

# Memo

04/06/2021

To: Tracey Grant  
cc: Eryn shields, Rebecca Fox  
From: Ciarán Power

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**Subject: Eden Valley Special Character Area and the Height Variation Control – Eden Valley in the Auckland Unitary Plan (OIP)**

## 1. Introduction

The purpose of this memo is to explain the relationship between the Eden Valley Special Character Area and the Height Variation Control - Eden Valley. This memo is a response to the following question which was directed to the Plans & Places department.

*The site is within the Business Eden Valley Special Character Area (SCA). The site is also subject to the Height Variation Control – Eden Valley (HVC) which has reduced the permitted maximum height from 16m to 13m. It is unclear from the panel's initial review of the Unitary Plan provisions as to whether there is a connection or linkage between these two controls. By reference to the material prepared for the Independent Hearing Panel process for the Unitary Plan, please clarify the intent of the SCA and HVC as they apply to the site.*

## 2. Background

The question has arisen from a request for feedback, made by the Environmental Protection Agency to Auckland Council, in relation to a Fast-Track Consenting Act referred application. The application is for land-use and subdivision consent for the demolition of existing buildings and redevelopment of the site at 360 Dominion Road, 88 Prospect Terrace and 113 Grange Road, Mt Eden, Auckland. The proposed development is to have a maximum height of 23.5m.

Under the AUP (OIP) the subject sites are zoned Business Mixed Use which has a permitted height of 18m, however there is a specific Height Variation Control for the Eden Valley business area, which replaces this height maximum, reducing it to 13 meters.

The subject sites also have a Special Character Areas Business Overlay specific to Eden Valley where its special character values are articulated in schedule 15.

## 3. Evolution of the provisions

### Auckland Council Legacy District Plan - Isthmus Section 1999

The subject sites under this plan were zoned Business 2, which *recognises the existence of the City's traditional suburban retail centres. Formerly the main locations for retail and commercial activity outside of the Central Area*<sup>1</sup>. The Business 2 zone imposed a 12.5m maximum height because the .... *limit imposed reflects existing development in these centres. It is in keeping with the zonal height limit achievable by the surrounding residential development*<sup>2</sup>. This zone is an

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<sup>1</sup> [Part 8A - Business Activity, 8.6.2 Business 2 Zone, 8.6.2.2 Zone Strategy, Auckland Council Legacy District Plan - Isthmus Section 1999. Page A15](#)

<sup>2</sup> [Part 8C - Business Activity, 8.8 Rules: Development Controls, 8.8.1 Development Controls In Business 1, 2, 3, 4, 5, 5a And 6 Zones, Business 2, Auckland Council Legacy District Plan - Isthmus Section 1999. Page C25](#)

example of how the legacy plan had many of its character controls integrated into zone provisions, rather than being separated out into an overlay.

Plan change 132 to the legacy Isthmus District Plan, incorporated a Character Overlay, amending its Heritage chapter (part 5C). The Character Overlay provisions were applied to 8 town centres located within some of Auckland's traditional suburbs, of which Eden Valley, is one.

*These town centres display a combination of both character and broad heritage elements that contribute to the uniqueness of the particular centre. These provisions seek to foster the retention of the character of the town centres, not to stop change, but to encourage and promote desirable change and appropriate protection and enhancement<sup>3</sup>.*

The overlay did not impose a height restriction because the underlying Business 2 zoning managed height from a character perspective. The Business 2 zones maximum height control along with the Character Overlay provisions worked together to protect, maintain and enhance the identified character of the Eden Valley centre.

### Proposed Auckland Unitary Plan (PAUP)

Under the PAUP, the subject sites were zoned Business - Mixed Use, which had a maximum height of 16.5m (4 story's). The sites were also subject to an Additional Zone Height Control (AZHC) overlay, specific to Eden Valley, which had a maximum height of 12.5m (3 story's).

The PAUP section 32 topic report 'Building heights'<sup>4</sup>, explains that the legacy character overlay provisions were carried across and modified:

*Building height in these areas is important to maintain existing architectural form and character .... The Unitary Plan has carried across protection of special character areas (business and residential). Although the provisions have been standardised as much as possible to read in an integrated manner, the core elements of height, built form, setbacks, architectural character are retained.*

The identified character values of the Eden Valley traditional suburban retail centre were carried over to the PAUP into the Special Character Business Areas<sup>5</sup> section, and the areas character values were articulated in an appendix to the PAUP<sup>6</sup>. The 12.5m maximum height of the Business 2 zone was not carried over as a maximum height for the Business - Mixed Use, zone. This is because the Business - Mixed Use, zone was a zone widely applied across Auckland's urban areas, not just to parts of the city's traditional suburban retail centres.

Therefore the designers of the PAUP created the AZHC overlay as a mechanism to substitute the height control of the underlying zoning in certain instances. In this case, it was for the perpetuation of special character<sup>7</sup>. For that reason, the 12.5m maximum height metric of the legacy Business 2

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<sup>3</sup> [Part 5C - Heritage, 8 5C.5 Implementation, 8 Character Overlay, Auckland Council Legacy District Plan - Isthmus Section 1999. Page 8](#)

<sup>4</sup> 2.5 – [Building heights - section 32 evaluation for the Proposed Auckland Unitary Plan, 2.12 Special character Zone Objectives, Legacy](#)

<sup>5</sup> [PART 3 - REGIONAL AND DISTRICT RULES, Chapter J: Overlay rules, 3 Special Character, 3.1 Special Character Business](#)

<sup>6</sup> [Part 5, Appendix 10.1 Special character statements – Business, Proposed Auckland Unitary Plan September 2013](#)

<sup>7</sup> The PAUP includes the Additional Zone Height Control as a mechanism for providing site-specific height controls without including a list of exceptions in the zone-wide height rules. The mechanism works by delineating a site or area on the planning maps and specifying a height limit. The heights specified in the Additional Zone Height Control override the applicable zone-wide height control. [Trevor Mackie's Evidence para 8.11, Topics 051-054 Centre Zones, Business Park and Industries Zones, Business Activities and Business Controls.](#)

Zone was carried over into the AZHC overlay for the Eden Valley Special Character Business Area.

Independent Hearings Panel recommendations → AUP Decision's version → AUP (OiP)

Notwithstanding, there was a gap in the PAUP explaining this linkage of certain Special Character areas to the height control. Through the Independent Hearings Panel (IHP) process, a policy was added to the H13 Business - Mixed Use Zone which created the link to the Height Variation Control (emphasis added)

*H13.3. (14) Policies*

***In identified locations within the centre zones, Business – Mixed Use Zone, Business – General Business Zone and Business – Business Park Zone, reduce building height below the standard zone height, where the standard zone height would have significant adverse effects on identified special character, identified landscape features, or amenity.***

This policy set the framework for the AZHC overlay to be removed as a mechanism and in the AUP Decision's Version. A Height Variation Control specific to Eden Valley was added and the maximum height was slightly modified.

*A maximum height of 13m (proposed to be revised from 12.5m) for the Eden Valley Local Centre and adjacent Mixed Use sites, that are subject to the AZHC overlay, .... strikes an appropriate balance between protecting the historic character of the area while supporting public transport and contributing to the vitality and vibrancy of the centre<sup>8</sup>.*

This linkage has been retained in the AUP (OiP).

#### **4. Conclusion**

The linkage between these two controls originated in the Auckland Council Legacy District Plan - Isthmus Section which was then carried over into the AUP (OIP). The rationale behind this was the Height Variation Controls' maximum height limit of 13m, will enable the retention of the special character values of the Eden Valley business area while also enabling change to occur in an appropriate considered manner.

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<sup>8</sup> [Para 11.12, Topics 051-054 – Centres zones, Business park and industries zones, Business activities, and Business controls and 078 Additional Height Control, Statement Of Evidence Of Hannah Thompson, Hamish William Scott And Lee-Ann Mary Lucas On Behalf Of Auckland Council 28 July 2015](#)