

UNITARY PLAN UPDATE REQUEST MEMORANDUM

TO Celia Davison, Manager, Planning Central/South, Plans and Places

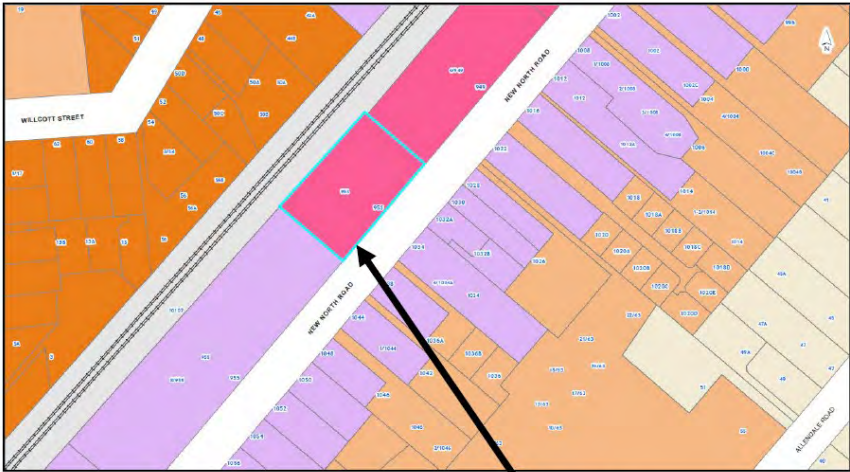
FROM Katrina David, Senior Policy Planner, Planning Central/South, Plans and Places

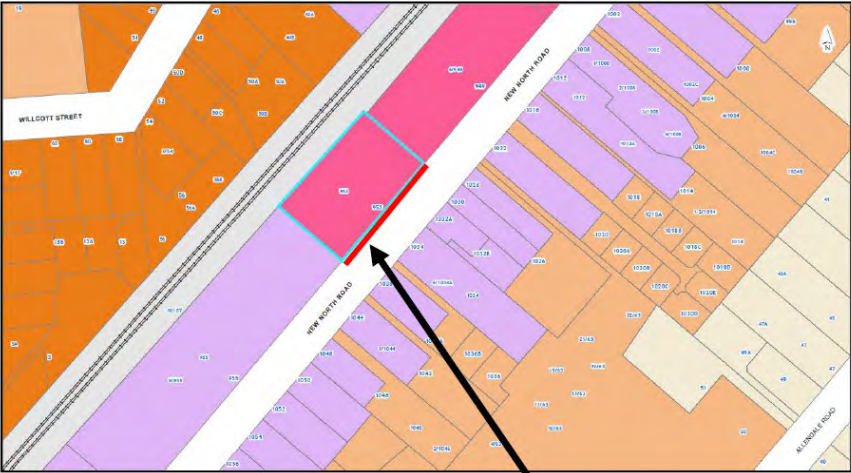
DATE 15 December 2022


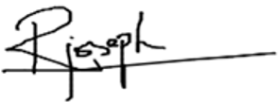


SUBJECT **Plan Modification 64 to the GIS Viewer of the Auckland Unitary Plan(AUP) Operative in part (15 November 2016)**



This memorandum requests an update to Auckland Unitary Plan Operative in part

| Reason for update – Plan Change 64 made operative | |
|---|---|
| Chapter | AUP GIS Viewer |
| Section | AUP GIS Viewer Zones AUP GIS Viewer Controls: Building Frontage Control – General Commercial Frontage |
| Designation only | |
| Designation # | N/A |
| Locations: | N/A |
| Lapse Date | N/A |
| Purpose | N/A |
| Changes to text (shown in underline and strikethrough) | NA |
| Changes to diagrams | NA |
| Changes to spatial data | <p>Amend GIS Viewer</p> <p>Rezone 953 New North Road from Business - Town Centre to Business - Mixed Use.</p> <p>Amendments to the Auckland Unitary Plan Viewer:</p>  <p>Apply Business – Mixed Use zoning</p> |

| | |
|---------------------------|---|
| | <p>Remove Building Frontage Control – General Commercial Frontage from 953 New North Road.</p>  <p>Remove Building Frontage Control - General Commercial Frontage</p> <p>See Attachment B.</p> <p>Note PC63 changes the Height Variation Control that applies to this site from 18m to 24m. This is covered in a separate Unitary Plan update request memorandum.</p> |
| <p>Attachments</p> | <p>Attachment A: Plan Change 64 Decision Attachment B: Amendments to GIS Viewer for 953 New North Road</p> |

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|--|---|
| <p>Prepared by: Katrina David Planner</p> | <p>Text Entered by: N/A Planning Technician</p> |
| <p>Signature:</p>  | <p>Signature: N/A</p> |
| <p>Maps prepared by: Rachel Joseph Geospatial Specialist</p> | <p>Reviewed by: Craig Cairncross Team Leader</p> |
| <p>Signature:</p>  | <p>Signature:</p>  |
| <p>Signed off by: Celia Davison Manager Planning – Central South</p> | |
| <p>Signature:</p>  | |

Attachment A: Plan Change 64 Decision

Decision following the hearing of a Private Plan Change to the Auckland Unitary Plan under the Resource Management Act 1991



Proposal - in summary.

To rezone land at 953 New North Road, Mount Albert from Business - Town Centre to Business - Mixed Use and remove the Building Frontage Control-General Commercial Frontage from the site.

This private plan change is **APPROVED** as notified. The reasons are set out below.

| | |
|-------------------------------------|--|
| Private Plan Change number: | 64 |
| Site address: | 953 New North Road |
| Applicant: | Tram Lease Limited |
| Hearing: | 23 and 24 May 2022 |
| Hearing panel: | Dr Lee Beattie (Chairperson) Ms Lisa Mein Mr Mark Farnsworth |
| Parties and People involved: | <p><u>Applicant</u> Tram Lease Limited represented by: Mr Douglas Allan & Ms Alex Devine, Legal Counsel Ms Angela Bull, Corporate Mr Andy Anderson, Architecture Ms Rachel de Lambert, Landscape Mr Cam Wallace, Urban Design Mr Todd Langwell, Transport Mr Tim Heath, Economics; and Mr Karl Cook, Planning.</p> <p><u>Albert-Eden Local Board</u> Mr Graeme Easte, Local Board Member</p> <p><u>Submitters:</u> Auckland Transport represented by: Mr Kevin Wong-Toi, Corporate Mr Joe Phillips, Transport and Engineering; and Mr Trevor Mackie, Planning.</p> |

| | |
|--|---|
| | <p><u>Tabled Statement</u> KiwiRail NZ Limited</p> <p>Auckland Council (as regulator) represented by: Ms Clare Wall Shaw, Planner (section 42A report author) Ms Fiona Sprott, (Team Leader) Mr Mat Collins¹, Transport Engineer Ms Tracy Ogden-Cork, Urban Design (consultant) Mr Peter Kensington, Landscape Architect (consultant) Mr Greg Akehurst², Economist (consultant). Mr Bevan Donovan, Hearings Advisor</p> |
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EXECUTIVE SUMMARY

We have set out at a ‘high level’ our key findings in the Executive Summary to provide ‘context’ when reading the substantive part of the decision. Other matters are also addressed that are not included in the Executive Summary.

- We have approved the plan change as proposed.
- PPC64 will give effect to the sustainable management purpose of the RMA, the NPS-UD and the RPS.
- PPC64 will result in zone change which will provide a planning framework for the PPC64 Land that will better meet the social and economic needs of the community.

INTRODUCTION

1. The private plan change request was made under Clause 21 of Schedule 1 to the RMA and was accepted by the Council, under clause 25(2)(b) of Schedule 1 to the RMA on 12 July 2021.
2. A report in accordance with section 32 and 32AA (in relation to the changes sought) of the RMA was prepared³ in support of the proposed plan change for the purpose of considering the appropriateness of the proposed provisions.
3. This decision is made on behalf of the Auckland Council (“**the Council**”) by Independent Hearing Commissioners Dr Lee Beattie (Chair), Lisa Mein and Mark Farnsworth appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (**RMA**).

¹ Mr Collins was one of the authors of the Council’s transport assessment - Matt Collin & Harry Shepard – *Transportation Hearing Report*. March 2022, Flow Transportation Specialists

² Mr Akehurst was one of the authors of the Council’s economic assessment - Rebecca Foy, Derek Foy, Greg Akehurst and Hannah Ashby – *Economic Assessment* – ME Consulting, 18 March 2022

³ Private Plan Change Request 953 New North Road Mt Albert – S32A Assessment Report – Shannon Fallon B&A Urban Environment, 14 May 2021 2020 (**Plan Change Request 2021**)

4. The Commissioners have been delegated the authority by the Council to make a decision on Private Plan Change 64 (**PPC 64**) to the Auckland Council Unitary Plan Operative in Part (**AUP (OP)**). In making our decision we have considered:

The application and supporting information;

- All of the submissions;
- The section 32 and 32AA evaluations;
- The Section 42A report prepared by Ms Clare Wall Shaw;
- The Requestor's legal submissions;
- The evidence presented during the hearing of submissions; and
- Responses to our questions and closing submissions.

5. The hearing of this plan change (PPC 64) was heard in conjunction with Private Plan Change 63. A separate decision will be issued for each plan change.

SUMMARY OF PLAN CHANGE AS NOTIFIED

6. The proposed Plan Change is described in detail in the Requestor's Plan Change Request⁴:

"The Plan Change proposal seeks to amend the AUP Maps to:

- *Apply Business – Mixed Use zone to the property 953 New North Road; and*
- *Remove the Building Frontage Control – General Commercial Frontage."*

7. The Council's section 42A hearing report⁵ provided the following overview:

"to apply a Business - Mixed Use zoning to the 2,387m² site to optimise the efficient use of the existing urban area while also enhancing the quality of life for individuals and communities."

8. The Plan Change Request notes⁶:

"The Plan Change will allow future buildings within the Plan Change area to enable a different range of activities to be undertaken on the Site than those currently provided for under the Business – Town Centre zoning, the Business – Mixed Use zoning has been determined to be more favourable to current market demand for land for residential development and the rezoning will therefore enable a more efficient and effective use of this land resource".

⁴ Plan Change Request at [5.2]

⁵ Section 42A at Section 1

⁶ Plan Change Request at [5.1]

9. The Requestor's Plan Change Request⁷ sets out the purpose of the plan change, being:

"The purpose of the Plan Change, or the objective of the Plan Change in terms of the RMA, is to apply a Business – Mixed Use zoning to the 2,387m² site to optimise efficient use of the existing urban area while also enhancing the quality of life for individuals and communities".

10. The Requestor owns the Site and wants to carry out a comprehensive redevelopment of the Site in a manner consistent with the proposed zoning framework. The Requestor holds the view the current Business - Town Centre zone imposes requirements regarding ground floor activities which will compromise their ability to carry out a residential development of the form and quality intended.

11. Ms Wall Shaw notes⁸:

"PPC 64 is following the same timeframes as PPC 63 and will be heard at the same hearing. The height being sought by PPC 63 relates to the sites within the plan change area, rather than the zoning. Should both plan changes be approved as notified, a Height Variation Control would apply to 953 New North Road to enable buildings up to 24m".

SITE DESCRIPTION AND ZONING

12. The Plan Change Request provided⁹ a detailed description of the site¹⁰:

"Described as Lot 4 Deposited Plan 77409, the Plan Change area is 2,387m² in area and is located on the northern side of New North Road in Mount Albert town centre. The Plan Change includes the property at 953 New North Road only which is bounded by the railway line to the north-west and New North Road to the south-east. To the east is Business – Town Centre zoned land which is currently occupied by a retail complex and associated at grade parking area, and to the west is Business – Mixed Use zoned land which is also occupied by a retail complex and associated at grade parking area (Figure 1)".

⁷ Plan Change Request at [5.3]

⁸ Section 42A Report at [23]

⁹ Plan Change Request at [4.1]

¹⁰ The Section 42A Report adopted the requestor's site description



Figure 1 Location of Plan Change area

13. The Plan Change area is located within the Business – Town Centre zone, however the south-western boundary is contiguous with the Business – Mixed use zone (**Figure 2**).

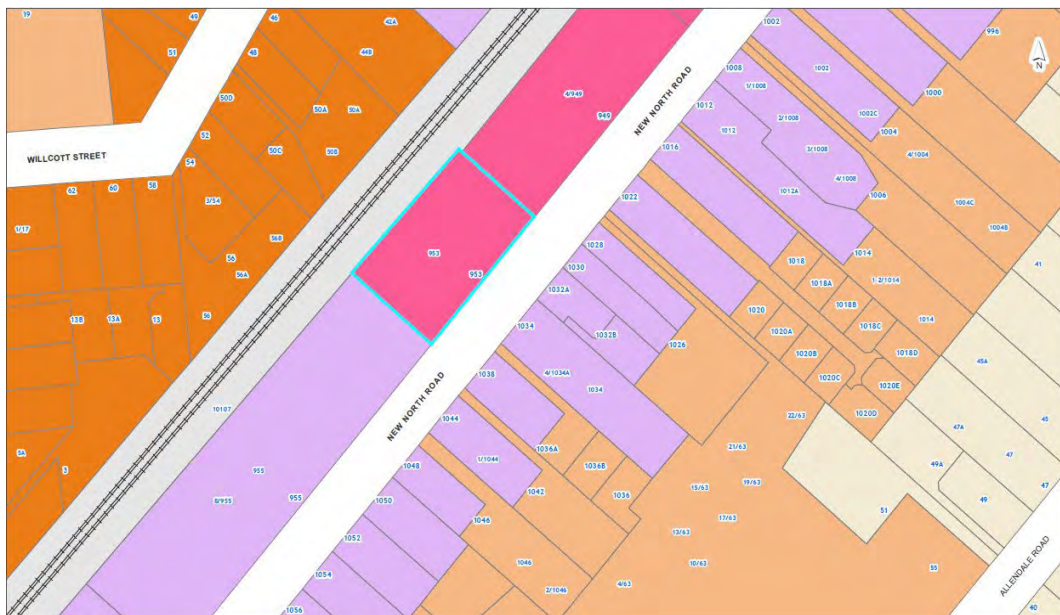


Figure 2: AUP (OP) Zoning

14. The Plan Change Request¹¹ provides the following commentary:

“A Height Variation Control applies to the Site allowing the development of buildings up to 18m in height. The height limit of buildings within the adjoining Business - Mixed Use zone is 18m. Private Plan Change to increase the

¹¹ Plan Change Request at [4.1]

Height Variation Control (HVC) as it applies to the land at 911-953 New North Road from 18m to 24m and to apply a 24m HVC to 955-975 New North Road has been accepted by Auckland Council. That Plan Change is currently on hold, at the Applicant's request, pending advancement of this application.

A Regionally Significant Volcanic Viewshaft and Height Sensitive Area Overlay – A13 Mount Albert Viewshaft – passes over the majority of the Site, except for the northern-most part of the Plan Change area by Mount Albert Road. The Viewshaft has a height above the Site of generally 24.5m-27.5m, decreasing to 21.5m at the Site's southern end and 20.5m at its northern end."

"Overall, the topography of the Plan Change area is relatively flat falling gently from the southern end to the northern end with a difference of approximately 1.5m across the Site".

15. Ms Wall Shaw records¹²:

- *"Macroinvertebrate Community Index – Urban"; and*
- *"The plan change area is adjacent to the KiwiRail designation 6300 (North Auckland Railway Line from Portage Road, Otahuhu to Ross Road, Topuni). This designation covers the length of the railway line and rail corridor. The purpose of this designation is to develop, operate and maintain railways, railway lines, railway infrastructure, and railway premises as defined in the Railways Act 2005".*

SURROUNDING AREA & LOCAL CONTEXT

16. The S32A Assessment provides¹³: a detailed description of the surrounding areas and surrounding and local context:

"The Mount Albert town centre is focused around the New North Road and Carrington Road intersection. The built form within the Mount Albert town centre largely consists of finer grain strip retail.

*The zoning pattern of the wider area spanning out from Mount Albert town centre is, very loosely, concentric. At its core is Town Centre zoning, surrounded by Mixed Use zoning. From there, it transitions to Terrace Housing and Apartment Building (**THAB**) zoning, through to Mixed Housing Urban, Mixed Housing Suburban and Single House zoning. The Plan change area comprises Town Centre zoned land only.*

To the north of the Mount Albert town centre, are large older residential dwellings many of which are zoned THAB. The THAB zone also extends to the east of the Mount Albert town centre to Allendale Road. Beyond Allendale

¹² Section 42A Report at [16 – 17]

¹³ Plan Change Request at [4.2]

Road the Single House zone and Special Character Overlay applies to the large character homes which line the residential streets that surround Ōwairaka / Mount Albert.

To the north of the Plan Change area is the railway line. Immediately beyond the railway line is a residential area consisting of terrace housing and single dwellings. This area is zoned Business – Mixed Use along the railway line and THAB along Willcott Street under the AUP (OP). Similarly, on the southern side of New North Road, opposite the Site, is larger standalone dwellings on larger sections. This land has also been zoned Business – Mixed Use with Residential – Mixed Housing Urban zoned land beyond.

New North Road is an arterial road and is serviced by the Frequent Transit Network (FTN) with buses going to the CBD, across town to Penrose/Sylvia Park and Point Chevalier via Unitec. Mount Albert town centre is on the Outer Link bus route. Mount Albert train station is eight stops from Britomart (until the City Rail Link project is completed). Train frequency during peak commute times is every ten minutes. Travel time from the station to Britomart is 28 minutes. This is estimated to decrease to around twenty minutes after the opening of the City Rail Link.

The Plan Change area is well served by amenities, with Gladstone Primary School, Elim Christian College, Mount Albert Grammar School and the Unitec Institute of Technology being in the wider area, along with the open space of Mount Albert / Ōwairaka Domain, Mount Albert Tennis Club, the Mount Albert Aquatic Centre, services within the town centre, Mount Albert train station, and Pak'n Save supermarket further south on New North Road”.

17. We agree with this description of the site and the local and wider environment and it is adopted by us for our decision.

NOTIFICATION PROCESS AND SUBMISSIONS

18. PPC 64 was publicly notified for submissions on 22 July 2021; on the closing date, 19 August 2021, six primary submissions had been received¹⁴. The submitters and their submissions are addressed in the tables in the section titled “Decisions” later in this decision.
19. A summary of submissions was publicly notified on 23 September 2021; on the closing date, being 7 October 2021 for further submissions; two further submissions were received¹⁵.

¹⁴ Section 42A Report at [10.1]

¹⁵ Section 42A Report at [10.1]

20. The Section 42A Report provided comprehensive tabulations¹⁶ of the issues raised by the submitters, in their submissions and further submissions; and the relief sought. In summary, submissions addressed:
- Supporting PPC 64;
 - Opposing PPC 64; and
 - Transport matters.
21. We address the submitters' concerns in some detail below.

SECTION 42A –OFFICER’S RECOMMENDATION

22. In preparing the section 42A Report Ms Wall Shaw was assisted by ‘technical inputs¹⁷’ from a number of experts namely:
- Mat Collins & Harry Shepherd – *Transportation Hearing Report*. March 2022, Flow Transportation Specialists; and
 - Rebecca Foy, Derek Foy, Greg Akehurst and Hannah Ashby – *Economic Assessment* – ME Consulting 18 March 2022.
23. Ms Wall Shaw’s Section 42A Report recommended approval of the Plan Change. She noted¹⁸:
- “Having all of the information provided by the requestor, carried out an assessment of effects, reviewed all relevant statutory and non-statutory documents and made recommendations on submissions, I recommend that PPC 64 at 953 New North Road, Mount Albert should be approved as notified”.*
24. Ms Wall Shaw opined¹⁹:
- *assist the council in achieving the purpose of the Resource Management Act 1991;*
 - *give effect to the relevant National Policy Statements*
 - *be consistent with Auckland Unitary Plan Regional Policy Statement, and*
 - *be consistent with the Auckland Plan*

LOCAL BOARD COMMENTS

25. The Section 42A Report provides²⁰ a summary of the Albert-Eden Local Board’s comments.

¹⁶ Section 42A Report Section 11

¹⁷ Section 42A Appendix 5

¹⁸ Section 42A at [170]

¹⁹ Section 42A at [171]

²⁰ Section 42A Report at [9.2]

26. Mr Graeme Easte, Board Member, represented the Albert-Eden Local Board at the hearing. He noted the Board supported PPC 64 subject to the following²¹:
- The need for a civic square;
 - A Precinct Plan is established for the PC area;
 - The actual implementation of PPC 64 is modulated;
 - The need to avoid undue shading;
 - The building envelope should not intrude into the volcanic viewshaft;
 - Any actual development should be subject to the Urban Design Panel review process; and
 - limiting the number of vehicular entrances/exits and by spacing them well apart.
27. To the extent we are able, and in the context of submissions to PPC 64, we have had regard to the views of the Albert-Eden Board.

THE HEARING

28. The hearing for PPC 64 commenced on Monday 23, May 2022 in the Council Chambers, ground floor Auckland Town Hall. The hearing was adjourned on Tuesday 24, May 2022. The hearing was closed on 14 June 2022 following the receipt of the requestor's Closing Legal Statement.

HEARING PROCESS

29. The RMA sets out an extensive set of requirements for the formulation of plans and changes to them. These requirements were set out in the Section 42A Report²².
30. The Applicant in their section 32A Assessment dated February 2021, provided an evaluation pursuant to section 32²³, and the additional information (*Clause 23*) requested by Auckland Council.
31. We do not need to repeat contents of the Applicant's Plan Change Request and section 32 Assessment Report in any detail, as we accept the appropriate requirements for the formulation of a plan change has been comprehensively addressed in the material before us.
32. We accept the section 32 Assessment Report clarifies that analysis of efficiency and effectiveness of the plan change is to be at a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal. Having considered the

²¹ Section 42A Report at Table 9

²² Section 42A at section 7

²³ Plan Change Request at Section 10

application and the evidence, we are satisfied that PPC 64 has been developed in accordance with the relevant statutory requirements.

33. Clause 10 of Schedule 1 requires that this decision must include the reasons for accepting or rejecting submissions. The decision must also include a further evaluation, in accordance with section 32AA of the RMA, of any proposed changes to the Plan Change. This further evaluation must be undertaken at a level of detail that corresponds to the scale and significance of the changes.

RELEVANT STATUTORY PROVISIONS CONSIDERED

34. Mr Cook in Planning Evidence for the requestor opined that there was substantial agreement between his evidence²⁴ and Ms Wall Shaw's Section 42A Report analysis²⁵ of the relevant statutory framework and the applying planning provisions. Given the level of agreement we have not provided detailed analysis other than to note the relevant documents that were considered and that both Mr Cook and Ms Wall Shaw were of the view PPC 64 is consistent with the relevant applying provisions.

35. The following documents were considered:

- Resource Management Act 1991;
- National Policy Statement on Urban Development 2020;
- The Auckland Unitary Plan: - Regional Policy Statement;
- District Provisions;
- The Auckland Plan 2050;
- Development Strategy;
- Tūpuna Maunga Integrated Management Plan;
- Albert-Eden Local Paths (greenways) Plan 2018; and
- Albert-Eden Local Board Plan 2020.

Resource Management (Enabling Housing Supply and Other Matters) Act

36. The Resource Management (Enabling Housing Supply and Other Matters) Act was given Royal assent on 20 December 2021 and came into force on 21 December 2021. The extent that the PPC 64 area will be impacted by MDRS will be addressed by the Council when it notifies its own plan change (or variations) to give effect to the NPS-UD (intensification planning instrument) and the Resource Management (Enabling Housing Supply and Other Matters) Act. We understand this plan change is scheduled to be publicly notified in August 2022.

²⁴ Mr Cook Evidence-in-chief at Section 8

²⁵ Section 42A Report at Section 7

37. We note for completeness, that on this matter we sought advice from Mr Allen (through our questions) over how should address this matter in our consideration of the current PPC, given we did not want to pre-empt this process in any way. He advised that we should just consider the Plan Change in the ‘normal’ way and any issues related to the plan change to be publicly notified in August 2022 would be addressed through that process based on the relevant evidence etc. There was no disagreement with this advice from any of the parties, including the Council officers (Ms Wall Shaw and Ms Sprott), a point we agree with, and have considered this PPC in this fashion.

FINDINGS AND REASONS FOR APPROVING THE PLAN CHANGE.

38. The following section addresses our overall findings on PPC 64, having heard and considered all of the material and evidence before us.
39. We had expert evidence, before us; with Auckland Transport (AT) requesting²⁶:
- *“The subject site at 953 New North Road should retain its Business – Town Centre zoning, to contribute to the Mount Albert Town Centre and its main street functioning”.*
 - *“The subject site at 953 New North Road should not have a Business – Mixed Use zoning, which would enable the Requestor’s intended solely residential use”.*
 - *“The General Commercial Frontage control should remain in place along the road boundary to 953 New North Road, to ensure an active frontage of a commercial or retail/hospitality nature, with continuous pedestrian amenity appropriate to a town centre”.*
40. The requestor offered no changes and we have, after the consideration of all the information placed before us rejected AT’s requests.
41. We also had a number of submissions placed before us, supporting²⁷ the plan change, or seeking either the rejection²⁸ of the plan change, or rejection²⁹ of part(s) of the plan change.
42. Later in this decision we address the submissions received to PPC 64 and the relief sought in those submissions. In this respect, in accordance with Clause 10(2) of the RMA, we have grouped together those submissions under the headings that were used in the section 42A report for consistency. We have no changes resulting from the submissions.
43. With respect to further submissions, they can only support or oppose an initial submission. Our decisions, on the further submissions reflects our decisions on those initial submissions having regard, of course, to any relevant new material provided in

²⁶ Mr Mackie Evidence-in-chief at [26 – 28]

²⁷ Submission 4 - Vincent & Sarah Heeringa; Submission 6 - Kāinga Ora

²⁸ Submission 1 – Ronald Tapply; Submission 2 Sanaia Thompson

²⁹ Submission 3 – David Ryan

that further submission. For example, if a Further Submission supports a submission(s) that opposes the Plan Change and we have recommended that the initial submission(s) be rejected, then it follows that the Further Submission is also rejected.

44. As we have not adopted any of the changes arising from submissions, we have not been required to provide a further evaluation in accordance with section 32AA of the RMA.

Reasons for the Plan Change Proposal

45. We accept the Requestor's rationale for seeking to change the AUP (OP). The spatial extent of the Plan Change area is limited to the property at 953 New North Road only³⁰ and the current Town Centre zone imposes requirements regarding ground floor activities which will compromise their ability to carry out a residential development of the form and quality intended³¹.
46. For the reasons that follow, it is our view that PPC 64 introduces a zone change that is more efficient and appropriate in terms of the section 32 and section 32AA of the RMA than those currently in the AUP (OP) and satisfies the Part 2 provisions of the RMA. We address these matters below.

Mana Whenua

47. The Applicant's Plan Change Request noted³²

"Given the Plan Change request is limited to rezoning only and no change to the AUP (OP) provisions is proposed, consultation with mana whenua is not considered necessary at this stage, rather iwi consultation would be carried out at resource consent stage, to the extent that consultation is required under the AUP (OP) provisions. that all Mana Whenua groups with a registered interest in the Plan Change area were notified".

48. The Section 42A Report notes³³ that Auckland iwi authorities were specifically notified of PPC 64 in accordance with clause 5(4)(f) of Schedule 1 of the RMA on 23 September 2021. No submission was received from any mana whenua group³⁴. No iwi resource management groups recommended needing a decision maker in accordance with clause 4A of Schedule 1 of the RMA.
49. In turning our minds to whether PPC 64 gives effect to the RPS and Part 2 in relation to Mana Whenua interests and values we accepted the Requestor's approach that given the restricted nature of the Plan Change, consultation with mana whenua was not considered necessary at this stage, rather iwi consultation would be carried out at

³⁰ Plan Change Request at [5.1.1]

³¹ Plan Change Request at [5.1.2]

³² Plan Change Request at Section 8

³³ Section 42A Report at [189]

³⁴ The Tūpuna Maunga Authority did submit to PPC 64

resource consent stage. Our finding was influenced by the comprehensive consultation³⁵ by the Requestor for PPC 63 in 2020.

Does Plan Change 64 give effect to the NPS UD?

50. Both Mr Cook and Ms Wall Shaw were of the view that PC gives effect to the NPS UD. The section 42A Report provides a commentary³⁶ on the National Policy Statement on Urban Development (**NPS-UD**). The NPS-UD was gazetted on the 23 July 2020, and came into force on 20 August 2020. It applies to all local authorities that have all or part of an urban environment within their District. Auckland Council is listed as a “Tier 1” local authority.

51. In summary its purpose is to:

- Have well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future; and
- Provide sufficient development capacity to meet the different needs of people and communities.

52. Ms Wall Shaw’s assessment of NPS-UD took into account the Environment Court decision - *Eden-Epsom Residential Protection Society Inc v Auckland Council [2021] NZEnvC 082*. She was of the view that PPC 64 will give effect to the NPS UD.

53. Mr Cook opined³⁷:

“Plan Change 64 would best achieve the relevant objectives and policies in the AUP and NPS-UD and are appropriate in terms of the planning framework for plan changes in the RMA”.

54. With respect to the NPS UD, we find that either application of the Business – Town Centre (**BTC**) or the Business – Mixed Use (**BMU**) would enable intensification and support well-functioning urban environments in line with the objectives and policies of the national policy statement. We concur with Ms Wall Shaw that the difference between the zones is relatively minor in this regard.

Has the Zone change been justified?

55. Initially we had some reservations on removing the BTC zone from 953 New North Road and applying a BMU zone to the site. The BMU zone is typically located around centres and along corridors served by public transport. It acts as a transition area, in terms of scale and activity, between residential areas and the business centre areas. The zone provides for residential activity as well as predominantly smaller scale commercial activity that does not cumulatively affect the function, role and amenity of

³⁵ Section 42A Report at [131]

³⁶ Section 42A Report at [65 - 77]

³⁷ Mr Cook Evidence -in-chief at [1.4]

centres. The zone does not specifically require a mix of uses on individual sites or within areas. The commissioners separately and collectively have observed that the BMU often gives rise to wholly residential development. It is apparent from the application material and the evidence of Ms Bull³⁸ that the intention of the rezoning is to facilitate residential development on 953 New North Road:

“The site is viewed as ‘market attractive for residential development’ and that “the change of zoning coupled with the removal of the Building Frontage Control – General Commercial Frontage will enable residential activities to be established at ground floor”.

56. The rezoning of 953 New North Road would serve to reduce the quantum of Business – Town Centre zoning in the Mount Albert town centre from 31,496m² to 29,109m² and increase the area of BMU zoning from 41,664m² to 44,031m². In considering the matter of rezoning, the commissioners turned attention to the loss of town centre floorspace, and potential effects of this.
57. Economic analysis has been undertaken by Messrs Tim Heath and Phil Osborne of Property Economics, on behalf of the requestor, and by Ms Foy³⁹ et al of Market Economics, on behalf of Auckland Council, of the challenges faced by Mount Albert town centre and the estimated demand for town centre floorspace. Although the estimates for demand vary between the two experts, both reach a similar conclusion that there is more than sufficient floorspace within the Mount Albert town centre for the foreseeable future without the subject site being zoned BTC⁴⁰.
58. Mr Mackie, for AT provided a different perspective recording⁴¹ in his conclusions that:

“The subject site at 953 New North Road should not have a Business – Mixed Use zoning, which would enable the Requestor’s intended solely residential use. That would disable the Town Centre from being able to extend in a southeast direction, and pull its southern extent further north, away from the walk-up catchment existing and to be intensified by NPS-UD and MDRS plan changes. This western side of New North Road is only of a single block depth, so it needs to function more as a linear town centre than as a concentric node. The compactness would reflect the 800m walk-up catchment”.

59. We were not persuaded by the evidence of Mr Mackie, rather we accepted the evidence of the economic experts noting that they were in agreement that the shift of boundary of the town centre to the north may serve to consolidate commercial and retail activities around the core node.

³⁸ Ms Bull Executive Summary of Evidence

³⁹ - Rebecca Foy, Derek Foy, Greg Akehurst and Hannah Ashby – *Economic Assessment* – ME Consulting, 18 March 2022

⁴⁰ Mr Heath Evidence-in-chief at [8.4] and Foy et al at [3.2.3]

⁴¹ Mr Mackie Evidence-in-chief at [27]

60. Mr Cook acknowledges that reducing the extent of BTC in Mount Albert could potentially compromise the role and function of Mount Albert as a town centre⁴². However, he notes that the zoning is unusual in that the BTC zone extends approximately 280m further to the southwest on the northern side of New North Road than is the case on the southern side. The consequence of that is that the land at the south-western end is facing BMU on the opposite side of New North Road.
61. By way of background to the extent of the zone, Mr Cook included the planning maps from the legacy Auckland City District Plan: Isthmus Section (**legacy plan**) in his evidence. As he noted in paragraph 5.13 of his evidence in chief, the BTC zoned land of Mount Albert was increased in extent from the legacy plan, whereby the properties at 947-953 New North Road were formerly zoned Mixed Use, to that which is currently zoned BTC within the AUP.
62. Following the commencement of the hearing, we requested further information from Ms Sprott and Ms Wall Shaw (Auckland Council) regarding what influenced the current zoning of Mount Albert town centre. The information included the legacy plan, the Future Planning Framework (dated July 2009), the draft PAUP (dated March 2013) and the PAUP (dated September 2013).
63. The Future Planning Framework (**FPF**) is not a statutory document; however, it was developed with local communities to shape a strategic context for Auckland Isthmus. We note within the FPF Mount Albert is identified as a local centre and is concentrated around the train station and New North Road-Carrington Road node. Mixed use was proposed to extend to the south of the centre on both sides of New North Road, including the subject site.
64. In the draft PAUP, which was a consultation document issued prior to the notification of the PAUP, the site retained the Mixed-Use zoning from the legacy plan. This was amended to BTC, prior to the PAUP being notified. Ms Sprott and Ms Wall Shaw were unable to find reference in evidence as to why the BTC was extended at that time.
65. While the application is for a plan change, we note the redevelopment of 953 New North Road offers the potential to act as a catalyst for the regeneration of Mount Albert Town Centre. The Requestor's Closing Legal Submissions noted⁴³:
- “Tram Lease’s evidence is that the shift of the zone boundary to the north-east will help consolidate and intensify commercial and retail activities around the core of the town centre.”*
66. Section 42A report.
67. We have set out our reasons above why we have approved PPC 64 and the amendments we have made to it so it satisfies the purpose of the RMA.

⁴² Mr Cook Evidence-in chief at [7.19]

⁴³ Mr Douglas Allan & Ms Alex Devine Closing Legal Submissions at [4.3]

Submissions Supporting PPC 64 in its entirety

| Sub. No. | Name of Submitter | Summary of the Relief Sought by the Submitter | Further Submissions | Planner's Recommendations |
|----------|--------------------------|---|------------------------------------|---------------------------|
| 4.1 | Vincent & Sarah Heeringa | Support smart intensification of the New North Road corridor | Supported by FS02 Kāinga Ora | Accept |
| 6.1 | Kāinga Ora | Rezone 953 New North Road, Mount Albert from TCZ [Town Centre zone] to MUZ [Mixed Use zone] | Opposed by FS01 Auckland Transport | Accept |
| 6.2 | Kāinga Ora | Remove the Building Frontage Control - General Commercial Frontage | Opposed by FS01 Auckland Transport | Accept |

Decision

68. The support of these submissions is noted. On the basis we have approved the Plan Change we **accept** the supporting submissions

Discussion

Submissions opposing PPC 64 in its entirety

| Sub. No. | Name of Submitter | Summary of the Relief Sought by the Submitter | Further Submissions | Planner's Recommendations |
|----------|-------------------|--|---------------------|---------------------------|
| 1.1 | Ronald Tapply | Retain Mount Albert primarily as a shopping centre | No | Reject |
| 1.2 | Ronald Tapply | No other specific decision sought [concerned at impingement on the significant volcanic viewshaft to Mount Albert] | No | Reject |
| 2 | Sanaia Thompson | Seeks unspecified protection over any planned | No | Reject |

| | | | | |
|---|------------|---|----|----------------|
| | | changes to 'mixed use' | | |
| 3 | David Ryan | No other specific decision sought [concerned at lack of parking and shading of 1042 New North Road] | No | Reject in part |

Discussion

69. As we have accepted the PPC 64 as notified, we have adopted the recommendations contained in the Section 42A report at paragraphs 148 -158.
70. Submissions 1.1 and 1.2 of Ronald Tapply sought for PPC 64 to be declined based on concerns about the change in land use from shopping to full residential use, stating that Mount Albert needs to remain a shopping centre primarily.
71. Submission 2 of Sanaia Thompson sought PPC 64 to be declined due to concerns over the level of protection relating to mixed use development.
72. We concur with Ms Wall Shaw's view that while there may be a loss of floorspace for commercial activities on the subject site, there remains enough floorspace and choice of location and type within the town centre. Ms Foy et al⁴⁴ in their Economic Assessment concluded:

"We agree that the residential development that would be enabled by the PPC 64 would be unlikely to have significant effects on the Mt Albert Town Centre in terms of the loss of retail capacity, and that the Site is a good central location for residential development with access to public transport and on the edge of the centre".

Accordingly, we have rejected the submission points of both Ronald Tapply and Sanaia Thompson.

Submission on transport matters

| Sub. No. | Name of Submitter | Summary of the Relief Sought by the Submitter | Further Submissions | Planner's Recommendations |
|-----------------|--------------------------|--|----------------------------|----------------------------------|
| 5.1 | Auckland Transport | Retain the Business - Town Centre zone along this part of New North Road | Opposed by FS02 Kāinga Ora | Reject |

⁴⁴ Rebecca Foy, Derek Foy, Greg Akehurst and Hannah Ashby – *Economic Assessment* – ME Consulting, 18 March 2022

| | | | | |
|-----|--------------------|---|----------------------------|--------|
| | | [inferred 953 New North Road, Mount Albert] | | |
| 5.2 | Auckland Transport | Assess cumulative transport effects of plan change 63 and plan change 64 together. Identify any mitigation required and the delivery mechanisms | Opposed by FS02 Kāinga Ora | Reject |
| 5.3 | Auckland Transport | Retain the Building Frontage Control - General Commercial Frontage | Opposed by FS02 Kāinga Ora | Reject |

Discussion

73. We have comprehensively addressed these matters in the decision above. We are satisfied that, based on the evidence before us, the matters relating to Transport matters have been appropriately considered.
74. As we have accepted the PPC 64 as notified, we have adopted the recommendations contained in the Section 42A report at paragraphs 149 -168.

SECTION 32AA EVALUATION

75. Section 32AA of the RMA requires a further evaluation for any changes that are proposed to the notified plan change after the section 32 evaluation was carried out.⁴⁵ This further evaluation must be undertaken at a level of detail that corresponds to the scale and significance of the changes.⁴⁶ As we have not made changes to PPC 64 a section 32AA analysis has not been required.

PART 2 OF THE RMA

76. Section 5(1) RMA provides that the purpose of the Act is to promote the sustainable management of natural and physical resources. We find that Part 2 of the RMA is met by PPC 64 for the reasons we have set out above, and provide in summary below.
77. PPC 64 provides for the sustainable management of the PPC 64 land, in a manner that contributes to the region's ability to accommodate future growth in accordance with the Council's "quality compact city" goal.

⁴⁵ RMA, section 32AA(1)(a)

⁴⁶ RMA, section 32AA(1)(c)

78. We find that PPC 64 appropriately recognises and provides for the matters of national importance listed in section 6 RMA and has had particular regard to the other matters listed in section 7 RMA.

79. We are satisfied that PPC 64 does not raise any issues in terms of section 8 RMA.


OVERALL DECISION

80. That pursuant to Schedule 1, Clauses 10 and 29 of the Resource Management Act 1991, that Proposed Plan Change 64 to the Auckland Unitary Plan (Operative in Part) be **approved**.

81. Submissions on the plan change are accepted, accepted in part or refused in accordance with this decision.

82. In addition to the reasons set out above, the overall reasons for the decision are that PPC 64:

- is supported by necessary evaluation in accordance with section 32 and s32AA;
- gives effect to the National Policy Statement on Urban Development;
- gives effect to the Auckland Regional Policy Statement; and
- satisfies Part 2 of the RMA.



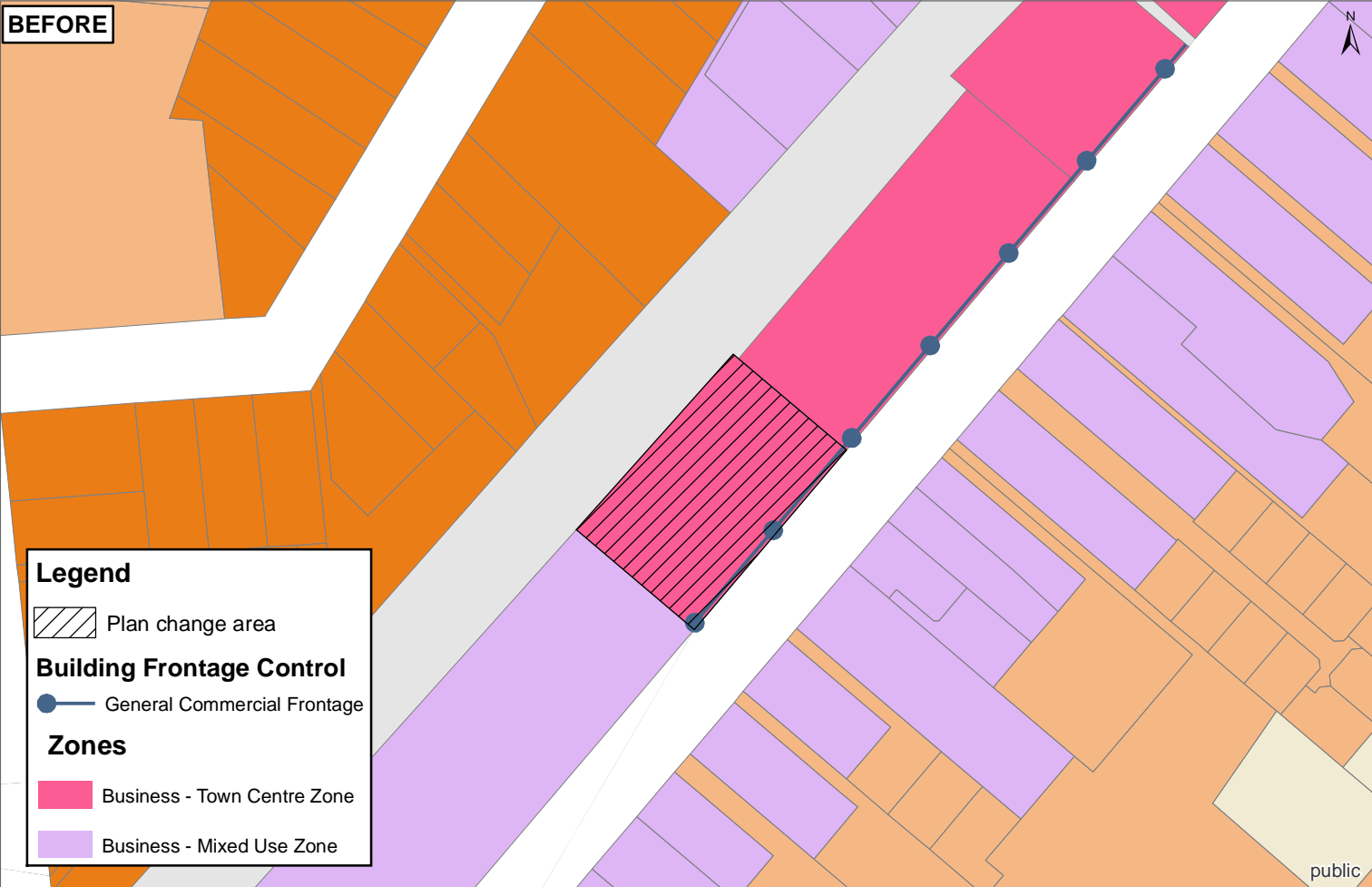
Dr Lee Beattie - Chairperson

For Commissioners Lisa Mein, Mark Farnsworth MNZM and Dr Lee Beattie



3 August 2022

**Attachment B: Amendments to GIS Viewer for
953 New North Road**

BEFORE

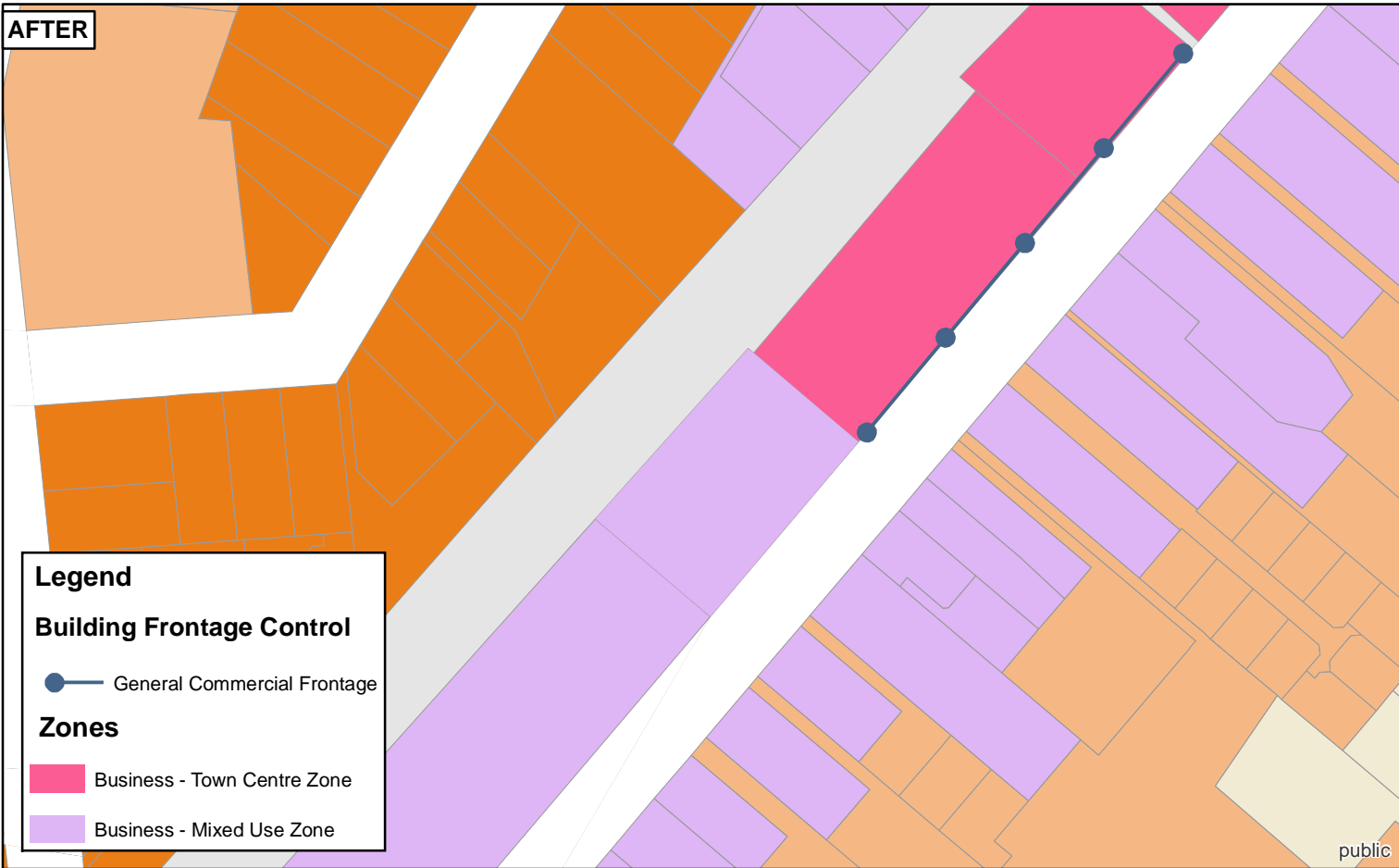


Legend

-  Plan change area
- Building Frontage Control**
-  General Commercial Frontage
- Zones**
-  Business - Town Centre Zone
-  Business - Mixed Use Zone

public

AFTER



Legend

- Building Frontage Control**
-  General Commercial Frontage
- Zones**
-  Business - Town Centre Zone
-  Business - Mixed Use Zone

public



Whilst due care has been taken, Auckland Council gives no warranty as to the accuracy and completeness of any information on this map/plan and accepts no liability for any error, omission or use of the information.

Date: 18/01/2023

**Plan change 64
Changes to Zone and
Building Frontage Control**

