

**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 **TOPIC 081f** Rezoning and Precincts  
(Geographical Areas)

**AND**

**IN THE MATTER** of the submissions and further  
submissions set out in the Parties and  
Issues Report

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**JOINT EVIDENCE REPORT ON SUBMISSIONS ON BEHALF OF AUCKLAND COUNCIL  
BY VRINDA MOGHE AND JIMMY ZHANG**

**MANUKAU PRECINCT**

**26 JANUARY 2016**

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## 1. SUMMARY

- 1.1 The purpose of this joint Evidence Report (**Report**) is to consider submissions and further submissions to the Proposed Auckland Unitary Plan (**PAUP**) Topic 081 Rezoning and Precincts (Geographical Areas) (**Topic 081**). This Report considers submissions and further submissions received by Auckland Council (**the Council**) in relation to the existing Manukau precinct.
- 1.2 The Report includes proposals on whether, in our opinion, it is appropriate to support or not support the submissions, in full or in part, and what amendments, if any, should be made to address matters raised in submissions.
- 1.3 Manukau Precinct applies to the Manukau Metropolitan Centre area. The precinct ensures that admission of sunlight to the Manukau Square is protected during periods of high public usage so that the amenity values of the Metropolitan Centre are maintained.
- 1.4 Our evidence addresses the submissions and further submissions received with regard to the extent of the precinct.
- 1.5 The Manukau precinct has been rolled over from the Auckland Council District Plan (Manukau Section) (**the Legacy Plan**). The precinct was introduced as there are no provisions in the PAUP that control sunlight admission to open spaces within the Metropolitan Centre zone.
- 1.6 The main differences between the precinct and the relevant overlays, zones or Auckland-wide rules are:
  - (a) There are no equivalent sunlight admission rules or overlays applicable within the Metropolitan Centre zone.
- 1.7 Submitters seek to reduce the extent of the precinct and in particular exclude properties at 30 Manukau Station Road and 9 Barrowcliffe Place from the precinct. Submitters are of the view that the precinct boundaries are far broader than what would be expected given the intent of the rule is to protect the admission of sunlight to the Manukau Square.
- 1.8 In light of the submissions, Council's urban design expert Mr Jason Evans has carried out a shadowing study (modelling) for buildings within the notified precinct to assess the potential effect if the precinct boundary was reduced.

- 1.9 Mr Evans has concluded that, based on the modelling of the area, buildings beyond the road boundaries of Davies Avenue (part of Amersham Way), Ronwood Avenue, Manukau Station Road and Great South Road, even at the maximum heights of 72.5m would not create shadowing effects on Manukau Square.
- 1.10 We agree with Mr Evans' conclusion and therefore support changes to the precinct boundaries to meet the purpose, objectives and policies of the precinct.

## **PART A: OVERVIEW AND BACKGROUND**

### **2. INTRODUCTION**

- 2.1 The purpose of this Report is to consider submissions and further submissions received by the Council in relation to the Manukau precinct.
- 2.2 The Report includes proposals on whether, in our opinion, it is appropriate to support or not support the submissions, in full or in part, and what amendments, if any, should be made to address matters raised in submissions.
- 2.3 This Report has been prepared by Vrinda Moghe and Jimmy Zhang. A summary of the qualifications and experience of the Report writers is attached in **Attachment A**.

### **3. CODE OF CONDUCT**

- 3.1 We confirm that we have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and that we agree to comply with it. We confirm that we have considered all the material facts that we are aware of that might alter or detract from the opinions that we express, and that this evidence is within our area of expertise, except where we state that we are relying on the evidence of another person.

### **4. SCOPE**

- 4.1 We are providing planning evidence in relation to submissions received by the Council with respect to the existing Manukau precinct in the PAUP.
- 4.2 In preparing this statement of evidence we have relied on the Auckland-wide evidence of John Duguid for Topic 080 Rezoning and Precincts (General) and Topic 081 Rezoning and Precincts (Geographical Areas) (**Topic 081**) which sets out the statutory framework, methodology, principles and section 32 evaluations used to guide the development and application of zones and precincts.

4.3 The following expert statements of evidence have been relied upon in preparing our Report:

(a) Jason Evans - ET Urban Design Ltd – Urban Design.

4.4 This Report relies on the changes to the underlying Metropolitan Centre zone as proposed by the Council in the primary and rebuttal statement of evidence of Jeremy Wyatt to hearing Topics 051-054.

## 5. INTERIM GUIDANCE FROM THE PANEL

5.1 We have read the Panel's Interim Guidance direction and in particular those relating to:

(a) Chapter G: General Provisions, dated 9 March 2015;

(b) Best practice approaches to re-zoning and precincts, dated 31 July 2015;

(c) Air Quality, dated 25 September 2015; and

(d) Chapter G: Regional and District Rules, dated 9 October 2015.

## 6. PAUP APPROACH TO PRECINCTS

6.1 The approach to precincts is detailed in the evidence of Mr Duguid. In particular Mr Duguid outlines the PAUP structure and the relationship between overlays, zones, Auckland-wide and precinct provisions. Mr Duguid also provides an overview of the methodology for applying precincts and the types of precincts identified in the PAUP. We have read and agree with this evidence.

### *Section 32 and 32AA*

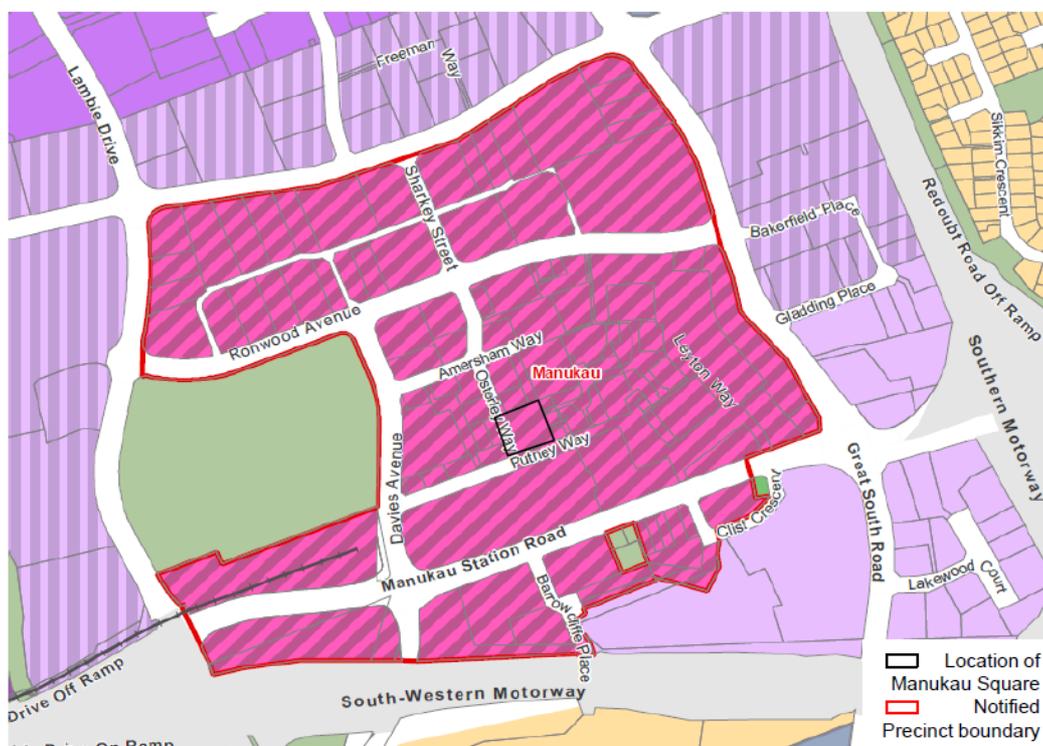
6.2 As outlined in the Auckland Unitary Plan Evaluation Report (**the Evaluation Report**), the Council has focussed its section 32 assessment on the objectives and provisions within the PAUP that represent significant changes in approach from those within the current operative Auckland RMA policies and plans. While the Evaluation Report applies to the entire plan, the report targets the 50 topics where the provisions represent a significant policy shift.

6.3 The precinct provisions do not reflect a major policy shift from the operative plans and are evaluated in this Report in accordance with s32 and s32AA.

## PART B: OVERVIEW OF MANUKAU PRECINCT

### CONTEXT

- 6.4 The existing precinct covers the Manukau City Centre and comprises 55ha. The underlying zone for the area is Metropolitan Centre zone (see **Map 1** below). The precinct is bounded by Cavendish Drive to the North, Great South Road to the East, Lambie Drive to the West and the Southern Motorway to the South.
- 6.5 While the precinct covers the Metropolitan Centre, the purpose of the precinct is to provide for the protection of sunlight and the prevention of any shadowing onto 'Manukau Square'. The Square itself is bounded by the Civic building in the South, the Westfield mall and Friendship House in the East, Osterley Way in the West and Manukau Library and Research Centre in the North. The PAUP precinct provisions are contained in **Attachment C**.
- 6.6 The Legacy Plan recognised that the open space areas in business centres were a focus of activity within the centre. That Plan ensured that adequate sunlight was available to the Manukau Square during key public usage hours therefore providing a high level of amenity in the area.



Map 1: Location of Manukau Precinct.

6.7 The following overlays apply to the Manukau precinct:

- (a) High Aircraft Noise Area;
- (b) Moderate Aircraft Noise Area;
- (c) Obstacle Limitation Surfaces;
- (d) Air Quality Transport Corridor Separation;
- (e) High Land Transport Route Noise;
- (f) High Use Stream Management Area; and
- (g) Stormwater Management Area – Flow 2.

## **7. STATUTORY FRAMEWORK**

7.1 The statutory framework is detailed in the evidence of Mr Duguid, dated 3 December 2045, and has not been repeated here.

## **8. PAUP FRAMEWORK**

### *Regional Policy Statement*

8.1 Key sections of the PAUP RPS, as proposed to be amended by the Council, which need to be considered and given effect to include:

#### B 2.2 Quality Built Environment

Policy 2.2.3 Manage the form and design of development:

- c. reinforce the role of public open spaces and public places as the primary place for public interaction;

## **9. PROPOSED AMENDMENTS OUTSIDE THE SCOPE OF SUBMISSIONS**

9.1 As outlined in Mr Duguid's evidence, a number of amendments are proposed which are, or may be out of scope of the submissions. This is to ensure:

- (a) That the most appropriate PAUP method is used to address the precinct matters; and
- (b) Consistency in the organisation and terminology of all precincts.

- 9.2 Additionally we have proposed amendments to precincts to correct minor editorial errors. There are no particular submissions to which these amendments respond. All amendments are shown in our track changes attached as **Attachment C**.

## **PART C: PRECINCT ASSESSMENT**

### **10. APPROPRIATENESS OF PRECINCT AS A TOOL**

- 10.1 The underlying zone for the Manukau precinct is the Metropolitan Centre zone. The zone applies to centres located in different sub-regional catchments of Auckland. The zone provides for a wide range of activities including commercial, leisure, high density residential, tourist, cultural, community and civic services.
- 10.2 'Manukau Square' is one of the unique civic spaces within the area that has an underlying zone of Metropolitan Centre zone while having a public open space function.
- 10.3 The provisions of the Legacy Plan sought to protect the sunlight admission by controlling the building heights in close proximity to the Manukau Square. There are no provisions within the Metropolitan Centre zone that control access to sunlight to open areas.
- 10.4 A precinct is therefore considered as the most appropriate tool to achieve the outcomes sought by the Legacy Plan for the Manukau Square as there are no other overlays or rules in the PAUP that provide similar outcomes. Introducing new overlays to achieve a single outcome is not considered to be an appropriate method
- 10.5 The precinct provisions will ensure that admission of sunlight to the Manukau Square is protected during periods of high public usage so that the amenity values of the Metropolitan Centre are maintained.

### **11. ANALYSIS OF PRECINCT PROVISIONS**

- 11.1 The main differences between the precinct and the relevant overlays, zones or Auckland-wide rules are set out in **Table 1** below:

**Table 1**

Main precinct provision	Difference from PAUP provisions
<i>Sunlight admission rule for Manukau Metropolitan Centre zone</i>	<i>No equivalent rule available in the Metropolitan Centre zone</i>

## **PART D: ANALYSIS OF SUBMISSIONS**

### **12. SUBMISSIONS**

- 12.1 One primary submission point has been received requesting relief in relation to the precinct.
- 12.2 The Department of Corrections<sup>1</sup> seeks to exclude properties at 30 Manukau Station Road and 9 Barrowcliffe Place from the precinct. The submitter is of the view that the current extent of the precinct is far broader than required and that the extent of the precinct does not reflect the intent of the rule.
- 12.3 Two further submissions were received in support of the above submission point. The Minister for Courts (3266) submitted relating to the property at 30 Manukau Station Road and the Minister of Police (3265) submitted relating to the property at 9 Barrowcliffe Place. They both support the submission to reduce the extent of the precinct.
- 12.4 No formal or informal discussions were held with the submitters or further submitters.
- 12.5 Submitter seeks to reduce the extent of the precinct and in particular exclude properties at 30 Manukau Station Road and 9 Barrowcliffe Place from the precinct.
- 12.6 The Manukau precinct was introduced into the PAUP as the Legacy Plan provided specific objectives, policies and rules to control sunlight admission within the Manukau Square.
- 12.7 The provisions of the Legacy Plan ensured that no building or other structure around the Manukau Square cast a shadow within the sunlight admission control line (see Figure 1) during the hours of 10.00 am–2.00pm (New Zealand standard time and not corrected for daylight saving) for the period September 23 to March 21, standard time, each year.

<sup>1</sup> 6230-38 – Department of Corrections

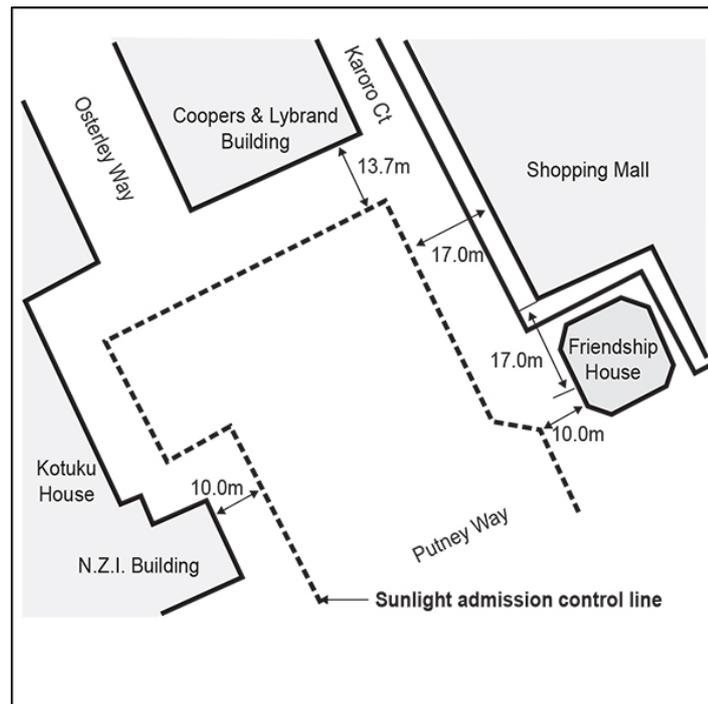


Figure 1 – Sunlight admission control line

- 12.8 While the City Centre zone has a specific development control clause that manages sunlight admission to eight different public open spaces within the City Centre, there are no overlays or general provisions in the PAUP that control sunlight admission within the Metropolitan Centre zone.
- 12.9 As part of reviewing the extent of the precinct a modelling and shadow study was undertaken. The purpose of the 3-D modelling is to visually demonstrate the development potential within this precinct as anticipated within this zone and its impact on shadowing within the square.
- 12.10 The modelling and shadow study has carried by Jason Evans, Council's expert Urban Designer.
- 12.11 Mr Evans in his evidence explains the methodology used for modelling and shadow study.
- 12.12 The models illustrate the shadow impacts of possible building envelopes on Sep 23<sup>rd</sup> (Equinox) and Dec 22<sup>nd</sup> (Summer Solstice) at 10am, 12pm and 2pm.
- 12.13 As the Metropolitan Centre zone is subject to the Obstacle Limitation Surfaces (OLS) overlay, a maximum permissible height of 72.5m was used for modelling along with all relevant development controls applicable to the Metropolitan Centre zone.

- 12.14 Mr Evans in his evidence notes that one of the existing buildings to the north of Manukau Square (Manukau Library and Research Centre) presently produces shading upon the square on the specified testing dates.
- 12.15 We are of the view that any additional shading due to development of the building would be a subject of future resource consent.
- 12.16 Overall, Mr Evans concludes that the modelling has demonstrated that buildings beyond the road boundaries of Davies Avenue (part of Amersham Way), Ronwood Avenue, Manukau Station Road and Great South Road, even at the maximum heights of 72.5m would not create shadowing effects on Manukau Square.
- 12.17 We agree with Mr Evans' views and the conclusions of the modelling exercise.
- 12.18 We propose that the precinct be amended to include all land between Davies Avenue, part of Amersham Way, Ronwood Avenue, Manukau Station Road and Great South Road as shown in **Attachment B**.
- 12.19 For the reasons noted above, we consider that reduction in the extent of the Manukau precinct is the most appropriate way to achieve F6.17 Objective 1 and Policy 1 that relates to protecting admission of sunlight to areas of seating and pedestrian movement during times of high use within Manukau square.

*Summary of response to submissions*

- 12.20 Manukau Precinct was developed with the intention of ensuring unobstructed sunlight to Manukau Square.
- 12.21 Having reviewed the submissions and undertaken a shadow study, we support the submission by the Department of Corrections to reduce the extent of the precinct to include all land within Davies Avenue, part of Amersham Way, Ronwood Avenue, Manukau Station Road and Great South Road as shown in **Attachment B**.
- 12.22 Having regard to the requirements of section 32 and 32AA of the RMA and the other statutory criteria of the RMA outlined in the evidence of Mr Duguid and the matters raised by submitters, we consider that the proposed set of provisions as marked up in **Attachment C** are appropriate because it most effectively and efficiently achieves the objectives and policies of the precinct.

**13. CONSEQUENTIAL AMENDMENTS TO OTHER PARTS OF THE PAUP**

- 13.1 There are no consequential amendments required to other parts of the Plan as a result of my evidence.

**14. CONCLUSIONS**

- 14.1 We have considered the submission and further submissions received on the Manukau precinct. We consider that the amendments as set out in the map included within **Attachment B** and the proposed set of provisions, as marked up in **Attachment C** most appropriately meet the purpose of the Act.

**Vrinda Moghe & Jimmy Zhang**

**26 January 2016**

## ATTACHMENT A: CV of Report Writers

### Vrinda Moghe

#### Career Summary

Career Summary Period	Organisation	Role
2008 onwards	Auckland Council (former Manukau City Council)	Principal Planner (Southern Planning Unit/ Unitary Plan Teams)
2006-2008	Duffill Watts & King	Planner
2003- 2006	Maverick Solutions	Director (Architectural and Planning Services) (Walker Architects, Miller Architects)

#### Qualifications

Master of Planning (Housing), (School of Planning and Architecture, New Delhi, 2002), India  
Bachelor of Architecture (Nagpur University, 2000), India

#### Affiliations

Associate Member of the New Zealand Planning Institute

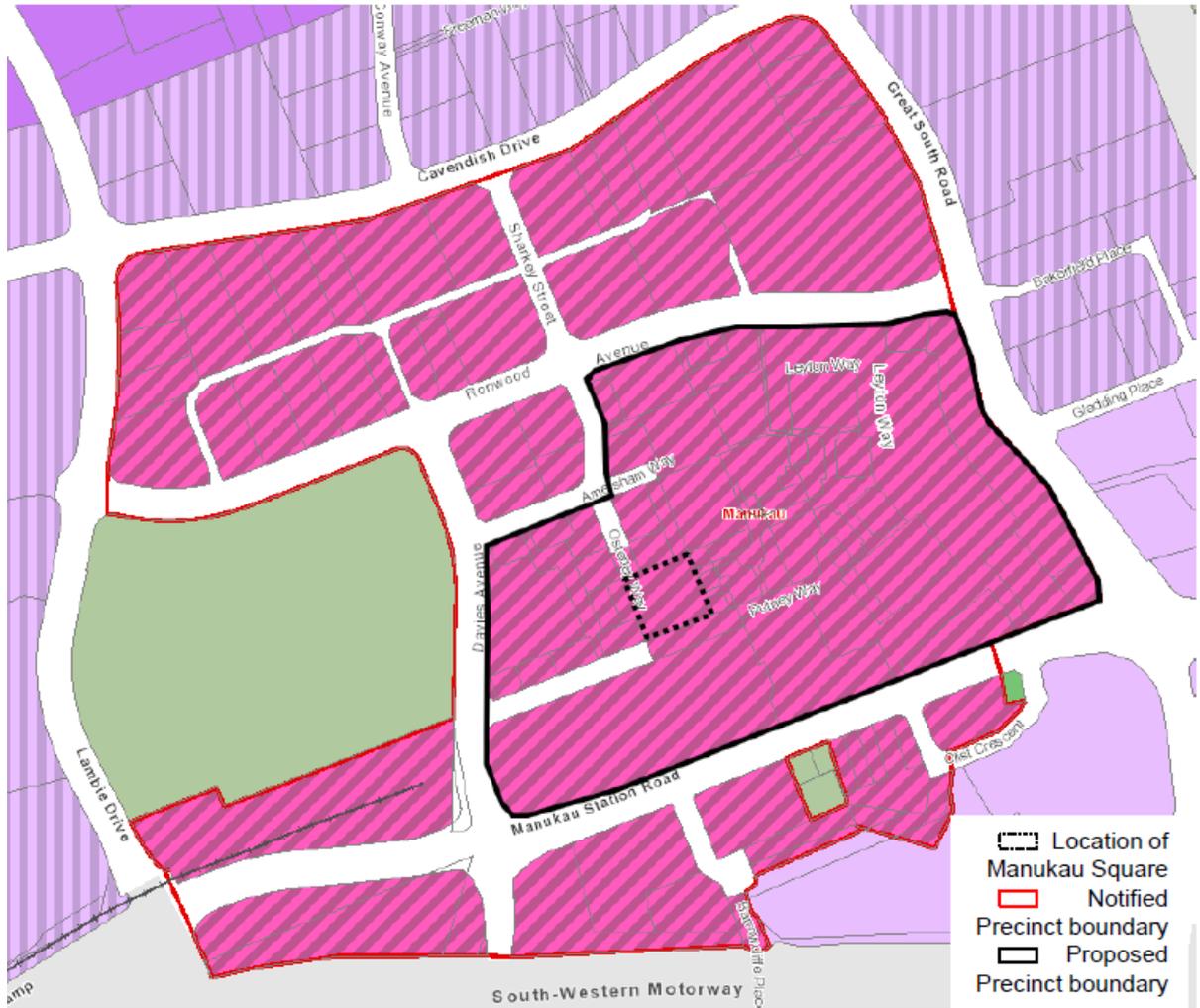
### Jimmy Zhang

Career Summary Period	Organisation	Role
October 2015 onwards	Auckland Council	Planner (Southern Planning Unit/ Unitary Plan Teams)
November 2014- October 2015	Auckland Council	Planning Information Advisor
March 2013 – October 2014	Earthquake Commission	Land Settlement Claims Advisor

#### Qualifications

PG Dip in Science: Environmental Management (2014)  
Masters of Planning (Hons) – University of Auckland (2013)  
Bachelor of Planning (Hons) – University of Auckland (2012)

# ATTACHMENT B: Planning Map



## ATTACHMENT C: Tracked changes

### Editorial notes:

Council's proposed changes are shown in ~~strikethrough~~ and underline

Black text changes record amendments proposed in track changes version. Changes shown are changes proposed to the Auckland Council submission version of the precinct provisions

**Yellow highlighted text changes** record amendments that are considered to be outside the scope of submissions

**Grey highlighted text changes** records amendments that are consequential amendments from previous hearings/evidence. Any additional changes to consequential amendments are **highlighted in pink**

~~Dark green highlighted text~~ changes records removal of text (strikethrough) that duplicate or introduce insignificant changes from the zone or Auckland-wide

**Green text changes** record amendments proposed and agreed to in mediation (those amendments not agreed to stay black)

**Red text changes** record amendments proposed in rebuttal evidence

**Blue text changes** record amendments proposed post hearing (e.g. right of reply)

Numbering of this precinct will be reviewed as part of the overall review of the UP numbering protocols.

### 6.17 Manukau

~~The objectives and policies of the underlying Metropolitan Centre zone apply in the following precinct unless otherwise specified. Refer to planning maps for the location and extent of the precinct.~~

**Comment [1]:** Deleted for consistency with other precincts. Note new text below 'precinct description' heading.

#### 1. Precinct description

~~The underlying zoning of land within this precinct is Metropolitan Centre zone. Refer to the planning maps for the location and extent of the precinct.~~

Manukau Square is a focus of activity in the Manukau ~~M~~metropolitan Centre and contributes to a high standard of amenity in the area. This precinct seeks to protect

the admission of sunlight to Manukau Square during the daytime hours when it will be commonly used and will maintain both the amenity of this square and its function as a community focal point. To achieve this, ~~building development~~ controls are placed on sites ~~adjacent~~ **in close proximity** to Manukau Square to ensure adequate sunlight for seated areas in the square.

**Comment [2]:** Amendment to reflect terminology in PAUP.

**Comment [3]:** Minor amendment for clarity.

#### 2. Objective

~~The objectives are as listed in the Metropolitan Centre zone in addition to that specified below The underlying zone and Auckland-wide objectives apply in this precinct, in addition to those specified below.~~

**Comment [4]:** Amendment for consistency with other precincts.

1. Manukau Square receives direct sunlight to maintain its amenity and retains its function as a focus of community activity.

**3. Policies**

The policies are as listed in the Metropolitan Centre zone in addition to that specified below. The underlying zone and Auckland-wide policies apply in this precinct, in addition to those specified below:

**Comment [5]:** Amendment for consistency with other precincts.

1. Control the built form of development on sites adjacent in close proximity to Manukau Square, to ensure the admission of sunlight to areas of seating and pedestrian movement during times of high use.

**Comment [6]:** Minor amendment for clarity.

**6.17 Manukau**

The activities, controls and assessment criteria in the underlying Metropolitan Centre zone and the Auckland-wide rules apply in the following precinct unless otherwise specified below. Refer to the planning maps for the location and extent of the precinct.

**Comment [7]:** Amendment for consistency with other precincts.

The underlying zoning of land within this precinct is Metropolitan Centre zone. Refer to the planning maps for the location and extent of the precinct.

The provisions of Chapter I for the underlying zone and Auckland-wide provisions of Chapter H apply in this precinct unless otherwise specified below.

The rules in this section implement the objectives and policies in Chapter F, section 6.17.

**Comment [8]:** Amendment attributed to Topic 004 (Chapter G) evidence of Linley Wilkinson.

**1. Development controls**

The development controls in the Metropolitan Centre zone apply in the Manukau precinct unless otherwise specified below:

**Comment [9]:** Amendment for consistency with other precincts.

The underlying zone development controls and Auckland-wide controls apply in this precinct, unless otherwise specified below.

**1.1 Sunlight admission**

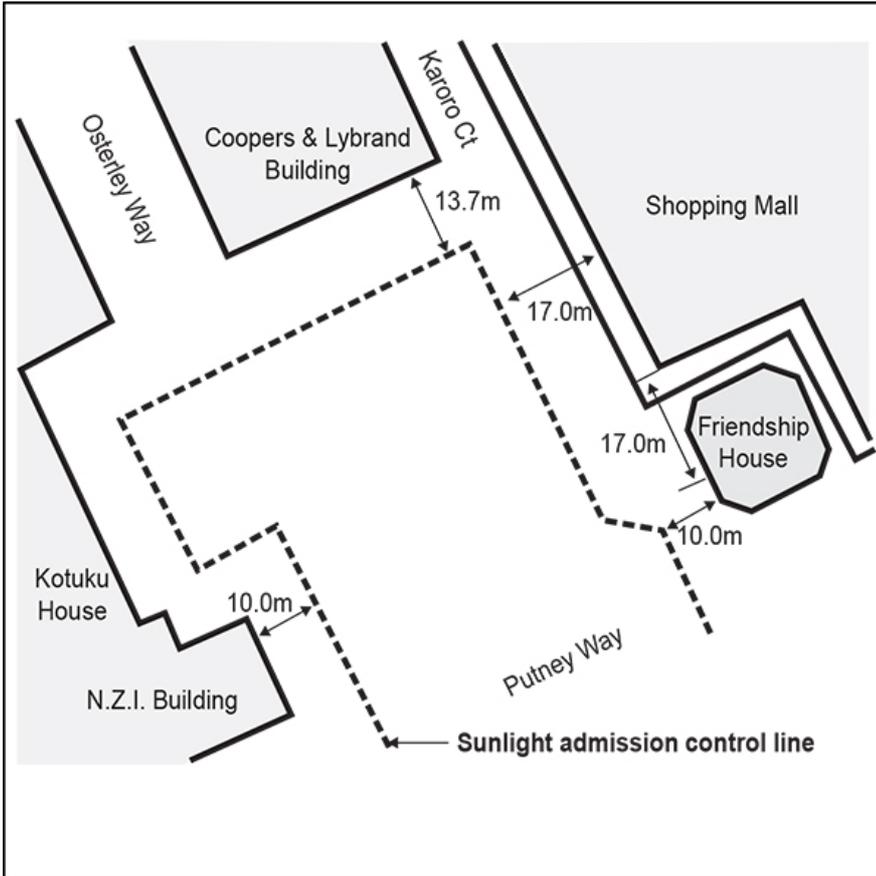
1. Buildings and structures shall **must** not cast any shadow in the area contained within the sunlight admission control line as defined in Figure 1 between the hours of 10am–2pm between September 23 and March 21 (standard time) each year.

**Comment [10]:** Amendment for consistency of drafting in PAUP.

2. Development that does not comply with Rule 1.1.1 above is a Restricted Discretionary Activity.

**Comment [11]:** New provision inserted to clarify the activity status of applications that do not meet the rule. Notified Precinct contained RD assessment criteria.

Figure 1: Manukau Square sunlight admission



**2. Assessment - Development control infringements**

**2.1 Matters of discretion**

In addition to the general matters set out in [in clause G2.3 of the General Provisions](#) and the specific matters set out for the infringement in the Metropolitan Centre zone [and Auckland-wide rules](#), the council will restrict its discretion to the matter below for the relevant development control infringements:

1. Sunlight admission.

**2.2 Assessment criteria**

In addition to the general assessment criteria set out in [clause G2.3 of the General Provisions](#) and the specific assessment criteria for the infringement in the Metropolitan Centre zone [and Auckland-wide rules](#), the council will consider the relevant assessment criteria below [for the development control infringement](#):

**Comment [12]:** Various amendments for clarity and to ensure consistency with other precincts.

1. Sunlight admission
  - a. The extent to which sunlight to the area within the sunlight admission control line is obscured by buildings, at the time of year specified in the development control.

**3. Special information requirements**

1. An application for new buildings, accessory buildings or additions and alterations must be accompanied by:

- a. sufficient information to enable an accurate assessment of compliance with ~~clause 4.5.1.2.2.2~~  
the Rule under 1.1.1.

**Comment [13]:** Clarity and consistency