

Attachment A: Rangitootuni – Fast Track Resource Consent

Applicant's response to comments received

From: Philip Brown (Director), Michelle Kemp (Partner / Principal Planner) and Isobel Lee (Senior Planner) of Campbell Brown Planning Limited

Comment provider	Key matters raised	Applicant response
Minister of Building and construction – Hon Chris Penk	No comment	The applicant wishes to acknowledge the response from the Minister of Building and Construction and has no comments to make.
Minister for the Environment – Hon Penny Simmonds	Reviewed application. No comment.	The applicant wishes to acknowledge the response from the Minister for the Environment and has no comments to make.
Minister for Seniors – Hon Casey Costello	- Supportive of projects that increase the supply of housing, particularly housing options appropriate for older New Zealanders, and those that improve the provision of aged residential care facilities - Encourages the use of age friendly design, such as appropriate seating and accessibility.	The applicant wishes to acknowledge the comments from the Minister for Seniors and provides the following response. The proposal provides for 296 retirement village units, comprised of 260 villas or Independent Living Units and 36 care units. Whilst no hospital level care is proposed as part of the care facility, a range of support services and housing options will be catered for as part of the future retirement village. The retirement village includes a range of communal areas, such as visitor areas, wellness centre and a network of roads and pedestrian pathways. All buildings within the retirement village are accessible for a range of needs and seating areas are designed in an age-friendly manner.
Minister of Defence – Hon Judith Collins	No comment	The applicant wishes to acknowledge the response from the Minister of Defence and has no comments to make.

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Department of Conservation	• Seeks that further baseline surveys to inform the freshwater assessment are undertaken. • Seeks further information on the culverts to be replaced and upgraded, in particular culvert gradients, fish ladder location, velocities and baffles in relation to fish passage. • Seeks further information on why bridges were not considered as an alternative option to culverts. • Considers that complex freshwater fisheries approval would likely be required. • Acknowledging that the applicant has confirmed they will not be undertaking the harvesting, confirmation is sought that the NES Commercial Forestry will be met as a permitted activity under Regulations 64-69. • Supports the protection of the identified mature trees, riparian corridors, wetlands and streams, and the revegetation planting proposed.	Please refer to the response prepared by Bioresarches in Attachments B and B.1.

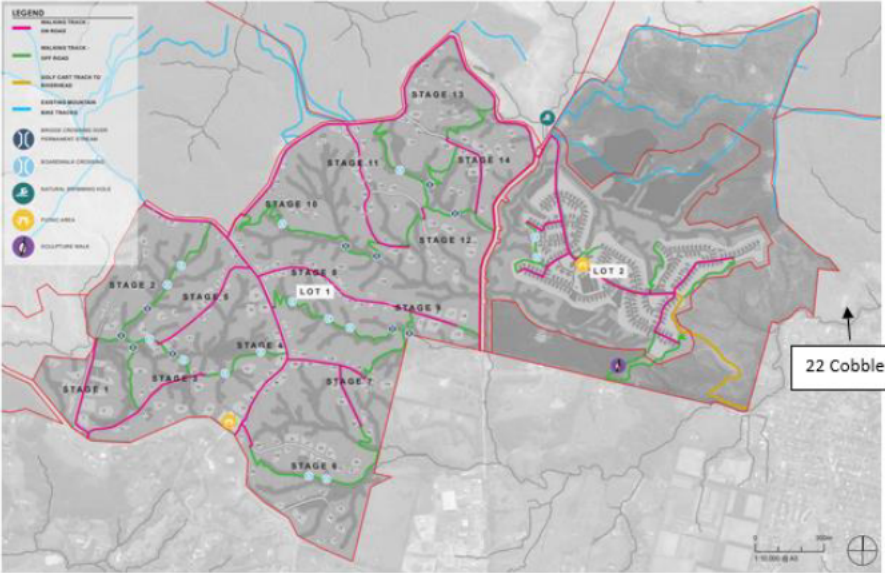
Comment provider	Key matters raised	Applicant response
	• Recommends conditions or changes to the proposed conditions mainly relating to the implementation and content of management plans.	
Auckland Conservation Board	• Considers that the implementation of the proposed Lizard Management Plan and other Ecological Management Plans are implemented, that any ecological impacts from the proposal will be suitably managed. • Seeks assurance from the project developer that the mitigation/enhancement proposed will be fully implemented. • Proposes a range of conditions to achieve the ecological outcomes sought.	The applicant thanks the Board for their comments and provides the following response. The proposed conditions for the development require the various management plans and mitigation/enhancement to be fully implemented and maintained by the developer and/or future owners. The proposed conditions are generally agreed to, the wording of which can be finalised as part of the draft condition review process.
Game Animal Council	• Notes that the project sits outside the Council's legislated mandate under the Game Animal Council Act 2013 and will not be making a comment and does not require consultation on this proposal.	The applicant wishes to acknowledge the response from the Game Animal Council and has no comments to make.
Watercare Services Limited	• Notes that the site sits outside the rural urban boundary and in line	The applicant wishes to acknowledge the comments from Watercare and has no comments to make.

Comment provider	Key matters raised	Applicant response
	with Watercare's statutory obligations, Watercare does not provide water supply and wastewater servicing to rural zoned land. Watercare acknowledges the project area's significance as Treaty Settlement Land and are willing to meet with Te Kawerau ā Maki to explain their position and hear any concerns.	
Waitematā Clay Target Club	- Raised concerns about increased traffic generated by the proposal on Old North Road and the impact of noise from discharging shotguns on the future owners. - Seeks conditions be imposed on the development for the following: - Mandatory notification to all future owners of the gun club operations. - Design, landscaping and construction requirements to mitigate noise from the gun club. - Road access to the development from Old	The applicant wishes to acknowledge the comments from the Waitemata Clay Target Club (WCTC) and provides the following response. Traffic: Traffic effects associated with the proposed subdivision, including safe access from Old North Road have been assessed by Commute within the Integrated Traffic Assessment (Appendix K of the substantive application). Appropriate measures have been designed and implemented to ensure safe and efficient vehicle movements during construction and on an ongoing basis. For Access 1, a safe site distance of 181+ metres can be provided and a full right turn bay in accordance with Austroads is proposed. In addition, the applicant proposes a covenant on Lot 50 to protect the sightline in perpetuity (see point 1.3.1 of the Commute memo response).

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	North Road be designed considering the safety risks posed to the gun club access. ○ A Traffic Management plan that prohibits parking on Old North Road before and after development.	Noise: We acknowledge WCTC's concerns regarding potential complaints from future residents about shooting noise and its right to operate lawfully. In considering these matters, it is important to distinguish between lawful and unlawful activities when defining the receiving environment. Our review of the WCTC consent history and Council records confirms that WCTC holds a 1966 permit authorising shooting one day per month between 11am and 5pm. While WCTC asserts it has operated continuously since that time, the scale and intensity of activities appear to have changed significantly. No further consents have been obtained to authorise an increase in frequency or intensity, and the lawfulness of activities beyond those provided for in the 1966 permit has not been established. Existing use rights have not been confirmed under the Resource Management Act, and WCTC's comments do not address this position in light of the current AUP rules. If WCTC wish to rely upon lawful existing use rights, it must prove the use was lawfully established before the relevant planning rule became operative and that its character, intensity, and scale are the same or similar to what existed at that time. WCTC might choose to formally confirm these rights by applying for an Existing Use Certificate, which requires detailed information, evidence of the use, and proof it was lawful – no such certificate exists at this time. The obligation to prove that WCTC has existing use rights does not sit with the applicant for consent in this matter. Only lawful activities may be considered as part of the receiving environment. Activities beyond the scope of the 1966 permit cannot be assumed to form part of the receiving environment for assessing reverse sensitivity effects. An acoustic assessment has been undertaken by Marshall Day Acoustics (Appendices KK) and peer reviewed by Earcon Acoustics (Appendix KK.3). The Marshall Day assessment predicts noise levels at the proposed lots from the

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		lawful operation of WCTC. Earcon confirmed that lots predicted to receive less than 55 dB LAFmax require no specific mitigation. For the 18 lots potentially exposed to levels above 55 dB LAFmax, a covenant is proposed to alert purchasers to the presence of WCTC and its activities. Conditions Sought by WCTC The applicant provides the following comments on the suggested conditions (WCTC suggested conditions are reproduced in italics for ease): • <i>That a mandatory notification be required to all future owners and tenants of property in the subdivision that the Waitemata Clay Target Club operates locally, produces a level of noise consistent with the sport of clay target shooting and has existing usage rights to operate. Such notification to be secured by a memorandum of encumbrance on titles.</i> • <i>Requirement that all properties in the proposed subdivision be required to be designed, landscaped and constructed in a manner that acknowledges and mitigates the noise emanating from our club.</i> Areas of the site where lawful noise levels from WCTC activities exceed LAFmax 55dB warrant a requirement that all titles in these areas include No-Complaints Covenants for the benefit of WCTC to protect the lawfully established activities from reverse sensitivity. The following condition is proposed: <i>The following lots shall be subject to a land covenant requiring that an instrument be registered on the records of title advising of the presence of the Waitematā Clay Target Club at 465 Old North Road, and its lawful ability to undertake shooting from that site on one day per month between the hours of 11.00am and 5.00pm:</i> <i>Stage 1: – Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9</i>

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		<i>Stage 2: - Lots 12, 13, 23 and 24</i> <i>Stage 3: - Lots 50, 51, 52, 53 and 54</i> <i>The land covenant must be drafted to prevent Lot owners from making complaints in relation to the extent of those lawful activities and the noise that may be generated from those activities.</i> Based on similar residential areas in the vicinity of gun clubs, we are however of the opinion that noise levels below LAFmax 55dB do not warrant further mitigation, especially considering the lawfully established environmental noise from WCTC would only occur for 12 days in a year and would be limited to daytime hours. <i>That the road access to the site from Old North Road and its approaches be designed in a manner taking account of the particular safety risks associated with the location of our access and the nature of traffic flows to it. Traffic volume accessing our location can intermittently but regularly be up to one hundred vehicles in a period of less than one hour.</i> The road access to the site from Old North Road and its approaches has been designed to ensure safe access and egress from the site, regardless of the intermittent gun club operation. <i>A traffic management plan be put in place that prohibits parking on old North Road both during and after development of the subdivision.</i> The proposed conditions include a requirement for a Construction Traffic Management Plan (CTMP). The CTMP will ensure construction traffic does not park on Old North Road. Ample car parking space is provided within the

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		proposed lots. A TMP prohibiting cars from parking lawfully on Old North Road post subdivision is inappropriate, unnecessary, and potentially ultra vires.
Lesley White [REDACTED] [REDACTED] [REDACTED]	• Raised concerns about the public accessing their property from the public walking tracks and the health and safety issues this may pose.	The applicant acknowledges the comments made and provides the following response. The proposed walking track network, which is a combination of existing and proposed paths/bike tracks, does provide access to the public across the site, however it is noted that the paths are not proposed within close proximity to [REDACTED] The Rangitooopuni Masterplan (Appendix M of the submitted documentation) shows the proposed track network, and a snippet of the plan is provided below showing the proposed tracks in relation to the site. 

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		No tracks are proposed directly or near to the site, with the closest paths being an existing bike track to the north, within the retirement village complex and the connection to the eastern edge of the site. All of which are a minimum of 200m plus away from the site. The topography of the site between the closest tracks and the site is steep and not easily accessible to the public. It is also anticipated that the future retirement village operators would monitor any members of the public accessing private areas of the site and would take the necessary steps to address this if it did occur. The location of the proposed track network in combination with the terrain between the tracks and the site is considered to be a sufficient deterrent to minimise the potential for the public to access the site and assists with minimising the potential for any health and safety risks on to 22 Cobblers Lane.
Michelle Sclanders ()	• Raised concerns about increased runoff and flooding from the development.	The applicant wishes to acknowledge the comments made and provides a response in Attachment D (Section 1.11).
Waka Kotahi (NZTA)	• Confirms their position is neutral in relation to the proposed development, subject to a condition being imposed that prevents the implementation of the consent until the SH16 Stage 2 upgrades (Brigham Creek to Waimauku improvements) are implemented.	The applicant acknowledges the comments made by Waka Kotahi (NZTA) and thanks it for taking the time to comment on the proposal. For the applicant's response on this matter, please refer to the response to Auckland Transport comments below.
Auckland Transport	• Trip generation • Network effects, impact on SH16	Please refer to the response prepared by the applicant's traffic engineer (Commute) in Attachment C .

Comment provider	Key matters raised	Applicant response
	• Safety considerations and site access design • Intersection upgrades and shared path • Infrastructure integration • Stormwater	In relation to the proposed condition requiring that occupation of the dwellings and retirement units not occur until Section 1 of Stage 2 of the SH16 safety upgrades is complete, the following planning response is provided. The applicant acknowledges the comments made by Auckland Transport (AT) and thanks it for taking the time to comment on the proposal. The applicant's traffic engineers (Commute) have provided a response to the matters raised (Attachment C), with the following response focusing on planning related matters raised in the comments. Specifically, the following paragraphs in the AT comments: • Paragraphs 2, 10-16, 19-21, 36-37 and 89-90 AT in its comments considers that the proposed development will increase traffic volumes at the SH16 / Coatesville-Riverhead Highway intersection and will impact surrounding roads, such as Old North Road and Coatesville-Riverhead Highway. Due to this increase in traffic volumes, AT (and NZTA) seek a condition be imposed as part of the consent that requires the occupancy of the dwellings and retirement village units being contingent on Section 1 of Stage 2 of the SH16 safety upgrades undertaken by NZTA being complete and operational. The primary response to this proposition is the analysis by Commute which identifies that the proposal will only have a minimal impact on SH16 and the wider transport network. There are additional matters of context which are relevant. It is important to acknowledge that the subject site is already 'live-zoned' and subject to the Treaty Settlement Land provisions under the AUP. There is general agreement that no appreciable permitted baseline applies to the proposal, however, it is appropriate to acknowledge that development is anticipated on the site.

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		The fundamental point is that the use of the Site for residential / living purposes has been identified and committed to, through plan provisions. That includes specific opportunities arising under Treaty Settlement Land provisions which directly anticipate development of that land to achieve outcomes for iwi. The applicant is proposing a very large financial commitment to transform the site for residential use and deliver a significant package of infrastructure. Given this state of the environment and the planning context, there would have to be good reasons to undermine this outcome by requiring no buildings be occupied and therefore sterilise the land until SH16 upgrade works are completed. The evidence indicates there are no good reasons to do so - rather, there is a strong evidential basis for granting the consent sought. To enlarge upon the reference above to opportunities, whilst it is acknowledged that any subdivision of the site would require resource consent, it is considered reasonable to assume that, for example, a 10 ha subdivision of the site could be undertaken and 10 dwellings then constructed (as a permitted activity) on each site, as enabled by the Treaty Settlement Land provisions. Furthermore, the Treaty Settlement Land provisions allow for one dwelling per 4000 m2 with no more than 20 dwellings per site in the rural zones as a restricted discretionary activity. As a permitted activity, 20 dwellings could be built on Lots 1 and 2 as of right, without the need for resource consent at the present time and there is potential for a significant number of vehicle trips to be generated through the use of around 400 ha of rural land for forestry, farming, or other permitted activities. The above examples do not seek to act as a 'de facto' permitted baseline but rather are to highlight that the imposition of the condition suggested may sterilise or entirely prevent (for financing and viability reasons) realisation of outcomes enabled and intended by the subject site's live zoning and the Treaty Settlement Land provisions, both of which already provide a

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		pathway for development to be undertaken regardless of this fast-track application. It is not considered appropriate to impose such a condition without it effectively stalling the occupation of the land, which underwent significant assessment through the AUP development process, until the specified upgrade works are complete unless there is strong evidence that such a restriction is necessary. The evidence from Commute says otherwise. The proposed condition seeks to restrict occupancy of the proposed dwellings and retirement village units until the specified upgrades are complete, which at this point is anticipated to be 2029 but, as outlined in AT / NZTA comments, may be subject to change. It is considered important to highlight that on a real world assessment the proposed development will be undertaken in stages. As outlined in the application's AEE, the countryside living subdivision is anticipated to be undertaken over approx. 7-10 years across 14 stages, with 1-2 stages likely developed per year depending on sales. While the retirement village is planned to be undertaken in a shorter timeframe, as outlined by Commute, traffic generation associated with retirement villages is not considered to have as great an impact as residential subdivisions. Due to the proposed staging of the countryside living subdivision, traffic associated with the proposal will not occur all at once but rather will be staggered over a longer period of time. The staged approach to the proposed subdivision, which will be formalised through the structure of the consent conditions, already provides certainty that the extent of traffic impacts raised by AT / NZTA on to the SH16 / Coatesville-Riverhead Highway intersection will not occur in the near future or all at once and removes the need for an additional condition restricting occupation of the dwellings due to the staging proposed. Furthermore, while it is acknowledged that the NZTA Stage 2 project could conceivably be delayed, the project is fully funded and committed to. Any

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		project can experience delays. However, imposing a condition where the occupation of the development is contingent on a project which could be delayed, is not considered appropriate. It would make the proposal beholden to one project that on Commute's analysis does not need to be in place prior to the occupation of the proposal, particularly when considering the staged approach of the countryside living subdivision. AT comments include discussion of Plan Change 100 – Riverhead (PC100). At the time of writing there is no decision approving PC100, and its grant should not be assumed. AT consider that the proposed development should be subject to the same restrictions as sought for PC100 via the proposed precinct provisions. While it is acknowledged that PC100 should have some consideration when assessing the proposed development, it is considered important to distinguish that PC100 is currently zoned Future Urban and seeks a live zoning. This is a considerably different context to the subject site which is already live zoned and subject to the Treaty Settlement Land provisions. Applying the same restrictions to that which might be applied to PC100 is not considered appropriate or relevant and minimises the site's live zoning. It is unlikely that AT would seek to impose a condition precedent of this nature on residential intensification that might occur on live zoned land in Riverhead township. In addition, the PC100 proposition is quite different to that advanced through this application, and therefore it does not follow that the same restriction is required or appropriate. AT references E21.3(7) which 'enables alternative approaches to site access and infrastructure provision where the occupation, use and development of Treaty settlement land is constrained by access or the availability of infrastructure', and considers that the NZTA Stage 2 project remains the most appropriate solution to address the impacts on the SH16 / Coatesville-Riverhead Highway intersection. While it is agreed that the NZTA Stage 2 project will benefit the

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		transport network, the use / occupation of the subject site is not considered to be dependent on this project being complete. The evidence of Commute is that the proposal does not have material impacts on the SH16 / Coatesville-Riverhead Highway intersection. The proposal provides suitable access and local upgrades to manage traffic effects, and the staged approach to the proposal avoids the traffic impacts raised by AT / NZTA on the wider transport network occurring all at once and in the immediate future. Based on the above, the proposed condition restricting occupation of the proposal until Section 1 of Stage 2 of the SH16 safety upgrades project is completed is unwarranted and unnecessary and is not accepted by the applicant. The conditions proposed by AT in relation to access can be discussed at the proposed future condition conferencing / workshop.
Rodney Local Board	• Supports the development of Treaty Settlement Land, construction of new public facilities, environmental planting and residents' community facilities. • Raised concerns relating to flooding, traffic safety and congestion, infrastructure capacity / reliability.	The applicant acknowledges the comments made and thanks the Board for taking the time to review the proposal. The applicant provides the following response in relation to the matters raised. In relation to flood hazards, overland flow paths and earthworks please refer to the response prepared by the applicant's engineer (Maven) in Attachment D. Please refer to the response prepared by the applicant's traffic engineer in Attachment C in relation to the traffic matters raised. By way of a high-level summary, the traffic generated by the proposal is considered to be able to be accommodated by the surrounding road network and the provision of Traffic Management Plan is required to ensure traffic is appropriately managed during construction works. The locations of accessways have been carefully considered to ensure they will operate in a safe manner and local road upgrades, such as the provision of right-hand turning bays, is proposed.

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		The provision of education and medical services is outside of the applicant's control. All of the proposed earthworks will be undertaken in accordance with best practice and will be subject to various conditions requiring the implementation of sediment and erosion controls to manage aspects such as dust generation. All works will be undertaken in accordance with the timeframes specified under the AUP. The proposal will be serviced by a bore that will provide sufficient water capacity for the site and all on-site wastewater systems will be subject to conditions to ensure they are sufficiently maintained and monitored.

Auckland Council Comments			
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NB: The following responses are provided using the key matters/topics outlined in Council's Memorandum of Planning Matters. Where a separate response has been prepared by the relevant specialist for the applicant, these are referred to within the following table.			
Auckland Council	<u>Strategic Planning Assessment</u> - Permitted baseline assessment - Integrated Māori Development - Plan Change 20 - Future Development Strategy	17-133	<u>Permitted baseline (paragraphs 30-34)</u> It is agreed that there is no relevant permitted baseline. However, it is considered that there is no identifiable reason why a subdivision dividing the overall site into 10ha lots would not be granted, despite it being a discretionary activity, given that the minimum lot size in the Countryside Living Zone (CLZ) is 2ha. At that point each 10ha lot could accommodate 10 dwellings as a permitted activity under the Treaty Settlement Land provisions, thereby enabling a density of one dwelling per hectare overall. This pathway provides relevant context when assessing the merits of the application (possibly a s104(1)(c) RMA matter). It would be

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	• Interpretation of Countryside Living Zone and Treaty Settlement Provisions • Regional Policy Statement assessment • Precedent matters		inappropriate to prevent subdivision of the site into 10ha lots as a mechanism to frustrate the implementation of permitted activities under the Treaty Settlement Land provisions. <u>Integrated Māori Development (paragraph 43)</u> The applicant acknowledges and agrees with the Council's confirmation that the AUP definition of Integrated Māori Development encapsulates the retirement village activity. <u>Plan Change 20 (paragraphs 50 and 51)</u> The applicant acknowledges and agrees with the Council's position that this application can be distinguished from other retirement villages in the CLZ given that it is an Integrated Māori Development under the Treaty Settlement Land provisions. <u>Future Development Strategy (paragraphs 60 and 61)</u> It is agreed that the FDS is relevant. However, the applicant disagrees that the development is not consistent with the strategic direction set out in the FDS. The FDS must be read overall and clearly sets out that it will not constrain iwi development irrespective of other considerations. <u>RPS - Rural Environment (paragraph 69)</u> The applicant acknowledges and agrees with the Council's position that <i>"the proposal is considered able to appropriately mitigate the effects of the proposal as they pertain to the outcomes sought by Chapter B9."</i> <u>RPS – Urban Growth and Form (paragraph 70)</u>

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			The applicant acknowledges and agrees with the Council's position that <i>"we can consider it is an overall reasonable response to the various applicable higher order provisions despite being outside the RUB when also turning our minds to the provisions of Chapter B2..."</i> <u>CLZ Subdivision (paragraphs 87 and 94(g))</u> The response notes <i>"If considering the CSL and Rural Subdivision provisions alone, the Application raises concerns."</i> However, that is not the proposal before the Panel. Comments in relation to CLZ subdivision in isolation are not of assistance because they do not engage with the application. The applicant's experts are happy to participate in conferencing with the Council regarding the conditions, although the implication in para 94(g) that the planting is necessary mitigation is rejected. The applicant is proposing to revegetate the site because it chooses to, not because it has to. <u>Integrated Māori Development (paragraphs 96-106)</u> Paragraphs 99-103 ostensibly discuss Integrated Māori Development but instead refer to the CLZ requirements in isolation. This approach is not consistent with the basis on which the proposal is advanced and does not assist the Expert Panel in any useful way. Paragraphs 104 and 105 seek surety and long-term maintenance arrangements for the revegetation around the Integrated Māori Development. However, the applicant intends to retain ownership and management of the Integrated Māori Development, and it is counter-intuitive to conclude that the land will be

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			revegetated at significant cost and then the established vegetation will be removed later. Formal protection of the vegetation is not proposed nor required. <u>Treaty Settlement Land (paragraphs 107 and 111)</u> The applicant acknowledges and agrees with the statement that <i>"The provisions are clearly intended to be enabling of development on TSL..."</i> It is also agreed that <i>"The Treaty Settlement provisions are not considered to enable unfettered development of TSL and there is certainly no suggestion that is what is being considered in this Application or others."</i> <u>Precedent (paragraphs 119-124)</u> Precedent is addressed in the application AEE (pages 171-172) where it is noted that there is only one other Treaty Settlement site in the region that is also in the CLZ, and that site is already fully developed. Precedent is not considered to be an issue in this instance. <u>Conclusion (paragraphs 129 and 131)</u> The applicant welcomes the provision of a tracked change Council version of conditions to assist with exploring agreement between the applicant and Council, perhaps through a conditions workshop. The applicant also acknowledges the Council's conclusion (albeit with some caveats) that <i>"we do consider the Application could achieve an appropriate balance of effects on the rural character and amenity values of the area and recognise the quality of the proposals that are envisaged in the material provided."</i>
	Matters relating to earthworks (sediment and	140-146	Noted. The applicant's suggested condition workshop will provide an opportunity to discuss the proposed conditions.

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	erosion) resolved, subject to finalisation of conditions.		Please refer to the response prepared by Maven in Attachment D (Section 1.2).
	Matters relating to geotechnical and land stability resolved.	147-150	Noted.
	Matters relating to groundwater diversion effects resolved.	151-155	Noted.
	Matters relating to groundwater take and bore effects resolved, subject to finalisation of conditions.	156-162	Noted. The applicant's suggested condition workshop will provide an opportunity to discuss the proposed conditions.
	Dam/Attenuation Feature Effects	163-174	Please refer to the response prepared by Maven in Attachment D (Section 1.3) and the response prepared by Engeo in Attachment E. Please also refer to the following planning response. Dams A question has arisen as to whether the proposed culvert replacements, that provide some temporary stormwater attenuation in certain conditions, are a 'dam' in respect of the AUP. This is of relevance because a new on-stream dam is a discretionary activity under Rule E7.4.1(A35).

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			The AUP sets out the definition of 'dam' as follows: <i>Dam</i> <i>A structure which, either:</i> • <i>permanently impounds surface water; or</i> • <i>temporarily impounds surface water as its primary function, and includes weirs but excludes culverts, rain gardens and culvert headwalls.</i> The structures in question are culverts including a headwall and associated road embankment. They will not permanently impound surface water. Therefore, the proposed structures are not captured by the first bullet point in the definition. The culverts including a headwall and associated road embankment have a primary purpose of passing water underneath the road. That is confirmed by the culvert inlet being placed at the lowest point so that normal water flow is not impeded in any way. They are designed to temporarily contain water only during flood flows and then fully discharge that water at a constrained rate over time, as a secondary function. Accordingly, the culverts including a headwall and associated road embankment are not captured by the second bullet point in the definition. In addition, although the applicability of the second bullet point is resolved by the primary function of the structure, it is also the case that culverts and culvert headwalls are explicitly excluded and are therefore not a dam. For these reasons, it is considered that the culverts including a headwall and associated road embankment are not a dam in the context of the AUP.

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	Matters relating to construction noise and vibration effects resolved, subject to minor changes proposed by the Council.	175-178	Noted. The changes proposed can be discussed at the condition workshop proposed by the applicant.
	Matters relating to contamination resolved.	179-183	Noted.
	Matters relating to archaeology resolved.	184-190	Noted.
	Matters relating to discharge effects resolved.	192-198	Noted.
	Matters relating to arboricultural and ecological effects in regard to the Wastewater Treatment Plant and onsite systems resolved, subject to the appropriate conditions being in place.	199-206	Noted. The applicant's suggested condition workshop will provide an opportunity to discuss any conditions. Regarding the concerns raised about the installation and on-going maintenance/management of the proposed dispersal fields generating adverse arboricultural and ecological effects, individual on site wastewater disposal systems would be the responsibility of future owners, and our expectation is that they would all readily comply with the AUP's permitted standards for such systems. The septic tank and treatment plant would be located within the building platform and curtilage areas, so outside of the replanted indigenous vegetation. It is possible that the effluent disposal fields would be located within the vegetated areas, however these are inevitably in the form of pressurised dripper lines on the

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			ground surface and therefore we would not expect any excavation or vegetation clearance to occur. Such disposal fields are routinely laid in bush areas including SEA with no consenting required.
	Matters related to noise and vibration effects of the wastewater treatment plant resolved.	207-210	Noted.
	Matter relating to odour effects resolved.	211-216	Noted.
	Matters relating to water supply resolved, subject to finalisation of conditions.	217-224	Noted. The applicant's suggested condition workshop will provide an opportunity to discuss the proposed conditions.
	Matters related to wastewater effects resolved, subject to finalisation of conditions.	225-230	Noted. The applicant's suggested condition workshop will provide an opportunity to discuss the proposed conditions.
	Matters relating to stormwater effects.	231-240	Please refer to the response prepared by Maven in Attachment D (Section 1.4).
	Matters relating to natural hazards (flooding and overland flow paths).	241-249	Please refer to the response prepared by Maven in Attachment D (Section 1.5).

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	Matters relating to transport.	250-273	Please refer to the response prepared by the applicant's traffic engineer (Attachment C). Please note that Commute's response responds to the individual specialist memos as it was found to be more appropriate to directly refer to the individual specialist memo's rather than the headers/topics in the Council's Memorandum of Planning Matters. In relation to paragraphs 259-267, please refer to the response to Auckland Transport and the permitted baseline response above (paragraphs 30-34). In relation to the matters raised regarding the formation of the track network/paths, we do not agree as there is a requirement that the paths need to be formed to Council requirements/satisfaction. The paths will be privately maintained and managed (either via the residents' society (or similar legal mechanism or the retirement village operator), as per the existing paths/tracks within the site.
	Matters relating to waste management resolved, subject to finalisation of conditions.	274-278	Noted. The applicant's suggested condition workshop will provide an opportunity to discuss the proposed conditions.
	Freshwater Ecology	279-292	Please refer to the response prepared by Bioresarches in Attachments B and B.1.
	Terrestrial Ecology	293-306	

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	Arboricultural matters resolved, subject to finalisation of conditions.	307-313	Noted. The applicant's suggested condition workshop will provide an opportunity to discuss the proposed conditions.
	Landscape and visual, and rural form and neighbouring character effects resolved, subject to finalisation of conditions.	314-331	Noted. The applicant's suggested condition workshop will provide an opportunity to discuss the proposed conditions.
	Parks and reserve matters resolved, subject to finalisation of conditions.	332-340	Noted. The applicant's suggested condition workshop will provide an opportunity to discuss the proposed conditions. In relation to paragraph 339, the community facilities and public car park shown are included in the application.
	Waitematā Clay Target Club	341-342	We confirm that 1,5,6 and 7 should be included within the proposed condition. The following condition is proposed: <i>The following lots shall be subject to a land covenant requiring that an instrument be registered on the records of title advising of the presence of the Waitematā Clay Target Club at 465 Old North Road, and its lawful ability to undertake shooting from that site on one day per month between the hours of 11.00am and 5.00pm:</i> <i>Stage 1: – Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9</i> <i>Stage 2: - Lots 12, 13, 23 and 24</i> <i>Stage 3: - Lots 50, 51, 52, 53 and 54</i>

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			<i>The land covenant must be drafted to prevent Lot owners from making complaints in relation to the extent of those lawful activities and the noise that may be generated from those activities.</i>
		343	Noted.
		346	We have reviewed the Council's property file on the Waitemata Clay Target Club (WCTC) and undertaken an investigation to the best of our ability to determine the lawful operation of the WCTC. It is clear there is limited agreement between the WCTC and Auckland Council about the initial consent, disagreement on scale and intensity thereafter, and a failure to undertake any analysis of compliance with the AUP rules now in force. On this basis the only lawful activity by the WCTC for the purposes of the environment as defined is that set by the original consent. The onus rests with the WCTC to prove existing use rights and these have not been confirmed under the Resource Management Act. The WCTC's comments on the application do not address this position in light of the current AUP rules. Only lawful activities may be considered as part of the receiving environment. Activities beyond the scope of the 1966 permit cannot be assumed to form part of the receiving environment for assessing reverse sensitivity effects.
		347	As part of our investigation into the lawful operation of the WCTC, we reviewed submissions and decisions on the Proposed Auckland Unitary Plan (PAUP), which are publicly available. The Waitemata Gun Club (WGC) had proposed a bespoke precinct within the PAUP to formalise noise limits and hours of operation for the Club. However, Council ultimately did not support the notified Waitemata Gun Club Precinct.

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			In its legal submissions on the PAUP, Auckland Council stated that the most appropriate outcome was to delete the precinct, thereby deferring any resolution of the extent to which WCTC may lawfully continue its activities to a future process—either an application for a declaration as to existing use rights, or a resource consent application. The Independent Hearings Panel agreed with Council and recommended deletion of the precinct (refer Topic 080, Attachment E). The Panel observed: <i>The Waitemata Gun Club Precinct applies to the long-established Waitemata Gun Club (the Gun Club) in Kumeū. The Precinct is located at 465 Old North Road, Huapai, Kumeū and operates pursuant to a 1968 permit which allowed trap shooting on one day per month between 11am and 5pm. The purpose of the precinct is to provide for an increased level of gun club activities, while protecting the amenity of the surrounding properties. There are specific controls on gun cartridge loads, noise levels, hours and days of operation. There are also assessment criteria regarding noise, site management and timing and number of events. The precinct is zoned Open Space - Sport and Active Recreation Zone. The relief sought by opposing submitters is the deletion of the precinct. Council did not support a precinct.</i> And <i>Without rehearsing the detailed evidence advanced by Mr Styles in response to Mr Hegley, the Panel considers this proposal is a matter that would require its own dedicated hearing to determine, regardless of whether that was by way of resource consent or plan change. The Panel is not in that position.</i>

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			Accordingly, the precinct was deleted.
		349	Agree with no-complaints covenant.
		350	Confirm that this is a drafting error, see response to paragraphs 341-342 above.
		351	For the purposes of assessing the Rangitootuni application: • Only lawful activities may be considered as part of the receiving environment. • Activities which exceed the scope of the 1966 permit and for which no existing use rights have been confirmed must be treated as unlawful and excluded from the receiving environment. Assessments undertaken by both Marshall Day Acoustics and Earcon have concluded that no-complaints covenants represent the most appropriate form of mitigation. This approach ensures the proposal will not create significant reverse sensitivity effects on the WCTC, nor result in countryside living lots experiencing unacceptable levels of noise from the existing environment. Additional acoustic mitigation measures, as suggested, are not considered necessary. Importantly, Council's own acoustic specialist (Bin Qiu) has also not recommended such measures.
		352-355	Noted.
		355	Agree that a no complaints covenant can adequately address potential reverse sensitivity effects.

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		357	The recommendation to impose additional mitigation measures (such as acoustic design or mechanical ventilation requirements) for future dwellings within categories 1–2 and potentially category 3, as identified in the Marshall Day Report) is not supported. This requirement has not been recommended by any of the independent acoustic specialists who have reviewed and assessed the application, including Council's own acoustic specialist, Bin Qiu.
	Matters relating to rural production (forestry activities) resolved.	358-366	Noted.
	<u>Headline Issues identified</u> - Potential Flooding and Stormwater Effects - Potential Freshwater Ecological Effects - Potential Road Safety and Network Capacity / Performance Effects - Waitematā Clay Target Club Reverse Sensitivity and On-Site Amenity Effects	372	For flooding and stormwater, please refer to the response prepared by Maven in Attachment D. For freshwater ecological effects, please refer to the response prepared by Bioresarches in Attachments B and B.1. For road safety and network capacity/performance effects, please refer to the response prepared by Commute in Attachment C. For reverse sensitivity and on-site amenity effects in relation to the Waitematā Clay Target Club, please refer to the responses provided to paragraphs 341-357 above and to the Waitematā Clay Target Club comments.
	Project benefits summary <u>Assessment of s85 matters</u>	373-380	Please refer to the response prepared by Property Economics in Attachment F. In relation to s85, please refer to the following response.

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	- Flooding and Stormwater - Freshwater Ecology - Road Safety and Capacity - Waitematā Clay Target Glub – Reverse Sensitivity and On-Site Amenity		Proportionality Assessment Decisions on approvals under the FTAA must be made in accordance with the decision-making framework in section 81. Section 81(2)(f) provides that a panel may decline the approval only in accordance with section 85. The applicant's position is that none of the circumstances in section 85 apply to this proposal. However, because Council comments have undertaken what they term a "proportionality" assessment in the context of section 85 (3), we respond below. Section 85(3) of the FTAA states that an Expert Panel may only decline an approval if adverse impacts are out of proportion to the regional or national benefits. This requires an Expert Panel to undertake an assessment, weighing any adverse impacts against broader project benefits. Although this is a matter for the Expert Panel to consider, the Council has undertaken its own proportionality assessment (paragraphs 373-380). The applicant's response to that assessment is as follows: Project benefits: The applicant considers that the project will have significant economic benefits, as set out in the EIA provided with the application. The Property Economics response (Attachment F) states: <i>"After considering the points raised in the Review, Property Economics stands by the approach taken and considers this provides the most appropriate information to evaluate the economic benefits of the Project under the FTAA."</i> In relation to stormwater management, the applicant's engineering investigations reveal that the project will ensure no downstream effects. (refer Attachment D).

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			The engineering response notes that “We remain of the view that the proposed revegetation and protection (via covenants) will create improved resiliency and reduce runoff and flooding effects for downstream properties in the future, from that of the otherwise continued operation of plantation forestry”. This demonstrates the ongoing benefits that the project will deliver through the additional planting and protection of this catchment, which the applicant is not required to do. While these benefits may not be regionally significant, they are of great significance for those downstream property owners that are currently impacted by flooding or that may be impacted in the future. Despite the numerous potential issues raised by the Council in relation to ecology, it is simply not credible to conclude that the proposed revegetation of the site with indigenous species does not facilitate a profoundly better ecological outcome than the continued rotational pine forestry operation. The site has operated as a commercial pine forest under Crown ownership for more than 60 years. As a result of ongoing forestry activity, the land has been degraded, with widespread weed ingress, loss of indigenous cover, and sedimentation of waterways. The proposal represents a fundamental change, with the applicant committing to extensive native revegetation and landscaping across the site, alongside the protection and enhancement of wetlands and streams. This will restore and safeguard the whenua in perpetuity. The proposal includes comprehensive indigenous planting throughout both the countryside living lots and the retirement village, resulting in a substantial uplift in indigenous biodiversity values. Streams and wetlands will be further enhanced by a minimum 20-metre riparian margin, providing significant ecological

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			improvement, particularly for currently deforested waterways. Collectively, this will enable the site to be re-clothed in the ngahere that once characterised the area. Te Kawerau ā Maki will act as kaitiaki over the plantings and tracks. Their maatauranga of the land, flora, and fauna will be embedded in the development through mahi toi, waananga, maara huupara, and maara kai, ensuring intergenerational transmission of knowledge and connection to place. Section 6.4.4 of the AEE also outlines the role of a residents' society (or equivalent legal entity) in ongoing management, with conditions of consent proposed to secure this responsibility. A critical point is that the revegetation proposed is not an obligation under the AUP, nor is it required to offset or mitigate identified adverse effects. The applicant has chosen this approach voluntarily, where alternative land uses (continuing in pine or converting to pasture) would otherwise remain possible. A detailed response to ecological effects has been provided by Bioresarches (Attachments B and B.1) The project also maintains public recreational access to the site, which is otherwise private land. The ability of the public to access walking trails and mountain bike tracks is considered to be a significant benefit. Finally, and crucially, this project enables Te Kawerau ā Maki to begin rebuilding its political, social, cultural, environmental and economic wellbeing by enabling the iwi to develop land returned as commercial redress as part of its Treaty Settlement with the Crown. The CIA states:

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			<i>"Riverhead's importance is not just a matter of ancient history but is also part of our contemporary history and is intimately tied to the iwi's future. The unlocking of the lands economic potential is a central to the purpose of the land and the Crown's redress for our economic wellbeing."</i> The social and cultural benefit is of enormous significance and importance to Te Kawerau ā Maki, and these considerations have positive effects which cannot be captured through the prism of financial return. Treaty Settlement Land is limited in area in the Auckland region, with specific recognition in planning documentation supporting its development. This aligns with both broader New Zealand legislation and individual Treaty settlement legislation passed by the New Zealand Parliament acknowledging the importance of addressing treaty issues generally and providing for appropriate return of land and consequent development, including specific legislation relating to particular land and iwi. In that context, enabling appropriate development of this Treaty Settlement Land is not only a matter of regional importance and benefit, but is also of national benefit given the commitment by the Crown through legislation to Treaty settlements. Overall, it is considered that the project establishes clear benefits of regional or national significance. This aligns with the conclusion of the Government in listing the project within the FTAA, and is evident from a full assessment of this proposal and the reports and evidence in support. Adverse impacts:

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			The Council has identified four adverse impacts that it claims are relevant for the purposes of the proportionality assessment under s 85(3) of the FTAA. These are: • Flooding and stormwater (refer to the response in Attachment D) • Freshwater ecology (refer to the response in Attachment B) • Road safety and capacity (refer to the response in Attachment C) • Reverse sensitivity and amenity (Waitematā Clay Target Club) (refer to the responses provided to paragraphs 341-357 above and to the Waitematā Clay Target Club comments) The applicant considers that potential adverse effects with respect to these issues are overstated, and are either non-existent, irrelevant, or immaterial. In any event, they are not remotely close to a level that would outweigh the project benefits. Flooding and stormwater effects are addressed in the applicant's specialist reports. Contrary to the Council's concerns, flooding outcomes will be improved in the catchment, and any stormwater effects will be appropriately mitigated. Regarding freshwater ecology, the proposal will have benefits overall in terms of habitat quality and water quality relative to the existing state of the environment. All localised effects of the proposal on road safety and capacity will be mitigated through upgrades where required. The project will not have any appreciable effects on the wider transport network. The current effects of the Waitematā Clay Target Club operations exceed those that are lawfully established. It is not the applicant's responsibility to mitigate

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			effects that fall outside of a permitted or consented envelope. Unlawful shooting activity is an enforcement matter for the Council. Overall conclusion in relation to s 85(3): The applicant considers that the project benefits clearly outweigh any adverse impacts of the proposal.
	<u>Key information gaps</u> • Flood Model • Stream Geomorphic Assessment • Dam Assessment • Best Practicable Option Assessment – Water Quality • Culvert/ Attenuation Structure Design Details	381	Please refer to the response prepared by Maven in Attachment D. The flood model will be provided to Healthy Waters by Maven. In relation to Stream Geomorphic Assessment, refer to section 1.4.3 in Attachment D. For dams, refer to section 1.3 in Attachment D and the planning response provided earlier in this table. Dams A question has arisen as to whether the proposed culvert replacements, that provide some temporary stormwater attenuation in certain conditions, are a 'dam' in respect of the AUP. This is of relevance because a new on-stream dam is a discretionary activity under Rule E7.4.1(A35). The AUP sets out the definition of 'dam' as follows: <i>Dam</i> <i>A structure which, either:</i>

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			• <i>permanently impounds surface water; or</i> • <i>temporarily impounds surface water as its primary function, and includes weirs but excludes culverts, rain gardens and culvert headwalls.</i> The structures in question are culverts including a headwall and associated road embankment. They will not permanently impound surface water. Therefore, the proposed structures are not captured by the first bullet point in the definition. The culverts including a headwall and associated road embankment have a primary purpose of passing water underneath the road. That is confirmed by the culvert inlet being placed at the lowest point so that normal water flow is not impeded in any way. They are designed to temporarily contain water only during flood flows and then fully discharge that water at a constrained rate over time, as a secondary function. Accordingly the culverts including a headwall and associated road embankment are not captured by the second bullet point in the definition. In addition, although the applicability of the second bullet point is resolved by the primary function of the structure, it is also the case that culverts and culvert headwalls are explicitly excluded and are therefore not a dam. For these reasons, it is considered that the culverts including a headwall and associated road embankment are not a dam in the context of the AUP. In relation to progressive encasement, the following planning response is provided: Progressive encasement

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			The Council has asserted that the proposed culvert works within the site constitute 'progressive encasement' of streams. This issue arises in the context of AUP permitted activity standard E3.6.1.14(1)(c), which states: <i>(c) a new structure must not be erected or placed in individual lengths of 30m or less where this would progressively encase or otherwise modify the bed of a river or stream.</i> It is understood that the Council considers that this part of the standard is not achieved because, in its interpretation, the standard applies to the entire extent of rivers or streams on the site. It is considered that there is no basis for that interpretation given the wording of the standard. Notably, the standard relates to a situation that would encase or modify "<i>the bed of <u>a</u> river or stream.</i>" [emphasis added]. The option of extending the scope of the standard to all streams on a site of nearly 400 ha is simply not available on a plain reading of the words used. In the case of Lots 1 and 2 in the Rangitootuni land, the total length of streams is close to 30km, comprised in several different streams that flow to separate catchments. It is acknowledged that the wording of the standard might be somewhat problematic in that it could conceivably enable multiple culverts along a stream, providing they are not physically contiguous. However, there is a remedy available to the Council if that is a concern, via a plan change process. Any

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			deficiency that may exist in the standard does not justify an interpretation that simply cannot be sustained from the wording that is used. For BPO (Water Quality), refer to section 1.4.1 in Attachment D and the following planning response. Water quality treatment The project has been designed to maintain and enhance water quality. Water quality treatment is proposed that, as a minimum, meets all the applicable AUP rules and standards. Water quality treatment on sites that are outside the urban area and beyond the scope of the Council's Region-wide Network Discharge Consent is addressed through the requirements of Chapter E9. The relevant rules and standards require water quality treatment only for high contaminant generating car parks and high use roads. The former is defined in the AUP as a car park designed for more than 30 vehicles, and the latter is a road carrying more than 5,000 vehicles per day. There are no roads that carry more than 5,000 vehicles within the development. There are carparks that accommodate more than 30 vehicles, and water quality treatment is proposed for all carparks. Compliance with AUP requirements is therefore achieved. Despite that, the applicant is voluntarily providing water quality treatment via swales in the JOALs. This will provide treatment of JOAL stormwater where the

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			gradients (less than 8%) allow. Treatment is also proposed for most of the paved vehicle access areas within the retirement village. Although the AUP standards are met, and exceeded, the Council is suggesting that this is insufficient. It reaches this conclusion with reference to objectives and policies in Chapter E1 of the AUP, which seek to maintain and enhance water quality, minimise the discharge of contaminants, and adopt the best practicable option (BPO). The applicant fundamentally disagrees with the approach sought by the Council. District plans are structured using a hierarchy where objectives set out the outcomes that are sought, policies identify how those objectives would be achieved, and rules and standards implement the higher order policy framework. Compliance with relevant rules and standards is assumed to give effect to the higher order objectives and policies. It is not appropriate to reverse this hierarchy to extract higher standards than provided for in the operative rules. In any event, and taking a more holistic view, the revegetation of the site will give rise to an overall higher quality of water leaving the site than occurs under the current situation. In relation to culvert / attenuation structure design, please refer to section 1.4.1 in Attachment D and the Engeo response in Attachment E.
	Further matters, such as updates to the proposal based off the recommendations made	382-385	These matters have been responded to either in the various response documents or can be addressed at a future condition conferencing/workshop.

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	and providing the information requested.		
	Key findings • Potential Natural Hazards/Flooding and Stormwater Effects • Potential Freshwater Ecological Effects • Potential Road Safety and Network Capacity/Performance Effects • Potential Reverse Sensitivity and On-Site Amenity Effects from noise generated by the Waitematā Clay Target Club	386-387	For flooding and stormwater, please refer to the response prepared by Maven in Attachment D. For freshwater ecological effects, please refer to the response prepared by Bioresearches in Attachment B and B.1. For road safety and network capacity/performance effects, please refer to the response prepared by Commute in Attachment C. For reverse sensitivity and on-site amenity effects in relation to the Waitematā Clay Target Club, please refer to the responses provided to paragraphs 341-357 above and to the Waitematā Clay Target Club comments.