

Practice and Guidance note

Navigating the Auckland Unitary Plan (Operative in Part)

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1 Introduction

This Practice and Guidance note (PGN) aims to provide a general guideline on navigating the [Auckland Unitary Plan \(Operative in Part\)](#) (AUP(OP)). Please read this in conjunction with the AUP(OP) for relevant rules for your consent application. You can also use the [Auckland Unitary Plan maps](#).

2 Auckland Unitary Plan (Operative in Part) background

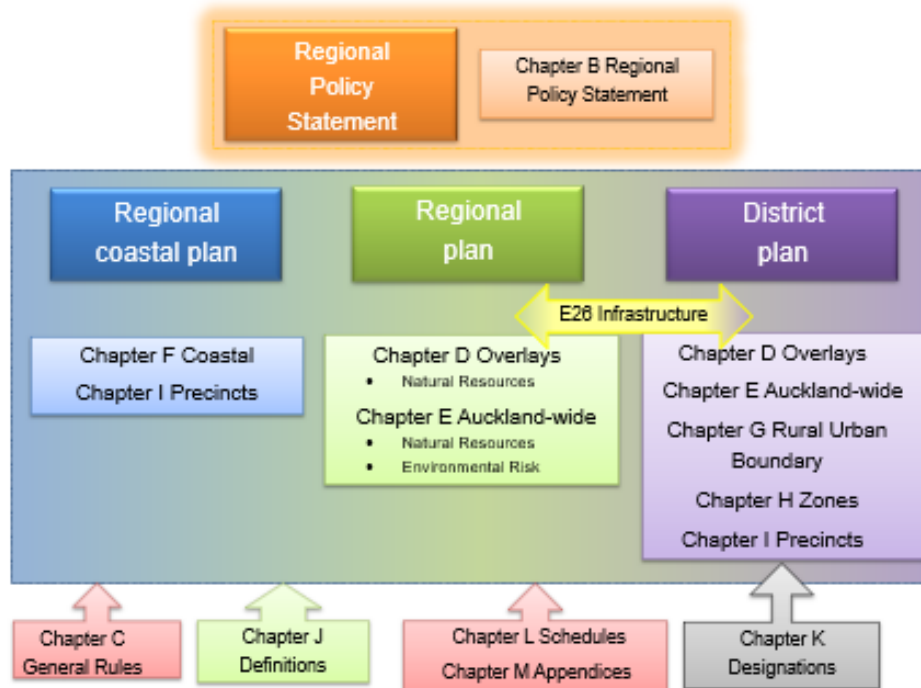
As Auckland Council is a unitary authority, the corresponding local plan is a unitary plan. This is a combined plan including the Regional Policy Statement, Regional Coastal Plan, Regional Plan and District Plan.

The Auckland Unitary Plan was made 'operative in part' on 15 November 2016.

The AUP(OP) replaced the Auckland Regional Policy Statement, regional plans and district plans and the Waikato Regional Policy Statement and Waikato Regional Plan to the extent that they have applied to parts of the Auckland Region since boundary amendments on 11 March 2010.

The AUP(OP) does not replace the [Auckland Council District Plan – Operative Hauraki Gulf Islands Section 2013](#). This section of the Auckland Council District Plan applies to subdivision, land use and development in the Hauraki Gulf Islands until a plan change is made to incorporate the Hauraki Gulf Islands Section of the Auckland Council District Plan into the Plan. However, the Hauraki Gulf Islands are subject to the AUP(OP) regional policy statement, the regional coastal plan and the regional plan.

3 AUP(OP) Policy Framework



The AUP(OP) has a hierarchical policy framework with the regional policy statement at the top, then with regional and district plan provisions giving effect to the regional policy statement.

Regional Policy Statement (RPS)

- The Regional Policy Statement is at the top of the hierarchy – Chapter B (B1-B11) – main issues for Auckland are identified in B1.

Regional Coastal Plan (RCP) and Regional Plan (RP) provisions

- RCP and RP provisions are located throughout the AUP(OP) but you will mostly find RCP in Chapter F Coastal (F1-F9), including most discharge matters which are RP.
- You will mostly find RP land use and discharge matters under the grouping of Chapter D Overlays or Chapter E Auckland-wide.

District Plan (DP) provisions

- DP provisions are located mostly in Chapter D Overlays, Chapter E Auckland-wide, Chapter H Zones or Chapter I Precincts.
- Note that there are a mix of regional plan and district plan provisions in all sections of the plan. For Hauraki Gulf Islands matters, only the RPS, RCP and RP provisions in the AUP(OP) apply, not DP provisions.

The text of the Plan is structured into 14 chapters:

- Chapter A Introduction

- Chapter B Regional policy statement
- Chapter C General rules
- Chapter D Overlays
- Chapter E Auckland-wide
- Chapter F Coastal
- Chapter G Rural urban boundary
- Chapter H Zones
- Chapter I Precincts
- Chapter J Definitions
- Chapter K Designations
- Chapter L Schedules
- Chapter M Appendices
- Chapter N Glossary of Māori terms

Each chapter generally provides the objectives and policies. In the case of the regional and district plans, the rules provide for a particular resource management matter, issue, a location or other information to support the use of the Plan.

The Plan maps (the planning maps) show overlays, zones, precincts and designation affecting land, water and airspace. They also show zone and Auckland-wide standards that have a spatial component to them, for example the Height Variation Control or the Subdivision Variation Control. Additional maps for specific matters are also included within the text of the Plan.

Chapter J – Definitions

The definitions chapter contains technical acronyms and word/phrase definitions. It also describes how to use the definitions and the nesting tables J1.1

Chapter K – Designations

Chapter K contains details of the Designations. There are about 1400 designations.

Chapter L – Schedules

Contains all the schedules that relate primarily to the overlays – i.e. the list of items that are scheduled, their ID numbers, where they are located and a summary of why the features are scheduled.

Chapter M – Appendices

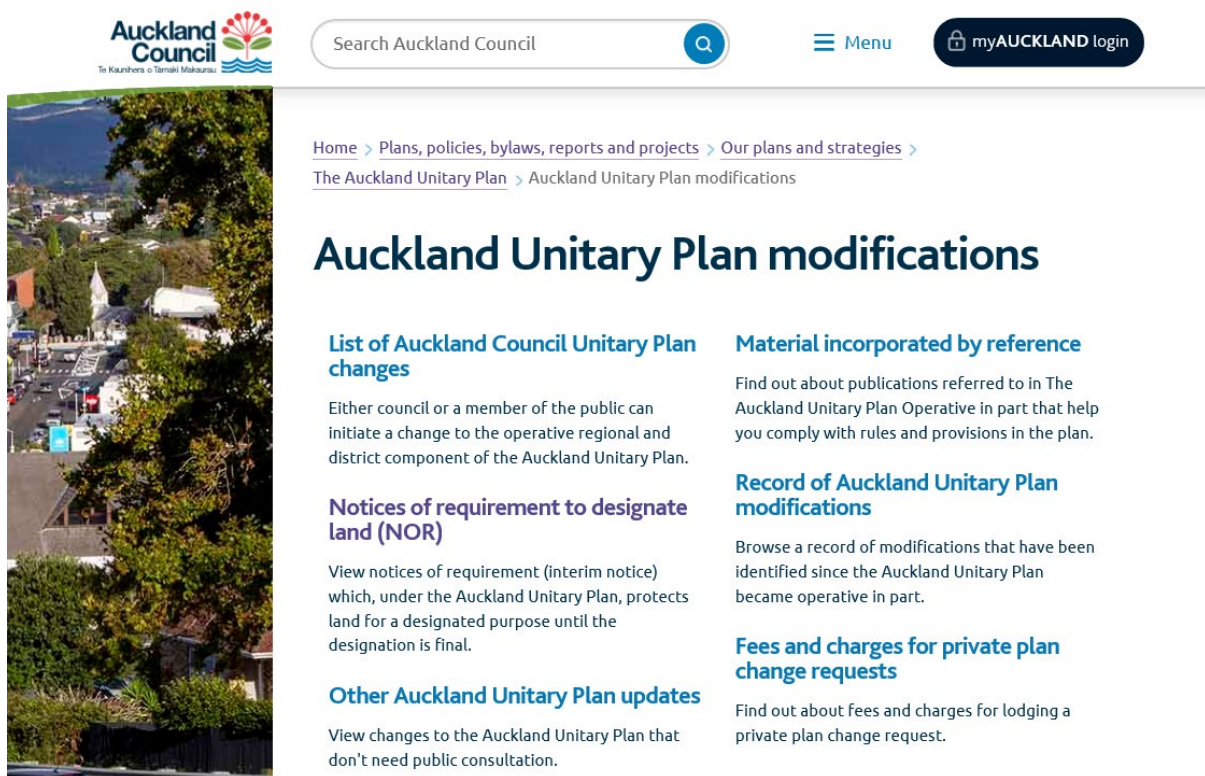
Contains all appendices relevant and referenced in the plan text.

Auckland Unitary Plan maps

[GeoMaps](#) is Auckland Council's GIS viewer. It contains spatial and non-spatial information from across Auckland. For assistance in using the GIS viewer, please refer to the [guide on the Auckland Council website](#).

4 How to find and identify AUP (OP) provisions, including plan modifications

The AUP(OP) is not a static document. Over time, numerous modifications will be made to it. It can be modified in a range of ways; however the two main ways are through plan changes (council-led or private) and Notices of Requirement to designate land.



The screenshot shows the Auckland Council website interface. At the top left is the Auckland Council logo with the Māori motto 'Te Kaunhara o Tamaki Makaurau'. To the right is a search bar labeled 'Search Auckland Council' and a 'myAUCKLAND login' button. Below the navigation is a breadcrumb trail: 'Home > Plans, policies, bylaws, reports and projects > Our plans and strategies > The Auckland Unitary Plan > Auckland Unitary Plan modifications'. The main heading is 'Auckland Unitary Plan modifications'. There are four columns of content:

- List of Auckland Council Unitary Plan changes**: Either council or a member of the public can initiate a change to the operative regional and district component of the Auckland Unitary Plan.
- Material incorporated by reference**: Find out about publications referred to in The Auckland Unitary Plan Operative in part that help you comply with rules and provisions in the plan.
- Record of Auckland Unitary Plan modifications**: Browse a record of modifications that have been identified since the Auckland Unitary Plan became operative in part.
- Fees and charges for private plan change requests**: Find out about fees and charges for lodging a private plan change request.

Other sections include 'Notices of requirement to designate land (NOR)' and 'Other Auckland Unitary Plan updates'.

4.1 Plan changes

Either council or a member of the public can initiate a change to the operative regional and district component of the AUP(OP). Information on each plan change can be obtained on the [Plan Modifications](#) webpage.

Against each of the change provisions, there will be a blue line down the left-hand side of the provision and the corresponding plan change number listed. It is recommended that you cross reference back to the AUP(OP) plan modifications page and check what the plan change is seeking and its progress.

PC 26 (see Modifications)

D18.4. Activity table

Table D18.4.1 Activity table Special Character Areas Overlay – Residential specifies the activity status of land use and development for activities in the Special Character Area Overlay – Residential pursuant to section 9(3) of the Resource Management Act 1991.

[insert text]

[insert text]

Areas in the Special Character Areas Overlay - General may contain a mix of sites zoned residential or business. In such cases, for any site/s in a residential zone, the Special Character Areas Overlay - Residential rules in Table D18.4.1 Activity table will apply and for any site/s in a business zone, the Special Character Areas Overlay - Business rules in Table D18.4.2 Activity table will apply.

H19.2.4. Policies – rural character, amenity and biodiversity values

(1) Manage the effects of rural activities to achieve a character, scale, intensity and location that is in keeping with rural character, amenity and biodiversity values, including recognising the following characteristics:

(a) a predominantly working rural environment;

PC 20 (See modifications)

(b) fewer buildings of an urban scale, nature and design, other than residential buildings and buildings accessory to farming; and

(c) a general absence of infrastructure which is of an urban type and scale.

(2) Recognise the following are typical features of the Rural – Rural Production Zone, Rural – Mixed Rural Zone and Rural – Rural Coastal Zone and will generally not give rise to issues of reverse sensitivity in these zones:

4.2 When Rules Must be Treated as if they were Operative

[Section 86F](#) of the RMA provides for a rule to be treated as operative if no submissions or appeals were lodged, or if all submissions or appeals were withdrawn or finally determined in relation to the rule.

When a submission challenges an entire proposed plan and was made with reasonable specificity on the change that is required, the submission could mean that s86F would not apply to identified proposed rules in the plan.

4.3 Appeals

All appeals, the lodged party and who has an interest in them are shown in the AUP(OP). At the start of a chapter, all appeals and parties for that particular chapter are listed. Against each of the appealed provisions, all appeals are marked with a **black** line down the left-hand side of the provision and the Environment Court number for the corresponding appeal is listed. It is recommended that you cross reference back to the [AUP\(OP\) appeals page](#) and check what the appeal is seeking to change.

There are very few of these remaining to be resolved.

4.4 Section 20A Correction of operative policy statement or plan

Sometimes there are minor errors in the AUP(OP). A local authority may amend, through [s20A of Schedule 1 RMA](#) to make corrections in an operative policy statement or plan, without going through the usual plan change process.

4.5 Notices of Requirement

A Notice of Requirement (NoR) protects land for a designated purpose until the designation has been confirmed by a requiring authority. Sometimes referred to as “spot zoning”, if the designation is confirmed it overrides the provisions of the district plan and the project or the works may be implemented by the requiring authority in accordance with that designation and any conditions attached to it. However, the underlying plan provisions continue to apply if the land is used for a purpose other than the designated purpose. If a designation is included in a district plan, no person may, without the written consent of that requiring authority, do anything in relation to the land that would prevent or hinder the work to which the designation relates.

Resource consents are still required under the regional plan, if applicable.

4.6 Records of modifications

There are also [records](#) of what changes have been made over time, with the history of rules showing which rule applied at a certain time in the life of the plan - for existing use rights certificates for example.

5 General application of the AUP(OP)

[Chapter C](#) provides clear guidance on how the AUP(OP) is applied, for example:

- Resource Consent application information requirements (C1.2)
- Applications on sites with multiple zones, overlays, precincts or parts of

- The proposal must comply with the overlay, zone and precinct rules applying to the particular part of the site in which the relevant part of the proposal is located. (C1.4)
- Overall activity status (See [section 8](#) below) (C1.6)
 - The overall activity status of a proposal will be determined on the basis of all rules which apply to the proposal, including any rule which creates a relevant exception to other rules.
 - The overall activity status of a proposal is determined by the most restrictive rule which applies to the proposal.
- Activities to be read in conjunction with activity tables (C1.10)
 - Each activity listed in an activity table must be read, interpreted and applied in conjunction with the relevant heading or sub-heading of the part of the activity table in which it is listed.
- Numerical limits: (C1.11)
 - “up to” – include that number
 - “greater than” – do not include that number

6 Plan Provisions

6.1 General rules

There are several general rules which apply throughout the AUP(OP) except in the regional policy statement and where otherwise specified. These include rules applicable to the consent process and notification of applications, how applications involving multiple activities and different types of plan provisions will be assessed, and how infringements of standards for activities will be assessed (Chapter C).

Under the AUP(OP), all land in Auckland (residential, business, coastal) has a zone with rules to manage how these different areas are used, developed or protected, including what you can build and how high.

Examples of zones include Single House, Mixed Housing Urban, Terrace Housing and Apartment.

In addition to the zone rules, some areas have unique features where an additional set of rules apply, over the top of zoning rules, to retain and manage these features. These are Overlays and there are seven different types. Examples include overlaying rules for volcanic view shafts, significant ecological areas and special character.

It is necessary to check all relevant chapters to ascertain if resource consent is required for matters.

6.2 Overlays

Overlays manage the protection, maintenance or enhancement of particular values associated with an area or resource. Overlays can apply across zones and precincts and overlay boundaries do not follow zone or precinct boundaries. Overlays also manage specific planning issues such as addressing reverse sensitivity effects between different land uses.

Overlays generally apply more restrictive rules than the Auckland-wide, zone or precinct provisions that apply to a site, but in some cases they can be more enabling. Overlay rules apply to all activities on the part of the site to which the overlay applies unless the overlay rule expressly states otherwise.

Overlay rules are identified in the activity tables where they are located in sections of the Plan dealing with Auckland-wide rules, for example Land disturbance – Regional or the Coastal – General Coastal Marine Zone.

Auckland Council v Budden

The rules for properties located within both Special Character Overlays and Single House Zones have different standards. For example, yard, height-in-relation to boundary and building coverage requirements. The Special Character Overlay provides more generous building envelopes for special character properties which traditionally have narrow sections with houses built close to the boundaries.

To provide certainty to applicants around which rules should take precedence, Auckland Council sought a declaration from the Environment Court to clarify the correct rule interpretation. The final decision¹ of the court declared that:

Where a proposed activity:

(a) is on a site located within both the Residential — Single House zone ("SHZ") and the Special Character Areas Overlay — Residential ("SCAR") of the partly operative Auckland Unitary Plan ("AUP"); and

(b) is classed as a restricted discretionary activity either under Activity Table D18.4.1 or, due to its non-compliance with a SHZ or SCAR development standard, under Rule C1.9(2) —

then the relevant SHZ, SCAR and General Rules (and any relevant objectives and policies) apply, in the processing and determination of any resource consent application for the proposed activity, without the SCAR rules prevailing over or cancelling out other rules.

However, currently, Auckland Council has a proposed plan change to amend the relationship of the SCA Overlay Residential with the relevant underlying zone so that where there are equivalent standards, then the standard in the SCA Overlay

¹ [Auckland Council v Budden \[2018\] NZEnvC 100](#)

Residential will *prevail* over the underlying zone (i.e. the plan change will be making the provisions operate in a different way than currently.) The proposed changes are all contained within [Attachment 6 - Proposed Plan Change 26: Amendments to Chapter D18 & Chapter E38](#).

The proposed plan change also intends to make it clearer for people to understand which rule to apply to their developments on residential sites that sit under the Special Character Overlay. For some of the standards, those residential sites covered by the Special Character Overlay are to apply the rule from the Special Character Overlay chapter and disregard the corresponding rule found within the underlying residential zoning chapter. Each standard has been modified by adding a purpose statement.

Further information can be sought from the [clarification document](#) on the Plan Modifications page. As the proposed plan change progresses, this PGN will be updated to reflect the outcome.

Overlay provisions are located in Chapter D of the AUP(OP) and overlays are identified on the planning maps.

6.3 Auckland-wide provisions

Auckland-wide provisions apply to the use and development of natural and physical resources across Auckland regardless of the zone in which they occur. These are contained in Chapter E, and cover natural resources, Mana Whenua, the built environment, infrastructure, environmental risk, subdivision and temporary activity matters. Auckland-wide provisions generally apply more restrictive rules than the zone or precinct provisions that apply to a site, but in some cases they can be more enabling.

Some Auckland-wide rules which have a spatial component such as the Subdivision Variation Control or the Stormwater Management Area Control – Flow 1 and Flow 2 are identified on the planning maps.

For network utility infrastructure, provisions are through the Infrastructure chapter (E26). The relationship between overlay or Auckland-wide provisions and E26 provisions is identified in Table E26.1.1.1. A key difference of this chapter is that the Objectives and Policies for topics are referred back to the respective overlay or Auckland-wide provision chapters, with the activity table specifying the activity status of land use and development activities contained within E26. This chapter may provide for a different approach than that of other chapters. For example, for earthworks, this chapter includes higher consent thresholds in terms of land disturbance area and volume than Chapters E11 and E12. Chapter E26 also allows for staging and progressive opening and closing of areas.

6.4 Zones

Zones manage the way in which areas of land and the coastal marine area are to be used, developed or protected. The spatial application of zones generally identifies where similar uses and activities are anticipated. All land and all of the coastal marine area within the Auckland region is zoned, except for roads. (Usually only Auckland Transport would apply for consents that are in the road corridor, and [Chapter E26](#) applies mostly to these activities).

Zones are identified on the planning maps. In addition, zone rules which have a spatial component such as the Height Variation Control are also identified on the planning maps. For particular overlays, activities may have different activity statuses depending on the zones.

6.5 Precincts

Precincts enable local differences to be recognised by providing detailed place-based provisions which can vary the outcomes sought by the zone or Auckland-wide provisions and can be more restrictive or more enabling. In certain limited circumstances the rules in a precinct vary the controls of an overlay, either by being more restrictive or more enabling. However, the general approach is that overlays take precedence over a precinct (C1.6(3)).

Precinct provisions are located in Chapter I and grouped according to their location as Auckland-wide, central, north, west and south.

7 Standards

Activities provided for as permitted, controlled or restricted discretionary activities are normally subject to standards. Standards set limits on the extent to which an activity is permitted or may be assessed as a controlled or restricted discretionary activity.

Standards are located following the activity tables in the overlay, zone, Auckland-wide and precinct provisions.

Rule C1.9 explains that *“Every activity that is classed as a permitted, controlled and restricted discretionary activity must comply with all the standards applying to that activity.”*

The standards section indicates the relevant standards to be achieved for each of the activity statuses. Mostly for permitted, controlled and restricted discretionary activities and very occasionally a few discretionary activities have standards (i.e. air quality, see Chapter E14).

If an activity does not comply with a standard, then it requires a resource consent for that non-compliance (C1.9(2)). This may be in addition to a

resource consent required for the activity, or solely for a non-compliance with a standard (if the activity is permitted).

Scenarios:

- Activities describing non-compliance with a standard
A specific activity status is given for these. Example: E13 discharges from managed fills that do not comply with Standard E13.6.2.2 are RDA under rule E13.4.1 (A5) and Discharges from closed managed fills that do not comply with Standard E13.6.1.1 are controlled activities under rule E13.4.1 (A7).
- Specific rules for an activity that does or does not comply with one or more standards.
These become the activity and you do not have to look further than the chapter for the activity status. Example: Noise activities that do not comply with the permitted noise standards are an RDA under rule E25.4.1 (A2).
- Specific standards to be complied with
Activity tables can contain specific standards to be complied with. Example: residential chapters.
- No mention of standards in activity tables
Chapter C rule C1.9 requires compliance with the standards, therefore the reason for consent in these situations is C1.9.

8 Overall activity status

The class or status of an activity determines the nature and extent of matters that must be considered for consenting.

Where more than one activity status may apply to a proposal, General rule C1.6 applies to determine the overall activity status.

There is a hierarchy of the classes in terms of both the basis for assessment and the nature of conditions that may be imposed on any grant of consent. The hierarchy runs from the most enabling permitted status to the most restrictive prohibited status. The AUP(OP) has been prepared based on this classification and consenting hierarchy. The activity status includes:

- Permitted
- Controlled
- Restricted Discretionary
- Discretionary
- Non-complying
- Prohibited

The overall activity status of a proposal will be determined on the basis of all rules which apply to the proposal, including any rule which creates a relevant exception to other rules.

Subject to Rule C1.6(3) and (4), the overall activity status of a proposal is that of the most restrictive rule which applies to the proposal.

C1.6(3) states that the activity status of an activity in an overlay takes precedence over the activity status of that activity in a precinct, unless otherwise specified by a rule in the precinct applying to the particular activity.

C1.6.(4) states that where an activity is subject to a precinct rule and the activity status of that activity in the precinct is different to the activity status in the zone or in the Auckland-wide rules, then the activity status in the precinct takes precedence over the activity status in the zone or Auckland-wide rules, whether that activity status is more or less restrictive.

9 Further information

There are other Practice and Guidance notes published on the [Auckland Design Manual](#) webpage, for example:

- [Considering Operative and Proposed Plan Provisions](#)
- [Residential Development in the THAB zone](#)
- [Residential Development in Mixed Housing Zones](#)

Other PGNs are in preparation and will be published at a later date.