

**BEFORE THE EXPERT PANEL APPOINTED TO DETERMINE THE DRURY
METROPOLITAN CENTRE – CONSOLIDATED STAGES 1 AND 2 PROJECT**

In the matter of

the Fast-Track Approvals Act 2024 (*the FTAA*) and the deliberations and final decision of the Expert Panel appointed under section 50 and Schedule 3 of the FTAA in relation to the application by Kiwi Properties No. 2 Limited to:

- (a) Develop land for future residential activity and a commercial retail centre (including approximately 10,000 square metres commercial, 56,000 square metres retail and 2,000 square metres community activity);
- (b) The subdivision of superlots on Stage 1;
- (c) Bulk earthworks to enable the Project; and
- (d) Construction and installation of reticulation networks and roading infrastructure to service the Project.

Expert Panel

Mary Hill
(*Chair*)

Richard Blakey
(*Member*)

Philip Brown
(*Member*)

***Comments received
under Section 53 of the
FTAA:***

11 August 2025

**Record of Decision of the Expert Consenting Panel
under Section 87 of the
Fast-Track Approvals Act 2024**

Draft for comments issued 21 October 2025

Decision: Approval is granted subject to conditions

Date of Decision:
Date of Issue:

[insert date]
[insert date]

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DECISION MADE BY THE PANEL: DRURY METROPOLITAN CENTRE – CONSOLIDATED STAGES 1 AND 2

PART A: EXECUTIVE SUMMARY

- 1 This Decision relates to an application for Drury Metropolitan Centre – Consolidated Stages 1 and 2 (**Project** or **Proposal**) by Kiwi Property Holdings No. 2 Limited (**Applicant**) to amend Stage 1 (subdivision) and develop the second stage of the Drury metropolitan centre (Stage 2) (**Application**). The Application comprises:
 - (a) amend Stage 1 to provide for the subdivision of approved superlots to create 292 fee simple lots for future residential development;
 - (b) the construction and operation of retail, commercial, community, residential and visitor accommodation activities with associated buildings and ancillary car parking on Stage 2;
 - (c) bulk earthworks to enable the Project; and
 - (d) the construction and installation of reticulation networks and roading infrastructure to service the Project.
- 2 The Project site is located at 64, 68, 103, 108, 120, 124 and 132 Flanagan Road, 133, 139, 155, 173, 189 Fitzgerald Road and 61 Brookfield Road, Drury (**Site or Project area**).¹
- 3 The Application was included as a listed project in Schedule 2 of the FTAA. On 30 June 2025 an expert panel was appointed to determine the Application (**Panel**).
- 4 The Panel has assessed the Application applying the relevant statutory criteria within the purpose and context of the Fast-Track Approvals Act 2024 (**FTAA**).²
- 5 The Panel received comments from parties invited to comment, including from Auckland Council (**Council**), Auckland Transport, the New Zealand Transport Agency (**NZTA**), the Papakura Local Board and Mana Whenua interests, and a response to those comments from the Applicant. Those comments and response raised a number of matters for our consideration including in relation to transport staging, provision of open space, flooding and stormwater effects. The Panel has carefully considered all comments and information in evaluating the Application.
- 6 Schedule 5, clause 17 sets out the criteria and other matters for assessment of resource consent applications. In summary, they require the Panel to take into account the purpose of the FTAA (which must be given the greatest weight), the provisions of the Resource Management Act 1991 (**RMA**) that direct decision making on an application for resource consent, and the relevant provisions of any other legislation that directs decision making under the RMA. For the purpose of this Decision, only the provisions of the RMA are considered relevant.

¹ The legal descriptions for the 12 titles comprising the Site are contained at Table 2 of the AEE

² Legislation Act 2019, section 10; and FTAA, section 10 and Schedules 2, 3 and 5

- 7 Having considered all relevant matters, the Panel has determined that the Project meets the purpose of the FTAA.
- 8 The Panel therefore grants approval for the Application subject to the conditions in **Appendix A**.
- 9 This decision is made in accordance with section 87 FTAA. This decision covers all the approvals sought under the substantive application. This decision document includes:
 - 9.1 The decision – throughout and summarised in Part N;
 - 9.2 The reasons for the decision – throughout and summarised in Part N;
 - 9.3 A statement of the principal issues in contention – throughout and summarised in Parts I and N;
 - 9.4 The main findings on the principal issues in contention – throughout and summarised in Parts I and N.

PART B: OVERVIEW OF THE APPLICATION AND PROCEDURE

Application

Applicant

- 1 Kiwi Property Holdings No.2 Limited (**Applicant**) is the authorised person for the Drury Metropolitan Centre – Consolidated Stages 1 and 2 project as set out in section 42 of the FTAA.

Site and surrounding environment

- 2 The Site is located approximately 35km south of Auckland's City Centre and 20km from Auckland Airport. As described in the Applicant's Assessment of Environmental Effects (**AEE**),³ it is bounded by the Hingaia Stream to the west, the approved Stage 1 Fast-track consent to the south (referred to in more detail later in the decision), Fitzgerald Road to the east and by Waihoehoe Road and the North Island Main Trunk Line to the north. The westernmost portion of the Site is also characterised by the presence of the Hingaia Stream along with an overhead electricity transmission corridor with associated support structures which is identified on the Auckland Unitary Plan (Operative in Part) (**AUP**) planning maps as the National Grid Corridor overlay. This National Grid Corridor provides for the recognition and protection of the 220Kv transmission lines and associated support structures within this overlay.⁴
- 3 The Site has urban zonings under the AUP, resulting from the outcome of Plan Change 48 (**PC48**). These are comprised of Business zonings, being 'Metropolitan Centre' (**B-MCZ**) and 'Mixed Use' (**B-MUZ**), and 'Open Space – Informal Recreation' (**OS-IRZ**) on the western side adjacent to the Hingaia Stream, as depicted in Figure 1 below. The Site is located within the Drury Centre Precinct, also established through PC48, which, as described in the AEE, provides for the development of a new, comprehensively planned, high density and transit-orientated centre at Drury that is intended to support a quality compact form. The Precinct incorporates five sub-precincts (A – E) and the Project Area is located within sub-precincts A and C.

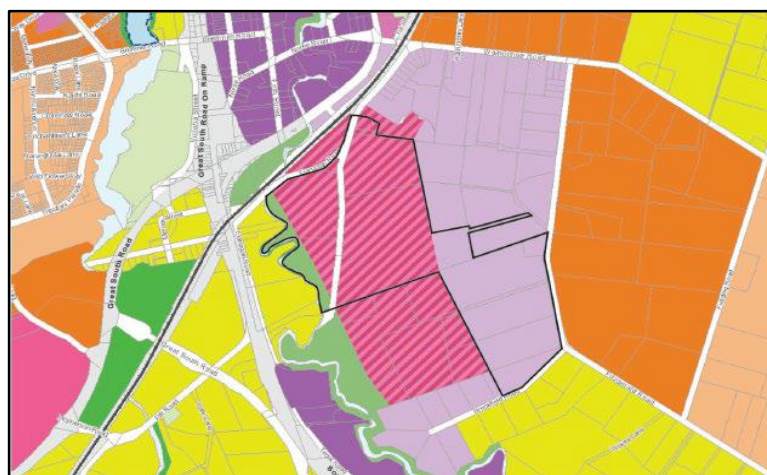


Figure 1 – Zoning Map (AEE Figure 1)

³ AEE, at page 33

⁴ It also included the 110Kv Bombay-Otahuhu A transmission lines but these were decommissioned and dismantled in early 2024

- 4 The Applicant obtained resource consent from Auckland Council (**Council**) in April 2022 authorising bulk earthworks over a significant portion of the Project Area to prepare the land for development of Stage 1 of the Drury Metropolitan Centre.⁵ The AEE notes that this consent has been given effect to and has included the removal of existing buildings/structures, removal of contaminated soils, and decommissioning and removal of existing infrastructure. The Panel observed the extent of these works during its Site visit.
- 5 Consent was granted for Stage 1 of the Drury Metropolitan Centre by a Fast-track consenting panel under the Covid-19 Recovery (Fast-track Consenting) Act 2020 (**Fast-track Act 2020**) in July 2023.⁶ This authorised the construction and operation of the first stage of the development in the Drury Metropolitan Centre, located to the south (and the opposite side of Rauika (Road 1)), involving:⁷

...large format retail buildings and activities up to 24,000m² gross floor area (GFA), 13 'ready for development superlots', vesting of an esplanade reserve adjacent to the Hingaia Stream and an open space reserve. This application also authorised the construction and installation of reticulation networks, associated enabling bulk earthworks, the construction of roads to vest and roading and infrastructure upgrades to existing transport infrastructure to service the project.

- 6 The Applicant obtained a further bulk earthworks consent from the Council in October 2024 that enables bulk earthworks over an area of approximately 3.4ha within the Site.⁸ The AEE differentiates these works from those proposed in the present Application, with the latter incorporating:⁹

...relatively minor additional earthworks in the area covered by the 2024 Earthworks Consent as well as bulk earthworks in an area beyond that covered by the 2024 Earthworks Consent (total area approximately 18.5ha). This is because the Fast Track Earthworks also takes into account the earthworks required for the installation of underground services and proposed roading and building platform design levels (in the area covered by the 2024 Earthworks Consent) and is therefore proposed to a greater level of design detail.

- 7 The surrounding locality is described in the AEE as currently undergoing significant urban transformation by way of a comprehensive suite of approved, planned, and funded transport projects under the New Zealand Upgrade Programme (**NZUP**) and the Auckland Regional Land Transport Plan (**RLTP**). The AEE advises that these transport infrastructure projects are intended to support the significant urban development planned and approved in the wider Drury East area which include:

- Papakura to Pukekohe Rail Electrification;
- Papakura to Drury South Stage Highway 1 improvements, Stage 1B1;
- Drury Central and Paerata Stations;
- SH22 intersection upgrades at Great South Road and Jesmond Road;

⁵ Council reference BUN60390224

⁶ Council reference BUN60414877

⁷ AEE, at page 19

⁸ Council reference LUC60435472

⁹ AEE, at page 39

- Waihoehoe Road west construction;
- Drury local road upgrades; and
- Drury Arterials Designations.

8 The AEE also describes significant urban development projects that have been approved in the surrounding area, and within the Waihoehoe and Drury East Precincts (to the north and east of the Site respectively) which also have urban zonings under the AUP, with resource consents approved under the Fast-track Act 2020.

Overview of the Application

9 The Application seeks resource consent for the following matters:

- (a) Bulk earthworks to facilitate construction of the proposal to the proposed design levels, installation of underground infrastructure and associated roading, with approximately 212,225m³ of cut and 195,873m³ of fill over approximately 20.85 hectares. This will involve the removal of all existing buildings and structures within the project area, incremental stripping of the topsoil, excavations and placing of material to achieve subgrade levels for road carriageways and building platforms. The AEE provides further detail of the proposed earthworks relative to those already authorised by the bulk earthworks consent granted in October 2024.¹⁰
- (b) A series of new buildings for retail, commercial and community, residential and visitor accommodation activities, being 'Stage 2' of the Drury Metropolitan Centre, located immediately north of the approved Stage 1 buildings. The AEE advises that these have been designed as an integrated and connected centre that achieves the key structuring elements envisaged on Precinct Plan 2. In total, Stage 2 proposes 33,048m² of commercial gross floor area (**GFA**), 63,547m² of retail, 102 dwellings, 282 visitor accommodation rooms and 10,216m² of community facilities (aquatic leisure centre and library).
- (c) Associated activities including lighting and external signage (comprehensive development signage), including three LED variable message screens.
- (d) The Stage 2 subdivision plans incorporate 16 fee simple lots, four local purpose reserves, five roads to vest and nine access lots. It is relevant to note that:
 - All roads to be vested with the Council have been shown on the scheme plans. All other access lots within the project area that will not be vested will be privately owned and maintained by the Applicant but will be designed and constructed to the relevant Auckland Transport standards and the Road Function and Required Design Elements Table in Appendix 1 of the Drury Centre Precinct provisions.
 - The open spaces on Lots 600 and 603 will contain communal stormwater management devices (Wetlands 2-1 and 2-2) that will also be privately owned and maintained by the Applicant and be held as privately owned fee simple lots. Lots 601, 602 and 604 will contain Stream A and is proposed to be vested with the Council as a Local Purpose drainage reserve. The AEE notes that

¹⁰ AEE, at page 39

Stream A has an average width of 2.95m and therefore does not meet the requirement for an esplanade reserve under section 230 of the RMA.

- (e) Subdivision of the 13 vacant superlots approved as part of the Stage 1 Fast-track consent, comprised of 13 Jointly Owned Access Lots (**JOALs**) and 292 vacant residential lots.
- 10 The overall proposal incorporates measures to address:
- (a) The National Grid Corridor Overlay (affecting the western portion of the Site);
 - (b) Implementation of a landscape strategy and concept plan and open space network;
 - (c) Construction of new roads, both public (vested) and private, and the upgrading of existing rural roads, and provision for parking and loading associated with individual activities;
 - (d) Stormwater management across two areas, Areas 1 and 2, which drain to Fitzgerald Stream and Hingaia Stream respectively;
 - (e) Provision for three waters servicing infrastructure, stormwater and flood management; and
 - (f) Wetland reclamation and changes to wetland hydrology, along with streamworks and works within riparian margins and the removal of terrestrial vegetation.
- 11 The Applicant seeks a 15-year consent lapse period (under section 125 RMA) in which to give effect to the resource consent, adopting a six-year contingency buffer relative to its expected nine-year stage of implementation.
- 12 The Application was submitted with proposed consent conditions (as adapted from those imposed on the Stage 1 Fast-track consent, and the standard Council wording for the various consents and permits sought). The AEE notes that, in accordance with clause 5(1)(k) of Schedule 5 of the FTAA, the conditions are proposed to:¹¹
- Appropriately manage adverse effects, including providing mitigation to prevent or reduce adverse effects during and after construction in accordance with clause 6(1)(d) of Schedule 5;
 - Provide for monitoring as required by clause 6(1)(g) of Schedule 5; and
 - Give effect to those matters that the Panel must consider under section 81(2)(a) FTAA.
- 13 The AEE further advises that:¹²

The conditions are not considered to be more onerous than necessary and comply with Section 83 with reference to Section 81(2)(d). It is considered that they meet the requirements of the [FTAA] and that the Panel may grant the resource consent

¹¹ AEE, at page 64

¹² AEE, at page 64

subject to the conditions in accordance with Section 81(1)(a) of the Fast-track Approvals Act 2024.

Resource consents

- 14 The Panel has reviewed all the documentation and the further information provided by the Applicant and the participants and summarises the necessary consents at **Appendix B**. We record here the summary of those reasons as set out in the AEE, as follows:¹³

Overall, the application requires non-complying activity consent under the AUP-OP, restricted discretionary activity consent under the NES Regulations for Contaminated Land and restricted discretionary activity consent under the NES Regulations for Freshwater. The majority of reasons for consent either have a controlled, restricted discretionary or discretionary activity status under the AUP-OP.

- 15 The Applicant has also adopted an appropriately conservative approach to the bundling of these consents such that the application has been assessed in the AEE as a non-complying activity overall,¹⁴ although indicating that this would not “preclude scope in the future to have the activities considered separately”.¹⁵
- 16 The Panel agrees with the Applicant that, when considering the AUP and its various proposed plan changes, overall, the Application is a non-complying activity.¹⁶ The comments from the Council did not express a different or contrary view.
- 17 The reasons for consent set out at Appendix B have been amended by the Panel to include the confirmation requested from the Applicant (received 26 September 2025), as discussed later in this Decision.
- 18 The Panel notes that the Director-General of Conservation, in its comments, referred to the possibility of Wildlife Act 1953 and Complex Freshwater Fisheries approvals being required (relating to Schedule 7, clause 5; and Schedule 9, clause 5 FTAA respectively).
- 19 This was responded to by the Applicant on 28 August 2025, stating that, on the basis of advice from its project ecologists:¹⁷

(a) Due to the low risk of native lizards being present on site, a Wildlife Act Approval has not been sought to handle, capture, relocate, injure, or kill native lizards. The Draft EMP (Appendix 25A) outlines passive management measures and an accidental discovery protocol for native lizards. If native lizards are detected during the construction works, and handling, capture, relocation, injury or killing native lizards is required then a Wildlife Act Approval will be sought.

(b) [The Applicant] and its advisors are of the understanding that the proposed works do not require a complex freshwater fisheries approval but will engage with Department of Conservation staff in an effort to reach consensus on this

¹³ AEE, at page 75

¹⁴ AEE, at page 75, with reference to Part C1.5 and C1.6 of the AUP

¹⁵ AEE, at page 76

¹⁶ AEE, at page 75

¹⁷ Applicant Response to Comments Table, at page 4

matter. A complex freshwater fisheries approval will be sought separately outside the Fast-Track process should DOC staff consider it is required following that engagement between Kiwi Property's advisors and DOC.

Overall, the permits as suggested by DoC are considered to not be required for the Project and therefore those approvals have not been sought as part of this fast-track application. Kiwi Property acknowledges that should those permits be required then the necessary applications will need to be made and separately obtained. Appropriate advice notes to that effect are included in the revised proposed consent conditions as Attachment 2 to this response.

- 20 That approach is accepted by the Panel.

Procedure

- 21 The following matters of procedure are relevant for this decision.

Meetings and site visits

- 22 The Panel held its first meeting with the Panel Convenor on 16 June 2025 and visited the Site on 27 June 2025. This was assisted by a representative of the Applicant who was able to orient the Panel in relation to the relevant features of the Application and the Site. Due to the weather conditions on the day, the visit was primarily undertaken by vehicle (across the Site where that was accessible). The Site and surrounds, including adjacent project areas such as the Drury train station, were also viewed by vehicle from the surrounding roads.
- 23 Much of the Panel's correspondence, deliberations and decision-making occurred over email following review of the information provided by the Applicant and parties invited to comment, including responses to the further information request(s), the joint witness statements produced following facilitated expert conferencing, and legal and technical advice obtained by the Panel. The Panel also held meetings (via MS Teams) on the following occasions:
- (a) 19 August 2025;
 - (b) 1 September 2025;
 - (c) 4 September 2025; and
 - (d) 9 October 2025.

Invitations to comment

- 24 The Panel invited comments on the Application via Minute 1 dated 14 July 2025, with responses required by 11 August 2025. Comments were received on time from the following:
- (a) Auckland Council, incorporating comments from Council 'family' organisations i.e. Auckland Transport, Healthy Waters, Watercare Services Ltd (**Watercare**) and the Franklin Local Board;
 - (b) The Associate Minister of Transport;

- (c) Chorus;
- (d) Director-General of Conservation;
- (e) The New Zealand Transport Agency Waka Kotahi (**NZTA**);
- (f) Ngāi Tai ki Tāmaki;
- (g) The Papakura Local Board (separate to those from the Council 'family'); and
- (h) Te Ākitai Waiohū Settlement Trust (**Te Ākitai Waiohū**).

25 The Panel would like to thank all parties who commented for their contributions. The following is a summary of the matters raised in the comments, adapted from the summary provided by the Applicant in its Response to Comments Table of 28 August 2025 (**Response Table**):

- (a) **Auckland Council** raised a number of matters, summarised as follows:
 - (i) Funding and financing; economic benefits being overstated; urban design considerations and recommended changes; parks planning and ownership; ecological effects; traffic engineering and development engineering.
 - (ii) Legal issues were also raised relating to the proposed lapse date; the potential to grant consent in part; the use of conditions precedent and the relevance of infrastructure funding and delivery.
 - (iii) Further comments were made in relation to stormwater (regional discharge permit); regional earthworks; contaminated land; noise and vibration; historic heritage and archaeology; and landscape, with no significant matters of contention being raised.
 - (iv) Planning comments noted information gaps related to geomorphic risk assessment; unreliable trip generation assumptions; public access over private roads; loading bay shortfall; security of public access over private open space; long-term viability of streetscape landscaping; hydrological effects of Wetland 1; insufficient design information for a development of this scale; and economic effects analysis.
 - (v) The 'headline' issues that were identified by the Council as relevant to a potential decline of consent under section 85(3) were related to: infrastructure funding, delivery and servicing (transport and wastewater); transport network effects; open space provision; ecological effects; and urban design.
- (b) **Auckland Transport** advised that it does not oppose the Application but raised concerns relating to the traffic/transport modelling of the Applicant's Integrated Transportation Assessment (**ITA**), particularly in relation to: Work from Home (**WFH**) adjustments; retail trip assumptions; timing for the direct connection to SH1; seeking consent to authorise levels of development beyond the capacity of funded and committed infrastructure upgrades; the 15-year lapse period sought for the consent; use of private roads for public transport; insufficient loading bays; and safety risks at intersections and crossings.

- (c) **Healthy Waters'** comments primarily related to flooding, erosion risk assessment, ownership of stormwater management devices and Stage 1 vacant lot subdivision stormwater management. Comments on the Applicant's proposed conditions were also provided.
- (d) **Watercare** noted that wastewater capacity is limited to 950 Dwelling Unit Equivalents (**DUEs**), while the proposal seeks 1,087 DUEs, requiring future network upgrades with uncertain timing (2029-2033+).
- (e) **Franklin Local Board** supports the development and requests the Applicant to work with the Local Board on the community facility and open space provision through a partnership arrangement to ensure facilities are provided for new residents in a more timely and less disruptive manner.
- (f) **Associate Minister of Transport** recorded his support for the Project.
- (g) **Chorus** sought the inclusion of fixed line open access fibre connections to each lot or potential end user to ensure that residents and businesses owners do not end up with limited choice on service.
- (h) **Director-General of Conservation** suggested that a Wildlife Act approval and Complex Freshwater Fisheries approval *may* be required for the Project (as referred to above).
- (i) **NZTA** recorded a neutral position with on the Application and expressed the view that the land use is broadly in line with what was anticipated at the time of PC48. Its comments raised issues related to trip demand ('work from home' rates); the proposed land uses and the impacts on internalisation rates utilised in traffic assessment (and need for a sensitivity test to be undertaken); the deferral of community activities to later stages and the impact on internalisation rates; the reasoning behind moving the requirement for the Drury Access Ramp to an increased level of development in the trigger table; and the need for clarification as to how the proposed consent would interact with future consents for other developers in the Drury East area and how the proposed conditions relate to the Precinct provisions.
- (j) **Ngāi Tai ki Tāmaki** expressed concern about the consultation described in the application, noting that their records show the last engagement occurred in 2018. They requested clarification regarding the reference to consultation conducted during a hui for a separate project.
- (k) **Papakura Local Board** commented on the proposed provision of open space, active mode connections within the Project and connections with the broader area, stormwater treatment and the piping of Stream A.
- (l) **Te Ākitai Waiohū** commented on the proposed 15-year lapse date sought by the Applicant and sought a number of amendments to the proposed conditions (relating to archaeological monitoring, maintenance of baseflow in Stream A and accidental discovery protocols for lizards and archaeology).

Applicant's response to invited persons comments

- 26 The Applicant sought suspensions of the processing of the Application to respond to the comments received. The first suspension was granted for the period 14 August to 22 August 2025.¹⁸ The second suspension was granted for the period 22 August to 27 August 2025.¹⁹
- 27 On 28 August 2025 the Applicant provided a response to the comments received on the Application from those persons who were invited to comment under section 53 of the FTAA. The Applicant also provided an updated set of draft consent conditions.
- 28 The Panel has considered the Applicant's responses and, where appropriate, refers to those responses within Section E of this decision below.

Appointment of technical advisors

- 29 On 8 September 2025 the Panel appointed Leo Hills and Nigel Mark-Brown as technical advisers to provide the Panel with technical advice in relation to transportation and stormwater/flooding issues (respectively).²⁰ These appointments were made under clause 10(3) of Schedule 3 of the FTAA.
- 30 On 5 September 2025 the Panel appointed Vanessa Hamm to provide legal advice in relation to legal issues arising from the Applicant's response to comments (including the proposed lapse date, conditions precedent, the 'banking' of trigger thresholds, the scope of the Panel's authority to decline consent, including in terms of inconsistency with plan provisions and the extent of unfunded work that is relied upon for later stages of the Project. This appointment was also made under clause 10(3) of Schedule 3 of the FTAA.²¹

Further information

- 31 On 5 September 2025 the Panel issued a request to the Applicant for further information in accordance with section 67 of the FTAA. The request sought further information relating to open space provision and zoning; consenting, urban design and lighting considerations relating to the proposed LED signage; urban design considerations related to Lot C; transport modelling; waste management (design and management); stormwater (regarding the Stage 2 catchment); clarification of datums used for the architectural drawings and flood levels; and clarification in respect of several conditions. The Applicant responded on 19 September 2025.
- 32 The Panel also sought a response from both the Applicant and Auckland Council in relation to the legal advice the Panel received from Vanessa Hamm. The Applicant and Auckland Council provided legal opinions addressing those issues on 18 and 19 September 2025 respectively.

¹⁸ Minute 2, dated 14 August 2025

¹⁹ Minute 3, dated 25 August 2025

²⁰ Minute 4, dated 8 September 2025

²¹ As recorded in Minute 4, dated 8 September 2025

- 33 The Panel sought comment from interested parties on the agendas for the expert conferencing relating to stormwater/flooding and transportation matters (which took place on 2 and 3 October 2025 respectively).
- 34 The Panel issued Minutes 4 – 9 relating to the above matters.

Scope

- 35 The legal advice the Panel received from Vanessa Hamm²² (**Hamm Opinion**) highlighted a particular issue for the Panel's consideration relating to the scope of the Application when compared to the description of the proposal under the Schedule 2 FTAA listing (**Project Listing**), more specifically, the difference in floor areas referred to in the Project Listing, compared to the floor areas included in the Application.
- 36 The Hamm Opinion observed that the Project Listing refers to "approximate areas" which would be exceeded under the Application proposal as follows: (a) Commercial: 10,000m² (listing) versus 33,048m² proposed; (b) Retail: 56,000m² (listing) versus 63,547m² proposed; and (c) Community: 2,000m² (listing) versus 10,216m² proposed. This amounts to a total 68,000m² (listing) versus 106,911m² (proposed). The Hamm Opinion acknowledges that the overall footprint of the Application proposal remains the same as the Project Listing (53.2 hectares).
- 37 The Hamm Opinion referred to a recent decision of the High Court in *Ngāti Kuku Hapu Trust v The Environmental Protection Agency* [2025] NZHC 2046 regarding a Fast-track application by Port of Tauranga Limited (**POT Decision**). In the POT Decision, the High Court determined that the proposal in that case did not accord with the activity as described in its FTAA listing. The High Court set aside the decision of the EPA to accept the application as complete and within scope.
- 38 The Panel sought comments from both the Applicant and the Council in relation to the scope issue raised by the Hamm Opinion.²³
- 39 The Applicant submitted (through its legal counsel on 18 September 2025) that no question as to scope arises. The Applicant sought to distinguish the present circumstances from those arising in the POT Decision noting that "*the form of wording used in the Drury Centre project description is open ended as to the upper level of development for which consent may be sought in the fast-track application*", such that "*the specified floor areas for commercial, retail and community activities are minima, not targets or maxima*".²⁴
- 40 As a secondary position, in case the Panel determined that it did not have jurisdiction to grant consent for the originally proposed activity areas, the Applicant indicated it would be prepared to modify the proposal. It offered revised areas as an alternative option but less preferable option, aggregating to a total floorspace of 74,800m² (an uplift of 10% above the total 68,000m² specified in Schedule 2).
- 41 The Council responded through its legal counsel (on 19 September 2025) submitting that the POT Decision demonstrates that "*the Court will scrutinise the actual scope very*

²² Memorandum for the Panel dated 12 September 2025 from Vanessa Hamm, Holland Beckett

²³ Minute 6 dated 15 September 2025

²⁴ Applicant memorandum, at [21]

carefully", and that "the use of the words 'approximately' and 'including' cannot save exceedances of the magnitude at issue...".²⁵ It submitted that "[t]he Application exceeds the scope of the Schedule 2 listing substantially, and should be modified to align with the Schedule 2 parameters".²⁶

- 42 The Panel issued Minute 8 on 23 September 2025 seeking the Applicant's response to the Council's submission. The Panel sought further details on the alternative option put forward by the Applicant and its view on the process to be followed if that option was to be pursued by the Panel. The Applicant responded on 26 September, confirming that if the Panel were to find against it on the scope issue, then the Application could be amended in the following way:²⁷
- (a) That the "commercial" component be reduced from the 33,048m² proposed to the 10,000m² specified in Schedule 2 (i.e. there would be no uplift beyond the figure specified in the schedule).
 - (b) That the "retail" component be reduced from the 63,547m² proposed to 61,600m² (being an uplift of 10% over the 56,000m² specified in Schedule 2).
 - (c) That the "community" component be reduced from the 10,216m² proposed to 3,200m² (being an uplift of 60% over the 2,000m² specified in Schedule 2).
 - (d) That will result in a total floorspace of 74,800m², being an uplift of 10% over the total of 68,000m² specified in Schedule 2.
- 43 The Applicant explained how these figures would align with the "approximate" figures specified in the Project Listing, both in individual activity and overall terms. However, the Applicant advised that implementing the alternative proposal would require a reduction in the area of community activities from 10,216m² to 3,200m², resulting in the removal of the aquatic centre.²⁸ It advised that amendments to the plans to reflect the above changes (if required by the Panel) would take approximately seven working days.
- 44 The Panel issued a further minute on 29 September 2025 advising that it does not intend to make a jurisdictional finding on this issue. The Panel advised that the EPA has determined the Application to be complete and in scope pursuant to section 46 FTAA and unless and until that finding is overturned, "the Panel must proceed on the basis that the application is in scope and that the Panel has jurisdiction to consider the application on its merits".²⁹ The Panel advised that it would seek input from its technical experts in relation to both the original and revised proposal alongside the joint witness statements (**JWS**) anticipated to be provided following the scheduled expert conferencing. The Panel indicated that it would issue further directions following expert conferencing.
- 45 Following expert conferencing, the Panel issued Minute 10 dated 9 October 2025, advising that it had reviewed the two JWS received following conferencing (relating to stormwater / flooding, and transportation) which reflected substantial agreement

²⁵ AC memorandum, at [17]

²⁶ AC memorandum, at [18]

²⁷ Applicant memorandum, 26 September 2025, at [3]

²⁸ Applicant memorandum, 26 September 2025, at [7]

²⁹ Minute 9, 29 September 2025, at [2]

between the parties. The Panel advised that, based on the conferencing outcomes and advice from its own experts, the Panel did not intend to invite the Applicant to propose modifications to the Application, and (subject to obtaining a supplementary JWS relating to stormwater and the Applicant's revised conditions following caucusing) would proceed to a substantive determination of the Application in its original form.

- 46 Upon receipt of those two outstanding documents, the Panel proceeded to consider the original Application on its merits. Its findings are the subject of this Decision.

Conditions

- 47 As noted previously, the Application materials included a set of draft conditions (as Appendix 5). The Council, in its capacity as a regulatory authority, provided detailed feedback and a set of amended draft conditions together with its formal comments as an invited party. The Applicant provided an updated set of conditions to reflect those amendments proposed by the Council which are agreed or agreed in part. Those were included as Attachment 2 to the Applicant's Response. These are discussed in further detail within Section E of this decision below.
- 48 The Director-General of Conservation, Te Ākitai Waiohū and NZTA also commented on the proposed conditions provided with the Application.
- 49 Further amendments to the draft conditions were provided as part of the Applicant's response to the Panel's section 67 request on 19 September 2025, and again following expert conferencing on 2 and 3 October 2025.
- 50 On 13 October 2025, the Applicant provided a revised set of conditions following the expert conferencing for the Panel's consideration (**Applicant's Revised Conditions**).
- 51 The Panel has received input from its technical advisors (stormwater / flooding and transportation) in relation to the Applicant's Revised Conditions and has undertaken its own review and proposed amendments to give effect to its draft decision. In accordance with section 70 FTAA, the Panel has provided draft conditions to the Applicant and persons invited to comment on 21 October 2025, requiring responses by 29 October 2025. [The Panel received [...] responses on the draft conditions from:
- (a) The Applicant;
 - (b) The Council;
 - (c) [insert other parties]
- 52 The Panel has considered all comments received on the draft conditions as required under section 70 FTAA and amended the conditions where appropriate. The Panel has addressed these comments throughout this decision report, and in Part K: Conditions below.

Comments from the Minister for Māori Crown Relations: Te Arawhiti and Minister of Māori Development

- 53 Under section 72 FTAA the Panel invited comment from the Ministers for Māori Crown Relations: Te Arawhiti and Māori Development to comment on the draft decision and draft conditions.³⁰
- 54 **[No comments were received / comments were received and considered].**

Hearing

- 55 The Panel has exercised its discretion not to require a hearing on any issue under section 56 FTAA. The Panel was able to adequately consider and determine all issues based on the information available including the Application, comments received, responses to comments and the further information provided by the Applicant, the Council and invited persons as well as the expert conferencing and the advice received from its technical advisors who also participated in expert conferencing. The material issues involved were comprehensively addressed in the documentation provided thereby resolving any technical expert differences of opinion. Residual issues (of which there were very few following the expert conferencing) were sufficiently clear for the Panel to consider and determine.
- 56 The Panel considers that where insufficient design detail is available at the time of preparing the Application and the Panel's consideration of the Application, those matters can appropriately be addressed through conditions setting out a post-consent certification process where Council has the authority to certify matters of detail.
- 57 The Panel is mindful of the emphasis on time-limited decision-making in the present process, the purpose of the FTAA in section 3 (to facilitate the delivery of infrastructure and development projects with significant regional or national benefits), and the procedural principles in section 10 FTAA that require the Panel to take all practicable steps to use timely, efficient, consistent, and cost-effective processes that are proportionate to the Panel's functions, duties or powers.

Timing of the Panel decision

- 58 Under the original statutory timeframes established by the Panel Convenor, the time frame for the Panel to issue its decision documents under sections 79 and 88 was 20 October 2025.
- 59 However, due to the suspensions sought by the Applicant and approved by the Panel, as referred to above (in accordance with section 60 FTAA),³¹ the decision timeframe was amended to 7 November 2025.

³⁰ Letter from EPA dated 21 October 2025

³¹ Per Minutes 2 and 3

PART C: LEGAL CONTEXT

Legal context for a listed project under the FTAA

- 60 In accordance with section 42 FTAA an authorised person³² for a listed project may lodge a substantive application with the EPA. The substantive application is required to follow the process set out in sections 43 and 44 FTAA. The Applicant lodged the substantive application on 4 April 2025.
- 61 The EPA decided that the Application was complete and within scope³³ on 30 April 2025. The EPA made a recommendation on whether there are competing applications or existing resource consents for the same activity on 13 May 2025.³⁴ The EPA then provided the Application to the panel convenor and at the same time requested a report from the Ministry responsible agency³⁵ under section 18 FTAA on 13 May 2025. A report was received on 27 May 2025.

Decisions on approvals

- 62 Section 81 FTAA states:

81 Decisions on approvals sought in substantive application

- (1) A panel must, for each approval sought in a substantive application, decide whether to—
 - (a) grant the approval and set any conditions to be imposed on the approval; or
 - (b) decline the approval.
- (2) For the purpose of making the decision, the panel—
 - (a) must consider the substantive application and any advice, report, comment, or other information received by the panel under section 51, 52, 53, 55, 58, 67, 68, 69, 70, 72, or 90;
 - (b) must apply the applicable clauses set out in subsection (3) (see those clauses in relation to the weight to be given to the purpose of this Act when making the decision):
 - (c) must comply with section 82, if applicable;
 - (d) must comply with section 83 in setting conditions;
 - (e) may impose conditions under section 84;
 - (f) may decline the approval only in accordance with section 85.
- (3) For the purposes of subsection (2)(b), the clauses are as follows:
 - (a) for an approval described in section 42(4)(a) (resource consent), clauses 17 to 22 of Schedule 5:

...
- (4) When taking the purpose of this Act into account under a clause referred to in subsection (3), the panel must consider the extent of the project's regional or national benefits.
- (5) For the purposes of subsection (4), if the substantive application was made under section 42(1)(b), the panel—
 - (a) must treat the stage of the project to which the application relates as constituting the project; but
 - (b) may consider the regional or national benefits of the whole project, having regard to the likelihood that any later stages of the project will be completed.
- (6) Despite subsection (2)(a), the panel—
 - (a) is not required to consider any advice, report, comment, or other information it receives under section 51, 53, 55, 67, 69, 70, or 72 after the applicable time frame; but
 - (b) may, in its discretion, consider the information as long as the panel has

³² FTAA, sections 4 and 42

³³ FTAA, section 43

³⁴ FTAA, section 47

³⁵ The Ministry for the Environment is the responsible agency for section 18

not made its decision under this section on the approval.

- (7) To avoid doubt, nothing in this section or section 82 or 85 limits section 7.

Ability to decline consent

- 63 Section 85 FTAA sets out the limited circumstances when approvals must or may be declined.
- 64 Section 85(1) and (2) set out the matters that apply to a mandatory decline decision. Section 85(3) sets out the matters that must be considered by the Panel in forming a view that the approval sought should be declined:

Approval may be declined if adverse impacts out of proportion to regional or national benefits

- (3) A panel may decline an approval if, in complying with section 81(2), the panel forms the view that—
- (a) there are 1 or more adverse impacts in relation to the approval sought; and
 - (b) those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits that the panel has considered under section 81(4), even after taking into account—
 - (i) any conditions that the panel may set in relation to those adverse impacts; and
 - (ii) any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.
- (4) To avoid doubt, a panel may not form the view that an adverse impact meets the threshold in subsection (3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with section 81(2).
- (5) In subsections (3) and (4), **adverse impact** means any matter considered by the panel in complying with section 81(2) that weighs against granting the approval.
- 65 The Panel has set out its assessment of the impacts of the Project within Part I of this Decision and has concluded that there are likely to be some adverse impacts. However, after taking into account the conditions that the Applicant has offered (and amended through the application process), and as further amended by the Panel, it is the Panel's considered view that the adverse impacts are not sufficiently significant to be out of proportion to the Project's regional or national benefits. The Panel has therefore concluded that the Applicant should be granted the approvals sought.

Approvals relating to the Resource Management Act 1991

- 66 The relationship of the FTAA with the RMA is outlined in Schedule 5 of the FTAA, which prescribes the consent application process that applies rather than the standard RMA consent application process. Clause 17 (relevantly) provides:

17 Criteria and other matters for assessment of consent application

- (1) For the purposes of section 81, when considering a consent application, including conditions in accordance with clauses 18 and 19, the panel must take into account, giving the greatest weight to paragraph (a),
- (a) the purpose of this Act; and
 - (b) the provisions of Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D of that Act); and
 - (c) the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991.
- (2) For the purpose of applying any provisions in subclause (1),—

- (a) a reference in the Resource Management Act 1991 to Part 2 of that Act must be read as a reference to sections 5, 6, and 7 of that Act; and
 - (b) if the consent application relates to an activity that is the subject of a determination under section 23 of this Act, the panel must treat the effects of the activity on the relevant land and on the rights or interests of Māori as a relevant matter under section 6(e) of the Resource Management Act 1991; and
 - (c) to avoid doubt, for the purposes of subclause (1)(b), when taking into account section 104(1)(c) of the Resource Management Act 1991, any Mana Whakahono ā Rohe or joint management agreement that is relevant to the approval is a relevant matter.
- (3) Subclause (4) applies to any provision of the Resource Management Act 1991 (including, for example, section 87A(6)) or any other Act referred to in subclause (1)(c) that would require a decision maker to decline an application for a resource consent.
- (4) For the purposes of subclause (1), the panel must take into account that the provision referred to in subclause (3) would normally require an application to be declined, but must not treat the provision as requiring the panel to decline the application the panel is considering.
- ...
- (6) For the purposes of subclause (1), the provisions referred to in that subclause must be read with all necessary modifications, including that a reference to a consent authority must be read as a reference to a panel.
- (7) Sections 123 and 123A of the Resource Management Act 1991 apply to a decision of the panel on the consent.

- 67 The Panel has considered clauses 17 and 18 of Schedule 5 FTAA and concludes that the purpose and principles of the RMA in sections 5, 6 and 7 remain relevant to our decision-making.
- 68 The Panel has taken into account the provisions of Parts 2, 3, 6, and 8 to 10 of the RMA which are relevant to consideration of the Application before it. The Panel observes that, although the Application has an overall activity status of “non-complying” under the RMA, the Panel is excluded from considering section 104D of the RMA (relating to particular restrictions for non-complying activities) by virtue of clause 17(1)(b) Schedule 5 FTAA. The Panel observes that, while the Application has been assessed over-all as a non-complying activity due to application of the “bundling” principle, the non-complying activity status is for a very specific non-compliance relating to departure from the AUP Thresholds for Development and Subdivision Table (Table I450.6.2.1) within the Drury precinct provisions in relation to traffic generation.³⁶
- 69 The Panel has taken advice on that particular non-compliance from Mr Hills, who concluded (following the expert conferencing) that, notwithstanding the non-compliance, the Proposal is acceptable from a transportation / traffic engineering point of view. The Panel has made a finding to this effect under the assessment of transportation effects below.
- 70 More generally, the Panel has assessed the Application taking into account the relevant provisions of the RMA relating to decision making on consent applications and particularly the matters identified as relevant under section 104 RMA and the purpose and principles of the RMA in Part 2. Its assessment of those matters is set out in more detail in the relevant sections of this Decision.

³⁶ Memorandum of Leo Hills for the Panel dated 20 October 2025, Section 2, p1 (See Appendix C to this Decision).

PART D: IWI AUTHORITIES

Section 18 Report for a listed project

71 The Ministry for the Environment provided a report under section 18 FTAA in accordance with section 49. The key conclusions from that report, dated 27 May 2025 are as follows:

3. *Section 18(2) of the Act requires that the report provide a list of relevant Māori groups, including relevant iwi authorities and Treaty settlement entities. Auckland has a complex Treaty settlement landscape with many overlapping interests. There are seventeen relevant Māori groups for this project area, which we have listed at Attachment 3.*
4. *The Treaty settlements relevant to this application are: Ngāi Tai ki Tāmaki Claims Settlement Act 2018, Ngāti Tamaoho Claims Settlement Act 2018; Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014, Ngāti Paoa deed of settlement, and Te Ākitai Waiohūa deed of settlement.*
5. *The Ngāti Tamaoho Claims Settlement Act 2018 includes a statutory acknowledgement over Hingaia Stream and its tributaries. The project area is located entirely within the Hingaia Stream catchment. The statutory acknowledgement obliges a consent authority (in this case the expert panel) to provide a summary of the application to the holder of the statutory acknowledgement (Ngāti Tamaoho Settlement Trust) and the consent authority must have regard to the statutory acknowledgement in its decision making.*
6. *The applicant has engaged with Māori groups, including Ngāti Tamaoho, regarding the proposed development.*
7. *We do not consider there are any matters raised in this report which make it more appropriate for the proposed approvals to be authorised under another Act or Acts.*

Substantive application information

72 The AEE provides an outline of consultation with relevant iwi authorities prior to lodgement of the Application. It advises that:³⁷

...eight relevant iwi authorities were contacted. Of those initially contacted Ngāti Te Ata Waiohūa, Ngāti Tamaoho and Te Ākitai o Waiohūa confirmed an interest in the proposal. A hui was held with representatives of each of the interested iwi authorities, to provide an overview of the proposal and the FTAA process. At each of the hui, iwi groups agreed to continue working with Kiwi Property collaboratively to ensure best outcomes were achieved on behalf of mana whenua in an efficient and constructive manner. Kiwi Property have been actively engaging with and involving mana whenua in design of the Drury Centre development over the past eight years, and the mana whenua representatives emphasised that the relationship between Kiwi property and mana whenua should continue to grow and

³⁷ AEE, at page 87

strengthen as development progresses. The hui minutes are included within the Consultation Summary Report (Appendix 22).

After correspondence attempts, no response was received from the remaining Mana Whenua authorities. A summary of the consultation undertaken, and correspondence received, is included in Appendix 22. Furthermore, Kiwi property is committed to ongoing Mana Whenua engagement beyond the regulatory process, and places a strong value on the continued contribution and input from mana whenua into development and design of the Drury Centre over the past eight years.

- 73 The AEE concludes in relation to cultural effects that:³⁸

Overall, on the basis that the relevant iwi authorities consulted have not expressed strong objection to the project and the ecological enhancements proposed are aligned with mana whenua values, it is considered that adverse effects on cultural values will be avoided or mitigated and the overall the effects will be positive.

Comments

- 74 Panel invited comments from a number of iwi authorities and Treaty settlement entities under section 53(2)(b)–(g) FTAA.³⁹ Comments were received from Ngāi Tai ki Tāmaki and Te Ākitai Waiohū.
- 75 Ngāi Tai ki Tāmaki expressed concern about how the consultation with them was described in the Application, noting that their records show the last engagement occurred in 2018. They requested clarification regarding the reference to consultation conducted during a hui for a separate project.
- 76 Te Ākitai Waiohū commented in relation to the 15-year lapse date sought by the Applicant and sought a number of amendments to the conditions (relating to archaeological monitoring, maintenance of baseflow in Stream A and accidental discovery protocols for lizards and archaeology).
- 77 The Applicant's response dated 28 August 2025 addressed those matters, as summarised below.
- 78 In relation to Ngāi Tai ki Tāmaki's request for clarification around consultation, the Applicant advised that consultation with Ngāi Tai ki Tāmaki had been undertaken throughout all stages of the Applicant's projects relating to the Drury Centre, with the

³⁸ AEE, at page 108

³⁹ Iwi Authorities: Ngāi Tai ki Tāmaki Trust, Te Ākitai Waiohū Waka Taua Inc, Ngāti Tamaoho Settlement Trust, Ngāti Paoa Iwi Trust, Ngāti Maru Rūnanga Trust, Ngāti Tamaterā Settlement Trust, Ngaati Whanaunga Incorporated Society, Ngāti Te Ata Claims Support Whānau Trust. Treaty Settlement Entities: Ngāi Tai ki Tāmaki Trust for Ngāi Tai ki Tāmaki Claims Settlement Act 2018, Ngāti Tamaoho Settlement Trust for Ngāti Tamaoho Claims Settlement Act 2018, Ngāti Paoa Iwi Trust, Ngāti Maru Rūnanga Trust, Ngāti Tamaterā Settlement Trust, Te Ākitai Waiohū Settlement Trust, Hako Tūpuna Trust, Taonga o Marutūāhu Trustee Limited/ Marutūāhu Rōpū Limited Partnership, Ngaati Whanaunga Ruunanga Trust, Ngāti Koheriki Claims Committee, Tūpuna Taonga o Tāmaki Makaurau Trust/ Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership, Te Whakakitenga o Waikato Incorporated

most recent being on 11 March 2025 (online hui with Ms Zaelene Maxwell-Butler) which involved provision of *"an update on timing for lodgement of the Stage 2 fast-track consent and particular aspects of the Project of interest to iwi including the works proposed to Stream A, riparian planting and other environmental opportunities to achieve key mana whenua principles"* (per minutes included at Attachment 1 to the Applicant's response). The Applicant advises that, in summary, they *"have consulted and engaged with Ngāi Tai ki Tāmaki in respect of the Project and do [not] (sic) agree with that no meaningful consultation has occurred since 2018 as suggested in the comments"*.⁴⁰

79 In response to the issues raised by Te Ākitai Waiohū, the Applicant's Response Table states that:

- (a) The 15-year duration of consent is necessary given the scale of the project and timeline for construction as outlined in the AEE with works proposed to commence in October 2025 and the last building being in Year 2034. While that is less than 15 years, flexibility is sought to manage construction and supply chain risks and to account for other matters outside the Applicant's direct control, while also providing certainty in seeking tenants etc.
- (b) In terms of the conditions:
 - Condition 34 has been updated to include archaeology monitoring as one of the milestones where provision is made for Mana whenua to undertake cultural monitoring, karakia, placement of tohu, and/or other such cultural ceremonies on the site.
 - Conditions 6-8 of the Streamworks consent requires a Stream Enhancement Plan (**SEP**) to be prepared prior to streamworks commencing, and implementation of this SEP, including post-construction monitoring conditions, will ensure the maintenance of baseflow in Stream A.
 - The Ecological Management Plan (required by conditions 21-23 of the Land use consent) includes a Lizard Management Plan which will outline passive management measures and an accidental discovery protocol for native lizards.
 - An Authority has been issued by HNZPT for the entire Stage 2 area. The accidental discovery protocols therefore do not apply and a consent condition to that effect has not been included.

80 The Panel acknowledges the responses to these matters raised by Mana whenua interests and considers that the Applicant has responded to these issues constructively and with an appropriate level of detail. The Panel observes that these parties will have an opportunity to provide comments on the Panel's draft decision and conditions if they consider there to be residual issues outstanding.

⁴⁰ Response to Comments Table, at page 3

Statutory requirements

Treaty settlements and recognised customary rights

- 81 Section 7 requires all persons performing functions and exercising powers under the FTAA to act in a manner that is consistent with the obligations arising under existing Treaty settlements.
- 82 Section 7 also relates to customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011 (**MACA**) and the Ngā Rohe Moana o Ngā Hapu o Ngāti Porou Act 2019. Those Acts are not relevant to this Application.⁴¹

Effect of Treaty settlements and other obligations

- 83 In relation to Treaty settlements, section 82 FTAA provides:

82 Effect of Treaty settlements and other obligations on decision making

- (1) This section applies if a Treaty settlement ... is relevant to an approval.
- (2) If the settlement or Act provides for the consideration of any document, the panel must give the document the same or equivalent effect through the panel's decision making as it would have under any relevant specified Act.
- (3) The panel must also consider whether granting the approval would comply with section 7.
- (4) In this section, **document**—
 - (a) means any document, arrangement, or other matter; and
 - (b) includes any statutory planning document amended as a result of the settlement or Act referred to in subsection (1).

- 84 The AEE includes an analysis of Treaty settlements that are relevant to the Site and surrounds. In particular:

- (a) Ngāti Tamaoho Settlement Act 2018: The Site is located within this statutory acknowledgement area for the Hingaia Stream and its tributaries. Appendix 22 (Consultation Record) to the Application records that the Applicant has consulted with Ngāti Tamaoho in relation to the proposal, and notes that a hui with Lucie Rutherford on behalf of Ngāti Tamaoho was held on 4 December 2024, with the minutes attached as Appendix 3 to that document.
- (b) Ngāi Tai ki Tāmaki Claims Settlement Act 2018: The AEE notes that the Site is not located within any of the statutory acknowledgement areas recorded in Appendix 21 to the AUP, and accordingly, "*there is no redress within the Ngāi Tai ki Tāmaki Claims Settlement Act 2018 which affects natural and physical resources relevant to the proposal or project area*".⁴² Nevertheless, it also notes that the Applicant has engaged in ongoing consultation with Ngāi Tai ki Tāmaki over a number of years (as previously noted), but Ngāi Tai ki Tāmaki had not expressed an interest in being involved during the pre-comments stage of the Application.

⁴¹ The Project Area is not located in the Common Marine and Coastal Area under the MACA and therefore the MACA does not apply. The Project Area is not in the rohe of Ngāti Porou and therefore the the Ngā Rohe Moana o Ngā Hapu o Ngāti Porou Act 2019 does not apply

⁴² AEE, at page 80

- (c) Ngāti Paoa Deed of Settlement 2021: The AEE advises that the Site is not located within any of the statutory acknowledgement areas affected by this Deed. However, Ngāti Paoa have been invited to comment on the application, but no expression of interest has been received by the Applicant.
- (d) Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014: The AEE advises that the Project Area is not within the listed maunga or motu and, as such, the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 is not applicable to the Proposal. Further, because the Proposal is on private land, it cannot be subject to a first right of refusal under this Act.

- 85 The AEE concludes that granting the Application would therefore be consistent with the obligations set out under existing Treaty settlements, and would not breach section 7 of the FTAA. The AEE suggests that this conclusion *"is supported by the provisional support for the project expressed in the CVA addendum prepared by Ngaati Te Ata Waiohū and the engagement with iwi to date which has not raised any strong objection to the project"*.⁴³
- 86 The Panel agrees, and notes that the conclusions of the AEE on this issue are consistent with the findings of the section 18 FTAA report prepared by MfE in relation to these matters.

Conditions relating to Treaty settlements and recognised customary rights

- 87 Section 84 FTAA provides:

84 Conditions relating to Treaty settlements and recognised customary rights

- (1) For the purposes of section 7, the panel may set conditions to recognise or protect a relevant Treaty settlement and any obligations arising under the Marine and Coastal Area (Takutai Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
- (2) This section applies in addition to, and does not limit, any other powers to set conditions under this Act.

- 88 Given the Panel has found that granting the approvals sought would not be inconsistent with section 7, it is not necessary to set conditions in relation to Treaty settlements under section 84.

Assessment of resource consent application

- 10 Clause 17 of Schedule 5 of the FTAA provides the criteria and other matters for assessment of resource consent applications. In summary, they require the Panel to take into account the purpose of the FTAA (which must be given the greatest weight), the provisions of the RMA that direct decision making on an application for resource consent, and the relevant provisions of any other legislation that directs decision making under the RMA. For the purpose of this Decision, only the provisions of the RMA are considered relevant.

⁴³ AEE, at page 132

PART E: EVALUATION OF EFFECTS

INTRODUCTION

- 89 Schedule 5 clause 5(4) requires a consent application to provide an assessment of an activity's effects on the environment covering the information in clauses 6 and 7. These matters include:

Clause 6(1)

The assessment of an activity's effects on the environment under clause 5(4) must include the following information:

- (a) an assessment of the actual or potential effects on the environment:
- (b) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use:
- (c) if the activity includes the discharge of any contaminant, a description of—
 - (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
 - (ii) any possible alternative methods of discharge, including discharge into any other receiving environment:
- (d) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect of the activity:
- (e) identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapū that have been consulted in relation to the proposal:
- (f) if iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision:
- (g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how the effects will be monitored and by whom, if the activity is approved:
- (h) an assessment of any effects of the activity on the exercise of a protected customary right.

Clause 7

The assessment of an activity's effects on the environment under clause 5(4) must cover the following matters:

- (a) any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects:
- (b) any physical effect on the locality, including landscape and visual effects:
- (c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity:
- (d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:
- (e) any discharge of contaminants into the environment and options for the treatment and disposal of contaminants:
- (f) the unreasonable emission of noise:
- (g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.

- 90 The AEE provided an assessment of these matters at section 10. Parties who commented (including the Council and NZTA) also raised a range of actual and potential effects. The AEE provided further detail on the following effects, as considered relevant to the scope of the application, the range of consents required, and the requirements of clause 7 of Schedule 5 FTAA:
- Positive effects (including economic and social);
 - Earthworks (erosion and sediment);
 - Geotechnical and land stability;
 - Construction noise and vibration effects;
 - Contamination;
 - Archaeology / Heritage;
 - Ecology and ecosystems;
 - Cultural;
 - Landscape and visual;
 - Urban design, subdivision and neighbourhood character;
 - Open space provision;
 - Servicing and infrastructure;
 - Stormwater discharge and quality;
 - Natural hazards and flooding;
 - Transportation; and
 - Operational noise.
- 91 The Panel notes that the Council agreed in its comments that a number of the above effects categories were of minor significance and/or were able to be addressed or resolved through appropriate conditions of consent. We record the conclusions on those matters, with reference to amended or new conditions, within the discussion of effects below.
- 92 Other remaining topics required us to make findings, including whether there were conditions of consent that could be imposed to ensure that an adverse effect was able to be appropriately mitigated, and that such matters would not result in impacts that would be out of proportion to the Project's benefits (the proportionality assessment required under section 85(3)). Matters related to stormwater/flooding and transportation, being key areas of disagreement between the Applicant and parties invited to comment, were the subject of facilitated joint conferencing between experts for the Applicant and the Council (including Auckland Transport, NZTA and Healthy Waters).

- 93 Actual or potential effects on the environment anticipated to arise from the Project can be grouped into the following categories:
- (a) Positive effects;
 - (b) Construction-related effects; and
 - (b) Operation-related effects.
- 94 The Panel has addressed these effects thematically in our discussion below. The Panel has also had regard to the relevant planning provisions in evaluating the effects of the Project, as noted in Part H: Planning Framework.
- 95 The Panel has applied the test in *Hawthorn*⁴⁴ to determine the relevant receiving environment. In summary, the environment includes that which presently exists. It also:⁴⁵

...embraces the future state of the environment as it might be modified by the utilisation of rights to carry out a permitted activity under a district or regional plan or by the implementation of resource consents which have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented.

- 96 In addressing the various effects relevant to the proposal, we have been assisted by the summary provided by the Council in its Planning Memorandum dated 11 August 2025 (prepared by the Council's planning consultant, Masato Nakamura), which summarises the Applicant's assessment and that of the Council's own specialists. We have generally adopted those summaries for each topic (except as otherwise noted), with reference as required to the Applicant's response to comments dated 29 August 2025 (**August Response**) and its response to the Panel's section 67 queries dated 19 September 2025 (**September Response**).

POSITIVE EFFECTS

Applicant's assessment

- 97 The AEE highlights the positive economic (and social) effects associated with the Project. These are summarised as follows:
- (a) The delivery of a development project with significant regional benefits, through the provision of a Centre comprising a variety of intensified land uses to support the accelerated delivery of surrounding infrastructure, including the Drury Central Rail Station, and rapidly increasing residential population in the receiving environment and surrounding Drury East area.
 - (b) The Applicant's Economic Impact Assessment prepared by Property Economics Limited (**PEL**) considers that the proposal will make a significant contribution to regional GDP and job availability, through the direct creation of approximately 3,420 full time equivalent (**FTE**) years in the construction sector, and a total construction expenditure of approximately \$1.47 billion. It also assesses that a

⁴⁴ *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 at [84].

⁴⁵ *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 at [84].

total of 7,750 FTE years will be directly or indirectly created during the development phase of the proposal, and that the total economic impact on business activity within the Auckland region over a 11-year period is estimated to be just over \$1.45 billion. It is also expected that the proposal will generate employment for the use of the Drury Metropolitan Centre once completed, which is considered likely to enable population retention within the South Auckland sub-region and deliver a greater economy of scale and productivity.

- (c) The proposal is also considered to provide a regionally significant contribution to Auckland's well-functioning urban environment, through a combination of the proposed infrastructure, housing, community and commercial activities, including in conjunction with surrounding Drury developments. Overall, the AEE considers that the proposal *"will be transformational for Drury and the wider South Auckland area which is expected to house an additional 120,000 people and induce demand for 38,000 jobs over the next three decades"*.⁴⁶

Council's assessment

- 98 The review undertaken by James Stewart, from the Council's Chief Economist Unit, concluded that the benefits claimed by the Applicant may be overstated. Mr Stewart states that the input-output (**I-O**) modelling methodology used has limitations *"which may overstate the economic benefits by not fully accounting for opportunity costs, displacement effects, and resource constraints"*.
- 99 Mr Stewart's assessment considers that I-O analysis does not account for crucial economic factors such as opportunity costs, displacement effects, and resource constraints. Therefore, a number of the claimed benefits are more accurately described as economic transfers rather than net benefits. For instance, the creation of 7,750 FTE job years is considered a transfer of employees from other potential projects or industries, with there being *"no basis to assume that these employees would otherwise be unemployed..."*.⁴⁷ A key omission identified in the Applicant's assessment was the opportunity cost that arises from allocating infrastructure capacity to the project, which was considered to contribute towards the cumulative infrastructure capacity allocated to the precinct. This raised the issue of capacity potentially being held in abeyance until the consent is given effect to, or lapses. This gave rise to a concern that reservation of capacity could limit the availability of infrastructure capacity for other developments.
- 100 Mr Stewart's review concludes therefore that a more robust cost-benefit analysis is required, following Treasury guidance, to provide a clear picture of the project's net economic value, and to compare a full range of incremental costs and benefit against a clearly defined counterfactual.
- 101 The response provided by PEL for the Applicant considered that some of the limitations identified in the Council review were overstated. It noted that supply constraints are a temporal factor based on the economic conditions at the time:⁴⁸

⁴⁶ AEE, at page 88

⁴⁷ Council Economic Assessment memorandum, 11 August 2025, at [12]

⁴⁸ PEL, 25 August 2025, at section 7

A key reason for the initial Fast Track process was the need to encourage early development and construction activity within the sectors most affected following the Covid period.

This along with a number of other macroeconomic effects have meant an assumption of underutilisation of resource within the modelling (such as labour, noting that unemployment for the Auckland Region as of June 2025 quarter is 6.1% which is the country's highest) is a valid response.

- 102 PEL does not consider that there is a realistic counterfactual to be measured against. It notes that the range of proposed activities are envisaged by the B-MCZ and are of a scale that is anticipated for that zone, subject to resolution of traffic-related issues. PEL also highlight that the FTAA was promoted by the Government *"to facilitate early consenting and development of major projects to support economic growth"*, and that *"the FTAA seeks to identify the economic significance of the project or proposal rather than the economic significance of the Fast Track process itself"*.⁴⁹
- 103 PEL does not agree that employment generated by the project would represent a redistribution of activity. It notes that the rationale for the FTAA was related to a concern about underemployment within the construction sector, and it would act as a catalyst for the broader economy. It referred to this in response to the fact that the Council's approach *"fails to consider the both the market in which Auckland has a 6.1% unemployment rate, as well as the dynamic nature of labour markets when jobs are scarce"*.⁵⁰
- 104 Overall, PEL emphasised that Drury is one of only 11 Metropolitan Centres in Auckland, and the only one currently underdeveloped, and this illustrates its regional significance. PEL therefore maintained that the assessment approach they have taken *"provides the most appropriate information to evaluate the economic benefits of the applications under the FTAA"*.⁵¹
- 105 The issue of cost-benefit analysis was further responded to by counsel for the Applicant, who submitted that:⁵²

Kiwi Property says that Council's submission that "Parliament cannot have intended that result, absent express language (such as a specific reference to "gross economic benefits")" is mistaken. To the contrary, in the absence of any reference in FTAA to a cost-benefit analysis or "net benefits" the only reasonable conclusion is that Parliament intended applicants to address gross benefits.

- 106 Counsel also addressed the argument that reserved capacity could be allocated elsewhere in the city, submitting that would ignore two factors:⁵³

(i) The opportunity represented by Kiwi Property's current and ongoing commitment (already apparent on the ground) to construct the Drury Centre

⁴⁹ PEL, 25 August 2025, at section 8

⁵⁰ PEL, 25 August 2025, at section 9

⁵¹ PEL, 25 August 2025, at section 10

⁵² Memorandum of counsel, 28 August 2025, at [17]

⁵³ Memorandum of counsel, 28 August 2025, at [42]

which will create immediate economic activity in the region and encourage the construction of housing in the vicinity.

- (ii) *The consensus between central and regional government that urbanisation of Drury is a priority for the region, illustrated by the current and ongoing commitment from central government to fund supporting infrastructure (e.g.: the Drury Rail Station, the six-laning of SH1, and arterial road improvements in the vicinity).*

107 The Panel has taken legal advice on the core issue raised in the economic analysis, relating to the reservation or “banking” of development capacity which might arise if this Application is granted but not implemented thereby potentially precluding other applicants for applying to use up the spare (or banked) capacity. The Hamm Opinion⁵⁴ addresses this issue. In summary, the Hamm Opinion reaches the following conclusions on this issue:

- The “first in first served” RMA principle applies in an FTAA context, and the Panel is required to consider this Application on its merits.
- A consent validly granted (even with a condition precedent preventing implementation until infrastructure is in place, and a long lapse date) would, on grant, form part of the receiving environment.
- The potential for ‘banking’ may be a relevant consideration for the Panel, provided that there is some planning or effects basis for this.
- It is not open to the Panel to decline the application solely on the basis of inconsistency with the Drury Centre Precinct provisions in the AUP.

Panel findings

108 The Panel notes the differences of opinion between the economic experts regarding the extent of benefits or positive effects that might arise from the Proposal. The Panel does not consider it necessary to resolve these differences of view in order to make a finding on the Application. It is clear that the proposal will give rise to positive effects, which is not challenged by the Council’s expert. Rather, the issue relates to the magnitude of those effects. The Panel has undertaken a separate assessment as to whether the adverse impacts of the Proposal are sufficiently significant to be out of proportion to the project’s regional or national benefits in Part M of this Decision.

109 In this section the Panel has focussed on the core issues raised in the economic analysis relating to banking of development capacity. The Panel agrees with the Hamm Opinion that it is required to consider this Application on its merits, rather than pre-empting potential future applications which may not arise and the details of which are unknown. While the Application, if granted, would be for a significant proportion of the development capacity contemplated by the Drury Centre, Waihoehoe and Drury East Precinct framework,⁵⁵ that framework is focussed on ensuring that development capacity

⁵⁴ Memorandum for the Panel dated 12 September 2025 from Vanessa Hamm, Holland Beckett.

⁵⁵ Established by Plan Change 48 (Drury Centre), Plan Change 49 (Drury East), and Plan Change 50 (Waihoehoe) to the AUP, which all became operative precincts on 16 December 2022.

corresponds with appropriate infrastructure delivery. It does not seek to allocate development capacity to specific developers or limit the scope of a particular application.

- 110 The timing of infrastructure provision (specifically transportation infrastructure) is addressed separately in this Decision (Part I). For present purposes, the Panel notes that the outcome of expert caucusing has resolved the Panel's concerns regarding the provision and timing of transport infrastructure. Even if the Panel considered the Application to be inconsistent with the Drury Centre Precinct provisions, the Panel is not entitled to decline the Application on that basis. The Panel considers that the concern of the Council relating to the potential for spare development capacity to be locked up by the long lapse date sought by the Applicant (15 years) can be addressed through a reduction in the lapse period to 10 years. This is addressed further in this Decision at Part I.

CONSTRUCTION EFFECTS

Earthworks (erosion and sediment)

Applicant's assessment

- 111 The Applicant proposes extensive earthworks, involving approximately 212,225m³ of cut and 195,873m³ of fill over a 20.85ha area. To manage the potential for erosion and sediment discharge, the Applicant has submitted an Erosion and Sediment Control Management Plan (**ESCMP**) and an Adaptive Management Plan (**AMP**).
- 112 The primary sediment control measures consist of six new and one existing chemically-treated Sediment Retention Ponds (**SRPs**). These have been designed to a robust 3% storage criterion, exceeding the minimum requirements of the Council's Guideline Document 05 (**GD05**). Additional measures include super silt fences along stream margins, clean and dirty water diversion channels, progressive stabilisation of completed areas, and stabilised construction entrances. The Applicant proposes to complete the bulk earthworks within a single season (October to April) but has requested a 15-year lapse date for the consent to provide for staged development.

Council's assessment

- 113 The Council's Regional Earthworks Specialist, Matthew Byrne, agrees with the Applicant's assessment and that the proposed erosion and sediment control measures are in accordance with GD05 and represent industry best practice. Mr Byrne also supports the oversizing of the SRPs as representing a robust approach.
- 114 Mr Byrne also supports the use of an AMP to provide real-time monitoring and control, allowing for adjustments to be made in response to the performance of the control measures. The proposed conditions of consent, including the requirement for finalised ESCMPs to be submitted prior to works commencing and the standard seasonal restrictions on earthworks, are considered appropriate. Mr Byrne supports a 15-year consent duration due to the nature and staging of the overall development.

Panel findings

- 115 The Panel agrees with the Council's conclusion that, while the scale of the proposed earthworks (without mitigation) presents a significant risk of sediment discharge to the surrounding streams, which flow into the Pahurehure Inlet, the Applicant has proposed

a comprehensive and robust suite of erosion and sediment control measures that meet and, in some cases, exceed the standards of GD05.

- 116 We also agree that the combination of oversized, chemically-treated SRPs, a full suite of supporting measures, and the implementation of an ESCMP and AMP is considered an appropriate methodology to manage the potential adverse effects. The Panel therefore finds that the potential effects of the earthworks will be acceptable and can be appropriately managed.
- 117 The Panel also notes that, as part of the Applicant's response to the Panel's section 67 request, the conditions were updated (19 September 2025) to incorporate an objective statement relating to the provision of a Chemical Treatment Management Plan. This was added as new Condition 32A and suitably addresses the Panel's question on this issue.

Geotechnical and land stability

Applicant's assessment

- 118 The Applicant has provided a Geotechnical Investigation Report (**GIR**) prepared by CMW Geosciences (**CMW**). The investigations undertaken by CMW confirm that the Site is generally suitable for the proposed development. The key geotechnical hazards identified include settlement of compressible soils under the load of the proposed fills and future buildings. CMW have recommended ground improvement options, such as pre-loading or the use of deep foundations for future buildings. The GIR also confirms that the liquefaction potential is negligible and that proposed slopes will meet the required factors of safety. Although the proposed earthworks include cuts of up to 8.5m and fills up to 7m, these are considered achievable with conventional machinery, although the presence of allophanic soils will require careful management.

Council's assessment

- 119 The Council's Development Engineering Specialist, Maria Baring, agrees with the conclusions of the GIR and agrees that the site is suitable for the proposed development, provided the recommendations in the GIR are followed. Ms Baring also supports the proposed approach to managing geotechnical risks and recommends conditions of consent to ensure that all geotechnical works, including the construction of retaining walls and the placement of fill, are supervised and certified by a suitably qualified engineering professional. This includes the requirement for a Geotechnical Completion Report to be submitted to the Council upon completion of the works.

Panel findings

- 120 The Applicant's geotechnical investigations have identified potential settlement issues, which is not considered uncommon for a development of this scale and nature. The Applicant has proposed appropriate mitigation and management measures to address these risks, which are agreed on by the Council's specialists. Subject to the implementation of the recommended consent conditions, including the requirement for professional supervision and certification, the Panel finds that the geotechnical and stability risks associated with the development can be appropriately managed.

Construction noise and vibration effects

Applicant's assessment

- 121 The Applicant has provided an Assessment of Noise Effects, prepared by Styles Group (**ANE**), incorporating an assessment of construction noise and vibration effects. The ANE concludes that construction noise and vibration levels will comply with the permitted standards in the AUP for the majority of the works. However, it predicts that construction noise may exceed permitted limits by up to 10dB at adjacent receivers in the B-MUZ and B-MCZ when high-noise generating activities occur within 50m of an occupied building. Similarly, construction vibration may exceed the 2mm/s Peak Particle Velocity (**PPV**) amenity limit under certain conditions, such as during vibratory compaction near a boundary. To manage these effects, the Applicant proposes a detailed Construction Noise and Vibration Management Plan (**CNVMP**), to be prepared with reference to Annex E of the construction noise Standard NZS 6803:1999 (and submitted to the satisfaction of the Council before any works start on site).
- 122 An outline of the CNVMP is included at section 5.0 of the ANE and recommends measures such as communication with neighbours, use of noise barriers, and monitoring procedures to ensure effects are reasonable. The CNVMP will manage construction noise to not exceed 80 dB L_{Aeq} and vibration to not exceed 5mm/s PPV at any occupied building.

Council's assessment

- 123 Construction noise and vibration effects have been reviewed by the Council's Noise and Vibration Specialist, Bin Qiu, who generally agrees with the Applicant's assessment and proposed management approach. Mr Qiu also agrees that the predicted construction noise exceedances are likely to be intermittent and can be managed through a comprehensive CNVMP.

Panel findings

- 124 The expected level of construction and vibration effects will be of a temporary nature at each stage of the development, and the Panel accepts the advice of the Applicant's and Council's experts that adverse effects, as received by adjacent commercial properties, can be managed to a reasonable level through the implementation of a detailed CNVMP, as proposed by the Applicant and supported by Council's specialist. Accordingly, the Panel finds that the noise and vibration effects of the Proposal are acceptable and can be appropriately managed.

Contamination effects

Applicant's assessment

- 125 The AEE (and Council review) refer to a Detailed Site Investigation (**DSI**) having been previously prepared for land across both Stages 1 and 2 of the Drury Metropolitan Centre, which revealed that Hazardous Activities and Industries List (**HAIL**) activities have been undertaken on this piece of land. Additional soil testing was more recently carried out on specific areas at 64 and 120 Flanagan Road and the results are presented in the Remediation Action Plan (**RAP**) prepared by CMW in Appendix 13A. The Council

review notes that a series of contamination reports have been prepared by CMW and Aurecon.

- 126 However, reference to the Application material identifies that the CMW and Aurecon investigations are related to ground and geotechnical analyses. The Stage 2 RAP (Appendix 13A) and Stage 1 contamination summary (Appendix 13B) were prepared by EMGEO Limited (both in March 2025).
- 127 Nevertheless, the Panel accepts the Council's summary of findings that these investigations have identified historical activities on the site that are listed on the HAIL, including uncontrolled filling, the presence of buildings with asbestos-containing materials, and the historical storage and use of super-phosphate fertiliser. Soil testing also confirmed the presence of contaminants, including heavy metals (lead, nickel, zinc) and asbestos, in localised areas (or 'specific hotspots'). Specifically, undocumented fill at 64 Flanagan Road was found to contain fragments of asbestos-containing material. At 108 Flanagan Road, historical fill contained asbestos at concentrations equivalent to the human health criterion, as well as lead and nickel above environmental discharge criteria.
- 128 The Applicant has proposed a remedial strategy focused on the removal of contaminated soil from the identified hotspots to manage these risks, particularly relating to the undocumented fill at 64 Flanagan Road. The handling and disposal of this material will be governed by a detailed Site Management Plan and the RAP to ensure risks to human health and the environment are appropriately managed, and to ensure that the site will be suitable for the proposed mixed-use development.
- 129 Proposed conditions of consent relating to contamination, the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**NES-CS**), and Chapter E30 of the AUP, were included as Part C – Contaminated Land Discharge Permit (section 15 RMA).

Council's assessment

- 130 Contamination effects have been reviewed by the Council's Contamination Specialist, Fiona Rudsits, who agreed with the findings of the Applicant's investigations and supports the proposed remedial approach. Ms Rudsits agreed with the Applicant's assessment as to the applicable regulatory pathways to be addressed (i.e. NES-CS and Chapter E30 of the AUP), and that consents under these provisions will manage the localised areas of contamination identified in the Applicant's DSI.
- 131 Ms Rudsits had also reviewed the Applicant's proposed consent conditions and considers them to be generally satisfactory for managing the contaminated soils on-site. However, to ensure comprehensive oversight, she recommended that the conditions relating to the management of contaminated materials apply to consents under both the NES-CS and Chapter E30 of the AUP to ensure that all aspects of the remediation and soil management are robustly controlled. Specifically, she recommended that:
 - (a) Conditions 1 and 3–11 should apply to both the NES-CS land use consent (Council reference LUC60447511) and the contaminant discharge consent (Council reference DIS60447515); and
 - (b) Conditions 2 and 13 applies only to the discharge consent (Council reference DIS60447515).

- 132 The Panel notes that the Applicant's August Response confirms its acceptance of Ms Rudsits' recommendations to the conditions, and these were incorporated into the revised conditions included as Attachment 2 to the Response. On further review, this amendment was limited to the inclusion of the phrasing "*Conditions 1 and 3-11 also apply to the Land Use Consent (insert consent reference)*", and were subsequently incorporated into the land use consent conditions (Part A) as part of an updated set.

Panel findings

- 133 The Applicant's investigations have confirmed localised contamination on the site, consistent with its historical use. However, the proposed approach of targeted remediation and management through a detailed RAP and Site Management Plan has been agreed by the Council as an appropriate strategy. The Council also agrees that the implementation of the recommended consent conditions will ensure that the excavation, handling, and disposal of contaminated materials are managed in a way that protects human health and the environment. The Panel adopts that assessment, and accordingly we find that the localised effects of contamination can be appropriately managed to ensure the overall site is safe and suitable for the proposed development.
- 134 The Panel also notes that, as part of the Applicant's September Response (to the Panel's section 67 request), the conditions were updated (19 September 2025) to address the Panel's questions relating to not having been provided with a draft of either the Site Management Plan or an Environmental Management Plan (which are referred to in Conditions 3, 5 and 13(a)). The September Response advised that ENGEO have prepared a Site Management Plan but this had inadvertently been omitted from the application material (and has now been provided). The reference to an Environmental Management Plan was advised to be an error and has been deleted from the updated conditions.

Effects on archaeological heritage

Applicant's assessment

- 135 The Applicant has provided an Archaeological Assessment (**AA**) prepared by Clough & Associates which identifies one recorded archaeological site within the Project Area, being the Flanagan Homestead, which dates to the 1880s (reference R12/1125). The homestead building has been removed from its original location for future relocation within the Drury Centre. However, the AA advises that a shell midden of uncertain origin (either European or earlier Māori) was identified in the grounds following the homestead's removal.
- 136 The AA also notes the potential for unrecorded subsurface archaeological remains, particularly in relation to the homestead, the riparian margins of the Hingaia Stream and an unnamed stream, and an area with potential to contain remains of a New Zealand Wars military camp. The proposed earthworks will directly affect the location of the former homestead and the associated midden. To mitigate these effects, the Applicant has obtained an Archaeological Authority (reference 2025/112) from HNZPT, and proposes to manage all archaeological matters through an Archaeological Management Plan, which includes archaeological monitoring of preliminary earthworks in specified sensitive areas.

Council's assessment

- 137 The historic heritage and archaeological matters have been reviewed by the Council's Principal Heritage Advisor, Mica Plowman, who agreed with and supports the findings of the AA. Ms Plowman confirmed that the primary effects are on the subsurface remains of the Flanagan Homestead site and that there is potential for the discovery of unrecorded archaeological sites. She agreed that obtaining an Archaeological Authority from HNZPT is the appropriate mechanism for managing the modification of the site and that the proposed mitigation, centered on archaeological monitoring during earthworks in specified areas, is sufficient. Ms Plowman also confirmed her view that the proposed consent conditions, which require a pre-start meeting and archaeological supervision of earthworks in the identified sensitive areas, are adequate to manage the potential effects on historic heritage.
- 138 The Applicant's August Response notes that, because an Archaeological Authority has been obtained, accidental discovery protocols do not apply and clarified that inclusion of such protocols as part of the pre-start meeting is not required. Condition 33 has been amended to reflect this (per Attachment 2 to the August Response).

Panel findings

- 139 The proposed works will affect a known archaeological site and have the potential to disturb unrecorded archaeology. However, the Applicant has identified these effects and has secured the necessary statutory approval from HNZPT to modify the site. The Panel agrees that the proposed mitigation, involving archaeological monitoring during earthworks under the guidance of an Archaeological Management Plan and the obtained HNZPT Authority, are appropriate methods to address this issue.
- 140 Accordingly, the Panel finds that adverse effects on historic heritage and archaeological values will be appropriately mitigated through the investigation, recording, and recovery of information, in accordance with the proposed conditions (as updated) and associated statutory processes.

Ecology effects

Applicant's assessment

- 141 The Applicant has provided an Ecological Impact Assessment (**EcIA**) prepared by Tonkin & Taylor, which identifies that the Site's ecological values are typical of a modified agricultural landscape, with degraded streams (Hingaia Stream, Stream A and Fitzgerald Stream) and several low to moderate value seepage wetlands.
- 142 The EcIA acknowledges that the proposed works will result in ecological impacts, most notably the reclamation of 2,172m² of the natural inland 'Stream A Wetland' and a net loss of approximately 48m² of open stream channel value from the reclamation and realignment of Stream A. To manage these and other effects, the Applicant proposes a suite of mitigation measures, including the daylighting and realignment of parts of Stream A with enhanced habitat features, riparian planting, implementation of various fauna management plans (for fish, bats, birds, and lizards), and robust erosion and sediment controls. The Applicant acknowledges that, despite these measures, residual adverse effects will remain, resulting in a net loss of both stream and wetland extent and ecological value.

Council's assessment

- 143 The Council's Consultant Ecologist, Jason Smith, has reviewed the application and EcIA and generally agreed with the Applicant's description of the Site's ecological values and the assessment methodology used. In terms of terrestrial ecological effects, Mr Smith supported the proposal noting that the Applicant's EcIA outlines appropriate measures including management plans for birds, bats, and lizards. These have been provided as part of the application material through the draft Ecological Management Plan (**EMP**), which is considered to align with best practice.
- 144 However, some concerns were noted by Mr Smith in relation to residual adverse effects. These are summarised below, with reference to the Applicant's August Response to these matters. Due to these issues, Mr Smith was unable to reach a position of support for the Application, but nevertheless recommended conditions to assist the Panel in the event the Application is granted.

Stream A Wetland reclamation

- 145 Mr Smith noted that the reclamation of the Stream A Wetland results in a 'Moderate' adverse effect under the EIANZ guidelines, for which no offset or compensation is proposed. Furthermore, there is an unaddressed loss of ecological value for approximately 48m² of open stream channel.
- 146 The Applicant's August Response advised that the ecological value of Stream A is considered to be moderate, typical of rural streams, while Stream A Wetland is considered to have a low current ecological value due to its modification. It went on to say:⁵⁶

The effects management hierarchy has been applied as far as practicable to address the effects of the proposed reclamation. Offsetting is proposed on site through daylighting, riparian planting and habitat creation. In the absence of the project being undertaken, Stream A would remain in their current degraded state. In that context, the project provides for an ecological improvement for those streams that are to be improved despite a net loss in ecological values and extent. There are also other positive freshwater ecology outcomes as the proposal will maintain base flows, provide good stormwater outcomes, provide for fish passage and naturalisation of the stream including returning portions to its natural alignment. When considering the current ecological value of the Stream A and Stream A Wetland and the ecological improvements proposed, it is considered that any adverse effects will not be significant and are considered appropriate in the context of the FTAA having regard to the significant regional benefits of the project.

- 147 It concluded that the adverse effects of the proposed reclamation are not out of proportion with the significant regional benefits of the Project.

Hydrology of Wetland 1

- 148 Mr Smith also raised concerns about the under-reporting of effects on the hydrology of 'Wetland 1', which is expected to have its catchment reduced by 50%, creating uncertainty about its long-term viability. Due to the net loss of stream and wetland

⁵⁶ Applicant Response, dated 28 August 2025, at pages 23/24

values and extent, and the uncertainty regarding hydrological effects on an existing wetland, Mr Smith was not able to support the Application as currently proposed and recommended a condition requiring the residual adverse effects to be addressed through a comprehensive Streamworks Environmental Effects Management Plan (**SEEMP**).

- 149 The Applicant's August Response advised that the ecological impact assessment relating to Wetland 1 had been further clarified through a response by the Council to an earlier section 67 request (Item 64), noting that:⁵⁷

Wetland 1 is groundwater fed from the Hingaia Stream and any surface water input will contribute to the hydrology of Wetland 1 but is not the sustaining hydrological feature. In summary, in a worst-case scenario we expect a loss of a moderate portion of Wetland 1 due to changes in hydrology from reduced surface water inputs, which we assessed as moderate magnitude of effect. Combined with a low ecological value of Wetland 1, the overall level of effect was assessed as low. As the overall level of effect is considered low, no further effects management measures are considered necessary.

- 150 The August Response proposed that greater weight should be given to the purpose of the FTAA (i.e. facilitating the delivery of infrastructure and development projects with significant regional or national benefits) and on that basis commented that:⁵⁸

The [EcIA] outlines that residual adverse ecological effects remain (Appendix 15, Section 6) and are not proposed to be offset or compensated for. The level of residual effects are not significant and are considered appropriate in the context of the FTAA having regard to the significant regional benefits of the project.

Panel findings

- 151 The Panel acknowledges that implementation of the Project would result in residual adverse ecological effects which are not proposed to be offset or directly compensated for. However, the parties' experts are agreed that the value of the affected waterbodies range from moderate to low with a corresponding magnitude of effect. Following expert conferencing in relation to stormwater issues, the JWS records that the Council senior ecologist and the Council senior stormwater specialist agreed that no further assessment or conditions were required to address this issue.
- 152 While the Panel is required to take into account the requirement under the RMA to have regard to any actual and potential effects on the environment of allowing the activity and may have regard to any offsets or compensation provided by an applicant, the Panel cannot require the Applicant to provide an offset or compensation for any residual effects.
- 153 In the context of the FTAA, the Panel may only decline an approval if it forms the view that the adverse impact(s) of the Project "are sufficiently significant to be out of proportion to the project's regional or national benefits" (section 85(3) FTAA). The Panel does not consider that the potential ecological effects reach that threshold.

⁵⁷ Applicant Response, dated 28 August 2025, at page 16

⁵⁸ Applicant Response, 29 August 2025, at page 16

Cultural effects

Applicant's assessment

- 154 The AEE notes that there are no sites or places of significance to Mana Whenua within or surrounding the Project Area. Nevertheless, and as previously described in Part D above, the Applicant has undertaken consultation with the relevant iwi authorities and the AEE advises that the Applicant continues to actively engage with the Drury East Mana Whenua Group on the development and cultural narrative for Drury Centre to honour its cultural history.
- 155 In relation to effects on freshwater environments, the AEE explains that the Proposal (including daylighting of the lower reaches of Stream A) takes into account priorities identified during regular hui with the Mana Whenua Group, and will improve and enhance the mauri of freshwater and be aligned with Mana Whenua values, notwithstanding the net loss in ecological values. It also highlights the adoption of water-sensitive design with the treatment of contaminants prior to discharge to improve stormwater quality, and the mauri of freshwater. It concludes that:⁵⁹

Overall, on the basis that the relevant iwi authorities consulted have not expressed strong objection to the project and the ecological enhancements proposed are aligned with mana whenua values, it is considered that adverse effects on cultural values will be avoided or mitigated and the overall the effects will be positive.

- 156 It is also noted that effects on cultural values associated with earthworks are proposed to be addressed through conditions that require cultural monitoring and inductions, primarily prior to the commencement of works, but also at other times as agreed between the Applicant and Mana Whenua.

Panel's findings

- 157 Having regard to the comments received from Ngāi Tai ki Tāmaki and Te Ākitai Waiohū and the August Response to those comments, the Panel is satisfied that any adverse effects on cultural values will be appropriately addressed. [placeholder to address any comments received on draft conditions]

OPERATION AND IMPLEMENTATION EFFECTS

Landscape and visual effects

Applicant's assessment

- 158 The AEE states that the significant physical and visual change from a rural to an urban character is contemplated by the AUP zoning and the Drury Centre Precinct (and no specialist landscape and visual effects assessment was provided as a result). The AEE concludes that the development is consistent with the planned future character, responds to the Site's natural landscape features through the integration of the Hingaia Stream corridor and the creation of open spaces, and that any adverse landscape and visual effects will be less than minor.

⁵⁹ AEE, at page 108

Council's assessment

- 159 The Council's review noted that the proposed development will transform the Site's character from rural to a high-density metropolitan centre, but that this is a change that is anticipated by the AUP and the Drury Centre Precinct.
- 160 The proposal was reviewed by the Council's Principal Landscape Architect, David Ferrari, who generally supports the proposed bulk, scale, and massing of the development, and considers the Proposal to align with the provisions of the B-MCZ. However, Mr Ferrari's review identified some areas of concern relating to the lack of detailed design information provided in the Application, which created uncertainty about the quality of the final built outcomes, particularly at key public interfaces such as the arrival experience from SH1 and the edges of the Hingaia Stream reserve.
- 161 Mr Ferrari noted that the extensive earthworks proposed are at odds with the Precinct's objective of using the natural landform to create a sense of place. He also raised concerns regarding the visual quality of the arrival experience from the new SH1 off-ramp, particularly the façade treatment of large carparking buildings (Lots A and D) which front key public areas, including the Hingaia Stream reserve.
- 162 A primary issue identified by Mr Ferrari is that the Application documents, particularly the architecture and landscape plans, lacked the level of detail typically required for a resource consent application of this scale. Additional consent conditions are therefore recommended to require a staged design review process. This would involve the Applicant submitting 'developed design' plans for both architecture and landscape elements for review and approval by the Council prior to the submission of final detailed plans for certification.
- 163 The Applicant's August Response advised that the recommended developed design conditions are not supported, and that there is adequate information within the material submitted to determine any effects. The Applicant considered that the additional review and approval process proposed by the Council would add an unnecessary step to the consenting process, noting there is already a requirement to submit a finalised set of architectural detail drawings at the time of building consent (Condition 24).
- 164 Similar comments were made by the Council's Urban Design specialist as to the need for more clearly articulated drawings depicting the external design and appearance of buildings (e.g. commercial buildings 63 and 39 in Lot E). The Applicant's Response refers to the requirements of Condition 24, which requires final architectural design plans including material and finishes, and advises that:⁶⁰

It is through this proposed consent condition where the final design and appearance of buildings will be clearly articulated including the facades of car parking buildings of particular interest to the Council's urban designer. These final architectural design plans will be provided to Council at the time of building consent for certification and an additional advice note has been added in relation to this condition clarifying that the Council's Urban Design Unit will review these final

⁶⁰ Applicant Response, 29 August 2025, at page 13

design plans to ensure they are consistent with the design intent of the approved plans.

- 165 The Applicant's proposed amendments to Condition 24 (including through the September Response to the Panel's section 67 request), include the following changes (underlined):

24. *At the time of building consent lodgement for the buildings approved in this consent, the consent holder must prepare a finalised set of architectural detail drawings which must include the following:*

- (a) detailed colour elevations with annotated material schedule and specifications;*
- (b) details of the location of all building entrances accessible by the public;*
- (c) details of all building verandah along street frontages where any are proposed;*
- (d) final locations of bike parking, ~~and~~ electric vehicle charging facilities, pedestrian paths and trolley bays;*
- (e) details of the location and size of areas for waste storage and collection within individual buildings;*
- (f) ~~materials schedule and specification;~~ sample palette of materials, surface finishes, and colour schemes (including colour swatches); and*
- (g) any external rooftop services/plant, lift/stairwell structures and visual/ aural screening elements.*

Advice Note:

As part of the condition monitoring process, Council's monitoring inspectors will liaise with members of the Council's Tāmaki Makaurau Design Ope (Urban Design Unit) to provide confirmation of design compliance in relation to architectural drawings and materials specifications under this condition. The confirmation of design compliance does not relate to Building Act 2004 or Building Code compliance. A separate building consent application is required, and all building work must comply with the provisions of the Building Act and Building Code. We recommend that you seek appropriate specialist advice to ensure coordination between compliance with design requirements and Building Act and Building Code compliance.

Panel findings

- 166 The Panel is satisfied that the amendments to Condition 24 address the concern relating to architectural details and provide appropriate scope for matters normally considered in a design review to be considered at the building consent stage. We do not consider that a further and earlier stage of review for either architectural or landscape plans to be necessary.
- 167 The Panel also considers that the range of matters to be addressed as part of the finalised landscape plan review (Condition 26) contain sufficient scope to address the matters raised in Mr Ferrari's proposed additional condition (i.e. landscape plans for each "landscape design area"). We also note that the Applicant has proposed a change in this condition to require that "a NZILA Registered Landscape Architect, or NZILA Registered

Landscape Architecture Firm" be engaged to prepare the landscape design drawings (rather than *"a suitably qualified and experienced professional"*).

- 168 Overall, the Panel considers that, while the proposed development will transform the Site's character from rural to a high-density metropolitan centre, such a change is clearly anticipated by the AUP and the Drury Centre Precinct. We find that the overall scale and massing of the development is appropriate for proposed Centre's function, and that the proposed conditions provide for an appropriate level of review and refinement prior to the building consent stage, in a manner that should ensure a high quality outcome in terms of building design and finish and landscaping.

Urban form, character and amenity effects

Applicant's assessment

- 169 The Applicant provided an Urban Design Assessment (**UDA**) prepared by Barker & Associates which concludes that the proposal is appropriate for its context and aligns with the relevant urban design objectives and policies of the AUP. The UDA states that the street network and block structure are well-connected, respond to site constraints, and are consistent with the Drury Centre Precinct plans. The built form is described as providing a high-quality design response that reinforces the centre as a community focal point, with building heights, massing, and articulation creating visual interest and a positive pedestrian environment, particularly along the key retail street.
- 170 The Application also include the subdivision of 292 vacant residential lots within the Stage 1 area. The UDA comments that these lots are configured to support good levels of on-site amenity and a range of future housing typologies consistent with the B-MUZ, noting that new buildings on these allotments would require a separate resource consent that would be subject to the Council's review and approval. The UDA concludes that the overall development will create a vibrant, walkable, and attractive metropolitan centre.

Council's assessment

- 171 The Council's assessment concluded that the proposal is generally consistent with the planned urban form for a new metropolitan centre as anticipated by the AUP and the Drury Centre Precinct, and that the overall layout, building mix, and scale are considered appropriate for a transit-oriented development of this nature.
- 172 However, it identified some unresolved issues raised by the Council's Team Leader Urban Design, Chris Butler, regarding the detailed design and its implementation that are anticipated to create uncertainty and risk poor urban design outcomes. Mr Butler noted that the site is live-zoned for the type of development proposed and that he is broadly supportive of the street network, block structure, and the general building mix and scale. However, he referred to a number of significant urban design concerns relating to connectivity, street activation, street network design, connection to Lot C and the residential subdivision (number of rear lots), and recommended a number of additional conditions to address these matters. These matters are discussed in more detail below, with reference to the Applicant's August Response on those topics (and the recommended conditions).

Connectivity

- 173 Mr Butler was concerned about the lack of road connections to the eastern boundary of the site which he described as creating a large, impermeable urban block of approximately 400m in length (north-south). This was considered to significantly hinder connectivity and integration with adjacent future developments, contrary to the Precinct's objective for a well-connected street network.
- 174 The Applicant provided an amended proposal, through its August Response, to fully form Road 6 through to the Site boundary. No additional road connection to the south is proposed however, as Lot 42/Lot K already incorporates a 24m-wide area of open space that accommodates an overland flow path from east of the Site. The landscape plan was also amended to incorporate a pedestrian connection through this open space area to the adjacent site.

Street activation

- 175 Mr Butler noted the provision of dual frontages for retail tenancies to both a public street and an internal pedestrian accessway or carpark. His concern was that emphasis on internal-facing entrances could lead to inactive or 'dead' frontages on public streets, which would undermine the vitality and safety of the public realm. He recommended a condition which would require all lots that have a frontage to a street (public or private) to ensure access is provided directly from the street to the store front during opening hours (in addition to any secondary access which may be provided to that store from a covered pedestrian accessway or internal car park).
- 176 The Applicant advised in its August Response that the architectural plans demonstrate that all commercial/retail buildings fronting public and private streets, as well as areas of open space, have been designed to engage with and activate streets. To address Mr Butler's concern regarding the retail units that also share a frontage with the proposed pedestrian laneways (primarily on Lots A and B with a frontage to Road 13), the Applicant has proposed Condition 24A as follows:

24A The consent holder must ensure that all ground floor commercial tenancies that have dual active frontages on Lots A and B must have direct customer access from the adjoining private roads (Road 13).

- 177 The Applicant's Response notes that the buildings on Lots E and G2 have not been designed to open out onto an internal parking building.

Street network design

- 178 Mr Butler raised concerns about the detailed design of key streets, including a lack of clarity on the future upgrade and function of Flanagan Road as it interfaces with the proposal (H1 and H2), and an insufficient provision of on-street parking along the key retail street (Hotiki Road) to support the level of vibrancy expected under the Precinct.
- 179 The Applicant advised in its August Response that the plans have been amended to include provision for a footpath and frontage upgrades along the development frontage of Flanagan Road to the Aquatic Centre (F1) and Buildings H1 and H2. New Condition 85B is also proposed to ensure this frontage upgrade occurs along Flanagan Road, as follows:

85B. *Prior to occupation of Lot H1, H2 and F2, the development side of Flanagan Road must be upgraded in accordance with the plans listed at Attachment 2 of Condition 1 (Drawing number P24-447-01-2004-DR, rev 10).*

Advice note:

The upgrade of Flanagan Road required in this condition is to be based on the reinstated surface of Flanagan Road by KiwiRail or NZTA following their damage to it caused by their construction activities.

Lot C connection

- 180 Mr Butler recommended the inclusion of a pedestrian connection within Lot C from Rauika (Road 1) to provide a more direct route from the residential area to the south (within Stage 1). This was included in the updated plans provided with the Applicant's August Response.
- 181 The Panel also questioned the lack of a direct connection to Lot C from the west (within Lot B) to Te Hononga Road. This was responded to in the Applicant's September Response where the through-carpark pedestrian connection has been re-positioned to connect in with the southern arm of the intersection between Te Hononga Road, Road 13, and the Lot C vehicular access. This was explained as ensuring that pedestrian movements can be accommodated on the main pedestrian desire line from the western part of the Centre (and close to the Lot B pedestrian laneway) in a manner and location that balances the wide range of access requirements for different modes in and around the Centre.

Stage 1 Residential subdivision

- 182 Mr Butler highlighted the reliance on JOALs and the creation of numerous rear lots for the proposed subdivision, expressing a concern that a lack of accompanying detailed design guidance could lead to a significant risk of poor-quality and uncoordinated development outcomes. He recommended that future development on these lots be undertaken in a comprehensive and coordinated manner to ensure a high-quality residential environment is achieved.
- 183 The Applicant advised in its August Response that future development of Lots R10-R22 would remain subject to the provisions of the AUP. Notably, all future buildings would require resource consent as a restricted discretionary activity where matters of design can be appropriately considered and addressed as part of the consent process.⁶¹ It considered the recommendation for a design manual/guide "*to be unnecessary and superfluous given that this will be addressed by the consenting framework and processes of the AUP*".⁶²
- 184 The Panel generally accepts the Applicant's responses including the proposed additional conditions and plan revisions. We had some initial concerns that the Stage 1 subdivision design might influence the design of future buildings, irrespective of whether they are subject to a future resource consent process. However, on further review of the general subdivision layout, whereby site shapes are generally regular and generally minimise the

⁶¹ Being what the Panel understands is a reference to Rule H13.4.1(A45) and matters of discretion at H13.8.1

⁶² Applicant August Response, at page 24

creation of rear lots, the Panel is satisfied that any issues associated with rear lots can be addressed through the resource consent process.

LED screens

- 185 The Panel also questioned (through its section 67 request) the proposed use of, and conditions related to, two large LED variable message screens to be located on key building corners. In its September Response the Applicant clarified that these would not provide for third-party advertising and therefore would not be considered 'billboards'. From an urban design perspective, the Applicant's response noted that these would be located on carpark buildings and that the signage, together with the architectural and material treatments, would "*combine to add a layer of visual richness, depth and interest to these façades appropriate to their context*".⁶³
- 186 The Applicant also provided an assessment against the relevant AUP criteria for variable message screens and highlighted the assessment of traffic-related matters associated with the signs provided by CKL in its August Response. The Applicant advised that the recommendations made by CKL have been reflected in new Conditions 30A, 30B and 30C.
- 187 This matter was further considered within the Transportation JWS, and resulted in the drafting of further conditions to require additional performance requirements, measures in the event of malfunctions, and monitoring and review.

Panel findings

- 188 Having regard to the Applicant's response and the amended conditions proposed, the Panel finds that the effects of the proposal in terms of urban form, character and amenity will be consistent with the expectations of the Precinct, and will be acceptable overall, subject to the amended conditions and revised plans submitted by the Applicant, and the future resource consent requirements associated with development within the Stage 1 subdivision.

Open Space provision

Applicant's assessment

- 189 The Application incorporates a network of publicly accessible open spaces, including Valley Park, the Hingaia Stream Reserve, and riparian corridors along Stream A. The AEE states that these spaces are intended to deliver a mix of recreational, amenity, drainage, and ecological outcomes.
- 190 Valley Park, a 2.2-hectare area, is proposed as the central civic space, integrating a large stormwater management basin (Wetland 2-1), extensive planting, a hardscaped promenade, and terraced landforms. It is designed to connect with adjacent plazas and a pedestrianised section of road. The Applicant proposes that Valley Park will remain in private ownership and be maintained by Kiwi Property, while being publicly accessible.
- 191 The Hingaia Stream corridor is proposed to be vested in the Council as an esplanade reserve, securing public access and management. The riparian corridors along the

⁶³ Applicant September Response (Attachment 1 at page 5)

daylighted and realigned sections of Stream A are proposed to be vested as local purpose (drainage) reserves. The AEE considers that this network of private and public open spaces provides a high-quality amenity and is consistent with the Drury Centre Precinct provisions, which anticipate the integration of blue-green networks. The Applicant also notes that the 7,826m² neighbourhood park (privately-owned), approved as part of Stage 1, will contribute to the open space provision for the wider precinct.

Council's assessment

- 192 The Council's Senior Parks Planner, Lea van Heerden, raised concerns regarding the provision of open space. Ms van Heerden considered that the proposal results in significant adverse effects on the provision of community infrastructure and does not meet the Council's strategic or policy expectations for a metropolitan centre. She did not support the Application from a parks and open space planning perspective.
- 193 As a means of addressing her concerns, she recommended the inclusion of an additional, flood-free neighbourhood park of at least 3,000m² within Stage 2 (in the vicinity of Lot 36), to be vested in the Council as a recreation reserve, to align with the Drury Centre Precinct Plan and the Council's open space strategies.
- 194 The key issues identified by Ms van Heerden, and the Applicant's response to those issues and the matters raised in the Panel's section 67 request of 5 September 2025, are addressed below:

Lack of Formal Recreation Space

- 195 Ms van Heerden considered that the proposal fails to provide a flood-free, publicly vested neighbourhood park within Stage 2. She noted that land designed primarily for stormwater management, such as Valley Park, cannot be relied upon to deliver consistent, safe, and year-round formal recreation. She further noted that the proposed civic plaza (800–1,375m²) is significantly undersized compared to the Council's benchmark for metropolitan centres (2,000– 4,000m²) and its constrained layout limits its functionality for large public gatherings.
- 196 The Applicant's August Response disagrees with those concerns, noting that designing open spaces to serve multiple functions represents an efficient and sustainable use of scarce urban land and that "*[i]n intensifying cities, such integrated solutions reflect best practice in urban design and landscape architecture*".⁶⁴ It goes on to say that conflicts in use would not be likely to arise due to recreation opportunities not being sought during a 1-in-100-year rain event.
- 197 The Applicant's Response advises that that Valley Park and the Civic Space have been deliberately co-located with the proposed Aquatic Centre and Library which provide complimentary public spaces (including public toilets, meeting rooms/ spaces and the opportunity to engage in formal recreational / leisure activities). The Applicant also observes that the Council group has significant landholdings (approximately 1.2ha) north of Flanagan Road and in close proximity to their recommended additional neighbourhood park location on the site of the proposed Hotel on Lot G1 and the site of 'Park 1' (as

⁶⁴ Applicant Response, 29 August 2025, at page 14

identified in Figure 1 of the Parks Memo). It advised that this land is flat, largely free of flood hazards and only a small portion is required for the Watercare pumpstation.

- 198 The August Response also comments that retaining the proposed open space in private ownership avoids the Council having to fund capital or operational costs for these spaces and allows for the redeployment of scarce Council funds to enhance other public open spaces in the vicinity of the Site. It states that this is a potential positive effect associated with open space provision generated from the proposal (noting that the realisation of this benefit is dependent on Auckland Council Parks themselves).
- 199 The Panel's section 67 request also questioned the extent of public open space being provided within the Proposal, having regard to the expectations set out in Precinct Plan 2 (with the neighbourhood park in Stage 1 already being a requirement for that proposal).
- 200 The Applicant's September Response on this issue provided further urban design assessment, which advised that there is no specific guidance as to the overall area of open space to be provided for, except for a 1,000m² threshold for the development of publicly-accessible open space. Further, the Precinct policies and matters of discretion focus more on qualitative aspects, which have given consideration to the Council's Open Space Provision Policy 2016, with open space sizes for neighbourhood parks, pocket parks and civic spaces of 0.1 – 0.5ha.
- 201 Further diagrams were provided to show comparisons with civic spaces in other Metropolitan Centres, which the Applicant considers the Project to be consistent with. It concluded that:⁶⁵

Overall, it is considered that the proposed open spaces proposed represent a comprehensive network of recreation amenities that is well aligned with the metropolitan centre's form, function, and the needs of residents, workers, and visitors. In my opinion, the proposal could be considered to deliver more open space than what is anticipated within the Precinct and AUP – noting that there is potential for other open spaces to be developed in the surrounding land.

- 202 The Applicant's further urban design assessment also addressed the way in which Valley Park would function as an area of civic space. This was compared with Freyburg Square, concluding that Valley Park would be more than sufficient to function as an appropriately-scaled civic plaza.
- 203 The Applicant's September Response also incorporated proposed amendments to address the need for a connection across 'Road 6' between two areas of open space.

Privately Owned Public Space

- 204 Ms van Heerden expressed a concern that there is a heavy reliance on privately-owned land (i.e. Valley Park) to deliver the primary civic and recreational functions. She raised concerns about the lack of a legal mechanism to secure public access in perpetuity, creating long-term uncertainty. This was also considered to create a reputational and

⁶⁵ Memorandum (Urban Design), 18 September 2025, at page 3

operational risk for the Council, as the public may expect public-level standards of service and maintenance on private land.

- 205 The Applicant's August Response to this issue was that "[a] *hypothetical reputational risk to an organisation from an applicant choosing to fund and provide high quality public open space is not considered to be an adverse impact under the FTAA*". It went on to say that as a publicly listed commercial landlord, the Applicant "*has a much greater incentive than Council to adequately maintain these spaces to ensure they remain attractive to prospective tenants and visitors who are critical for the viability of surrounding retail, office, hospitality and visitor accommodation to provide a return on their investment*".⁶⁶
- 206 In response to the Panel's section 67 request on this matter, the Applicant clarified the ownership and maintenance obligations for Hingaia Reserve and Valley Park relating to the requirements of assessment criterion I450.8.2(2)(g), and confirmed that these areas are intended to be maintained by the Applicant for the entire period of its ownership, and beyond the minimum five year maintenance period. The Applicant acknowledged that imposing a consent notice on the relevant lots would ensure this on-going maintenance is achieved. This is addressed through new Condition 40A provided by the Applicant as part of the draft subdivision conditions.

Strategic Gap in Network

- 207 Ms van Heerden's assessment suggested that the Drury Centre is isolated by significant transport barriers (SH1, rail line), which limit access to other nearby parks and reinforces the need for a self-sufficient internal open space network. In her view the absence of a formal neighbourhood park in Stage 2 would create a critical service gap for the future high-density population.
- 208 The Applicant's August Response on this issue advises that Valley Park and the Civic Space have been deliberately co-located with the proposed Aquatic Centre and Library which provide complimentary public spaces. It noted that the Council group has significant landholdings (approximately 1.2ha) north of Flanagan Road and in close proximity to the Applicant's recommended additional neighbourhood park location on the site of the proposed Hotel on Lot G1 and the site of 'Park 1'. The Applicant observed that this land is flat, largely free of flood hazards and only a small portion is required for the Watercare pumpstation.
- 209 The Applicant also clarified, in response to the section 67 request from the Panel, that the project will be subject to development contributions that incorporate an open space component based on the applicable development contribution policy (Development Contributions Policy 2022 – Variation A). It confirmed that the Applicant "*has no intention of seeking a reduction or offset for the privately owned open space in this application*".⁶⁷

Other matters

- 210 Further matters raised by Ms van Heerden include concerns about the proposed streetscape landscaping, where the species palette is considered to lack diversity and resilience for an urban environment and may not achieve the Council's canopy cover

⁶⁶ Applicant Response, 29 August 2025, at pages 14 and 15

⁶⁷ Applicant Response, 19 September 2025, at page 4

targets. Ms van Heerden also suggested that critical implementation details, such as tree pit design and soil volumes, are absent, creating uncertainty about the long-term viability of public assets.

- 211 The Applicant's August Response noted that a landscape design report has been provided with the Application material and is intended to convey a level of conceptual detail normally expected in an application for resource consent approval. Proposed Condition 26 requires a final set of landscape plans and design details to be provided to the Council for review and certification prior to implementation. The Applicant considers this approach to be consistent with all other resource consents which include a landscaping component and the Stage 1 fast-track consent approval.

Panel findings

- 212 The Panel is satisfied with the Applicant's responses in relation to open space matters and concludes that the proposed open space provision will be of appropriate scale and good quality, and is consistent with other metropolitan centres. The Panel observes that the amount of open space proposed to be provided privately within the development is not intended to offset that which is to be funded publicly through development contributions.

Infrastructure effects (water and wastewater)

Applicant's assessment

- 213 The Applicant's Infrastructure Report prepared by Woods concludes that the proposed development can be adequately serviced by existing and planned water and wastewater infrastructure. Water supply will connect to the existing 450mm public watermain on Fitzgerald Road and Flanagan Road, which will be supplied by the Flanagan Road Bulk Supply Point (**BSP**). Hydraulic modelling concludes that the public network has sufficient capacity to meet the development's domestic and firefighting demands in compliance with the relevant codes of practice. In relation to wastewater, Woods have calculated a total Peak Wet Weather Flow (**PWWF**) of 59.9 L/s for the combined stages. Woods consider that this demand can be accommodated by the interim capacity of the nearby Flanagan Road Pump Station, which have been confirmed by Watercare and Veolia as having a capacity of 137 L/s.

Council's assessment

- 214 The infrastructure servicing aspects of the application have been reviewed by Janaka Edirisinghe (Development Engineer) on behalf of Watercare.
- 215 Watercare's assessment noted limitations within the network regarding wastewater capacity, such that Watercare can service only the initial stages of development up to a total of 950 Dwelling Unit Equivalents (**DUEs**) for the entire catchment (whereas the Proposal totals 1,087 DUEs). The Council noted that development beyond the 950 DUE threshold is dependent on future upgrades to the wider wastewater network, including major upgrades to the Drury South, Hingaia, and Bremner Road Pump Stations. These are scheduled for 2029 and 2033 at the earliest and are not guaranteed. Watercare therefore recommended that any approval must include conditions to stage the development, preventing it from exceeding 950 DUEs until the necessary infrastructure upgrades are confirmed and operational.

- 216 Watercare was able to confirm that there is sufficient bulk water supply capacity to service the development. However, it advised that the watermain network is operated by Veolia and, should this network have insufficient capacity, it will be the Applicant's sole responsibility to fund and construct the necessary upgrades to connection points.
- 217 In relation to wastewater, the Applicant's August Response anticipates that the timing of future upgrades will generally align with its construction programme. It proposed revised conditions including Condition 36A to restrict occupation of the buildings beyond 950 DUEs if future network upgrades have not been completed.

Panel findings

- 218 The Panel notes that the Applicant's August Response did not comment on the Council's identification of a potential water supply capacity constraint. However, the Panel is satisfied that any responsibility and cost for upgrades, should they be required, will rest with the Applicant, and would need to be resolved at the appropriate time. The agreed restriction arising from the wastewater constraint may also reduce water supply demands, although the Panel is satisfied that this matter could also be addressed, if necessary, at the appropriate time.
- 219 The Panel is satisfied that, having regard to the overall construction and implementation timeframe proposed for the development, relative to the expected delivery of upgrades to the local pumpstations, the existing wastewater constraint should not frustrate the overall implementation of the Project. We find that this matter has been appropriately acknowledged by the Applicant through its proposed Condition 36A, which requires the Applicant to accept the potential risk of delays in Watercare's wastewater upgrade works.

Stormwater and flooding effects

Applicant's assessment

- 220 The Applicant's stormwater management strategy, outlined in the Infrastructure Report and Stormwater Assessment Report by Woods, adopts a treatment train approach to manage stormwater quality and quantity. The design proposes two privately-owned and maintained wetlands (Wetland 2-1 and Wetland 2-2) as the primary stormwater management devices. These have been designed to meet SMAF-1 hydrological mitigation requirements and to provide water quality treatment in accordance with Council's Guideline Document GD01. The system will also incorporate at-source measures, including public and private raingardens and dual-use retention/detention tanks for large format retail roof areas. The Applicant states that the proposed measures are consistent with the draft Drury Centre and Drury East Stormwater Management Plan and will adequately mitigate the stormwater effects of the development.
- 221 The associated Hazard Risk Assessment, also prepared by Woods, concluded that the proposed development will not increase flood risk to people or property. Their assessment is based on a flood management strategy of conveyance, allowing flood flows to pass through the Site without attenuation. Hydraulic modelling was undertaken to assess the effects of the development on flood levels, indicating that post-development flood levels will generally decrease compared to the pre-development scenario. This was attributed to works in Stage 1 that reduce the catchment area discharging to Fitzgerald Stream. Woods advises that the design involves building floor levels above the 1% Annual Exceedance Probability (**AEP**) flood event, including an allowance for climate change, and that overland flow paths are managed within road

corridors. An overland flow path assessment was provided, concluding that the proposed road design complies with the relevant safety and conveyance criteria.

Council's assessment

- 222 The Council's assessment was provided through its Healthy Waters department and was prepared by Hillary Johnston. Ms Johnston raised several concerns about the proposed stormwater management approach, focusing on erosion, asset ownership, and the robustness of the proposed mitigation. A key issue is that the Hingaia Stream is considered by Healthy Waters to be actively eroding, and Healthy Waters was not satisfied that the Applicant's proposed measures were sufficient to manage the increased peak flows from the development. A Geomorphic Risk Assessment was recommended to be undertaken to assess long-term erosion risk to the Hingaia and Fitzgerald Streams, the proposed wetland embankments, and nearby assets like the proposed new road and Building H2.
- 223 In addition, Healthy Waters advised that it does not support the proposed private ownership of Wetlands 2-1 and 2-2, as these devices are intended to receive runoff from the public stormwater network and would present significant operational, liability, and compliance risks. Concern was also noted with respect to the reliance on the reuse of runoff from large format retail (**LFR**) roofs to achieve SMAF-1 retention volumes (as LFR buildings typically have limited demand for non-potable water). This was considered to create a risk that the required retention volumes in the tanks will not be consistently drawn down between storm events, potentially leading to the underperformance of the downstream wetlands.
- 224 The Council advised that, overall, its specialists have material concerns regarding the unassessed risk of erosion, the long-term viability and ownership of key stormwater assets, and the robustness of some proposed mitigation measures. It highlighted that the adverse effects relating to stormwater management and runoff "*are potentially significant and these require a proportionality assessment to be undertaken*".⁶⁸
- 225 Ms Johnston also identified concerns with the Applicant's flood assessment. A primary issue was that Healthy Waters had not had sufficient time to review and verify the Applicant's flood model, which was provided as part of its initial section 67 response. While the 'no attenuation' approach was considered appropriate in principle, its validation would be contingent on a thorough review of the model which Ms Johnston advised at that time was currently underway. She also considered the Applicant's Overland Flow Path Assessment to be deficient because it inappropriately assumes that no overland flows will enter the Stage 2 development from the consented Stage 1 development and that overland flows can be fully accommodated by the piped network in some areas. Ms Johnston concluded at that time that the Applicant had not yet demonstrated that overland flows could be managed in a way that avoids creating a flood hazard and risk to future public road users.

Conferencing and Panel conclusions

- 226 These matters were assessed for the Panel by its technical adviser, Nigel Mark-Brown, who attended expert conferencing on the topic of stormwater and flooding. Mr Mark

⁶⁸ Council Planning Memorandum, at [101]

Brown concluded (in his memorandum to the Panel dated 14 October 2025) that the issues raised by Healthy Waters and the Council have essentially been resolved. His assessment is demonstrated in an attached table which summarises the issues that were in contention, the results of expert conferencing, and refers to associated proposed additional or revised consent conditions. That memorandum and table are **attached** to this decision at **Appendix C**.

- 227 In light of the positive resolution of all outstanding issues through the expert conferencing process, and subject to any comments on the Panel's proposed conditions which reflect the revised conditions proposed by the Applicant following conferencing, the Panel considers that any adverse effects in relation to stormwater and flooding can be managed to acceptable levels through the proposed conditions of consent.
- 228 Notwithstanding the above, the Panel sought clarification of the stormwater-related conditions in its Minute-12. This related to:
- (a) The scheme plan and engineering plan notations related to the lot and/or easement associated with proposed Wetland 2-2; and
 - (b) The delineation of the outlet pipes for the raingarden and Wetlands 2-1 and 2-2 (i.e. as private rather than public as shown).

These matters were addressed through the condition and decision comment stage.

Regional Discharge Permit

- 229 The comments from the Council's Stormwater Specialist, Martin Meyer, are supportive of the Project from a regional stormwater perspective, including in relation to the mitigation proposed from a private stormwater discharge, but defer to Healthy Waters' comments in relation to the Network Discharge Consent. Mr Meyer recommended that if the treatment devices are not vested in Council, then the stormwater management works, operation and maintenance plan and maintenance report conditions for these private treatment devices should be transferred to the Land Use consent.
- 230 The Applicant has accepted this recommendation, and the conditions relating to the ongoing operation and maintenance of private stormwater devices were transferred (as part of the Applicant's August Response) to the land use consent (Conditions 94-103).

Transportation effects

Applicant's assessment

- 231 The Applicant's ITA, prepared by CKL, concluded that the proposed development can be established with expected and acceptable effects on the function, capacity, and safety of the surrounding transportation network.
- 232 The ITA considered that the Proposal aligns with the strategic direction for Drury, providing a well-connected, multi-modal transport network that integrates with planned infrastructure, including the new Drury Central Rail Station. The Applicant has proposed a revised development and infrastructure sequencing table which, based on its traffic modelling, sets out the basis for deferring certain transport upgrades required by the Drury Centre Precinct. This approach relies on updated assumptions, including a reduction in trip generation due to an increase in work-from-home (**WFH**) practices and

a reallocation of land use mix from residential to retail and commercial. The Applicant concludes that, through their proposed staging and conditions, the transport network can support development of the Project.

Council's assessment

- 233 The transport effects of the Application were reviewed on behalf of the Council by Mat Collins (Consultant Associate Transport Planner, Abley Limited), and by Matthew Ford (Senior Development Planner) and Chris Freke (Principal Planner) for Auckland Transport (**AT**). Their original assessments identified significant concerns and unresolved issues with the proposal, as summarised below.
- 234 Mr Collins' review focused on the immediate interfaces between the Site and the public roading network. While many technical design matters were considered able to be addressed through conditions, he identified two key issues that may give rise to significant adverse effects:
- (a) **Public Access to Private Roads:** A primary concern was that the Applicant proposes to retain private ownership of key internal roads (including Roads 3, 6, and 13) that are intended to function as integral parts of the future public transport and active mode network. Mr Collins noted that these roads serve a critical "through" function, connecting to the Drury Rail Station and the wider road network. The lack of a formal legal mechanism (e.g. public access easement) to guarantee public access in perpetuity would undermine future network connectivity and is inconsistent with AUP objectives for a well-connected, accessible urban form.
 - (b) **Lack of Urbanisation of Flanagan Road:** The Proposal includes direct vehicle access from new lots onto Flanagan Road but does not provide for the urbanisation of the road frontage, which could result in safety and accessibility issues.
- 235 The review by Mr Ford and Mr Freke for AT also identified several significant transport-related risks and adverse impacts, concluding that the Proposal substantially exceeds development thresholds in the Drury Centre Precinct without providing the corresponding and necessary transport infrastructure. Their key concerns related to the following:
- (a) **Transport Upgrades and Staging:** The proposal to significantly depart from the AUP's "Trigger Table", which links development scale to the delivery of critical infrastructure, and the deferral of major upgrades, including the Direct Connection from SH1, the Drury South Interchange, and the Mill Road connection, based on revised modelling. This was considered likely to place significant pressure on the local network, particularly Great South Road and Waihoehoe Road, leading to increased congestion and reduced efficiency for public transport.
 - (b) **Scale of Consent and Development Feasibility:** AT recommends that the scale of development approved should be reduced to reflect only the level that can be supported by committed, funded, or conditioned infrastructure upgrades. Concern was also raised in relation to "banking" of development capacity over the proposed 15-year lapse period within the three Drury precincts.
 - (c) **Work-From-Home and Trip Generation Assumptions:** AT had significant concerns about the WFH discount factor applied to residential and retail trips which was considered to be unsubstantiated and likely to overstate the reduction in traffic. AT

recommended that the trip generation be recalculated without these adjustments to understand the true potential effects on the network.

- (d) **Infrastructure Funding Risks:** The proposal relies on several major, unfunded transport upgrades to be delivered by public agencies (i.e. AT and NZTA). The "banking" of development capacity without a commitment to provide or fund the enabling infrastructure was identified as creating significant funding risks for the Council, which relies on development contributions from multiple parties to fund its infrastructure programmes.
 - (e) **Private Roads and Public Transport:** AT also raised concerns about key public transport routes (Roads 6 and 3) being located on private roads and recommended that these key collector and public transport routes be vested as public roads. Alternatively, it sought public access easements for private roads and consent conditions requiring Kiwi Property to notify of AT (and NZTA) in the event of any road closures.
 - (f) **Design and Safety Issues:** AT identified several specific design issues, including a shortfall in the required number of loading bays, vehicle crossings that conflict with cycle paths, and the need for frontage upgrades on Flanagan Road to provide safe active mode connections.
- 236 A series of conditions were recommended to address the matters raised and the additional information required to resolve certain issues.
- 237 The Council memorandum noted the divergence between the Applicant's assessment and the review by the Council's transport specialists. It considered the Applicant's conclusion that the transport effects are acceptable to be heavily reliant on optimistic modelling assumptions and a proposed staging plan that is fundamentally inconsistent with the recently implemented AUP framework for the Drury Centre Precinct.
- 238 NZTA indicated a neutral position on the Application, noting that the proposal is broadly in line with what was anticipated by PC48. However, NZTA also expressed some concerns about a perceived overstatement of the effect of WFH assumptions on trip demand; the proposed land uses and the impacts on internalisation rates utilised in the Applicant's traffic assessment; the proposal to defer community activities to later stages and the impact on internalisation rates; the reasoning behind moving the requirement for the Drury Access Ramp to an increased level of development in the trigger table; and the need for clarification as to how the proposed consent interacts with future consents for other developers in the Drury East area and how the conditions relate to the Precinct provisions.
- 239 The issues raised by the Council, AT and the NZTA were responded to in the Applicant's August Response, as set out below and subsequently further addressed through expert conferencing. In relation to key issues, the Applicant advised:
- (a) Private roads: it opposes the vesting of roads or conditions requiring easements over them. The success and economic viability of its centres relies on visitors and the general public, and it is not in the Applicant's interest to close roads or prevent people and buses from arriving or travelling through the Centre. In relation to ownership and operational responsibility for signals serving private roads, the intent is for ATOC to operate these signalisation assets, with any maintenance to be completed as required and on-charged to the Applicant / consent holder.

- (b) Staging: is necessary for a project of this scale. However, the Applicant does not intend to unreasonably delay the provision of key connections. Flexibility is necessary to logically and progressively advance subdivision stages relative to any preceding stages in Stage 1, and to be able to develop the centre within budget allowances at the time.

Conferencing and Panel conclusions

- 240 Mr Hills attended the expert conferencing as the Panel's advisor. Following the issue of the JWS, and after considering further modelling analysis from Mr Hughes (13 October 2025) and the further updated conditions from the Applicant, Mr Hills provided the Panel with his final memorandum dated 21 October 2025 (**attached** to this decision at Appendix C). His memorandum identifies an issue relating to which intersection design for Waihoehoe Road / Great South Road should be used in subsequent modelling. The Applicant considers that the PC48 version should be used, while AT considers that the AT/NZTA design should be adopted.
- 241 Mr Hills' memorandum explained that this issue has been addressed by the Applicant's proposed a new condition requiring the AT/NZTA intersection to be upgraded to include additional and longer approach lanes in accordance with the JWS diagram (Attachment A), which would effectively reflect the PC48 design after an additional threshold has been met.
- 242 Mr Hills concludes in his memorandum that the Application is acceptable from an overall transportation and traffic engineering perspective. He provided the following points by way of summary and conclusion:⁶⁹
- i The proposed development timing will generally align with the Development / Infrastructure Sequencing Table, however it will not align with the Thresholds for Development and Subdivision Table (Table I450.6.2.1) within the precinct provisions;*
 - ii The most noticeable change is the delaying the construction of the SH1 direct connection (SH1DC) from being required at 2,000 vph to 3,800 vph threshold;*
 - iii The intersection being designed by AT / NZTA for the Waihoehoe Road / Great South Road (GSR) is less efficient / has less capacity than that in Council's transport model (and thus applicants current planning);*
 - iv The applicant has now suggested a new condition requiring the NZTA/AT intersection to be upgraded to include additional and longer approach lanes in accordance with the JWS diagram which will essentially match the Plan Change design after the threshold of 2,833vph has been met. I consider this to be appropriate;*
 - v The modelling has shown that delaying the SH1DC to the 3,800vph threshold does not materially change the operation of the SH1 southbound off-ramp and will not lead to any safety concerns;*

⁶⁹ Commute Memorandum, at [4]

- vi The majority of the internal design aspects have been agreed between experts.*
- vii There are additional / upgraded conditions that I consider appropriate regarding loading / waste management and LCD screens*
- viii There is a small section of Flanagan Road (Figure 3) that will remain in existing formation when both the Kiwirail and current application construct their sections. This is considered undesirable and should be upgraded as part of the application (carriageway only and not kerb / channel on the western side). This has now been conditioned in the applicant latest condition set.*

- 243 Having regard to Mr Hills' advice, and the overall resolution of matters in contention between the transportation experts as recorded in the JWS, the Panel finds that the transportation and traffic engineering-related effects of the Project are able to be appropriately mitigated and managed in response to future road conditions.
- 244 The Panel has raised some questions on condition-related transportation matters in its Minute 12, which accompanies its draft conditions and decision. In summary, the Panel:
- (a) Sought further information about the proposal to delete the transport thresholds from the subdivision conditions, noting that the thresholds within the Drury Centre Precinct relate to both development and subdivision.
 - (b) Sought clarification as to the residential dwelling thresholds within Condition 85, which appeared to differ from the higher thresholds presented in the post-JWS modelling by the Applicant.
 - (c) Expressed a preliminary view that the proposed section 128 RMA review condition relating to transportation matters was too broad and sought comments on how it might be narrowed or made more specific.
- 245 Due to the high level of agreement on transportation issues through the expert conferencing, and in light of the Panel's findings on transportation matters, the Panel has not considered it necessary to invite the Applicant to modify the Proposal to reduce the scale of activities proposed.

Operational noise

Applicant's assessment

- 246 For operational noise, the Applicant's assessment (by Styles Group) concluded that the proposed activities can comply with the relevant noise standards in the AUP (Chapter E25) and the Drury Centre Precinct (Chapter I450). This is due to the high noise limits in the business zones and the masterplan design, which sets back sensitive activities (like residential apartments) more than 60m from the rail corridor. All buildings with activities sensitive to noise will be acoustically treated to meet internal noise standards as required by the AUP.

Council's assessment

- 247 The Council's specialist, Mr Qiu, generally agreed with the Applicant's assessment, including that the proposed activities can comply with the relevant noise standards of the AUP, given the zoning and separation distances. He also agreed that compliance with

the internal noise level requirements of AUP standard E25.6.10 should adequately address noise effects for future residents from adjacent transport corridors like SH1.

- 248 However, Mr Qiu recommended that an additional condition be imposed to require provision of an acoustic certificate for the design of a building containing activities sensitive to noise, and to confirm compliance with standards E25.6.9 and E25.6.10 of the AUP.

- 249 The Council's planner, Mr Nakamura, supported this approach, advising that:⁷⁰

I consider this appropriate noting that a range of activities can be established as of right within the zone, and activities and spaces sensitive to noise is required to be designed in manner that reflects this context. It is also noted that the proposed further subdivision of super lots on stage 1 are also within the Business – Mixed Use Zone, and in this regard, I consider that the conditions and measures outlined above by experts should extend to these allotments in the form of consent notices.

- 250 The Applicant's August Response advised that the recommended condition is accepted in part (new Condition 82A). The Applicant's expert (Mr Styles) provided a response explaining why the condition was not accepted in full. He did not agree that reference to standard E25.6.9 was necessary or appropriate, advising that:⁷¹

The standard is essentially an operational noise limit that building occupants must comply with. It would not be possible for an acoustics specialist to certify compliance with this requirement at the time of building consent, as the tenants of the commercial spaces and the nature and level of noise they might make would likely be unknown.

The requirements of Clause G6 of the New Zealand Building Code will ensure that any building is constructed to prevent undue noise transmission from other occupancies or common spaces to the habitable spaces of household units. This requirement must be addressed as part of any building consent application.

- 251 The Applicant's version of Condition 82A therefore deleted the reference to standard E25.6.9.

Panel findings

- 252 The Panel generally adopts the Council's conclusion relating to operational noise but does not consider that reference to standard E25.6.9 in the amended condition is necessary for the reasons explained by Mr Styles. Accordingly, we find that operational noise effects can be suitably managed to acceptable levels, subject to imposition of the Applicant's amended version of Condition 82A.

PART F: REGIONAL OR NATIONAL BENEFITS OF THE PROJECT

- 253 Section 3 of the FTAA provides that the purpose of the Act is to facilitate the delivery of infrastructure and development projects with *significant regional or national benefits*.

⁷⁰ Council Planning Memorandum, at p.29

⁷¹ Applicant Response, 29 August 2025, Attachment 14 at page 1

254 Section 81(4) FTAA more specifically requires a panel to consider the extent of a project's regional or national benefits when considering an approval for (in this case) a resource consent.⁷²

255 There is no specific definition of "significant regional or national benefits" in the context of listed projects such as this one. Section 22 FTAA, which relates to the criteria for assessing a *referral* application, provides the following:

- (2) For the purposes of subsection (1)(a), the Minister may consider—
 - (a) whether the project—
 - (i) has been identified as a priority project in a central government local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy), or a central government infrastructure priority list:
 - (ii) will deliver new regionally or nationally significant infrastructure or enable the continued functioning of existing regionally or nationally significant infrastructure:
 - (iii) will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020):
 - (iv) will deliver significant economic benefits:
 - (v) will support primary industries, including aquaculture:
 - (vi) will support development of natural resources, including minerals and petroleum:
 - (vii) will support climate change mitigation, including the reduction or removal of greenhouse gas emissions:
 - (viii) will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards:
 - (ix) will address significant environmental issues:
 - (x) is consistent with local or regional planning documents, including spatial strategies:

256 The AEE has provided an assessment of the benefits of the Proposal, including by reference to its Economic Assessment, referred to earlier in this Decision. The AEE states that the approvals sought to enable the development are considered to meet the purpose of the FTAA, noting that the regional significance of Drury as a key node for future urbanisation has been recognised by central and local government. The AEE refers to the following factors in support of this position:

- (a) Identification of Drury by the Ministry of Housing and Urban Development's Urban Growth Agenda as one of five priority growth and investment areas for Auckland (as part of the 2019 Auckland Housing and Urban Growth Joint Programme which is a collaboration between the Council and the Government).
- (b) The Government Policy Statement on Housing and Urban Development (September 2021), which identifies Drury as one of two 'Priority greenfield growth areas for priority focus and investment within the Urban Growth Partnership'.
- (c) The Hamilton - Auckland Corridor Plan & Implementation Programme (June 2019), which identifies Drury as a 'priority development area' with the objective to "*support the development of this significant and strategic growth node through new partnerships and applying new tools*". This is reflected in the draft 2024 Future Proof Strategy (Waikato) which also recognises the importance of Drury as a regional centre to the Hamilton - Auckland corridor.

257 The AEE concludes that the Proposal gives effect to those strategic documents which recognise the significance of the Drury area to the growth of the region. It goes on to highlight the wider public benefits of developing a new metropolitan centre in this location as follows:

(a) Significant investment in infrastructure is underway or proposed in Drury, including a funding commitment from the Government of \$2.7B as part of NZUP South Auckland package for investment in new train stations, delivery of a smaller scale northern section of Mill Road and investment in Drury transport upgrades that support releasing additional housing and connectivity with the stations. Significant infrastructure projects that are proposed, have been approved or are underway at and in the vicinity of Drury Centre include:

- The widening of the Southern Motorway between the Papakura and Drury Interchanges (funding and consents approved, under construction);
- Improvements to the Drury interchange (funding and consents approved);
- The approval of the Drury Central Railway Station through the FTA (under construction);
- Electrification of the NIMT to Pukekohe (under construction);
- Designations for local roading improvements including to Waihoehoe Road and to the intersection of Great South Road and Waihoehoe Road (consents and some funding approved); and
- Extensions to bulk water supply and wastewater truck services (under construction).

258 The AEE explains that the Proposal will enable the benefits of that infrastructure investment to be realised, and that:⁷³

The project will enable the accelerated construction and delivery of a large portion of the planned Drury Centre which is considered to result in significant public benefit for Drury and the wider South Auckland region. The proposal will result in a well-functioning urban environment in the form of an integrated, sustainable and transit oriented Metropolitan Centre to be established around the new consented Drury Central train station with approved funding and programmed for completion in 2026. The construction programme and timing for the delivery of this project, alongside the other projects by the Drury East developers will ensure that there is a destination to support the new train station (alongside the residential catchment proposed to be established on the adjacent Fulton Hogan and Oyster Capital developments, which have already been consented). The significant level of infrastructure investment...indicates that the Government and Council are committed to supporting development in Drury, and recognise the regional significance of growth in this area. The Government is also accelerating the delivery

⁷³ AEE, at page 133

of the critical projects needed to support development, including the Drury Central Rail Station...

- 259 The AEE goes on to highlight the expected level of employment generation and contributions to GDP from the Proposal, which are considered to constitute a significant regional benefit. These are estimated in the Applicant's Economic Assessment as:
- Approximately 3,420 full-time equivalent (**FTE**) years in the construction sector;
 - Approximately \$1.47 billion contribution to the construction sector's GDP;
 - Approximately 3,403 indirect/induced construction FTE years;
 - A total of 7,750 FTE years of employment during the development phase;
 - Further long-term employment in the operation and maintenance of the Metropolitan Centre; and
 - A total economic impact on business activity within the Auckland region over an 11-year period of just over \$1.45 billion.
- 260 The AEE also references the comprehensive and integrated nature of the development over a large landholding that is contiguous with existing and consented urban development within Drury, and the opportunities for future residents through planned community amenities, social and commercial areas, and open spaces. It highlights the ability for residents to live and work closer to home and the provision of active mode transport facilities.
- 261 Overall, the AEE highlights that the Drury Centre will make a regionally significant contribution to a well-functioning urban environment within Auckland, and in turn gives effect to the NPS-UD and RPS. The Applicant considers that the proposal will provide for a vibrant and attractive location for people to live, and in turn generate increased demand for housing and ongoing employment opportunities. The funding and delivery of an internal roading network is also referred to as an aspect that will provide efficient and safe accessibility for its residents, and in a way that will contribute to reduced transport and greenhouse gas emissions.
- 262 The Panel has previously referred to the Council's assessment of economic effects and the suggestion that the benefits might be overstated.⁷⁴ In that context, relating to positive effects, the Panel noted that this difference of opinion related to the perceived magnitude of benefits. It was not suggested by the Council's expert that benefits would not arise from the Project.

Panel's findings

- 263 Although not a referred project, the Panel considers that the criteria for assessing a referral project in section 22 FTAA provide useful guidance as to what might amount to "significant" regional or national benefits, including (relevant to this Proposal) identification as a priority project in central and local government documents, enablement of new regional infrastructure, increasing the supply of housing and

⁷⁴ Decision, paragraphs 98-101

contribution to a well-functioning urban environment, delivery of significant economic benefits (including through increased employment), and consistency with local and regional planning documents.

- 264 The Panel has considered the extent of the Project's regional or national benefits and has no difficulty in concluding that the Project will generate significant benefits to the Auckland region. Accordingly, granting the approvals sought would in the Panel's view meet the purpose of the FTAA by facilitating the delivery of infrastructure and development projects with significant regional benefits.

PART G: STATUTORY DOCUMENTS

Introduction

- 265 The AEE addressed the relevant statutory documents and identified relevant provisions. That analysis is adopted by the Panel. The following assessment addresses the documents and provisions of particular relevance to the Application and the comments received. The Panel also relies on our conclusions on effects and the conditions we have decided to impose in support of the conclusions reached on effects and relevant planning provisions (including Part H: Regional and District Planning Framework as relevant to the topic area).

National Policy Statements

- 266 The relevant National Policy Statements were addressed in section 10 of the AEE and include:
- National Policy Statement for Freshwater Management 2020 (NPS-FM);
 - National Policy Statement on Urban Development 2020 (NPS-UD); and
 - National Policy Statement for Indigenous Biodiversity 2023 (NPS-IB).

National Policy Statement for Freshwater Management 2020

- 267 The NPS-FM sets out a framework under which local authorities are to manage freshwater (including groundwater).⁷⁵
- 268 The objective of the NPS-FM is to ensure that natural and physical resources are managed in a way that prioritises the:⁷⁶
- (a) health and well-being of water bodies and freshwater ecosystems;
 - (b) health needs of people (such as drinking water); and
 - (c) ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

⁷⁵ NPS-FM clause 1.5

⁷⁶ NPS-FM clause 2.1

269 This objective reflects the hierarchy of obligations in Te Mana o te Wai.⁷⁷

270 The Applicant in the AEE has assessed the Project against the objective and policies of the NPS-FM in terms of the direction that local government manages water in an integrated and sustainable way while providing for economic growth within set water quantity and quality limits. On this issue the AEE concludes that:⁷⁸

...the proposal as whole is generally consistent with the NPS-FM for reasons as given below with reference to the objectives and policies of particular relevance. However, the offsetting and compensation principles are not strictly adhered to thereby resulting in a net loss of ecological values and extent associated with the reclamation of Stream A wetland and the two eastern tributaries of Stream A.

271 As part of its section 85 proportionality assessment, the Council raised some concerns relating to the Proposal in the context of the NPS-FM, particularly:⁷⁹

The uncompensated loss of a natural wetland and stream habitat is a significant adverse ecological impact, contrary to the policy direction of the AUP and NPS-FM. The impact is out of proportion to the project's benefits, as the core principle of addressing residual effects has not been met in the application as proposed, and require the inclusion of an offset proposal to be provided for through conditions of consent.

272 The Panel has addressed the issue relating to offsetting and compensation for effects on Stream A in its preceding assessment of effects.⁸⁰ We found that, while there would be some residual adverse effects on waterbodies as a result of the Proposal that would not be offset or directly compensated for, those residual effects did not reach the threshold which would enable us to decline the Proposal. We also observed that this issue appeared to have been resolved between the experts following the Stormwater expert conferencing.

273 Having resolved that issue, we find overall, having regard to the Applicant's assessment of the Proposal against the relevant provisions of the NPS-FM, that the Proposal is generally consistent with the NPS-FM.

National Policy Statement on Urban Development

274 The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 required the incorporation of the MDRS to be incorporated into all relevant residential zones, and to implement the NPS-UD in Tier 1 Urban Environments. This includes Auckland. As a result, Tier 1 councils are required (among other things) to implement the MDRS in all relevant residential zones, and to enable:⁸¹

- (a) in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and

⁷⁷ NPSFM clause 1.3

⁷⁸ AEE, at page 113

⁷⁹ Council Planning Memorandum, 11 August 2025, at page 39

⁸⁰ Decision paragraphs 151-153

⁸¹ NPS-UD, Policy 3

- (b) in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and
- (c) building heights of at least 6 storeys within at least a walkable catchment of the following:
 - (i) existing and planned rapid transit stops
 - (ii) the edge of city centre zones
 - (iii) the edge of metropolitan centre zones; and
- (d) within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and densities of urban form commensurate with the level of commercial activity and community services.

275 The requirement to incorporate the MDRS has recently been removed as a result of the Council's decision to withdraw Plan Change 78 (except in respect of the City Centre and Metropolitan Centres) and to notify Plan Change 120. However, the Application did not seek to rely on the MDRS provisions, and therefore this change is not of significance in relation to the subject Site.

276 The AEE provides an analysis of the relevant objectives and policies of the NPS-UD. In relation to Objective 1, it states:⁸²

The project is for a comprehensively planned, transit-orientated metropolitan centre which has been earmarked in the Council's Drury-Opaheke Structure Plan since 2019 and is now embedded in the AUP. The project will deliver stage two of the Drury Metropolitan Centre, a transit orientated development focused around the new Drury Central Train Station planned to be constructed and operational by 2025/early 2026 as part of the Government's New Zealand Upgrade Programme. The project includes the development of a new metropolitan centre with a focus on large format retail activities and fine-grained retail, commercial, community and visitor accommodation activities and a total of 394 residential dwellings (mixture of apartments, work/live terraces and vacant lots) within walking distance to a rapid rail corridor. The comprehensively planned and transit-oriented nature of the development will ensure that the project will deliver and contribute to well-functioning urban environments. The project, will complement the urbanisation project occurring in Drury including Stage 1 of the Drury Centre and will provide for the social, economic, and cultural wellbeing, and for their health and safety both now and into the future.

277 Policy 6 of the NPS-UD applies to "planning decisions that affect urban environments", requiring that councils have regard to (among other things):

- a. that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:
 - (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities,

⁸² AEE, at pages 111-112

and future generations, including by providing increased and varied housing densities and types; and

(ii) are not, of themselves, an adverse effect;

- b. ... the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1);
- c. any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity; ...

278 The AEE notes in relation to Policy 6 that the proposed development is consistent with the AUP zonings and Precinct provisions, such that a change in amenity values is expected. It adds that “[t]he proposal will improve amenity values appreciated by other people, communities and future generations due to the comprehensively planned nature of the project and the variety of housing densities and types enabled by this project”.⁸³

279 Overall, the AEE concludes that the Project will add to development capacity for housing and contribute to a well-functioning urban environment.

280 The Council generally agreed with the Applicant, stating that:⁸⁴

...the proposal for a transit-oriented metropolitan centre at Drury strongly supports these objectives. It concentrates a mix of residential, commercial, and community activities in a location serviced by planned rapid transit, which is consistent with Policy 1. The development is intended to provide significant housing and business capacity (Objective 2) and supports climate change objectives (Objective 8) by promoting a mode shift away from private vehicles. Furthermore, a well-functioning urban environment under Policy 1(c) includes good accessibility to “natural spaces, and open spaces,” a matter of direct relevance to the proposal’s open space and ecological outcomes.

281 However, the Council observed that reliance of the later stages of the development on major and currently unfunded transport projects “creates a tension with these requirements”, including with respect to the Auckland Regional Policy Statement (**RPS**), as discussed below. It also expressed a concern that “the reliance on privately-owned, dual-function stormwater areas to meet public open space needs, and the uncompensated loss of wetland and stream habitat, creates a tension with the policy direction for providing community amenity and enhancing the natural environment”.⁸⁵

282 Overall, it was the Council’s view that, while the proposal would be consistent with the desired form of urban development, this would be contingent on resolving the uncertainties relating to stormwater and transport infrastructure.

283 Following the expert conferencing on both stormwater and transportation issues, these uncertainties and residual issues have been resolved to the Panel’s satisfaction. The resolution of each issue is summarised in the memoranda and issues tables provided by

⁸³ AEE, at page 112

⁸⁴ Council Planning Memorandum, at [32]

⁸⁵ Council Planning Memorandum, at [35]

the Council's technical experts, which refer to the JWS for both conferences.

- 284 As the Application is for a resource consent, our decision is considered a "planning decision" for the purposes of the NPS-UD⁸⁶ and therefore our Decision should take into account the objectives and policies of the NPS-UD, provided that the greatest weight in our decision making is given to the purpose of the FTAA.⁸⁷ As outlined above, the Applicant has stated that the proposed development will assist the Council to fulfil its functions and responsibilities to provide for urban growth and is consistent with the outcomes anticipated by the NPS-UD. The Panel agrees with the Applicant's overall assessment of the NPS-UD, noting the Council's comments and general comfort regarding the Application and the policy direction proposed by the plan change underpinning the Drury Centre Precinct.
- 285 The Panel considers that the Project will improve housing affordability by supporting competitive land and development markets (Objective 1). It will contribute to a well-functioning urban environment by enabling a variety of homes. It is in a location that has good access to public open spaces, town centres and transport services (Policy 1). It will also provide urban development benefits and release significant development capacity (Policy 6).

National Policy Statement for Indigenous Biodiversity 2023

- 286 The objective of the NPS-IB is:
- (a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and
 - (b) to achieve this:
 - (i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and
 - (ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and
 - (iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and
 - (iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.
- 287 The AEE notes that there are no Significant Natural Areas (**SNAs**) within the Site because there are no Significant Ecological Areas shown within the AUP maps. On that basis, clause 3.16 of the NPS-IB relating to indigenous biodiversity outside SNAs is relevant, and requires that:

⁸⁶ NPS-UD, 1.4 interpretation, definition of *planning decision*

⁸⁷ As required by clause 17(1), Schedule 5, FTAA

- Any significant adverse effects of the new subdivision, use, or development on indigenous biodiversity outside the SNA must be managed by applying the effects management hierarchy; and
- All other adverse effects of any activities that may adversely affect indigenous biodiversity that is outside an SNA, must be managed to give effect to the objective and policies of this National Policy Statement.

288 The AEE considers that the proposed development is in accordance with the relevant objectives and policies of the NPS-IB for the following reasons:

- (a) Policies 1 and 2: the proposal manages indigenous biodiversity in a way that gives effect to the decision-making principles and takes into account the principles of Treaty of Waitangi by way of the pre-application engagement and on-going hui with the key iwi groups for Drury East. Iwi are supportive of the proposed riparian and enhancement planting that will be achieved across the proposal as a whole, and engagement is ongoing.
- (b) Policies 6, 8 and 14: the Proposal will result in ecological gains, relative to the current state of the Site, through provision of native landscaping and riparian vegetation, and that *"the proposed riparian planting along Stream A and Hingaia Stream will increase indigenous vegetation within the site and provide improved habitats for indigenous fauna present with respect to indigenous dominance, ecological integrity and resilience as well as connectivity"*.

289 The Council did not express a contrary view on this issue.

290 The Panel considers overall that the Application and proposed conditions adopt a precautionary approach as necessary and appropriate to avoid outcomes for indigenous biodiversity on the Site that would otherwise be contrary to the objective of the NPS-IB.

291 The Panel is satisfied that the proposal is consistent with the NPS-IB.

National Environmental Standards

National Environmental Standard – for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NES-CS)

292 The AEE states that the Project requires consent as a restricted discretionary activity under Regulation 10 of the NES-CS⁸⁸ (i.e. involving the subdivision of land, change of land use, and soil disturbance to a piece of land whereby soil contaminants exceed human health criteria within the earthworks area).

293 As noted in Part E of this Decision, the AEE (and Council review) refer to a DSI that was prepared for land across both Stages 1 and 2 of the Drury Metropolitan Centre, which identified that HAIL activities have been undertaken on this piece of land. Additional soil testing was more recently carried out on specific areas at 64 and 120 Flanagan Road and the results are presented in the RAP prepared by ENGEO (in Appendix 13A to the Application).

⁸⁸ AEE, at section 7.4

- 294 The Applicant has proposed a remedial strategy focused on the removal of contaminated soil from the identified hotspots to manage these risks, particularly in respect of the undocumented fill at 64 Flanagan Road. The handling and disposal of this material will be governed by the RAP and a detailed Site Management Plan to ensure that risks to human health and the environment are appropriately managed, and that the site will be suitable for the proposed mixed-use development.
- 295 Proposed conditions of consent addressing contamination, and the NES-CS and Chapter E30 of the AUP, are included at Part C – Contaminated Land Discharge Permit (section 15 RMA).
- 296 This Decision has already addressed the outcome of the review by the Council's contamination specialist and Ms Rudsit's recommended changes to the management of contaminated materials to ensure that all aspects of the remediation and soil management are robustly controlled. Those amendments were accepted by the Applicant and incorporated in the updated condition set attached to its August Response and have been brought through into the final condition set.
- 297 The Panel concludes that, subject to implementation of the recommended conditions, the excavation, handling, and disposal of contaminated materials will be able to be managed in a way that protects human health and the environment and therefore the localised effects of contamination can be appropriately managed to ensure the overall site is safe and suitable for the proposed development.
- 298 The Panel therefore concludes that the proposed development will be consistent with the intent and purpose of the NES-CS.

National Environmental Standards for Freshwater 2020 (NES-F)

- 299 The AEE identifies that the Project requires restricted discretionary and discretionary activity consents under Regulation 45C of the NES-F. The NES-F came into force on 3 September 2020 and provides a national set of requirements for carrying out certain activities that pose risks to freshwater and freshwater ecosystems. It seeks to:
- Protect existing inland and coastal wetlands;
 - Protect urban and rural stream from in-filling; and
 - Ensure connectivity of fish habitat (fish passage).
- 300 The AEE notes in relation to the NES-F that: "*the spatial configuration of the project has been designed to best achieve these key structuring elements and urban design outcomes for Drury Centre while seeking to avoid and maintain the ecological features of Stream A and the Stream A wetland as far as practicable*".⁸⁹ It advises that different options were considered to further minimise adverse effects on Stream A and the wetland. The Proposal requires reclamation of the Stream A wetland and the two eastern tributaries of Stream A, with a total loss of 176m stream length (211m² stream bed area) and 112m piped stream (56m²) and 2,172m² of a natural inland wetland.

⁸⁹ AEE, at page 110

301 The AEE concludes on this issue that:⁹⁰

Overall, while the proposal is not strictly aligned with the intent of the NES-F given the net loss anticipated, there are still several positive freshwater ecology outcomes as the proposal will maintain base flows, result in a culverted section of the stream being daylighted, provide good stormwater outcomes, native riparian planting, fish passage and naturalisation of the stream including returning portions to its natural alignment.

- 302 As explained above in relation to the NPS-FM, the Panel found that, while some residual adverse effects on waterbodies would result from the Proposal that would not be offset or directly compensated for, those residual effects did not reach the threshold which would enable us to decline the Proposal. We also observed that this issue appeared to have been resolved between the experts following the Stormwater expert conferencing.
- 303 We agree that there are several positive freshwater ecology outcomes that will be delivered by the Proposal which provide a degree of consistency with the NES-F. We find that the aspects of the Proposal that are inconsistent with the NES-F do not provide us with a basis for declining the Application.

PART H: REGIONAL AND DISTRICT PLANNING FRAMEWORK

Introduction

- 304 An assessment of the relevant statutory plans has been included within the AEE as required by Schedule 5, clause 5(1)(h) FTAA.
- 305 The Panel has considered the assessment provided by the Applicant and the comments provided by the Council. We outline the key matters in the following sections relating to the RPS and the AUP, noting that the RPS forms part of the AUP (at Chapter B).

Auckland Regional Policy Statement

- 306 The Council's comments provide a concise summary of the relevant provisions of the RPS. It notes that Chapter B2 (Urban Growth and Form) promotes a quality compact urban form (Objective B2.2.1) and directs residential intensification to centres and transport corridors (Policy B2.2.2(5)). The integration of land use and transport planning is referred to as "a central theme", as reflected in both Chapters B2 and Chapter B3 (Infrastructure, transport and energy).
- 307 The Council also considers the RPS to be specific on open space and ecological matters, seeking to meet the recreational needs of communities through quality open space (Objective B2.7.1(1)) and to maintain and enhance public access to streams and wetlands (Objective B2.7.1(2)). It identifies that Chapter B7 (Natural Resources) directs that indigenous biodiversity is maintained and enhanced where development is occurring (Objective B7.2.1(2)) and that degraded freshwater systems are enhanced while their loss is minimised (Objective B7.3.1).
- 308 The AEE also assesses those chapters of the RPS. It concludes that the proposal is

⁹⁰ AEE, at page 111

generally consistent with the policy direction of the RPS, and that:⁹¹

The proposal is strongly supportive of the provisions relating to urbanisation of the land (being the purpose of the zoning applied to the site. The provisions which are not promoted or not met are relatively few in number. These relate primarily to ecological matters where the proposal, while not strictly compliant, is generally consistent with the intent of the provisions; and are of relatively less importance in the context of urbanisation of a high-density area such as a Metropolitan Centre zone in comparison with, say, a rural zone.

- 309 The AEE acknowledges that the Application is not in full alignment with Chapter B7 of the RPS relating to natural resources. The AEE states:⁹²

As previously discussed, it was not feasible to retain Stream A wetland and the two eastern tributaries of Stream A due to the location of Drury Boulevard and this was discussed with mana whenua extensively. The ecological value of Stream A wetland is considered to be low due to its modification while Stream A is considered to be of moderate ecological value, typical of rural streams. The effects of the proposed reclamation are addressed through the creation of new stormwater wetland, daylighting, riparian planting and habitat creation in the lower reach of Stream A. As these measures are not strictly meeting the offsetting and compensation principles of the effects management hierarchy, the project in this regard is not generally consistent with policy B7.3.2(4).

- 310 The Council agrees that the proposal is generally consistent with the objective to create a quality built environment (B2.3.1) that is well-connected and provides for a mix of uses. However, it contends that the RPS (as with the NPS-UD) aims to ensure that development does not outpace the provision of necessary services, and that “[t]he reliance of the later stages of the development on major, currently unfunded transport projects creates a tension with these requirements”. It also raises concerns around stormwater-related matters (similar to those raised in relation to the NPS-UD), noting that:⁹³

Similarly, the reliance on privately-owned, dual-function stormwater areas to meet public open space needs, and the uncompensated loss of wetland and stream habitat, creates a tension with the policy direction for providing community amenity and enhancing the natural environment. While the proposal is consistent with the desired form of urban development, its consistency with the required process of integrated growth and environmental management is contingent on resolving the significant uncertainties highlighted elsewhere in this memorandum.

Panel Finding

- 311 Following the expert conferencing on both stormwater and transportation issues, these uncertainties and residual issues have been resolved to the Panel’s satisfaction. The resolution of each issue is summarised in the memoranda and issues tables provided by the Panel’s technical experts, which refer to the JWS for both conferences.

⁹¹ AEE, at page 118

⁹² AEE, at page 117

⁹³ Council Planning Memorandum, at [35]

- 312 It follows that the Panel does not consider there to be any outstanding factual issues which would support a conclusion that the Proposal is inconsistent with the regional planning framework. The Panel finds that the Proposal is generally consistent with the regional planning framework.

Operative District Plan

- 313 The Project requires consent under several "Auckland-wide" provisions of the AUP including under the Drury Centre Precinct provisions. The AEE provides a detailed analysis of the relevant objectives and policies of Chapters D26 (National Grid Corridor Overlay), E1 (Water quality and integrated management), E3 (Lakes, rivers and streams and wetlands), E10 (Stormwater Management Area Flow 1 and 2), E11 and E12 (Land disturbance – regional and district), E15 (Vegetation management and diversity), E23 (Signs), E25 (Noise and vibration), E26 (infrastructure), E27 (Transport), E30 (Contaminated land), E36 (Natural hazards and flooding), E38 (Subdivision – urban), E40 (Temporary activities), H9 (Metropolitan Centre Zone) and H13 (Mixed Use Zone) and I450 (Drury Centre Precinct).
- 314 The Proposal is assessed in the AEE as consistent with these provisions, save for the Applicant's acknowledgements relating to freshwater ecology (addressed under the NPS-FM and NES-F above), although it concluded that:⁹⁴

Though strictly not meeting the offsetting and compensation principles of the effects management hierarchy, the effects of the proposed reclamation are addressed through the creation of new stormwater wetland, daylighting, riparian planting and habitat creation in the lower reach of Stream A. The proposed stormwater wetland (Wetland 2-1) at the head of Stream A will provide some ecological function by ensuring baseflows are maintained within Stream A and at the same time treat stormwater runoff from a portion of the project area thereby improving water quality of the sensitive receiving environment. The daylighting and realignment of Stream A will naturalise the stream and return portions to its natural alignment as well as provide fish passage. Further, the 10m riparian margin provided will contribute to ecological values and functions of Stream A following the works proposed. Further, enhancement planting is also proposed along the Hingaia Stream.

- 315 As previously discussed in this Decision, the Council's initial review identified more wide-ranging issues, including in relation to transport, wastewater servicing, open space provision, ecology, and urban form. These were considered to be of a scale and nature disproportionate to the Project's claimed regional and national benefits.

Panel Finding

- 316 Since the Council's initial assessment, the outstanding issues relating to transport, wastewater servicing and ecology have been resolved through the expert conferencing and amended conditions proposed in the Applicant's Revised conditions dated 13 October 2025. These have been adopted by the Panel (with minor adjustments) and are attached to this Decision (Appendix A).

- 275 We have previously found that the effects of the Proposal in terms of urban form,

⁹⁴ AEE, at page 120

character and amenity will be consistent with the expectations of the Precinct, and will be acceptable overall, subject to the amended conditions and revised plans submitted by the Applicant.⁹⁵ We have also previously concluded that the proposed open space provision will be of appropriate scale and good quality.⁹⁶

276 Overall, we find that the Proposal is consistent with the relevant AUP provisions.

Planning documents recognised by a relevant iwi authority and lodged with the Council

317 An application for a resource consent must include an assessment of the activity against any relevant provisions of a planning document recognised by a relevant iwi authority and lodged with a local authority.⁹⁷

318 It is the Panel's understanding that the following planning documents recognised by relevant iwi authorities have been lodged with the Council:⁹⁸

- (a) Ngāti Te Ata Tribal Policy Statement 1991 and Ngāti Te Ata Waiohū Issues and Values 2011;
- (b) Hauraki Iwi Environment Plan (2000) and Waikato-Tainui Environmental Plan (2013);
- (c) Hauraki Iwi Environment Plan (2000); and
- (d) Waikato-Tainui Environmental Plan (2013).

319 As assessment of the Proposal in relation to these documents and plans is provided at section 9.2 of the AEE. It concludes that:⁹⁹

Overall, it is considered that the proposed development can be constructed and operated in a manner that is generally consistent with the environmental outcomes sought by planning documents recognised by relevant iwi authorities and lodged with Auckland Council, while ensuring that the key principles established by mana whenua with regard to the reclamation of Stream A are achieved.

320 Having regard to our previous consideration and findings relating to Iwi Authorities and potential cultural effects, and our findings relating to residual ecological effects, the Panel agrees with the Applicant's conclusions set out above in relation to the general consistency of the Proposal with relevant iwi planning documents.

Treaty settlements

321 As noted in Part D of our Decision, sections 7 and 8 FTAA provide:

7 Obligation relating to Treaty settlements and recognised customary rights

⁹⁵ Decision, paragraph 188

⁹⁶ Decision, paragraph 212

⁹⁷ Schedule 5, clause 5(1)(h) and clause 5(2)(g)

⁹⁸ As summarised in the AEE at pages 82-86

⁹⁹ AEE, at page 86

- (1) All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with—
 - (a) the obligations arising under existing Treaty settlements; and
 - (b) customary rights recognised under—
 - (i) the Marine and Coastal Area (Takutai Moana) Act 2011;
 - (ii) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
- (2) To avoid doubt, subsection (1) does not apply to a court or a person exercising a judicial power or performing a judicial function or duty.
- (3) In this section, **existing Treaty settlements** means Treaty settlements that exist at the time the relevant function, power, or duty is performed or exercised (rather than only those that exist at the commencement of this Act).

8 Te Ture Whaimana

- (1) Te Ture Whaimana is intended by Parliament to be the primary direction-setting document for the Waikato and Waipā Rivers and activities within their catchments affecting the rivers (see the legislation referred to in subsection (3)).
- (2) Te Ture Whaimana—
 - (a) prevails over any inconsistent provision in a national policy statement, New Zealand coastal policy statement, or national planning standard; and
 - (b) in its entirety is deemed to be part of the Waikato regional policy statement; and any regional plan or district plan that affects the Waikato River or the Waipā River or activities within their catchments must give effect to Te Ture Whaimana.
- (3) In this section, **Te Ture Whaimana** means the vision and strategy set out in—
 - (a) Schedule 2 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010; and
 - (b) Schedule 1 of the Ngāti Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010; and
 - (c) Schedule 1 of the Nga Wai o Maniapoto (Waipa River) Act 2012.

322 The Panel understands¹⁰⁰ that the following Settlement Acts (and associated Treaty settlement deeds) are relevant to the Application area:

- Ngāti Tamaoho Claims Settlement Act 2018;
- Ngāi Tai ki Tāmaki Claims Settlement Act 2018;
- Ngāti Paoa Deed of Settlement – signed 20 March 2021; and
- Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014.

323 We have referred to these Settlement Acts (at Part D of our Decision) and accepted the conclusion of the AEE that the granting of the Application would be consistent with the obligations set out under those existing Treaty settlements and would not breach section 7 of the FTAA. The AEE explains that this conclusion “*is supported by the provisional support for the project expressed in the CVA addendum prepared by Ngaati Te Ata Waiohua and the engagement with iwi to date which has not raised any strong objection to the project*”.¹⁰¹

324 The Panel agrees, and notes that the conclusions of the AEE on this issue are consistent with the findings of the section 18 FTAA Report prepared by the Ministry for the Environment relating to these matters.

¹⁰⁰ Based on the AEE (at pages 77-82) and the absence of any contrary views or evidence provided to the Panel.

¹⁰¹ AEE, at page 132

- 325 As noted in Part B a panel is directed to seek comments on its draft decision and conditions from the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development under section 72 FTAA. A draft decision and proposed conditions were issued in accordance with sections 70 and 72 FTAA for comment on 21 October 2025.

[Address any comments received]

PART I: PRINCIPAL ISSUES IN CONTENTION

- 326 The principal issues in contention following receipt of the parties' initial comments and prior to the Applicant's responses to the section 67 requests and the expert conferencing were:

- Effects on freshwater;
- Effects on stormwater/flooding;
- Effects on transportation;
- Relevance of "banking" of development capacity; and
- Consent lapse date.

- 327 The Panel's findings on these principal issues in contention have been discussed in the foregoing analysis of effects and statutory provisions and are summarised below.

Effects on freshwater

- 328 A complex freshwater fisheries approval is not required for the Project. If necessary in the future, the Applicant would be legally required to obtain the required permits. Appropriate advice notes to that effect are included in the revised proposed consent conditions as Appendix B.
- 329 While there would be some residual adverse effects on waterbodies as a result of the Proposal that would not be offset or directly compensated for, those residual effects (which appear to now satisfy the experts) do not reach the threshold which would enable us to decline the Proposal.

Effects on stormwater/flooding

- 330 Following expert conferencing, the issues of initial concern to Auckland Council and Healthy Waters have been resolved to the satisfaction of those parties and the Panel's technical advisor. The Panel is similarly satisfied that, with the imposition of the proposed conditions, the effects relating to stormwater and flooding can be managed appropriately.

Effects on transportation

- 331 Following expert conferencing, the issues of initial concern to the Council, AT and NZTA have been resolved to the satisfaction of those parties and the Panel's technical advisor. The Panel is similarly satisfied that, with the imposition of the proposed conditions (subject to the matters resolved through the draft condition comment stage), the effects relating to transportation can be managed appropriately. It was not considered necessary as a result of the expert conferencing to invite the Applicant to modify the Proposal to reduce the scale of activities proposed.

Consent lapse date

- 332 The AEE notes that "high level" information on the proposed implementation of the development was included in the Project listing application, whereby the delivery of Stage 2 would occur in phases, with delivery of Stage 2A by the end of Q3 2029. The AEE proposes that, following further refinement based on more detailed technical investigations and reporting, the Applicant is "*seeking a fifteen year consent duration in which to give effect to the resource consent*".¹⁰² The Panel has interpreted the reference to "duration" as a reference to the lapse date (section 125 RMA) rather than the duration of the consents (section 123 RMA).
- 333 The AEE sets out a development timeframe, based on a late-2025 commencement as follows:
- *Stage 2 bulk earthworks – October 2025 to April 2026 (anticipate to complete bulk earthworks in one earthworks season).*
 - *Lot 38 civil works – Year 2026*
 - *Lot 38 building construction and Lot 32 civil works – Year 2027*
 - *Lot 32 building construction and Lot 31 civil works – Year 2028*
 - *Lot 31 building construction and Lot 34 civil works – Year 2029*
 - *Lot 34 building construction and Lot 36 civil works – Year 2030*
 - *Lot 36 building construction and Lot 35 civil works – Year 2031*
 - *Lot 35 building construction and Lot 33 civil works – Year 2032*
 - *Lot 33 building construction and Lot 39 civil works – Year 2033*
 - *Lot 39 building construction, Lot 37 civil works and building construction and Lot 40 civil works and building construction – Year 2034*
- 334 The Panel is aware of a drafting error in clause 26(3) of Schedule 5 FTAA whereby, if a lapse period is not specified for a resource consent (or designation), the approval(s)

¹⁰² AEE, at page 58

would lapse immediately after they commence. A lapse date should therefore be specified in the consent to avoid this issue arising.

- 335 Clause 26(2) provides that a lapse date on a resource consent issued under the FTAA must be no less than 2 years after the consent commences. This provides for a shorter default lapse date than consents issued under the RMA (generally 5 years under section 125(1)(a) RMA). While both the RMA and FTAA provide for a longer lapse period to be imposed, the Council has raised concerns that the 15-year lapse period proposed by the Applicant is too long and would exacerbate its concerns relating to the potential for the proposal to allow for “banking” of spare development capacity which might otherwise be allocated to other developments.

- 336 The concern was explained by the Council in the following way:¹⁰³

The approval should be staged and limited to a level that can be demonstrably serviced by existing, funded, and committed infrastructure. This addresses the critical risk of the applicant "banking" the development capacity of the precincts (Drury Centre, Drury East, Waihoehoe) in the environment with a 15-year lapse period, which undermines the AUP's sequenced approach to growth and prejudices the development feasibility for other landowners in the precinct.

- 337 The Council recommended that a ten-year lapse date be imposed as a means of addressing this concern. Its legal memorandum provided further support for a 10-year period as follows:¹⁰⁴

4.23 ...No particular justification for this significant lapse date is stated in the Application AEE, and it is assumed that the Applicant's justification for the 15 year lapse is the scale of the development and the time that it will take to commence the final stages of subdivision and development.

4.24 While such a rationale is understood, the Council does not agree that a 15-year lapse period is appropriate or justified in this instance. The economic assessment in support of the Application has assumed an 11-year construction period in its justification of the project's benefits. In the Council's assessment a 10-year period would be the maximum potential lapse period, if the Applicant is approved, and there are good reasons to apply a lesser period.

- 338 The Panel took legal advice in relation to the issue of whether, once granted, a resource consent under the FTAA would form part of the receiving environment and therefore could give rise to a situation where development capacity is reserved (or “banked”) (i.e. by precluding other applicants applying to develop up to the transportation trigger thresholds) prior to the consent being implemented or lapsing. The Hamm Opinion advised:¹⁰⁵

We consider that a consent validly granted (even with a condition precedent and a long lapse date) would, on grant, form part of the receiving environment. However, with reference to the caselaw which adds 'where it appears likely

¹⁰³ Council Planning Memorandum, at page 43

¹⁰⁴ Council Legal Memorandum, 11 August 2025

¹⁰⁵ Holland Beckett Legal Advice, 12 September 2025, at [5]

that the consent will be implemented' this will be a question to be considered when any future applications are made.

- 277 The Panel agrees that the consent, once granted, would form part of the receiving environment and therefore gives rise to the potential for "banking" of development capacity if the consent is not given effect to for some time, potentially in reliance on a longer lapse date. However, as the Panel has previously found on this issue, the Panel is required to consider this Application on its merits, rather than pre-empting potential future applications which may not arise and the details of which are unknown.
- 339 The Panel considers that this issue can be mitigated by reducing the proposed lapse date to 10 years for both the land use and subdivision consents. The Panel has imposed conditions to reflect this.
- 340 The Panel considers that a 10-year lapse date better gives effect to the purpose of imposing a lapse date, as recognised by the Court of Appeal, which reflects the reality that environments (both physical and social) change over time and that *"changing circumstances may render conditions, restrictions and prohibitions in a consent inappropriate or unnecessary"*.¹⁰⁶
- 341 The Panel agrees with the Council's assessment that *"this philosophy remains apposite in a fast-track context given the FTAA's clear purpose to facilitate the delivery of infrastructure and development projects with significant regional or national benefits"*.
- 342 The Panel observes that the Applicant's proposed development timeframe is generally consistent with a 10-year lapse period and, if necessary, the consent holder could apply under section 125(1A) RMA for an extension to the lapse period. A resource consent granted under the FTAA has effect as if it were granted under the RMA, and the Council will have the ability to consider and approve an extension to the lapse date under section 125 RMA as if it had granted the consent rather than the Panel.¹⁰⁷

PART K: CONDITIONS

FTAA general requirements for conditions

- 343 Section 81 provides that the Panel must set any conditions to be imposed on the approval. The statutory requirements relating to conditions are determined by the approvals being sought.
- 344 Section 83 must be complied with and provides:

83 Conditions must be no more onerous than necessary

When exercising a discretion to set a condition under this Act, the panel must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of this Act that confers the discretion.

- 345 The Panel has sought technical assistance in relation to the key effects anticipated to

¹⁰⁶ *Body Corporate 970101 v Auckland City Council*, referred to in the Council's legal memorandum dated 11 August 2025, at [4.26].

¹⁰⁷ FTAA Schedule 5, Clause 31(2).

arise from the Proposal, and how such effects can be appropriately managed in a manner as least onerous as possible in order to ensure the condition is effective in managing the anticipated effects.

FTAA requirements for conditions

Resource consent

346 For a resource consent the following clauses of Schedule 5 apply:

18 Conditions on resource consent

When setting conditions on a consent, the provisions of Parts 6, 9, and 10 of the Resource Management Act 1991 that are relevant to setting conditions on a resource consent apply to the panel, subject to all necessary modifications, including the following:

- (a) a reference to a consent authority must be read as a reference to a panel; and
- (b) a reference to services or works must be read as a reference to any activities that are the subject of the consent application.

347 Generally speaking, a resource consent condition must:¹⁰⁸

- (a) be for a resource management purpose, not an ulterior one;
- (b) fairly and reasonably relate to the development authorised by the resource consent or designation; and
- (c) not be so unreasonable that a reasonable planning authority, duly appreciating its statutory duties could not have approved it.

348 The underlying purpose of the conditions of a resource consent is to manage environmental effects by setting outcomes, requirements or limits on the activity, and parameters in relation to how those matters are to be achieved.¹⁰⁹

349 Conditions must also be certain and enforceable.¹¹⁰

350 A condition must not delegate the making of any consenting or other arbitral decision (i.e. involving resolution of substantive rights) to any person other than the consent authority, but may authorise a person to certify that a condition of consent has been met or complied with or otherwise settle a detail of that condition.¹¹¹ This principle is subject to the following:

- (a) The basis for any exercise of a power of certification must be clearly set out with the parameters for certification expressly stated in the relevant conditions.
- (b) This power of certification does not authorise the making of any waiver or sufferance or departure from a policy statement or plan except as expressly authorised under the Act (section 84 of the RMA).
- (c) This power of certification does not authorise any change or cancellation of a

¹⁰⁸ *Newbury District Council v Secretary of State for the Environment* [1980] 1 All ER 731 (HL), at 739

¹⁰⁹ *Summerset Village (Lower Hutt) Ltd v Hutt City Council* [2020] MZEnvC 31 at [156]

¹¹⁰ *Bitumix Ltd v Mt Wellington Borough Council* [1979] 2 NZLR 57

¹¹¹ *Turner v Allison* (1970) 4 NZTPA 104

condition except as expressly authorised under the Act (section 127 of the RMA).

351 Section 220 RMA specifies the conditions that may be imposed on a subdivision consent.

Project conditions

352 The Applicant provided a revised condition set following the conclusion of expert caucusing to the Panel on 13 October 2025. The Panel used this condition set as a base to develop the draft conditions circulated on 21 October 2025 for comments. The amendments proposed by the Panel are relatively minor in nature, as explained in the Panel's Minute 12 accompanying the draft conditions and draft decision, as circulated to the relevant Ministers and parties for comment pursuant to sections 70 and 72 FTAA.

[address comments received and update with final conclusions]

Consent notices pursuant to s221 of the RMA

353 Consent notices are necessary to require the following conditions to be complied with on an ongoing basis, as set out at Conditions 38, 39, 134 and 135 of the subdivision consent conditions (at Appendix A), related to:

- (a) The operation, maintenance and inspection of private stormwater management devices; and
- (b) The maintenance of privately-owned and publicly-accessible open spaces;
- (c) The provision for vehicular access from the jointly owned access lots associated with the roads created by subdivision consent SUB60414913; and
- (d) The required hydrological mitigation and water quality for stormwater runoff from residential developments within the Stage 1 superlots.

354 The consent notices are targeted and appropriate to ensure that there is ongoing compliance with these requirements beyond the completion of the relevant stage of subdivision and that all future owners of each residential lot are fully informed as to their obligations in relation to these matters.

Conclusion regarding conditions

355 The Panel considers that the conditions imposed are lawful, certain and enforceable, and not more onerous than necessary to address the purpose of the relevant condition.

356 To the extent the final set of conditions contain any minor errors, the Panel notes it has powers under section 89 of the FTAA to make minor corrections.

PART L: RESOURCE MANAGEMENT ACT 1991

357 As noted in Part C of this Decision, Schedule 5, clause 17 FTAA sets out how the Application is to be assessed under various provisions of the RMA.

358 As explained in Part C, the Panel has assessed the Application taking into account the

relevant provisions of the RMA relating to decision making on consent applications and particularly the matters identified as relevant under section 104 RMA, and has not taken account of section 104D despite the Application being for a non-complying activity overall.

- 359 The Panel has also considered the Application in light of the purpose and principles of the RMA (in Part 2). As a result of the conclusions reached on the effects of the Application and in the context of the relevant planning provisions and the conditions, the Panel finds that the Application is consistent with Part 2.
- 360 The Panel has not given greater weight to the RMA considerations than to the overall purpose of the FTAA as required by clause 17. However, the Panel observes that its consideration of the relevant RMA provisions also support its overall decision to grant the RMA approvals and therefore it was not placed in a position of having to weigh competing considerations under clause 17.

PART M: FAST-TRACK APPROVALS ACT 2024

- 361 The Panel's decision is subject to the purpose of the FTAA, contained in section 3, namely to facilitate the delivery of infrastructure and development projects with significant regional or national benefits. The Panel notes that the purpose relates to either regional **or** national benefits and that both do not need to be established.
- 362 The Panel concluded, following its assessment of regional or national benefits in Part F of this Decision, that the Project will deliver infrastructure and development with significant regional benefits and therefore meets the purpose of the FTAA.

PART N: OVERALL ASSESSMENT

- 363 Under section 81 FTAA the Panel must, for each approval sought in the Application, decide whether to grant the approval and set any conditions to be imposed, or decline the approval.
- 364 This Application has only sought approvals under the RMA, which are set out within Appendix B to this decision.
- 365 The Panel has considered the Application and all advice, reports, comments and other information received by the Panel. We have applied clauses 17-22 of Schedule 5 FTAA and ensured that we have given appropriate weight to the relevant provisions of the RMA and given the greatest weight to the purpose of the FTAA when making our decision. We have addressed section 82 relating to Treaty settlements but have not considered it necessary to impose conditions relating to Treaty settlements under section 84. We have imposed conditions relating to other matters and complied with section 83 when setting those conditions.
- 366 Overall, the Panel is satisfied that the matters set out in section 81 of the FTAA have been addressed appropriately and that purposes of the FTAA are achieved by this Decision. In reaching that view, the Panel has had regard to the actual and potential effects on the environment of allowing the activity as set out above. The Panel has also

had regard to the relevant planning documents.

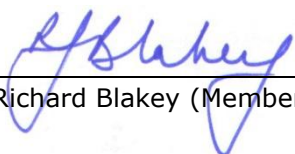
- 367 The principal issues in contention, which focussed on stormwater, flooding, ecological, urban design, open space, development capacity and transportation effects have all been resolved to the satisfaction of the Panel following expert conferencing.

PART O: FINAL DECISION

- 368 The Panel determines to grant the approvals sought subject to the conditions **attached as Appendix A1** to this Decision. A tracked-change version of the conditions showing the amendments made by the Panel to the Applicant's Revised Conditions dated 13 October 2025 is **attached as Appendix A2**. These are provided to assist the parties in making comments on the draft conditions in an efficient manner, consistent with the procedural principles of the FTAA aimed at using timely, efficient, consistent, and cost-effective processes.
- 369 There is a right of appeal against the final Decision of the Panel to the High Court on a question of law (section 99 FTAA). Any appeals must be commenced within the 20-working day period from the date the final Decision of the Panel is published under section 88(3) (section 100 FTAA).
- 370 The Panel wishes to thank all parties who participated in this process for their contributions.



Mary Hill
(Chair)



Richard Blakey (Member)



Philip Brown (Member)

APPENDIX A1: CONDITIONS OF CONSENT (CLEAN)

APPENDIX A2: CONDITIONS OF CONSENT (TRACK CHANGES)

APPENDIX B: CONSENTS REQUIRED

APPENDIX C: MEMORANDA FROM PANEL'S TECHNICAL ADVISORS