

BEFORE THE FAST-TRACK EXPERT CONSENTING PANEL

UNDER THE Fast-Track Approvals Act 2024
AND
IN THE MATTER OF An application under section 42 for approval to
Sunfield, a project listed in Schedule 2 to the Act
BY **Winton Land Limited**
Appellant

**MEMORANDUM OF COUNSEL FOR THE APPLICANT
IN RESPONSE TO MINUTE 26**

26 FEBRUARY 2026

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MAY IT PLEASE THE PANEL:**1. INTRODUCTION**

1.1 This memorandum has been prepared in response to Minute 26.

1.2 It addresses the following:

- (a) The indication in paragraph [14] that the Panel would be assisted by understanding why issues raised by the Council have not been dealt with, and a direction the same be provided, in relation to Condition 1C proposed by Council; and

1.3 The direction in paragraph [18] that legal submissions be filed addressing “whether the change now sought to increase the number of parking spaces for offices and industrial activities in the employment precinct is within the scope of the original application.” The accompanying memorandum from Tattico otherwise addresses paragraph [14].

2. CONDITION 1C AS SOUGHT BY COUNCIL

2.1 Paragraphs 23 – 30 of Mr Anderson’s memorandum on behalf of the Auckland Council Family address “the Council family’s proposed new condition [1C], which is intended to give effect to the draft decision’s approach to water and wastewater servicing”.¹ Associated with proposed condition [1C] is the “related” amendment from “occupation” to “construction” in a number of conditions.

2.2 These changes are opposed by the Applicant.

2.3 The Applicant has not proposed any conditions precedent. The indication referred to in paragraph [819] of the draft decision was provided in specific response to a question from the Panel:²

Are those conditions structured as conditions precedent such that the resource consent does not commence until they are fulfilled?

2.4 It was not, and has never been, the approach taken in the conditions.

¹ Para 23.

² Recorded in para [815](c) of the Draft Decision

- 2.5 Despite what Mr Anderson says, Condition [1C] is not what “the draft decision appears to contemplate.”³ Rather, the draft decision is clear a claimed lack of capacity “is not an effect on the environment or a consenting issue.”⁴ It cannot therefore be controlled by a condition of consent, except to the extent offered by the applicant.
- 2.6 The “threshold question” (a phrase formulated by Mr Anderson)⁵ does not need to be addressed in conditions imposed on a resource consent. As made clear in the draft decision, this is a question for the developer, who is “fully cognisant of the risk”⁶ and “prepared to take”⁷ and/or “bear”⁸ it. It is not for the Council to tell the developer how to manage that risk, which is exactly what it is attempting to do via Condition [1C].
- 2.7 For the above reasons, condition [1C] has not been included in the latest version of conditions.

3. PARKING RATIOS

- 3.1 The Applicant has constructively engaged with Auckland Transport in relation to both the traffic modelling to understand and assess the likely traffic effects of Sunfield and the appropriate conditions of consent to manage those same effects.
- 3.2 This process has led to a shift:⁹
- (a) From the recommendation in the original ITA that parking in the employment precinct be provided at a maximum of 1 per 300m² of GFA for office activities and 1 per 500m² GFA for manufacturing / warehouse / industrial activities.
 - (b) To a refined suite of conditions which, among other things, impose maximum parking ratios in the employment precinct of 1 per 30m² of GFA for office activities and 1 per 250m² GFA for manufacturing / warehouse / industrial activities.

³ The submission made by Mr Anderson at para 28

⁴ Draft Decision, para [145] and at [687] with the more grammatically correct “nor” but otherwise the same.

⁵ Para 29.

⁶ Draft decision, para [827].

⁷ Ibid.

⁸ Draft decision, para [146].

⁹ As addressed in the 16 February 2026 Commute memo that formed Attachment B to the Applicant’s Comment on Conditions.

- 3.3 In my submission this is permissible on the basis that:
- (a) It is not a materially different proposal, nor is it a case of Sunfield “mutating’ into something that was quite different”¹⁰ or becoming “in substance a different application”;¹¹
 - (b) The revised conditions do not trigger any new reason for consent;¹²
 - (c) There are no additional or different adverse effects arising from the revised conditions:
 - (i) The suite of conditions (particularly what was condition 123A and is now condition 102) are designed to ensure traffic generated by the development remains at the level assessed in the ITA;¹³
 - (ii) The parking ratios proposed in conditions will result in less parking than was assumed in the updated modelling, and less traffic than assessed in the ITA;¹⁴
 - (d) The revised conditions will not result in any additional traffic beyond that assessed. Rather:
 - (i) the “conditions of consent now encourage and monitor traffic generation of the entire Sunfield master plan community to a position which matches the provided mitigation”;¹⁵
 - (ii) the “traffic generated by the development remains within the level assessed in the ITA (regardless of exact parking requirements / limitations) with alternative measures now in place to more effectively manage and monitor traffic from the development and requirements for additional assessment / mitigation if the level exceeds this ITA level”;¹⁶

10 The submission made at *Estate Homes*, [25].

11 *Estate Homes*, [29]

12 Confirmed in 26 February 2026 Commute letter **attached**.

13 Ibid.

14 Ibid.

15 Ibid.

16 Ibid.

- (e) The revised conditions reduce the risk of parking demand spillover into surrounding residential neighbourhoods, considered to be the “more critical” issue,¹⁷ considered a “material benefit”.¹⁸
- (f) No person is prejudiced by imposing the revised conditions:
 - (i) It is reasonable to infer that invited persons interested in the traffic effects of Sunfield have already chosen to participate;
 - (ii) There is no class of persons likely to be adversely affected beyond those already involved.
- (g) Allowing this change would be consistent with the earlier decisions of the Courts,¹⁹ including the leading case of the Supreme Court in *Waitakere City Council v Estate Homes Limited*.²⁰

4. CONCLUSION

- 4.1 In conclusion, I submit that Sunfield is worthy of a grant of consent on the proffered conditions prepared by Tattico and dated 26 February 2026.

DATED 26 February 2026



B S Carruthers KC

Counsel for Winton Land Ltd

Attachment: 26 February 2026 Commute letter

¹⁷ Transportation Peer Review of Brett Harries, 22 February 2026, paragraphs 7

¹⁸ Ibid, at paras 13 and 16 - 17.

¹⁹ *Sutton v Moule* (1992) 2 NZRMA 41 (CA); *Haslam v Selwyn District Council* (1993) 2 NZRMA 628 (PT); *Zakara Investments Ltd v Rodney District Council* A118/04; *Coull & Ors v Christchurch City Council* C077/06.

²⁰ [2007] 2 NZLR 149 (SC).

Ms B Carruthers
Shortland Chambers

26 February 2026

Copy via email: [REDACTED]

Dear Bronwyn,

SUNFIELD [FTAA-2503-1039] – SUNFIELD EMPLOYMENT PRECINCT PARKING RATIOS - SCOPE

I, Leo Hills of Commute Transportation Consultants, confirm that this letter was prepared in accordance with the Environment Court Practice Note 2023 (Code of Conduct for Expert Witnesses). Details of my qualifications and relevant experience has been provided to the Expert Panel previously.

This letter relates to the potential provision of parking maximums within the employment precinct of the Sunfield master planned community following on from my letter, dated 16 February 2026. Within this letter I provided discussion / opinion regarding the parking for the employment land.

Following this, Minute 26 from the Expert Panel has noted / requested:

“The Panel is interested to understand whether the change now sought to increase the number of parking spaces for offices and industrial activities in the employment precinct is within the scope of the original application”

From my review of this request, I make the following comment:

- There are no minimum parking requirements in the Unitary Plan including for Future Urban Zone (FUZ) or rural zones.
- There is also no maximum parking requirements in the Unitary Plan for industrial / employment activities and FUZ / rural zones (note there are maximum parking requirements for offices of 1 per 30sqm in Business Metropolitan zone and some specific Town Centre, Local centre and Mixed use as well as Terraced Housing and Apartment zones).
- As such any change in parking maximums within the conditions does not trigger any additional consent requirements.
- Following production of the Integrated Traffic Assessment for Sunfield in February 2025 (the ITA), there has been further development in the traffic modelling including an assessment of a less constrained 3,000 vehicles per hour scenario which includes (among other things) traffic generation of the employment precinct which would not have such close interaction with the residential land and would not have any parking restrictions (see Commutes memo dated 12 November 2025). This used more “standard” unconstrained trip rates for the employment land of 16 peak hour trips per hectare for industrial and 2 peak hour trips per 100 sqm for office equating to a more standard parking provision of 1 / 30sqm gfa office and 1 / 50 sqm gfa for manufacturing / warehouse / industrial.
- The Commute memo contained a review of the upgrades / mitigation proposed in relation to capacity available in terms of the 1,100vph (as per ITA) and 3,100vph scenarios.
- As previously noted, following production of the ITA, and in discussion with Auckland Transport and the Expert Panel, a proposed monitoring / check condition of consent (condition number 102, formerly 123A) has been added. This ensures that in early / mid development stage, after 900, 1,800, 2,700 and 3,600 residential dwellings are occupied, the trip rates will

be reviewed / monitored to determine if they are valid and if additional physical mitigation and / or additional measures are needed to reduce trip generation.

- This includes an assessment of whether the traffic generation associated with the Sunfield development is in accordance with the submitted ITA (1,100vph for Sunfield in its entirety) and thus includes the external traffic generation of the employment precinct.
- Of note:
 - the parking ratio proposed in my letter of 16 February (and incorporated in the condition set for the applicant) results in less parking than the updated modelled assumed, given it is proposed to be 1 per 250m2 gfa for the manufacturing / warehouse / industrial activities (rather than 1 per 50m2 gfa);
 - at the higher parking assumed in the updated modelling, the employment precinct generated 900vph. This is below the 1,100vph submitted in the ITA. The traffic from the employment precinct will be assessed in the ITA required at the four triggers set in condition 123A.

The conditions of consent now encourage and monitor traffic generation of the entire Sunfield master plan community to a position which matches the provided mitigation. If the actual traffic generation is higher than originally assessed within the ITA, then additional mitigation measures would need to be implemented (as per the Commute memo dated November 2025 memo).

As such, with these conditions, the traffic generated by the development remains within the level assessed in the ITA (regardless of exact parking requirements / limitations) with alternative measures now in place to more effectively manage and monitor traffic from the development and requirements for additional assessment / mitigation if the level exceeds this ITA level.

Yours sincerely

Commute Transportation Consultants



Leo Hills

Director

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