boundary adjoining lower density zones	NA	NA	NA	<p>Where sites in the Terraced Housing and Apartment Buildings zone adjoin sites in the Single House zone, Mixed Housing Suburban zone or sites less than 2000m² in the public open space zones, the height in relation to boundary control in rule 6.3 (<i>2.5m plus 45 degrees</i>) above applies to the common boundary.</p> <p>Where sites in the Terrace Housing and Apartment Buildings zone adjoin sites in the Mixed Housing Urban zones the height in relation to boundary control in clause 8.3 (<i>3m plus 45 degrees</i>) or the alternative height in relation to boundary control in rule 8.4 above applies to the common boundary.</p> <p>The building setback must be a stepped profile and must not be a literal regression of the recession plane. This control does not apply where a common wall of the same height exists or is proposed.</p>
Building setbacks within the Terrace Housing and Apartment Buildings zone	NA	NA	NA	<p>Buildings within 20m of the site frontage, and within 5m of side and rear boundaries, must not exceed a height of 3.6m measured vertically above ground level at side and rear boundaries.</p> <p>Thereafter, buildings must be setback one metre, and then 0.3m for every additional metre in height (73.3 degrees) up to 6.9m, and then one metre for every additional metre in height (45 degrees) as shown in Figure 33a and 33b below.</p> <p>Buildings further than 20m from the site frontage, and within 5m of side and rear boundaries, must not project beyond a 45 degree recession plane, measured from a point 3m vertically above ground level at side and rear boundaries.</p> <p>Where the building height does not exceed 16m, that part of the building 5m or more from side and rear boundaries must be setback from those boundaries by at least 5m as shown in Figure 33a below.</p> <p>Where the total building height is more than 16m, that part of the building 5m or more from side and rear boundaries must be setback from those boundaries by at least 5m, up to a height of 12.9m, and 7m up to the maximum permitted height for the site, as shown in Figure 33b below.</p> <p>Note Council is considering amendments to this clause to clarify its meaning</p>
Building coverage	Maximum building coverage: 35 per cent of net site area.	35% 6. For the purpose of this rule, the application area will be treated as the site area	40% 6. Ditto	Maximum building coverage 50 per cent of net site area. 8. Ditto

Landscaping	Minimum landscaped area: 40 per cent of net site. At least 50 per cent of the front yard must comprise landscaped area.	Ditto Ditto For the purpose of this rule, the application area will be treated as the site area	Ditto Ditto Ditto	Minimum landscaped area 30 per cent of net site area. NA Ditto
Outlook Space 1. 2.		<p>An outlook space must be provided from the face of a building containing windows to a habitable room. Where the room has two or more external faces with windows the outlook space must be provided from, in order of priority, the face with the largest area of glazing.</p> <p>The minimum dimensions for a required outlook space are as follows:</p> <p>principal living room of a dwelling or main living and dining area within a boarding house, visitor accommodation, supported residential care or retirement village unit: 6m in depth and 4m in width</p> <p>principal bedroom of a dwelling or a bedroom within a boarding house, visitor accommodation, supported residential care or retirement village unit: 3m in depth and 3m in width</p> <p>all other habitable rooms: 1m in depth and 1m in width.</p> <p>The depth of the outlook space is measured at right angles to and horizontal from the window or to which it applies.</p> <p>The width of the outlook space is measured from the centre point of the largest window on the building face to which it applies</p> <p>The height of the outlook space is the same as the floor height, measured from floor to ceiling, of the building face to which the control applies.</p> <p>Outlook spaces may be within the site, over a public street, or other public open space.</p> <p>Outlook spaces required from different rooms within the same dwelling may overlap. Outlook spaces may overlap where they are on the same wall plane.</p> <p>Outlook spaces must:</p> <ul style="list-style-type: none"> be clear and unobstructed by buildings not extend over adjacent sites not extend over an outlook spaces or outdoor living space required by another dwelling. 	Ditto	Ditto
Daylight		Buildings within a site higher than 3m opposite buildings within a site containing principal living room or bedroom windows, or main living/dining area or bedroom windows in retirement villages, supported residential care and boarding houses, are limited in height to twice the horizontal distance between the two buildings for a distance defined by a 55 degree arc from the centre of the window (refer Table 6 below).	Ditto	Ditto

		<p>The arc may be swung to within 35 degrees of the plane of the wall containing the window.</p> <p>Where the window is above ground level, the height restriction is calculated from the floor level of the room containing the window.</p> <p>This rule does not apply to development opposite the first 5m of a building which faces the street, measured from the front corner of the building.</p> <p>Note Council is considering amendments to this clause to clarify its meaning 7.</p>		
Front Yard	3m	3m	2.5m	1.5m

Other Development Controls

Development Control, Council Track Changes	SH	MHS	MHU	THAB
Side Yard	1m	Ditto	Ditto	Ditto
Rear Yard	1m	Ditto	Ditto	Ditto
Riparian Yard 3.	10m from the edge of permanent and intermittent streams	Ditto	Ditto	Ditto
Lake	30m	Ditto	Ditto	Ditto
Coastal protection yard	10m, or as otherwise specified in appendix 6.7	Ditto	Ditto	Ditto
Common walls	1.The height in relation to boundary and yards development controls do not apply to site boundaries where there is an existing common wall between two buildings on adjacent sites or where a common wall is proposed.	Ditto	Ditto	No
Maximum Impervious Area	<ol style="list-style-type: none"> 1. Maximum impervious area: 60 per cent of site area. 2. Maximum impervious area within a riparian yard: 10 per cent. 	<p>Ditto</p> <p>Ditto</p> <p>For the purpose of this rule, the application area will be treated as the site area.</p>	<p>Ditto</p> <p>Ditto</p> <p>Ditto</p>	<p>Maximum impervious area: 70 per cent of site area.</p> <p>Ditto</p> <p>Ditto</p>
Outdoor Living Space	<p>A dwelling must have an outdoor living space that is able to contain a delineated area measuring at least 20m² that comprises ground floor and/or balcony/roof terrace space that:</p> <p>where located at ground level has no dimension less than 4m and has a gradient not exceeding 1 in 20</p> <p>is at least 5m² and has a minimum dimension of 1.8m where provided in the form of balcony or roof terrace</p> <p>is directly accessible from the principal living room, dining room or kitchen</p> <p>is free of buildings, parking spaces, servicing and manoeuvring areas</p> <p>Where outdoor living space at ground level, required by any dwelling, is located south of any building located on the same site, the southern boundary of that space must be</p>	<p>A dwelling at ground floor level, must have an outdoor living space that is at least 20m² that comprises ground floor and/or balcony/roof terrace space that:</p> <p>where located at ground level has no dimension less than 4m and has a gradient not exceeding 1 in 20</p> <p>is at least 5m² and a minimum dimension of 1.8m where provided in the form of balcony or roof terrace</p> <p>is directly accessible from the principal living room, dining room or kitchen</p> <p>is free of buildings, parking spaces, servicing and manoeuvring areas</p> <p>An apartment must have an outdoor living space in the form of a balcony, patio or roof terrace that is at least 5m² for studio and one bedroom dwellings and 8m² for two or more bedroom dwellings and has a minimum depth dimension of 1.8m.</p> <p>For the purpose of this rule, an apartment means a single building comprising two or more dwellings with common access and parking areas, and where one or more dwellings are located above ground level.</p> <p>Where outdoor living space at ground level, required by any dwelling, is located south of any building</p>	<p>A dwelling at ground floor level, must have an outdoor living space that is at least 20m² that comprises ground floor and/or balcony/roof terrace space that:</p> <p>where located at ground level has no dimension less than 4m and has a gradient not exceeding 1 in 20</p> <p>is at least 5m² and a minimum dimension of 1.8m where provided in the form of balcony or roof terrace</p> <p>is directly accessible from the principal living room, dining room or kitchen</p> <p>is free of buildings, parking spaces, servicing and manoeuvring areas</p> <p>An apartment must have an outdoor living space in the form of a balcony, patio or roof terrace that is at least 5m² for studio and one bedroom dwellings and 8m² for two or more bedroom dwellings and has a minimum dimension of 1.8m. Except that, a balcony or roof terrace is not required where the net internal floor area of a dwelling is at least 35m²</p>	<p>Ditto</p>

	separated from any wall or building by at least $(2m + 0.9(h))$, where (h) is the height of the wall or building as shown in the Figure 3 below. For the purpose of this rule south is defined as between 135 and 225 degrees.	located on the same site, the southern boundary of that space must be separated from any wall or building by at least $(2m + 0.9(h))$, where (h) is the height of the wall or building as shown in the Figure 3 below. For the purpose of this rule south is defined as between 135 and 225 degrees	for a studio and 50m ² for a dwelling with one or more bedrooms. For the purpose of this rule an apartment means a single building comprising two or more dwellings with common access and parking areas, and where one or more dwellings are located above ground level. Where outdoor living space at ground level, required by any dwelling, is located south of any building located on the same site, the southern boundary of that space must be separated from any wall or building by at least $(2m + 0.9(h))$, where (h) is the height of the wall or building as shown in the Figure 3 below. For the purpose of this rule south is defined as between 135 and 225 degrees.	
Dwellings fronting the street	NA	That part of the front façade of a dwelling within 10m of the front boundary must contain glazing to a habitable room or habitable rooms that is cumulatively at least 10 per cent of the area of that part of the front facade.	Ditto	Ditto
Fences 4.	Fences or walls or a combination of these structures (whether separate or joined together) must not exceed the height specified below, measured from the ground level at the boundary: Within the front yard, either: i. 1.2m in height, or ii. 1.8m in height for no more than 50 per cent of the site frontage and 1.2m for the remainder, or iii. 1.8m in height if the fence is at least 50 per cent visually open. Within side and rear yards: 2m	Ditto	Ditto	Ditto
Garages	A garage door facing a street must be no greater than 45 per cent of the width of the front facade of the dwelling to which the garage relates	Ditto	Ditto	Ditto
Minimum dwelling size 5.	NA	Dwellings must have a minimum net internal floor area as follows: 30m ² for studio dwellings. 45m ² for one bedroom dwellings.	Dwellings must have a minimum net internal floor area as follows: 30m ² for studio dwellings or 35m ² where the required balcony space in clause 9.12 is included within the dwelling. 45m ² for one bedroom dwellings or 50m ² where the required balcony space in clause 9.12 is included within the dwelling	Ditto
Water and wastewater	NA	Buildings must be able to connect to the existing public reticulated water supply and wastewater networks with capacity to service the development All service connections and on site infrastructure must	Ditto	Ditto

		be located within the boundary of the proposed site it serves or have access to the public network by an appropriate legal mechanism.		
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Converted to Assessment Criteria
Storage
Dwelling mix
Universal access
Daylight to dwellings
Minimum dimension of principal living rooms and principal bedrooms
Servicing and waste
Maximum building length
Separation between buildings within a site

Footnote	Group Member	Development Control	Comment
1.	Amelia Linzey	Outlook Space	Should not be a core control A fence across the outlook Court should enable reduction in Outlook space depth to 4m
2.	Vijay Lala	Outlook Space	A fence across the outlook Court should enable reduction in Outlook space depth to 4m
8.		Coverage	The extent to which basement carparking could infringe site coverage control in the THAB zone
3.	Ian Craig Amelia Linzey	Riparian Yard	Concern regarding the definition of intermittent stream (noting this is another hearing topic). Question whether such water courses should be protected by a 10m yard in urban context”
4.	Ian Craig	Fences	Would like side and rear yard fencing to be a maximum of 2.5m to take account of retaining walls on boundaries
5.	Richard Burton	Minimum Building size	Would prefer Minimum Building size to be 45m ² in MHS zone
6.	Ian Craig and Amelia Linzey	Coverage	Comfortable with the base coverage provisions only subject to further work on the “5% discretion” being proposed in the notification rule and Assessment Criterion 11.2d”.
7.	Group	Daylight	The group has concerns about current drafting of this control related in particular to how many and which windows it is applicable to
8.	Amelia Linzey	Height	Concern on the degree of flexibility in the height variation (e.g. the 1m with 50% and 15° limit)

Appendix A

Expert Working Group Members

Name	Profession	Acting on behalf of
Richard Burton	Planner	Auckland 2040
Amelia Linzey	Planner	Housing New Zealand
Vijay Lala	Planner	Property Council
Ian Craig	Architect/Planner	Fletchers
Brian Putt	Planner	Hearne Bay Residents Association and Auckland 2040
Nick Roberts	Planner	Council