

**Date:** 06 May 2021  
**Time:** 10.00am  
**Meeting Room:** Reception Lounge  
**Venue:** Auckland Town Hall  
301-305 Queen Street  
Auckland

---

## **Kōmiti Whakarite Mahere / Planning Committee**

### **CONFIDENTIAL MINUTE ITEM ATTACHMENTS**

---

#### **ITEM TABLE OF CONTENTS**

#### **PAGE**

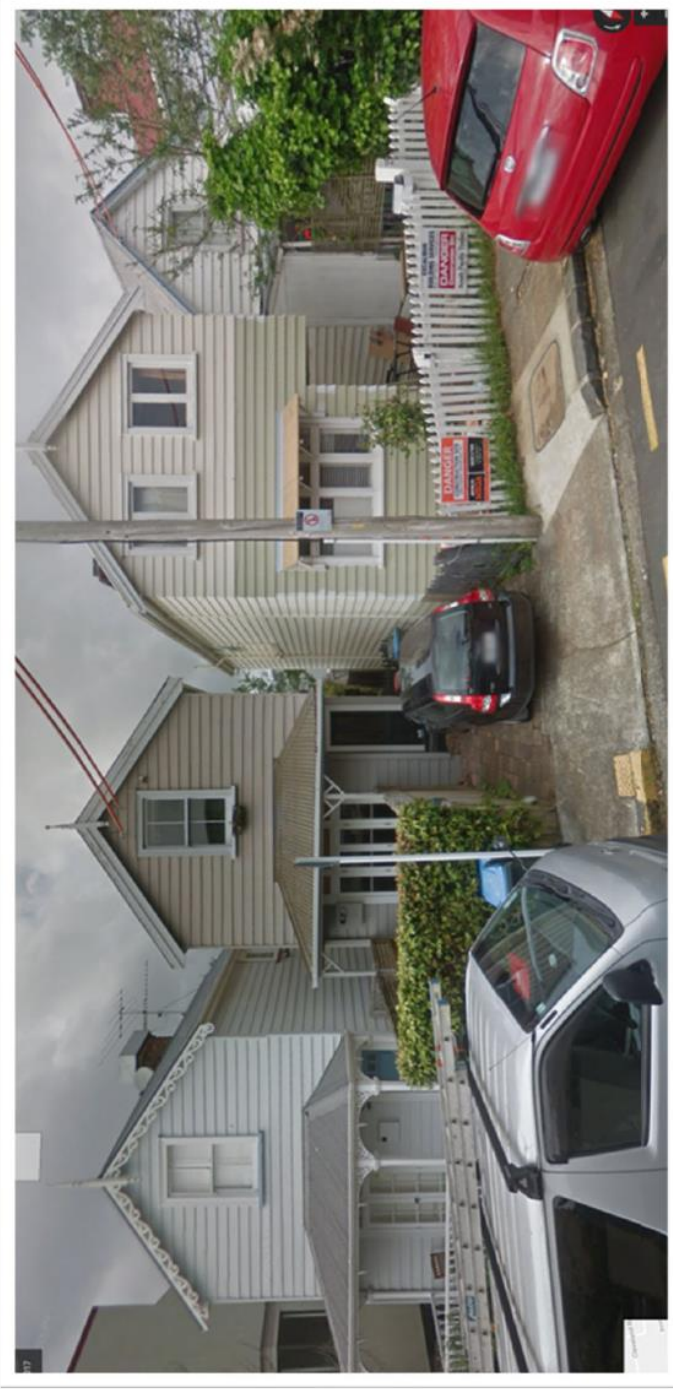
<b>C1</b>	<b>Auckland Unitary Plan - Plan Change 26 - Clarifying the Relationship Between the Special Character Areas Overlay and Underlying Zone Provisions - Appeals</b>	
A.	6 May 2021, Planning Committee: Item C1 - Auckland Unitary Plan - Plan Change 26 - Clarifying the Relationship Between the Special Character Areas Overlay and Underlying Zone Provisions - Appeals, presentation	3



Withdrawal – Plan Change 26 –  
Clarifying the relationship between the  
Special Character Areas Overlay and  
underlying zone provisions



# Special Character Area Overlay



Windsor Street, Parnell

## Budden Declaration

- Budden declaration sought clarification on the relationship between the SCA overlay and the underlying zone
- The Court said the SCA provisions weren't a replacement, that both SCA and zone rules equally apply

## Council's Response

- Notified PC26 to make it clear that where there are similar rules in SCA and underlying zone, then SCA apply. Examples of these rules are HIRB, yards, max impervious area, & front fence
- Reissued consents and wrote letters to applicants



## PC26 Hearing and Decision

- 274 submissions.
- Hearing took place in July 2020.
- Public Notification Of Decision: 28<sup>th</sup> January 2021.
- Independent Commissioners' findings:
  - UP working fine, need to take into account all rules
  - Don't need to make amendments as per PC26
  - However, wanted the SCA rules to 'take precedence' even though both sets of rules need to be considered
  - Made changes to that effect
  - Received 4 appeals and we're currently due in EC mediation on 21 June 2021

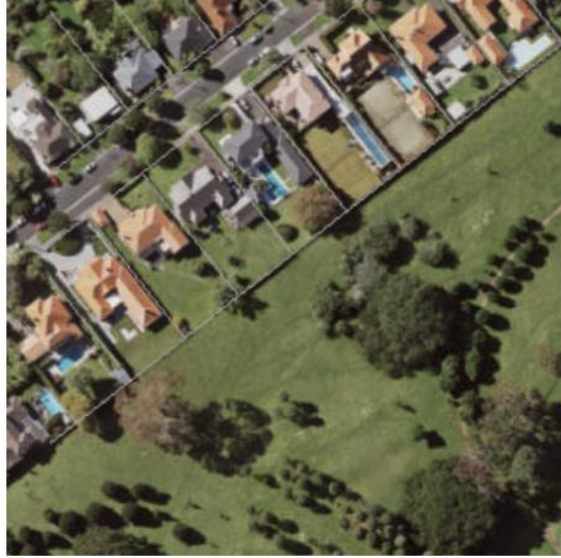
# PC26 Appeals



Kāinga Ora



St. Mary's Bay Association



Somersby Trust



## PC26 Decision - Outcome

- The changes in the decision are impractical and make things worse than where we were pre-notification
- The notified version of the plan change added triggers, which would indicate which version of the standard to apply: the SCAR or the underlying zoning version.
- The decision stripped those triggers out and states that greater weight is to always be afforded to the SCAR provisions in all cases.
- Risk with KO appeal because it seeks to revisit where SCA is, not just the rules. This will pre-empt NPS-UD and we don't want the EC to determine this without any community or political input
- Since the declaration, consents staff have worked with architects and applicants and have a practical and clear process which doesn't need PC26 as written
- Staff are struggling to defend the commissioners' decision



## PC26 Appeal - Options

The options available to council to address the appeals are to:

- Settle any or all of the appeals through mediation and subsequent consent order(s) and proceed to a hearing on any outstanding matters.
- Seek a strike out of Kāinga Ora’s appeal in relation to the extent of the SCA overlay and underlying zoning of land on the basis that it is out of scope.
- Defend all or part of the plan change decision.
- Withdraw the plan change. This must occur before an Environment Court hearing commences and preferably prior to mediation.

## PC26 Appeal - Recommendation

- Our recommendation is to withdraw the plan change because:
  - It doesn't help the situation/makes it worse
  - We have a practical and understandable solution with Consents and applicants
  - We can't fully defend the commissioners' decision
  - If we withdraw now, we are likely to be allowed by the court to withdraw and this will limit costs for both us and appellants