

BEFORE THE EXPERT PANEL

UNDER the Fast-track Approvals Act 2024 ("**FTAA**")

AND

IN THE MATTER of an application for approvals by Westhaven Residential Limited Partnership ("**Applicant**") in relation to the proposed urban development at 188 Beaumont Street, Auckland ("**Application**")

**MEMORANDUM OF COUNSEL ON BEHALF OF
WESTHAVEN RESIDENTIAL LIMITED PARTNERSHIP**

19 AUGUST 2026

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MAY IT PLEASE THE PANEL:

Introduction

1. This memorandum of counsel is filed in response to Minute 6 which recorded the Panel's decision to accept six late comments received from residents of the 30 Madden Street apartment complex ("**Six Late Comments**").¹
2. The key concerns raised in the Six Late Comments primarily relate to urban design, visual and landscape effects, and the economic benefits of the Application, with one minor comment relating to transport effects. As set out below, these matters have been carefully considered and comprehensively addressed in the substantive application and Applicant's response to comments dated 4 August 2026 ("**Response to Comments**").
3. We briefly comment on two additional matters in some late comments regarding potential precedent effects of the Application,² and the relevance of a potential plan change to the Wynyard Precinct provisions to the Application.³

Relevant effects and benefits have been comprehensively addressed

4. Except for the two additional matters outlined below, all matters raised in the Six Late Comments have been addressed in the substantive application and Response to Comments, and are not repeated in this memorandum. For the Panel's benefit, the following lists the key concerns raised in the Six Late Comments and where they are primarily addressed by the Applicant:⁴
 - (a) economic benefits (with reference to affordable housing and the Application's significant regional benefits) are comprehensively addressed by Messrs Osborne and Heath of Property Economics in Appendix 16 of the substantive application and Attachment C of the Response to Comments, Mr Akehurst of Market Economics Consulting in Appendix 17 of the substantive application, and summarised by the Applicant in its Memorandum of Counsel dated 4 August 2026;

¹ Received from Helen MacDonald and David Bassett (dated 1 August 2026), Philip Chapman (dated 1 August 2026), Jane McDougall (dated 2 August 2026), Peter Gordon (dated 3 August 2026), David Vial and Richard Reid (not dated), and Peter Jacobs (dated 31 July 2026).

² Received from Philip Chapman (dated 1 August 2026) and Peter Gordon (dated 3 August 2026).

³ Received from Jane McDougall (dated 2 August 2026).

⁴ Also see generally the Applicant's Memorandum of Counsel dated 4 August 2026.

- (b) planning matters relating to height exceedances are comprehensively addressed by Ms Regnault and Mr Thompson of Barkers & Associates in Attachment E of the Response to Comments;
- (c) urban design and visual and landscape effects are comprehensively addressed by Ms de Lambert of Boffa Miskell in Appendix 15 of the substantive application and Attachment F of the Response to Comments; and
- (d) transport effects are comprehensively addressed by Mr Parlane of Parlane & Associates Ltd in Appendix 19 of the substantive application and Attachment D of the Response to Comments.

There is no potential precedent effect arising from the Application

- 5. Two late comments consider the Application could set a precedent effect that results in further height increases throughout Wynyard Quarter.⁵
- 6. A "precedent effect" reflects a concern that decision makers will treat like cases alike for reasons of consistency and fairness, which may lead to granting consent for inappropriate activities. For a precedent effect to occur there must be broadly similar facts⁶ but as has been cautioned by the Environment Court, potential precedent effects should be given limited weight because every application must be considered on its merits and there is no expectation in any case that consent will be granted.⁷
- 7. In our submission, there is no risk of a precedent effect arising from the Application because:
 - (a) A range of resource consents have already been approved in the Wynyard Quarter area which are both over and under the permitted height standards⁸ reflecting that applications are considered on their merits and specific circumstances. The Application cannot be said to have a precedent effect when over height proposals have already been approved.

⁵ Received from Philip Chapman (dated 1 August 2026) and Peter Gordon (dated 3 August 2026).

⁶ See for example *Kombi Properties Limited v Auckland Council* [2021] NZEnvC 62 at [193].

⁷ *Berry v Gisborne District Council* [2010] NZEnvC 71 at [24].

⁸ 188 Beaumont Street Fast Track Substantive Application – Urban Design and Landscape Assessment dated 9 April 2026, page 59.

(b) The site is uniquely located at the edge of Wynyard Precinct on an underutilised site and the Application seeks consent for a residential-led development which is anticipated by the relevant provisions of the AUP. This is distinguishable from previous Environment Court cases where approving the activity could have implications for the ongoing administration of a zone on a region-wide basis⁹ – that is clearly not the case here.

8. In our submission, the Panel must consider the Application on its merits and potential precedent effects do not arise here (and should be given no weight).

Relevance of the future potential Wynyard Precinct plan change

9. As identified in one late comment, Auckland Council is currently preparing a potential plan change to the Wynyard Precinct in the AUP.¹⁰

10. As currently contemplated, the Plan Change proposes to increase general height standards for "marker" buildings ranging between 62m to 80m and amendments to the requirements associated with marine industry and marine retail.¹¹ The plan change is aimed to be finalised and notified for submissions in November 2026.¹²

11. On 17 August 2026, the Panel issued Minute 7 which requested further information from Auckland Council on this plan change on the basis the Panel considers the plan change is relevant to its decision on the Application.¹³

12. While the Panel cannot legally rely on proposed future changes to the Wynyard Precinct provisions in the context of this Application, the plan change provides important context as to the changing nature of the Wynyard Precinct and demonstrates that plans (including height standards) are not fixed in time. While one late commenter states that many residents purchased their apartments in reliance on planning controls,¹⁴ the reality is that planning controls can be subject to change and this has been (and continues to be) the case for the height standards (and other provisions) across Wynyard Precinct

⁹ *Kombi Properties Limited v Auckland Council* [2021] NZEnvC 62 at [202].

¹⁰ Received from Jane McDougall (dated 2 August 2026).

¹¹ Policy, Planning and Development Committee Meeting dated 2 July 2026, Report 8.3, motion to endorse a plan change to the Wynyard Precinct Provisions.

¹² Policy, Planning and Development Committee Meeting dated 2 July 2026, Report 8.3, motion to endorse a plan change to the Wynyard Precinct Provisions.

¹³ Minute 7 of the Expert Panel for 188 Beaumont Street dated 17 August 2026 at [8].

¹⁴ Received from Philip Chapman (dated 1 August 2026).

(as demonstrated by the Council's proposed plan change for the Wynyard Precinct).

13. The proposed plan change demonstrates Council's intention for Wynyard Quarter to continue to evolve to a more intensified environment and accordingly, the Application is consistent with the Council's long-term vision for this area of Central Auckland.

Conclusion

14. The Applicant has carefully considered the Six Late Comments and the matters raised are comprehensively addressed in the substantive application, Response to Comments and in this memorandum.

DATED: 19 August 2026



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