

Webinar #4: Other Qualifying Matters
Monday 2 May 2022
5.30pm – 7.00pm

Unanswered Questions

Question	Answer
Does that mean that properties with covenants will be surrounded by shadow-casting monstrosities?	A property in an area of intensification with a covenant preventing further development could well have neighbouring sites that are able to intensify in to apartments etc. This could create a situation where the site loses views, some access to sunlight, and privacy. The council is unable to introduce more onerous standards to attempt to protect access to sunlight etc than what the MDRS directs.
The Forrest Hill area is subject to a restrictive covenant allowing only a single dwelling per original lot. The covenant area encompasses the Forrest Hill part of the Sunnybrook Bus Station walkable 6 storey catchment and beyond to the MDRS areas. Can this be considered as a qualifying matter? We are seeking to exclude this area from the six storey catchment as well as MDRS as a qualifying matter.	It is important to note that the Unitary plan rules do not over-ride existing private covenants. Such covenants would need to be removed before any zoned intensification could occur. Therefore, while a zoning may change to THAB, this does not enable intensive development until the covenant issue is addressed. The government and the council consider that land inside walkable catchments should generally be intensified and the THAB zoning signals this. As the covenants are not of the council's doing - they are a private matter and can be removed via private agreement - the council's position is still that covenants should not dictate where zoning for intensification goes. Therefore, covenants are not a qualifying matter as directed by the government, nor one that the council sees benefit in adding. There are often factors outside of council's control that will limit the level of intensification that is zoned for (e.g. covenants, cross-lease sites, landowner preferences), but the council does not consider that such things should influence the zoning. Often in examples like this (where the existing low density is based simply on a covenant and not another significant factor such as bush areas or Special Character Areas), it can be a case of 'swimming against the tide' in attempting to keep low density lots in otherwise appropriate and attractive locations for intensification.
Why are THAB zones not within walkable catchments proposed to remain at 5 storeys? Why not upzone all THAB to 6 storeys? There must not be many THAB areas outside walkable catchments.	There are quite a number of THAB areas outside of walkable catchments. The council's policy is to meet the NPS-UD direction of enabling 6 storeys within walkable catchments. The other areas of THAB outside the walkable catchments do not have any direction as to their minimum height so the standard height of 5 storeys (16m) has been retained. This is a matter that you may wish to provide feedback on.

When view preservation is of concern to neighbouring properties, how are “3 storeys” height measured on sloping sections. Are they taken from road level being the lowest (front point) where building could easily and practically occur or can they be measured from the back of the section at the highest point.	The Medium Density Residential Standards specify that a building height of 12m height (11m + 1m for roof form) is enabled (e.g. 3 storeys). Height will be measured as per currently in the Auckland Unitary Plan - in most cases either using the rolling height method or the average ground method. Please see the definition of "height" in the Auckland Unitary Plan for more information on this: https://unitaryplan.aucklandcouncil.govt.nz/Images/Auckland%20Unitary%20Plan%20Operative/Chapter%20J%20Definitions/Chapter%20J%20-%20Definitions.pdf
As Restrictive Land Covenants (as per the Property Law Act 2007) overrule the AUP, why has council released zoning maps in direct contradiction with these covenants, and what due diligence has been done (if any) on identifying areas with a Restrictive Land Covenants.	The government and the council consider that land inside walkable catchments should generally be intensified and the THAB zoning signals this. As private covenants are not of the council's doing - they are a private matter and can be removed via private agreement - the council's position is that covenants should not dictate where zoning for intensification goes. Therefore, covenants are not a qualifying matter as directed by the government, nor one that the council sees benefit in adding. There are often factors outside of council's control that will limit the level of intensification that is zoned for (e.g. covenants, cross-lease sites, landowner preferences), but the council does not consider that such things should influence the zoning. Often in examples like this (where the existing low density is based simply on a covenant and not another significant factor such as bush areas or Special Character Areas), it can be a case of 'swimming against the tide' in attempting to keep low density lots in otherwise appropriate and attractive locations for intensification.
Our area of Meadowbank is currently in the single house zone but it is proposed to increase to THAB. Does the zoning increase mean that only a building of at least 6 storeys will be approved by council or will buildings of one or two storeys etc still be approved?	No - the THAB zone only enables that level of development but there is no requirement for that level of development to be established on site.
It's obvious the council can't keep up with the infrastructure demands so will there be provisions to allow for on-site solutions to allow development to proceed or will we be waiting years before these areas can see intensification	When developers come in with subdivision and resource consents they must be able to demonstrate that they can connect to water and wastewater. This means that they are responsible for upgrading local infrastructure. Council is required to plan for and fund bulk infrastructure (pump stations, major parts of the network). Sometimes on-site solutions are part of the answer such as holding tanks and pumping waste back into the network at 'off-peak' times. Planning for infrastructure is critical for Auckland's growth.
Are you doing site by site assessment for the coastal erosion? Why properties along the Milford beach with very solid sea wall is	Council has received data from qualified coastal engineers on those areas of the coast considered to be prone to coastal erosion. Sea walls are part of

considered coastal erosion zone? Is it possible to change after the assessment?	managing the effects of erosion but may not eliminate the risk completely. Coastal erosion is considered to be a qualifying matter for the Intensification Planning Instrument.
At least 6 stories? Does that mean that you could build, for example, 20 storeys to obliterate natural light over entire neighbourhoods?	Policy 3(c) only requires local authorities to enable at least six storeys. Council is currently proposing only to enable up to six storeys in walkable catchments - anything beyond that height limit would require a resource consent. For more information, please see Factsheet #3 on the consultation website - https://akhaveyoursay.aucklandcouncil.govt.nz/housing
Herne Bay is an area that has combined sw and sewage infrastructure and has regular raw sewage discharge to the coast. Will this be considered a qualifying matter and intensification will be restricted until this infrastructure is able to be upgraded. Presently it is not possible to increase any coverage or impermeable area in the locality as the sewage/sw pipes will not handle it, but the MDR rules will enable 50% coverage as a permitted activity (currently 35%).	Council is working with Watercare and Healthy Waters to assess whether additional controls may be required to manage the effects of growth on their network particularly where there are known capacity constraints. This may result in additional controls relating to infrastructure but is a 'work in progress'.
With regards to covenants, residents have already expended significant effort and expense to retain our covenant, including via legal means. The proposed changes will likely embolden developers with significant financial resources against residents. Is the council able to modify (1) the six-storey catchment and (2) MDRS areas to align with covenants?	It is important to note that the Unitary plan rules do not over-ride existing private covenants. Such covenants would need to be removed before any zoned intensification could occur. Therefore, while a zoning may change to THAB, this does not enable intensive development until the covenant issue is addressed. The government and the council consider that land inside walkable catchments should generally be intensified and the THAB zoning signals this. As the covenants are not of the council's doing - they are a private matter and can be removed via private agreement - the council's position is still that covenants should not dictate where zoning for intensification goes. Therefore, covenants are not a qualifying matter as directed by the government, nor one that the council sees benefit in adding. There are often factors outside of council's control that will limit the level of intensification that is zoned for (e.g. covenants, cross-lease sites, landowner preferences), but the council does not consider that such things should influence the zoning. Often in examples like this (where the existing low density is based simply on a covenant and not another significant factor such as bush areas or Special Character Areas), it can be a case of 'swimming against the tide' in attempting to keep low density lots in otherwise appropriate and attractive locations for intensification.
In terms of infrastructure, if a proposal is in an area with deficient infrastructure, and it	Council, Watercare and Auckland Transport are currently investigating developing additional

only needs to show it does not have " a more than minor effect" (im not sure if that is on the infrastructure capacity or the receiving environment) , how will this take into account cumulative effects, when each new development is only incremental in effects.	controls related to infrastructure where there are known capacity constraints in the network. This is a 'work in progress'. The RMA sets the legal framework for assessing consents which requires applicants to demonstrate that their effects can be managed. Cumulative effects as you suggest, occur over time using up capacity in the network.
Both the coastal erosion and the flooding is considered as Natural Hazards – less than significant in today's slideshow. Why flooding zone along the Nile Road in Milford all zoned for Mixed Housing Urban, but the erosion zone along the Milford beach is zoned for Two-storey Single Dwelling Residential area? Why it is so inconsistent here?	Council is still working through feedback from public consultation on qualifying matters. Flooding and coastal erosion are currently considered in the Auckland Unitary Plan in its rules E36 covering natural hazards and flooding. Not all hazards pose the same level of risk i.e. some hazards have a low probability of an event occurring but high risk. Council's planning team relies on datasets from engineers to develop its zoning and overlay response.
Does the council have any plan to enforce a minimum number of trees, ideally native trees, per dwelling, in new developments?	No - the MDRS minimum standards do not include a minimum number of trees and the council is unable to impose standards that are more onerous or restrictive than the MDRS.
Qualifying aspects of character appear to rely on subjective judgement and physical planning.....it doesn't incorporate an understanding of the social and cultural character of a residential neighbourhood. St Mary's Bay until now , had an historical heritage (character) overlay . Surely we need to maintain a sense of history and place in these parts of Auckland ?	Special character areas have been identified using a methodology, which is available at AK Have Your Say. Please have a look at the methodology for more information about how special character areas were surveyed and scored.
Anonymous Attendee 6:15 PM When view preservation is of concern to neighbouring properties, how are "3 storeys" height measured on sloping sections. Are they taken from road level being the lowest (front point) where building could easily and practically occur or can they be measured from the back of the section at the highest point.	The Medium Density Residential Standards specify that a building height of 12m height (11m + 1m for roof form) is enabled (e.g. 3 storeys). Height will be measured as per currently in the Auckland Unitary Plan - in most cases either using the rolling height method or the average ground method. Please see the definition of "height" in the Auckland Unitary Plan for more information on this: https://unitaryplan.aucklandcouncil.govt.nz/Images/Auckland%20Unitary%20Plan%20Operative/Chapter%20J%20Definitions/Chapter%20J%20-%20Definitions.pdf
Further to previous questions regarding the flooding and the coastal erosion. If coastal erosion is considered a qualifying matter, why properties along the Milford beach is zoned as Two-storey Single Dwelling Residential area? But waterfront properties along part of the Herne Bay and the St Heliers are considered as the Mixed Housing Urban zone? Why there is no consistency here?	Council is still working through feedback from public consultation on qualifying matters. Flooding and coastal erosion are currently considered in the Auckland Unitary Plan in its rules E36 covering natural hazards and flooding. Not all hazards pose the same level of risk i.e. some hazards have a low probability of an event occurring but high risk. Council's planning team relies on datasets from engineers to develop its zoning and overlay response.